



EMPLOYMENT TRIBUNALS

Claimant: Faith Rivers

Respondent: Medway Council

Heard at: Croydon

On: 25-29 November 2024 and 2-3 December 2024

Before: Employment Judge Liz Ord
Tribunal Member Kieron Murphy
Tribunal Member Fiona Whiting

Representation:

Claimant: Mr U Alukpe (solicitor)
Respondent: Ms N Gyane (counsel)

JUDGMENT having been given orally on 3 December 2024 and the written record having been sent to the parties on 4 February 2025, subsequent to a request for written reasons on 4 February 2025 in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

The Complaints and Issues

1. The claimant's complaints are:
 - (1) Public interest disclosure detriment;
 - (2) Automatic unfair dismissal due to public interest disclosure;
 - (3) Disability discrimination;
 - (4) Race discrimination;
 - (5) Breach of contract.
2. The issues for the tribunal were determined at a case management hearing on 1 April 2021 and updated at this final hearing. The updated list of issues is attached in the annex to these written reasons.

Evidence

3. The tribunal had before it the following documentary evidence:
 - (1) a documents bundle (1,227 pages), 4 audio files, a video recording, a nomination booklet, witness statements (as per the witnesses at paragraphs 5 and 6 below plus Gary Thomas, Head of Finance Operations), a cast list and a chronology.
4. On behalf of the claimant we heard evidence on oath from:
 - (1) The claimant.
5. On behalf of the respondent we heard evidence on oath from:
 - (1) Vicky Nutley, Assistant Head of Legal Services & claimant's line manager.
 - (2) Laura Caiels, Principal Lawyer.
 - (3) Stuart Bobby, Chief Executive of Gravesham Borough Council.
 - (4) Jan Guyler, Head of Legal Services.
 - (5) Perry Holmes, Chief Legal Officer and Monitoring Officer.
 - (6) Nikki Ashby, Counter Fraud Team Leader and grievance investigator.
6. Number references in brackets in these reasons are to the documents bundle. References with the pre-fix WS are to witness statements.
7. Only findings of fact relevant to the issues, and those necessary for the tribunal to determine, have been referred to in this judgment. It has not been necessary, and neither would it be proportionate, to determine each and every fact in dispute. The tribunal has not referred to every document it read and/or was taken to in the findings below, but that does not mean it was not considered if the tribunal was taken to the document in evidence or as part of a reading list. The tribunal notified the parties at the outset of the hearing that they would only read documents that they were specifically referred to and would only read documents referred to in witness statements insofar as they were identified as being relevant to an issue in the case.

The Law

8. Time limits - detriment arising from protected disclosure

Section 48 of the Employment Rights Act 1996 (ERA) provides:

(1A) "A worker may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47B.

.....

(3) An employment tribunal shall not consider a complaint under this section unless it is presented –

(a) before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them, or

(b) 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.

(4) For the purposes of (3) –

(a) where an act extends over a period, the “date of the act” means the last day of that period, and

(b) a deliberate failure to act shall be treated as done when it was decided on; and, in the absence of evidence establishing the contrary, an employer, a temporary work agency or a hirer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

9. Public interest disclosure

Section 43A ERA provides that a ‘protected disclosure’ means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H. Section 43C deals with disclosures made to an employer.

Section 43B (Disclosure qualifying for protection) states relevantly:

(1) In this Part a “qualifying Disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure, [is made in the public interest and] tends to show one or more of the following-

(a) that a criminal offence has been committed, is being committed or is likely to be committed,

(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

...

(2) ...

(3) ...

(4) a disclosure of information in respect of which a claim to legal professional privilege ...could be maintained in legal proceedings is not a qualifying disclosure if it is made by a person to whom the information had been disclosed in the course of obtaining legal advice.

10. Detriments

Section 47B ERA provides:

(1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.”

11. Automatic unfair dismissal because of a protected disclosure

Under section 103A ERA employees have a right to claim that a dismissal was automatically unfair if it was because of the making of a protected disclosure. The section states:

“An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.”

12. Disability

The meaning of disability is found in the Equality Act 2010 (EqA)

Section 6 (1) of the EqA provides that a person (P) has a disability if:

- (a) P has a physical or mental impairment, and
- (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.

Schedule 1 Part 1 of the EqA sets out supplementary provisions. It provides:

...

2. Long-term effects

- (1) The effect of an impairment is long-term if-
 - (a) It has lasted for at least 12 months,
 - (b) It is likely to last for at least 12 months, or
 - (c) It is likely to last for the rest of the life of the person affected.
- (2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.

3. ...

4. ...

5. Effect of medical treatment

- (1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if-
 - a) measures are being taken to treat or correct it, and
 - b) but for that, it would be likely to have that effect.

The standard of proof is the balance of probabilities. In determining whether a person is disabled, the court should apply the appropriate test to the claimant's condition at the date of the alleged discriminatory act, not at the date of the hearing.

13. Time limits - discrimination

Section 123 EqAct provides:

- (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.

...

(3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.

(4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

14. Harassment

Section 26 EqA provides:

(1) A person (A) harasses another (B) if –

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) The conduct has the purpose or effect of –

i. Violating B's dignity, or

ii. Creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) ...

(3) ...

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account-

(a) the perception of B;

(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect.

15. Direct discrimination

Section 13 of the EqA provides:

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

There are two parts to consider, namely, whether the employer:

- Treated the person less favourably than it treated others, and
- Treated the person in that way because of a protected characteristic

16. Discrimination arising from disability

Section 15 of the EqA provides:

- (1) A person (A) discriminates against a disabled person (B) if –
 - (a) A treats B unfavourably because of something arising in consequence of B's disability, and
 - (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

17. Duty to make adjustments

The legal provisions are found at sections 20 and 21 of the EqA.

In summary, where a provision, criterion or practice of the respondent or a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled, the respondent has a duty to take such steps as it is reasonable to have to take to avoid the disadvantage.

18. Other law

All other law/caselaw raised by the parties was considered.

Findings of fact and conclusions

Credibility/reliability

- 19. The respondent's witnesses were all clear and credible. Their evidence was reliable and consistent with the contemporaneous documents.
- 20. On the contrary, the claimant was evasive with her answers in cross examination. Her answers were largely inconsistent with the contemporaneous documents. We found her to be neither credible nor reliable. In fact we go as far as to say that many of her claims were delusional and without any basis. Some of them were directed at professionals, whose reputation could have been damaged.

