



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms D Sangster

**Respondent:** Stopwatch UK

**Heard at:** London South, by CVP      **On:** 10, 11, 12 and 13 February 2025

**Before:** EJ Rice-Birchall, Mr Wilby and Ms Thompson

## Representation

Claimant: Ms Wheeler, counsel

Respondent: Mr Woodward. solicitor

# JUDGMENT

1. The complaints of direct disability, sex and age discrimination are not well-founded and are dismissed.
2. The complaint of harassment related to disability is not well founded and is dismissed.
3. The complaint of victimisation is not well-founded and is dismissed.

# REASONS

## Background

1. The claimant worked for the respondent between 1/6/2021 and 26/5/2023 (the claimant says the termination date was 31/5/2023) as Executive Director. She entered into ACAS early conciliation between 2/5/2023 and 13/6/2023 and she presented her claim form (not her particulars of claim) on 9/7/2023.
2. The claimant brings claims under the Equality Act 2010 (EQA). She relies upon the protected characteristics of age (s.5 EQA – the claimant’s particular age group is ‘late 50s/nearly 60’); disability (s.6 EQA – mental ill-health because of menopause); and sex (s.11 EQA – female).
3. The prohibited conduct was identified as: direct discrimination in respect of all three protected characteristics (s.13 EQA); harassment related to disability (s.26 EQA); and victimisation (s.27 EQA).

## The issues

4. The issues the Tribunal will decide are set out below. (page 48)

### 1 Time limits

1.1 Given the date the claim form was presented and the effect of early conciliation, any complaint about something that happened before 3 February 2023 may not have been brought in time.

1.2 Were the discrimination and victimisation complaints made within the time limit in section 123 of the Equality Act 2010? The tribunal will decide:

1.2.1 Whether the claim was made to the tribunal within three months (allowing for any early conciliation extension) of the acts to which the complaints relate?

1.2.2 If not, was their conduct extending over a period?

1.2.3 If so, was the claim made to the tribunal within three months (allowing for any early conciliation extension) of the end of that period?

1.2.4 If not, were the claims made within such further period as the tribunal thinks is just and equitable? The tribunal will decide:

1.2.4.1 Why were the complaints not made to the tribunal in time?

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

### 2 Disability

2.1 Was the Claimant disabled at the relevant time(s)? The relevant time period is June 2022 to 31st May 2023 last date of employment.

2.2 What was the effect?

2.3 Was the effect substantial?

2.4 If so, had the substantial effect lasted for a period of at least 12 months or was it likely to do so?

2.5 Did the respondent have knowledge of disability?

2.5.1 Did the respondent at the material time know: The material time is June 2022 to 31st May 2023 last date of employment.

2.5.2 That the claimant had mental ill-health because of menopause?

2.5.3 That the mental ill-health because of menopause had an adverse effect on

her ability to carry out normal day-to-day activities?

2.5.4 That such effect was substantial?

2.5.5 had the effect had lasted 12 months or was likely to do so?

### 3 Direct age discrimination

The claimant says her age group of late 50s/nearly 60. Her comparator is Habib Kadiri whose age group is 'early 30s'.

3.1 What are the facts in relation to the following allegations (as discerned from C's Particulars of Claim – any further allegations raised in her FBPs to be added as appropriate, subject to this not amounting to the introduction of a fresh claim):

3.1.1 The respondent failing to follow the recommendations of the grievance outcome relating to supervision. Specifically, "to review our practices in respect of supervision of senior staff with the aim of achieving more equitable levels of provision as between yourself and your co-director. Once the Trustees have had the opportunity to consider this matter, you and Habib will be consulted as to your views on the way forward, including the number and form of supervisions required."

3.1.2 The claimant having two supervisions following publication of her grievance outcome on 17.02.2023 and 29.03.2023 held by Lee Bridges and Neena Samota, whereas her male counterpart received uninterrupted supervision, updates and conversations with the lead Trustees on a weekly basis. (Paragraph 2.9 of Particulars of Claim)

3.1.2.1 The Claimant avers Habib Kadiri was supervised weekly, via teams and he was able to call Trustees to receive a prompt response.

3.1.2.2 Further, on Wednesdays when the Claimant was present in the building, Trustees would come in and spoke only to Habib Kadiri, ignoring the Claimant.

3.1.3 The claimant being snubbed, blanked and ignored leading her to feeling isolated and excluded. Specifically, on 11th January 2023, by this time the office had moved upstairs, to the first floor, and again there was no desk for the Claimant. The Claimant tried to raise this with Michael Shiner but her concern about this was dismissed. I had presented my work around the Bystanders guide and the complaints guide, I received no response nor feedback from Trustees, who had the last say. On or around, 29th March 2023 the Claimant raised this again at her supervision with Lee Bridges and Neena Samota however Lee's response was "you don't do yourself any favours" (paragraph 2.9 of Particulars of Claim)

NB Neither the allegation regarding failure to provide a desk or regarding the comment "you don't do yourself any favours" were mentioned in the claimant's witness statement. The claimant was therefore not cross-examined by the respondent on these points and the Tribunal therefore did not permit re-examination on these points. There was therefore no evidence before the Tribunal as regards these points.