Contextual facts

- 21. The respondent is a local authority. From 5 June 2018 to 30 September 2018 the claimant worked on an agency basis for them as a locum lawyer within the Place Team Legal Department. On 1 October 2018 she took up a 12 month fixed term contract with them, which was subsequently extended to 30 April 2020. It was not renewed beyond this date.
- 22. The claimant worked on the Northgate contract and towards the latter part of her employment she was required to advise Gravesham Borough Council with respect to the formation of a Local Authority Trading Company (LATCo).
- 23. A condition of the claimant's contract was that she enrol on a CILEX course and attain the qualification of chartered legal executive lawyer. The claimant

agreed to this. However, she did not progress with the course. She was dismissed for performance issues.

Time limits

- 24. Early conciliation began on 29 April 2020 and the certificate was also issued on 29 April 2020. The claim form was submitted on 29 May 2020. Anything done before 30 January 2020 is potentially out of time.
- 25. There was no evidence of conduct extending over a period.
- 26. No evidence has been put forward to demonstrate that it was not reasonably practicable to bring all the whistleblowing claims within 3 months of the alleged detriments. Therefore, time is not extended for those acts that are out of time.
- 27. With respect to discrimination, no evidence has been put forward to demonstrate that it is just and equitable to extend time. Therefore, time is not extended to those acts that are out of time.

Allegations in the list of issues

- 28. We have taken each allegation in turn and made findings of fact from which we have reached our conclusions. The number at the start of the allegations refers to the corresponding number in the attached list of issues.

Was there a public interest disclosure?

4. What did Ms Rivers say or write? She relies on two main allegations, one relating to the Northgate contract and one relating to the use of the Local Authority Trading Co (LATCo) model for Gravesend Borough Council.

Overall conclusion.

- 29. There was no public interest disclosure of information. Some of the allegations are non-specific and it is difficult to understand exactly what is being alleged. There is no evidence of many of these allegations having occurred. For those allegations where there is some evidence of a communication, it is clear that it is legal advice being given/discussed by the claimant. Therefore, under s43B(4) ERA, it cannot be a qualifying disclosure. We discuss each of the allegations below.

Specific alleged public interest disclosures

5. For the first she says that:

5. a) On or around 24 October 2019 she raised concerns by email with Jan Guyler about document management and the weakness in the Northgate (latter renamed Zellis) contract extension, that could give rise to a loss of protection of public funds.

Facts

30. There is no such email in the bundle.
31. There is an email (258) on that date from the claimant to Laura Caiels (Principal Lawyer) at 15.53, which says the contract is devoid of objective SLAs (Service Level Agreements) due to the absence of a Specification and the documentation is missing from the Deeds room, through no fault of anyone in Legal Services.
32. There is nothing about risk to public funds.
33. The context of this email is that the claimant was failing to manage her own documents and not uploading them onto the document management system, IKEN. The claimant was the Fee Earner in this case and she was the one who was responsible for this document. There is an email from Laura Caiels on 18.10.2019 to the claimant asking her where the contract was.

Conclusion

34. In making this allegation the claimant is turning around her own failings and incompetencies by seemingly trying to blame others. She did not raise the concerns alleged. There was no disclosure.

5. b) On or around 31 January 2019 she raised these concerns with Vicky Nutley, in person, and told her that there was no lawful basis for the direct contract award in relation to this contract.

Facts

35. Vicky Nutley (Assistant Head of Legal Services and claimant's line manager) gave evidence (WS VN paras 53 -55 pp18 & 19) that as a legal services team, advice is constantly given on the lawfulness, risks and governance requirements of activities. She said that the claimant discussed the Northgate contract with her in the context of informing her that the claimant's advice was proving unpopular with the client and they were resistant to her suggestions. She said this was not an usual conversation to have and it was a general discussion about a matter she was dealing with.
36. We accept Ms Nutley's evidence.

Conclusion

37. The claimant did not tell Ms Nutley there was no lawful basis for the contract. She simply had a discussion with her about the client's reaction to the claimant's advice. Even if she had said this, it was in the context of giving legal advice. This was not a public interest disclosure.

5. c) On 4 February 2019 she repeated this information - in person to Gary Thomas

Facts

38. Gary Thomas (Head of Finance Operations) did not give evidence and so his witness statement is untested. Nonetheless, we give it some weight, albeit reduced.
39. He says (WS GT p28 paras 7 & 8) that he remembered the claimant raising an issue with the legality of extending the contract but it was before this date. It was raised in the normal course of a lawyer providing advice to a client and he did not consider it to be a public interest disclosure.
40. We accept this evidence.

Conclusion

41. This was legal advice given by the claimant. It is not a public interest disclosure.

5. c) On 4 February 2019 she repeated this information - by email to Perry Holmes.

Facts

42. There is no such email in the bundle.
43. Perry Holmes (Chief Legal Officer and Monitoring Officer) in his evidence (WS PH paras 6 & 7 p31) said he did not have any such conversation with the claimant about whistleblowing concerns of any nature and nor was there any email to him.
44. He came across as a reliable witness. We accept his evidence.
45. There is an email on this date to Gary Thomas from the claimant (562), copying in Perry Holmes, which is about the contract, but there is no specific mention of contractual weakness or document management.

Conclusion

46. There is no disclosure. Even if the email (562) could be construed in the way alleged, which we find it cannot, this is legal advice and not a public interest disclosure.

6. For the second, Ms Rivers also says that:

a) On or around 29 October 2019, both in person and followed up in emails, she raised concerns with Vicky Nutley about being required to use this LATCo model as it was under police investigation for misuse of public funds and was not aligned to regulations or prevailing guidance.

Facts

47. We understand that "this LATCo" means the Medway model, although it does not specifically say so and it is what we have deduced from the evidence.

48. Vicky Nutley said (WS VN paras 56-57 p19) that she did not recognise the issue being raised about the Gravesham LATCo. Whilst the claimant could look at the Medway's LATCo as a starting point, there was no pressure on her to use that model. The LATCo was incorporated in accordance with the Lawyers in Local Government Guidance on LATCos.

49. We accept this evidence.

50. There is no email covering the issues the claimant suggests.

51. However, there is an email on 29.10.2019 (269) to Jan Guyler (Head of Legal Services), which is copied in to Vicky Nutley. Under "Chief Execs Briefing" she makes an observation about skill sets regarding LATCos for Medway and Gravesham. On the following page of the email (270) she talks of contentious issues with MEDway LATCos, but there is no mention of using this model for Gravesham.

Conclusion

52. There is no public interest disclosure as alleged.

b) This was repeated to:

- **Stuart Bobby in around 23 December 2019, both in person and followed up in emails, in which she stressed that she was being pressurised to use this model**

Facts

53. Stuart Bobby (Chief Executive Gravesham Council) said (WS SB p34 para 4) that he did not recall any such conversations taking place. Neither had he identified any emails substantiating any such claims.

54. We accept his evidence.

55. We found 2 emails in the bundle from the claimant to Stuart Bobby dated 12.12.2019 (307 & 312). Neither of them mention anything about being pressurised to use that model.

Conclusion

56. There is no email as alleged. There is no public interest disclosure as alleged.

- **Perry Holmes in person and followed up by emails on 31 March 2020**

Facts

57. There is no email from the claimant to Perry Holmes of 31.3.2020. There is one of 30.3.2020 to Perry Holmes (383-385) but it does not mention being pressurised to use the model.

58. Perry Holmes denied this was raised with him. There is no evidence of it being raised with him. We find that it was not raised with him.

Conclusion

59. There is no public interest disclosure as alleged.

- **Jan Guyler, in person and followed up by emails, on or about December 2019 to 12 January 2020**

Facts

60. Jan Guyler denies putting any pressure on the claimant to use the model (WS JG p3 paras 10, 11, 12). Her recollection was that in all discussions she had with the claimant about the Gravesham LATCo, the claimant advised that she had followed the Lawyers in Local Government Guidance on LATCos, which Ms Guyler supported.

61. She went on to say that the Gravesham LATCo complied fully with the Lawyers in Local Government Guidance on LATCos after making some amendments to the constitution. The claimant made no qualifying disclosure to her.

62. We accept Ms Guyler's evidence.

63. With respect to the alleged emails, there is no email from the claimant to Ms Guyler alleging such pressure, either in December 2019 or up to 12.1.2020.

64. There is an email from the claimant on 2.1.2020 (331) where the claimant says she'd do as instructed when referring to the Articles of Association. There is nothing about her telling Ms Guyler she was under pressure to use the Medway LATCo model.

65. Also in an email of January 2020 the claimant talks about being confused about instructions she was given by Laura Caiels (333 penultimate para). Again there was nothing about being pressurized as alleged.

Conclusion

66. There was no public interest disclosure to Ms Guyler as alleged.

- **Stuart Tranter 31 March 2020, Perry Holmes and Nikki Ashby by emails and telephone.**

Facts

67. This allegation post-dates the alleged detriments and the decision to dismiss. There is no evidence of any such telephone conversation. Therefore, we find there was no such conversation.

68. Nor is there evidence of any such email from the claimant on this date complaining of such pressure. Therefore, we find there was no such email.

Conclusion

69. There was no public interest disclosure as alleged.

Detriment/dismissal

70. As there was no public interest disclosure, we have not considered the alleged detriments or automatic dismissal claim, save as to say that the claimant was dismissed for reasons largely related to performance and her failure to progress with her CILEX course, which was a condition of her Fixed Term Contract.

12-16. Was the claimant disabled within the meaning of the EqA? The claimant relies on diabetes and frequent migraine attacks

Facts

71. Question 12 of the ET1, where it asks whether the claimant has a disability, is answered “no” (23).

Diabetes - Gestational diabetes

72. The health record from the claimant’s GP (159) shows that she had gestational diabetes from 23.11.2017 to 30.5.2018. This pre-dates her employment with the respondent. The record shows that she had it again on 31.7.2020. This post-dates her employment with the respondent.

73. These are the only references in the medical records. There are none during the relevant time.

74. In an NHS document giving an overview of gestational diabetes (463) it says it is a condition of pregnancy and it goes away after birth.

75. In a Supplementary Health Form dated 6.8.18 (498) attached to the claimant’s job offer letter (495), which the claimant completed upon acceptance, she wrote that she had recently been diagnosed with diabetes, which was diet controlled. It also states that she had not been absent due to sickness in the last 2 years (499).

Conclusion on diabetes

76. The claimant briefly had gestational diabetes. She did not have any other form of diabetes. She was disingenuous when she told the respondent she had diabetes, which was controlled by diet.

77. The gestational diabetes did not last long. It did not have a long-term effect on the claimant’s ability to carry out normal day-to-day activities. She was not disabled at the relevant time because of it.

Migraine

Facts

78. The claimant's GP notes only refer to migraine as follows:

- 23.1.2019 – migraine (159)
- 17.5.2019 and 23.1.2020 - 2 prescriptions for Sumatriptan 100mg tablets – take for migraine attack (156).

79. The Supplementary Health Form (498) does not mention migraine at all.

80. The claimant said in her Disability Impact Statement (153 para 4) that her line manager was aware that she suffered from migraines and that they impacted her day-to-day activities. She went on to add that this was because there were email exchanges attesting to her need to adjust “a” workday due to migraine attack. She talked of adjusting a workday in the singular.

81. There are WhatsApp messages referencing migraines as follows:

- 29.4.2019 – Vicky Nutley asks the claimant if she is OK after the migraines last week (668).
- 13.2.2020 – the claimant says to Vicky Nutley she was up most of the night with migraines (674 – top of the page).

82. These are the only references in the WhatsApp exchanges.

83. There are 5 FIT notes from the GP (starting at 479) as follows:

- 1st - 23.1.2019 – 30.1.19 – migraine – work related stress - off 1 week.
- 2nd note is difficult to read but seems to follow on and is dated 30.1.2019 - migraine – work related stress.
- 3rd note – 27.2.2019 – 27.3.2019 - migraine and stress at work.
- 4th note – 31.5.2019 – migraine – signed off for 4 weeks.
- 5th note – 27.6.2019 – migraine. Signed off 3 months.

84. On 20 May 2019, just before FIT note 4, the claimant sent a WhatsApp message to Vicky Nutley to say she had got germs from the kids (669).

85. There are no FIT notes for April 2019 or February 2020 when the claimant told Vicky Nutley she had migraines. In her evidence the claimant said she could not recall whether she was off sick or not during these times.

86. The claimant was working during at least part of the time covered by the FIT notes.

87. Just after the time the 2nd FIT note was signed (30.1.2019) the claimant sent and received work emails from 31.1.2019 to 6.2.2019 (545—558).

88. During the time covered by the 3rd FIT note (27.2.2019 – 27.3.2019) on 27.2.2019, the claimant had several WhatsApp messages with Vicky Nutley (666-67). In the first one she wrote “I’m at the Dr. It was supposed to be a quick thing at 9.30 just to get my Meds, but I’m still waiting around. I’m likely to be in after 10.00.” There was no mention of any migraine or getting a FIT note.
89. During the time of the 4th FIT note (signed off for 4 weeks from 31.5.2019) the claimant was working. She had WhatsApp chats on 17 & 18 June with Vicky Nutley about filling in records on the system (669); emails with Vicky Nutley (598) on 3 & 4.6.2019, and on 19.6.2019 the claimant wrote to Laura Caiels about the Gravesham contracts (243).
90. During the time of the 5th FIT note the claimant was engaging with work when she received an email from Laura Caiels on 16.7.2019 about work matters (243) and on 24.7.2019 from Vicky Nutley about quality monitoring (244).
91. Vicky Nutley’s evidence (WS VN para 13d) referred to her not having had sight of any of the claimant’s FIT notes. We found Vicky Nutley to be credible and reliable, making appropriate concessions in her evidence, and we accept what she said. There is no written evidence demonstrating that the claimant told HR that she had migraines and we find that she did not tell them.
92. The claimant’s Impact statement (152) gives very little detail on how the migraines impacted her and it does not say when the migraines started, how frequent they were or how long they lasted.

Conclusion

93. We did not find the claimant’s evidence to be credible and we are not persuaded that she had migraines to the extent she claims.
94. The impact of any migraines would have been debilitating and too painful for her to work whilst experiencing them. The times of some of the FIT notes written by the claimant’s GP are different to the times she told Vicky Nutley she had migraines. We do not accept that the claimant had migraines in April 2019 or February 2020 when she told Vicky Nutley she had them, but produced no medical record in support.
95. There is scant evidence of the severity of the alleged migraines and the impact they had on the claimant. The same is true of their frequency, how long they lasted on average and the time period she suffered from them.
96. If the claimant suffered migraines with any frequency, we would have expected her to have raised it with HR. She did not.
97. On the balance of probabilities, taking the claimant’s condition at the date of the alleged discriminatory acts, we find that any migraines she suffered from were infrequent and did not have a substantial and long term adverse effect on her ability to carry out normal day-to day activities.
98. Therefore, the claimant was not disabled at the relevant time with frequent migraine attacks, as alleged.

17-31. Discrimination based on disability

99. Given our finding that the claimant was not disabled, we have not considered the allegations of harassment or direct discrimination on the grounds of disability, discrimination arising from disability, or failure to make reasonable adjustments.

Race discrimination

100. There is no evidence before us upon which to draw any adverse inferences of racial discrimination against the respondent. We can find no link between the claimant's allegations and race. Our reasons are set out below.

32-38. Harassment on grounds of race

32. Did the Council or any of its employees engage in further unwanted conduct on grounds of race? She relies on:

a) The allegations of harassment on grounds of disability set out at paragraph 17 of the list of issues:

17. a) failed to ensure appropriate level of career development support and supervision.

Facts

101. The claimant was only on a short fixed term contract and so there was a limit to what career development could be undertaken in that time. During that time she was requested to undertake a CILEX course and qualify as a legal executive.
102. She was given high value projects to undertake, which, given she was unqualified would assist with her development. She had regular 1.2.1 meetings with her line manager, Vicky Nutley, (see Vicky Nutley's interview regarding the grievance 429).
103. It was a close knit team and the claimant could ask other team members for help. She could also ask managers for advice and in particular Vicky Nutley, Laura Caiels and Jan Guyler.
104. The claimant had performance development reviews, which were recorded. She completed a probationary review form dated 12.3.2019 (194) and a performance development review form in October 2019 (369).
105. The claimant wrote an email to Vicky Nutley dated 3.7.2018 regarding CILEX, saying thanks for motivating her; it meant a lot to her (203). She wrote another email to Vicky Nutley dated 29.10.2019 saying "I do feel absolutely supported by you and Jan regarding my career development" (280).
106. When the claimant was slipping behind, an external firm of solicitors, Trowers & Hamlin, were appointed to assist her (332). Even in her grievance (dated 31.3.2020) the claimant said that she had in the past felt backed by Vicky (388 penultimate para).

Conclusion

107. It is not the case that the respondent failed to ensure an appropriate level of career development, support and supervision. Their actions were quite the contrary. This allegation is not made out.

17. b) Throughout her employment, Vicky Nutley:

- **set her unreasonable deadlines**

Facts

108. There is no evidence of any unreasonable deadlines being set by the respondent. The evidence shows that clients from time to time requested tight deadlines, but these were not imposed by the respondent. The claimant was able to seek support in such cases and/or renegotiate deadlines.

Conclusion

109. The alleged conduct did not happen. The allegation is not made out.

- **gave her a caseload about twice that of other team members**

Facts

110. The claimant's caseload was discussed at 1.2.1 meetings. The evidence shows that the claimant was able to ask for cases to be re-allocated if she felt under too much pressure. She never did so. There is no evidence of the claimant having twice the caseload of others.

Conclusion

111. The alleged conduct did not happen. The allegation is not made out.

- **forced her to work despite being sick**

Facts

112. There are several examples of the claimant telling Vicky Nutley that she was not well and Vicky Nutley responding by saying there was no problem with the claimant taking time off (669, 670, 672, 673, 674).

113. There is no evidence of anyone from the respondent telling the claimant to work when she was sick. Neither is there any evidence that the claimant complained of any of such matters whilst working with the respondent. Even in her grievance of 31.3.2020, she does not raise this.

Conclusion

114. The alleged conduct did not happen. The allegation is not made out.

17. c) Further, Vicky Nutley:

- **criticised her by stating that she could not work out what was happening on 19 out of her 52 cases**

Facts

115. Vicky Nutley said (WS VN para 18 p9) she checked the IKEN system and could not work out what action had been taken in respect of 19 out of the 52 cases the claimant had been allocated since she started with the respondent as a locum up until December 2019. At the time of checking the claimant had 23 cases and 19 had no activity recorded on IKEN. (See Handwritten note - 363). We accept this evidence.

116. On 4.3.2020 Vicky Nutley sent an email to the claimant (361) saying that, amongst other things, she could not see on IKEN what was happening on the claimant's matters.

Conclusion

117. Vicky Nutley was simply managing the claimant and her comments were quite proper to make.

118. There is no evidence of her conduct being related to race, and we find that it was not.

119. This allegation fails.

- **from about October 2019, ignored her requests for administrative support, made in person and by email, for example on or about 29 October 2019.**

Facts

120. There were only 2 admin support staff for about 16 fee earners. There is no evidence to suggest that the claimant had any less access to them than anyone else.

121. The claimant alleges that she wrote an email dated about 29.10.2019 requesting administrative support. We could find no such email in the bundle. There is plenty of correspondence between the claimant and management, but there is no evidence in the bundle to show that the claimant asked for administrative support at any time. Neither is there any evidence that it was raised in her grievance.

Conclusion

122. The alleged conduct did not happen. The allegation is not made out and fails.

17 d) Laura Caiels allocated heavy photocopying or bundling to the Admin Resources Team whenever she attended the office for work, to ensure that they could not assist her.

Facts

123. There is no evidence of Laura Caiels allocating heavy photocopying or bundling to the admin team whenever the claimant attended the office for work. There is no evidence that the claimant ever complained of this happening whilst she worked for the respondent.

124. We accept Laura Caiels' evidence (WS LC p23 para 16) that she never knew when the claimant would be in the office due to the claimant's work pattern. The claimant worked condensed hours over a four day week generally with three half days and one full day working from home.

Conclusion

125. The alleged conduct did not happen. The allegation is not made out and fails.

32. b) (going back to 10a & b of the list of issues)

- **10 a) From about December 2019 to 12 January 2020 Vicky Nutley isolated her and refused to allocate her work directly**

Facts

126. This allegation is out of time. In any event it only covers a short time period including the Christmas and New Year holidays. The claimant was off sick for part of this time. She was working compressed hours over 4 days, with 1 full day at home and 3 part days at home.

127. There is an email from the claimant on 18.12.2019 saying she was run down and not able to return to the office that week (675). She also wrote an email to Stuart Bobby (Chief Executive of Gravesham Council) on 30.12.2019 (324) saying she had been out of the office due to illness and remained in recovery.

128. The claimant was mainly working on the Gravesham LATCo at this point and was in correspondence with Jan Guyler, who was partly based at Gravesham. There are several email exchanges with the claimant and others involved in the LATCo during this time.

129. Vicky Nutley was on annual leave between 23.12.2019 and 2.1.2020. Vicky Nutley's evidence (WS VN p10 paras 23-24) says that at no time did she isolate the claimant from the team. The LATCo project was coming to a head and so she did not allocate the claimant any significant additional work. We accept her evidence.

Conclusion

130. The claimant did not have a lot of contact with Vicky Nutley during this period because of her Gravesham work, holidays and absences. We find that Vicky Nutley did not isolate the claimant.
131. Vicky Nutley not allocating the claimant additional work during a busy time with the LATCo project is perfectly reasonable and demonstrates good management.
132. These actions were not related to race. This allegation fails.

- **10b In around January 2020 Laura Caiels:**

- **wrongly reported to Jan Guyler that Ms Rivers had missed a deadline and**

Facts

133. Laura Caiels' evidence (WS LC p21 para 5) is that she denies reporting any missed deadlines on the LATCo project to Jan Guyler, but that there were a series of emails from Gravesham BC, who were frustrated at the delays on the project, which Jan Guyler was copied into. These emails are in the bundle and include those at 309 to 334.
134. We have not been taken to any other emails which demonstrate that Ms Caiels reported missed deadlines to Jan Guyler. We accept Ms Caiels' evidence.

Conclusion

135. The alleged conduct did not happen. The allegation is not made out and fails.
- **escalated an innocent query by Victor Ogunyemi to a formal complaint.**

Facts

136. Regarding Victor Ogunyemi, there is an email on 14.1.2020 from Mr Ogunyemi to Laura Caiels attaching an email from Piers Morgan (346-349) expressing concern about not hearing anything from the respondent. Ms Caiels passed it on to Vicky Nutley as she was the claimant's line manager, and Vicky Nutley questioned the claimant about it (334). It was not escalated as a formal complaint.

Conclusion

137. Laura Caiels' action was perfectly reasonable. It was not related to race. This allegation fails.

33. Further, she alleges that Vicky Nutley:

- a) **tried to persuade her to leave from around November 2019**

Facts

138. There is no evidence that Vicky Nutley tried to persuade the claimant to leave. The claimant has given no specifics on when and how she allegedly did so. There is nothing in the bundle that we have been taken to which supports the allegation.

Conclusion

139. The alleged conduct did not happen. The allegation fails.

b) offered her services to a different team on 12 February 2020

Facts

140. Vicky Nutley explained (WS VN para 46 p17) that the claimant had requested to stay working with the respondent and asked her whether there were any roles available. Vicky Nutley was trying to help the claimant by enquiring whether there were any vacancies in the People Team. This is borne out by Vicky Nutley's email to the People Team on 12.2.2020 (358), which was copied in to the claimant, asking whether there were any current vacancies the claimant could apply for. We accept this evidence.

Conclusion

141. Vicky Nutley was trying to help the claimant by making perfectly reasonable enquiries. Her actions were not related to race.

c) said to her that she was an experiment during a meeting in March 2020

Facts

142. Vicky Nutley's evidence (WS VN Para 60 p19) is that she referred to the Fixed Term Contract being an experiment because the role previously had been occupied by qualified lawyers and the claimant was not qualified, hence the need for her to undertake the CILEX course. She never said that the claimant was an experiment. This is supported by the meeting notes from 4.3.2020 (531 (bottom) – 532) where Vicky Nutley said "I feel that we've tried something in putting you in this role that hasn't worked." We accept Vicky Nutley's evidence.

Conclusion

143. The conduct was not related to race. The allegation fails.

d) placed unfair reliance on a complaint by Sarah Parfitt

Facts

144. Sarah Parfitt complained 3 times to the claimant (copying in Vicky Nutley) on 9.4.2019 (240), 10.4.2019 (239), and 12.4.2019 (237). Ms Parfitt had chased up the claimant previously in November 2019, but had not copied it in

to Vicky Nutley (567, 573,574, 575). Ms Parfitt was clearly dissatisfied with the claimant as shown by Ms Parfitt's statement to the grievance investigation (425).

145. This complaint contributed to Vicky Nutley's thinking on not extending the claimant's contract.

Conclusion

146. It was open to Vicky Nutley to place reliance on Ms Parfitt's complaint about the claimant. There is nothing to suggest that the reliance was unfair.

147. In any event, it was not related to race. The allegation fails.

e) whenever Ms Rivers could not attend a meeting for good reason, would report that this was because she could not cope.

Facts

148. There is no evidence at all before us to support this allegation. The claimant has given no specifics.

Conclusion

149. We find the alleged conduct did not happen. The allegation fails.

35. Further, she alleges that throughout her employment:

a) she was given additional jobs involving supervising and supporting other staff

Facts

150. There is no evidence of this happening whatsoever.

Conclusion

151. The alleged conduct did not happen. The allegation fails.

b) her emails were moved around and meetings cancelled without her knowledge or consent.

Facts

152. There is no evidence of this whatsoever.

Conclusion

153. The alleged conduct did not happen. The allegation fails.

36. Finally, she alleges that the Council failed to acknowledge on its website the current (BAME) Mayor and Mayoress, preferring to retain material relating to the previous (White) Mayor, despite him having been

suspended from his party for racially derogatory and inflammatory remarks.

Facts

154. We have not been shown any details of the web site to support this allegation. The legal team had no influence over the web site, as it was handled by the communications team, as explained by Vicky Nutley (WS VN para 59 p19).

Conclusion

155. We only have the claimant's word for this allegation and we do not find her to be credible or reliable. In the absence of any other evidence, we find that the conduct did not occur. The claimant has not discharged the burden of proof necessary to demonstrate a prima facie case. The allegation fails.

Direct discrimination on grounds of race

For (a) and (b), Ms Rivers compares her circumstances with a white colleague, Mark Parker. For (c) and (d) she says that the remarks are inherently discriminatory.

39. Did the Council treat her less favourably than it treated or would have treated someone else in the same circumstances apart from her race in that:

a) they employed her on a fixed-term contract rather than a permanent contract. (cf Mark Parker)

Facts

156. Mark Parker was qualified. The claimant was not.

Conclusion

157. Mr Parker is not an appropriate comparator.

158. There is no evidence of less favourable treatment because of the claimant's race.

159. The allegation fails.

b) on 6 November 2019 she was not given an opportunity for development and career progression by reviewing the Gravesend Borough Council Contract Procedure Rules. (cf Mark Parker)

Facts

160. This is out of time.

161. In any event the claimant was busy with the LATCo at the time.

Conclusion

162. Not giving the claimant an opportunity to review the contract procedure rules was a reasonable management decision. It was not taken because of her race.

163. The allegation fails.

c) in 2 – 14 January 2020 Jan Guyler told her that she should communicate better, to which Ms Rivers responded by referring to cultural differences.

Facts

164. This allegation is out of time and no comparator was put forward.

165. The document in question to which it refers (344) has the claimant's comments endorsed on it in light text (last sentence of 1st full paragraph). It is the claimant who is referring to cultural differences.

Conclusion

166. Even if there were a hypothetical comparator and it was in time, the comment is not less favourable to the claimant. The allegation fails.

d) Vicky Nutley repeatedly referred to her and her family as a tribe, including in an email to Laura Caiels in 30 March 2020

Facts

167. There is no such email to Laura Caiels in the bundle. There is an email to the claimant from Vicky Nutley (386) on 30.3.2020 simply saying "Hope all is well with you and the tribe." This is the only instance of the word tribe being used.

168. It was written in the context of this being a week into the first Covid lockdown and Vicky Nutley was enquiring after the claimant's family in a friendly way.

169. It is an expression that Vicky Nutley uses for families generally and her evidence was that she refers to her own family as a tribe. She stated that there was no racial connotation (WS VN para 58 p19). We accept her evidence.

Conclusion

170. Vicky Nutley used the word "tribe" in a friendly way, as she does for her own family and for families in general. She was not treating the claimant less favourably.

171. We note there is no comparator put forward. But even with an appropriate hypothetical comparator, this was not discriminatory. The allegation fails.

e) they subjected her to any of the treatment not found to have been harassment.

Facts

172. There was no lack of support, the claimant was not overloaded with work, there was no unfair criticism or removing of administrative support, and she was not isolated. Laura Caiels did not wrongly report her missing a deadline and nor did she escalate an innocent query to a formal complaint.

Conclusion

173. No comparator has been put forward against which to compare the alleged acts. However, even with a hypothetical comparator, none of the alleged conduct, not found to be harassment, is less favourable treatment because of the claimant's race. The allegation fails.

Breach of contract (notice pay)

41. Was there an agreement in or around October 2019 that Ms Rivers' contract would be extended to October 2021?

Facts

174. There is a text message from Vicky Nutley on 30.10.2019 at 14.07.36 (522) saying — we will bid for funding for final unit in April. Will give you a year's extension to allow time for the funding bid.

175. Also on 30.10.2019 there is an email from Vicky Nutley to the claimant saying she could have a 12 month extension to complete the course (285 penultimate para). In her evidence (WS VN para 28 p12), Vicky Nutley made it clear that the 12 month extension was in light of the claimant passing the CILEX module and subject to proof of this. We accept this.

176. In actual fact the claimant had not passed the first module and so never provided proof of passing. There is an email from Malcolm Bacon on 3.6.2021(149) saying they held no exam or module results for Faith Rivers.

177. We find that the claimant did not take her exams and did not pass the CILEX module.

Conclusion

178. There was an agreement to extent the claimant's contract to October 2021 subject to her passing the CILEX module.

42. If so did the Council breach that agreement by terminating the contract on 30 April 2020?

Conclusion

179. On the facts as found above, no. In light of the claimant's failure to pass the CILEX module, there was no breach of agreement to extend her contract.

43. Did the Council fail, from January 2020, to comply with its duty to provide her with adequate work?

Facts

180. There is no evidence of this. The claimant's caseload was simply being managed down as she was due to leave shortly.

Conclusion

181. The respondent did as would be expected for somebody who was leaving them. They were entitled to manage the claimant's work down. There was no breach of contract.

44. Did the Council give contractual notice (2 months).

Facts

182. The claimant was entitled to 2 months' contractual notice of termination. She was told in January 2020 that her contract would not be renewed. She was to leave on 30 April 2020.

Conclusion

183. The claimant was given more than her 2 months' contractual notice.

Employment Judge Liz Ord

Date 8 April 2025

Written Reasons sent to the parties on
Date 9 April 2025

Notes

Public access to employment tribunal decisions

Judgements and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

ANNEX

The Issues

Time limits

1. The claim form was presented on 29 May 2020, well within the normal three month period for bringing claims based on dismissal. It was unclear at this hearing how much time was spent in early conciliation, but any acts or omission which took place before 30 February 2020 may potentially be out of time. ACAS was notified on 29 April 2020. Anything before 30 January 2020 is potentially out of time.

2. To complain of any earlier events, Ms Rivers must prove that they were part of a course of conduct extending over a period of time and ending after that date, or persuade the Tribunal that it would be just and equitable to extend the normal time limit.

Those involved

3. To save repetition, the Council employees or stakeholders named below held the following positions:

- a) Jan Guyler, Head of Legal Services;
- b) Vicky Nutley, her line manager;
- c) Gary Thomas, Head of Finance Operations;
- d) Perry Holmes, Monitoring Officer and Named Whistleblowing Representative;
- e) Stuart Bobby, Senior Officer of Gravesend Borough Council;
- f) Stuart Tranter, Head of the Audit Committee;
- g) Nikki Ashby, Audit and Counter Fraud Team Leader;
- h) Victor Ogunyemi, Procurement Category Manager.

Was there a Public Interest Disclosure?

4. What did Ms Rivers say or write? She relies on two main allegations, one relating to the Northgate contract and one relating to the use of the Local Authority Trading Co (LATCo) model for Gravesend Borough Council.

5. For the first she says that:

a) On or around 24 October 2019 she raised concerns by email with Jan Guyler about document management and the weakness in the Northgate (later renamed Zellis) contract extension, that could give rise to a loss of protection of public funds.

b) On or around 31 January 2019 she raised these concerns with Vicky Nutley, in person, and told her that there was no lawful basis for the direct contract award in relation to this contract.

c) On 4 February 2019 she repeated this information;

- in person to Gary Thomas, and
- by email to Perry Holmes.

6. For the second, Ms Rivers also says that:

a) On or around 29 October 2019, both in person and followed up in emails, she raised concerns with Vicky Nutley about being required to use this LATCo model as it was under police investigation for misuse of public funds and was not aligned to regulations or prevailing guidance.

b) This was repeated to:

- Stuart Bobby in around 23 December 2019, both in person and followed up in emails, in which she stressed that she was being pressurised to use this model;
- Perry Holmes in person and followed up by emails on 31 March 2020;
- Jan Guyler, in person and followed up by emails, on or about December 2019 to 12 January 2020;
- Stuart Tranter 31 March 2020, Perry Holmes and Nikki Ashby by emails and telephone.

7. If so, in either case, did that disclose information which in her reasonable belief tended to show that;

a) a criminal offence was likely to have been committed, namely the misuse of public funds, non-compliance with procurement regulations and rules, and potential acts of fraud, corruption or bribery, or

b) the Council was likely to fail to comply with a legal obligation, namely appropriate governance of the LATCos, to safeguard against the misuse of public funds and to prevent acts of fraud, corruption or bribery.

8. If so, did she reasonably believe that the disclosure was made in the public interest? The disclosure was in the public interest because it contained information of potential acts of fraud and/or corruption, bribery and/or the misuse of public funds; failure to prevent acts of fraud and corruption or bribery under the Respondents' AntiFraud and Corruption Policy".

9. As to the disclosure to Stuart Tranter and Stuart Bobby (not employed by the Council):

- a) Did Ms Rivers reasonably believe that the information disclosed and any allegation in it was substantially true?
- b) Was the disclosure for personal gain?
- c) Had she disclosed substantially the same information to the Council?
- d) In all the circumstances was it reasonable to make the disclosure?

Public Interest Disclosure - Detriment complaints

10. If so, was Ms Rivers subjected to a detriment by the Council or another worker as a result in that:

a) From about December 2019 to 12 January 2020 Vicky Nutley isolated her and refused to allocate her work directly;

b) In around January 2020 Laura Caiels:

- wrongly reported to Jan Guyler that Ms Rivers had missed a deadline and
- escalated an innocent query by Victor Ogunyemi to a formal complaint.
- c) At a meeting on 15 January 2020 Vicky Nutley
- reneged on the agreement reached in October 2019 to extend her contract until October 2021; and
- raised performance concerns which were untrue, and which the Council then failed to investigate further.
- d) In a meeting on 4 March 2020 Vicky Nutley
- told her that Gary Thomas had complained about Ms Rivers' delay on the Northgate contract; and

- repeated the unsubstantiated performance concerns in her Performance Development Review.

e) Laura Caiels micromanaged her and subjected her to unfair criticism over the LATCo project.

Public Interest Disclosure - Dismissal complaints

11. Can Ms Rivers show that the reason (or if more than one, the principal reason) for her dismissal was the protected disclosure(s)?

Disability

12. Did Ms Rivers have a physical or mental impairment at the material time, namely diabetes and frequent migraine attacks? (The main condition relied on is the migraine, resulting from screen use.)

13. If so, did the impairment have a substantial adverse effect on her ability to carry out normal day-to-day activities?

14. If so, was that effect long term? In particular, when did it start and:

a) had it lasted for at least 12 months?

b) is or was the impairment likely to have lasted at least 12 months at the material time?

15. Note that in assessing the likelihood of an effect lasting 12 months, account should only be taken of the circumstances at the time the alleged discrimination took place, not afterwards.

16. Were any measures taken to treat or correct the impairment? But for those measures would the impairment have been likely to have had a substantial adverse effect on Ms Rivers' ability to carry out normal day-to-day activities?

Harassment on grounds of disability

17. Did the Council or any of its employees engage in unwanted conduct. Ms Rivers alleges that:

a) They failed to ensure that she had an appropriate level of career development, support and supervision.

b) Throughout her employment, Vicky Nutley:

- set her unreasonable deadlines;
- gave her a caseload about twice that of other team members; and
- forced her to work despite being sick.

c) Further, Vicky Nutley

- criticised her by stating that she could not work out what was happening on 19 out of her 52 cases; and
- from about October 2019, ignored her requests for administrative support, made in person and by email, for example on or about 29 October 2019.

d) Laura Caiels allocated heavy photocopying or bundling to the Admin Resources Team whenever she attended the office for work, to ensure that they could not assist her.

18. Further information is required as to paragraphs (a) and (b) above, setting out the further detail of the period or frequency of the events described and any examples.

19. Was such conduct related to her disability?

20. Did it have the purpose or effect of violating Ms Rivers' dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her?

Direct discrimination on grounds of disability

21. Did the Council, in subjecting her to any of the treatment not found to have been harassment, treat her less favourably than it treated or would have treated someone else in the same circumstances apart from her disability. In particular, Ms Rivers compares her circumstances with others in the team who were not disabled, or hypothetical comparators.

Discrimination arising from disability

22. This involves unfavourable treatment as a result of something arising in consequence of Ms Rivers' disability.

23. Firstly, can the Council show that it did not know that she had a disability, and could not reasonably have been expected to know? It is accepted that they knew of the migraines but not the diabetes.

24. If not, what unfavourable treatment did she receive? She relies on each of the allegations of harassment set out at paragraph 23 above.

25. Can Ms Rivers prove that the Council treated her unfavourably because of the "something arising" in consequence of her disability, namely the increased difficulty she had in spending time in front of a screen and hence in meeting her time recording targets.

26. Can the Council show that this treatment was a proportionate means of achieving a legitimate aim? The Council says that time recording is an essential requirement.

Failure to make reasonable adjustments

27. Ms Rivers says that the Council had the following provisions, criteria or practices of:

a) allocating work via computer screens rather than in print;

b) requiring staff to charge for their time;

c) allocating work with short deadlines;

d) only providing in-house training and development opportunities on set days, when Ms Rivers may not be available;

e) only providing administrative support to staff in the office, not for home workers.

28. If so, did these requirements put her at a substantial disadvantage compared with others in that she mainly worked from home and via computer?

29. If so, did the Council take such steps as were reasonable to avoid that disadvantage? The burden of proof does not lie on Ms Rivers, but she says that the following steps should have been taken:

a) consulting with her about her workload;

b) only requiring essential chargeable information;

c) not allocating work to her directly from external clients without consultation;

d) providing training etc remotely;

e) ensuring that administrative staff were available to help her.

30. The respondent says that Ms Rivers worked mainly from home for childcare reasons, not for a reason connected with her health, and so any disadvantage suffered was not the result of a disability.

31. Did the Council not know, or could the Council not reasonably have been expected to know, that she was likely to be placed at this disadvantage?

Harassment on grounds of race

32. In addition, did the Council or any of its employees engage in further unwanted conduct on grounds of race? She relies on:

- a) The allegations of harassment on grounds of disability set out at paragraph 17 above, i.e. (in summary) lack of support, overloading her, unfair criticism and removing administrative support.
- b) The detriments at 15 10 (a) and (b), i.e. (in summary) isolating her and treating a query as a complaint against her.

33. Further, she alleges that Vicky Nutley:

- a) tried to persuade her to leave from around November 2019;
- b) offered her services to a different team on 12 February 2020;
- c) said to her that she was an experiment during a meeting in March 2020;
- d) placed unfair reliance on a complaint by Sarah Parfitt;
- e) whenever Ms Rivers could not attend a meeting for good reason, would report that this was because she could not cope.

34. Further, she alleges that Laura Caiels belittled her in an email to Stuart Bobby on 23 December 2019, telling him to disregard a position she proposed.

35. Further, she alleges that throughout her employment:

- a) she was given additional jobs involving supervising and supporting other staff; and
- b) her emails were moved around and meetings cancelled without her knowledge or consent.

36. Finally, she alleges that the Council failed to acknowledge on its website the current (BAME) Mayor and Mayoress, preferring to retain material relating to the previous (White) Mayor, despite him having been suspended from his party for racially derogatory and inflammatory remarks.

37. Further information is required as to:

- a) the date or approximate date of the complaint mentioned at 39.d) above;
- b) examples of any meeting referred to at 39.e) above;
- c) paragraph 41 above, setting out the further detail of the period or frequency of the events described and any examples.

38. Did such conduct have the purpose or effect of violating Ms Rivers' dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her?

Direct discrimination on grounds of race

39. Did the Council treat her less favourably than it treated or would have treated someone else in the same circumstances apart from her race in that:

- a) they employed her on a fixed-term contract rather than a permanent contract.
- b) on 6 November 2019 she was not given an opportunity for development and career progression by reviewing the Gravesend Borough Council Contract Procedure Rules.
- c) in 2 – 14 January 2020 Jan Guyler told her that she should communicate better, to which Ms Rivers responded by referring to cultural differences.
- d) Vicky Nutley repeatedly referred to her and her family as a tribe, including in an email to Laura Caiels in 30 March 2020; and
- e) they subjected her to any of the treatment not found to have been harassment.

40. For (a) and (b) above, Ms Rivers compares her circumstances with a white colleague, Mark Parker. For (c) and (d) she says that the remarks are inherently discriminatory.

Breach of contract (notice pay)

41. Was there an agreement in or around October 2019 that Ms Rivers' contract would be extended to October 2021?

42. If so did the Council breach that agreement by terminating the contract on 30 April 2020?

43. Did the Council fail, from January 2020, to comply with its duty to provide her with adequate work?

44. Did the Council give contractual notice (2 months).

Remedies

45. If Ms Rivers wins her claim for automatically unfair dismissal she may be entitled to

- a) reinstatement or re-engagement;
- b) compensation for loss of earnings; and/or
- c) an uplift in respect of the Council's alleged failure to follow the ACAS Code in relation to her grievance.

46. If she wins her discrimination claim she may also be entitled to:

- a) compensation for injury to feelings;
- b) interest; and/or
- c) a declaration or recommendation.

Date 2 December 2024