3.1.4 Work carried out collaboratively by the claimant and her colleague resulting in the claimant's colleague, Habib Kadiri being commended for the work whereas the claimant was seen as failing. Specifically, on 16th January 2023, Rebekah Delsol via email stated to the Claimant, "Can you now write it up fully in the format of Habib's section," Rebekah did not even notice that Habib's work was inaccurate and Rebekah was aware that the Claimant did not know how to imbed hyperlinks at the time. (paragraph 2.10 of Particulars of Claim)

3.2 Did to the claimant reasonably see the treatment referred to in the allegation set out at 3.1 above as detriments?

3.3 If so, has the claimant proven facts from which the tribunal could conclude that in any of those respects the claimant was treated less favourably than someone in the same material circumstances, save for their age, will or would have been treated?

3.4 Does the claimant rely upon an actual or hypothetical comparator?

3.5 Has the claimant proven facts from which the tribunal could conclude that the less favourable treatment was because of age?

3.6 If so, has the respondents shown that there was no less favourable treatment because of age?

3.7 If not, has the respondent shown that its treatment of the claimant was a proportionate means of achieving a legitimate aim?

#### 4 Direct sex discrimination

4.1 What are the facts from which the claimant alleges that she was subjected to Detriment because of sex?

4.1.1 The Claimant having two supervisions following publication of her grievance. outcome on 17.02.2023 and 29.03.202 held by Neena Samota and Lee Bridges, whereas her male counterpart received uninterrupted supervision, updates and conversations with the lead Trustees on a weekly basis. (Paragraph 2.9 of Particulars of Claim)

4.1.2 The Claimant avers Habib Kadiri was supervised weekly, via teams and he was able to call Trustees to receive a prompt response.

4.1.3 Further, on every Wednesdays when the Claimant was present in the building, Trustees e.g. Rabekka Delsol and Michael Shiner would come in and speak only to Habib Kadiri, ignoring the Claimant.

4.1.4 the Claimant was repeatedly ignored e.g. On 29.03.2023 during the Claimant's second supervision held by Lee Bridges and Neena Samotta, the Claimant had completed a draft of the bystander's guide and sent this to the Trustees for comment; nothing was received. Habib Kadiri sent out requests, around the same time, about the website and the newsletter and the Trustees responded immediately.

4.2 Does the claimant rely on an actual or hypothetical comparator? If actual, who is the comparator? Male comparator is Habib Kadiri, executive co-director.

4.3 Did the claimant reasonably see the relevant treatment as detrimental?

4.4 Has the claimant proven facts from which the tribunal could conclude that the less favourable treatment was because of sex?

4.5 If so, has the claimant also proven facts from which the tribunal could conclude that the less favourable treatment was because of sex?

4.6 If so, has the respondents shown that there was no less favourable treatment because of sex?

#### 5 Direct disability discrimination

5.1 What are the facts from which the claimant alleges she was subjected to detriment the cause of disability?

5.1.1 Return to work from extended leave, the Claimant's treatment in the organisation upon her return from sickness absence was markedly different to that of her co- director (paragraph 2.6 of Particulars of Claim) specifically: -

5.1.1.1 On 08.02.2023, Michael Shiner discussed work matters directly with Shenna Darcheville, research coordinator, ignoring the Claimant as her line manager.

5.1.1.2 On/around 21st November 2022, Habib Kadiri and the Claimant held a meeting with a potential funder. The Claimant was then kept out of the loop. regarding developments about this thus she was not aware of what happened afterwards. The Claimant was instead later blamed for not bringing more. money into the organisation.

5.1.1.3 On every Wednesdays when the Claimant was present in the building, Trustees e.g. Rabekka Delsol and Michael Shiner would come in and speak. only to Habib Kadiri, ignoring the Claimant.

5.1.1.4 On 18.01.2023 Rabekka Delsol ignored the Claimant and only spoke to Habib Kadiri, about cancelling a meeting that had been arranged to take place with Rabekka Delsol, the Claimant, Ras-Kawas-I Grant and Shenna Darcheville. Rabekka Delsol instead chose to discuss the Claimant's work with Habib. Kadiri.

NB 5.1.1.1, 5.1.1. 2 and 5.1.1.4 were not mentioned in the claimant's witness statement. The claimant was therefore not cross-examined by the respondent on these points and the Tribunal therefore did not permit re-examination on these points. There was therefore no evidence before the Tribunal as regards these points.

5.1.2 At the supervision meeting of 13 January 2023, Nina Samota, Trustee subjected the Claimant to the comment that she was "not the first person to go through menopause". The Claimant relies upon the protected characteristic of disability as the Claimant was going through menopause. (paragraph 2.7 of Particulars of Claim)

5.2 Does the claimant rely on an actual or hypothetical comparator? If actual, who

is the comparator? Actual comparator is Habib Kadiri, executive co-director; in the alternative a hypothetical comparator is relied upon i.e. an Executive Director who did not have mental ill-health because of menopause.

5.3 Has the claimant proven facts from which the tribunal could conclude that the less favourable treatment was because of disability?

5.4 If so, has the claimant also proved facts from which the tribunal could conclude that the less favourable treatment was because of disability?

5.5 If so, has the respondents shown that there was no less favourable treatment because of disability.

## 6 Harassment

6.1 Did the respondent do the following alleged things:

6.1.1 Carry out the supervision meeting of 13 January 2023 in an unreasonably negative fashion? The Claimant relies upon the protected characteristic of disability -as she was “forced to explain that my mental health and well-being had been impacted by menopause” (paragraph 2.7 of Particulars of Claim)

6.1.2 Hold the supervision meeting of 13 January 2023 with 2 Trustees present, including the chair of the board? The Claimant relies upon the protected characteristic of disability -as this created an intimidating, hostile, humiliating environment which exacerbated the symptoms of her mental health. (paragraph 2.7 of Particulars of Claim)

6.1.3 At the supervision meeting of 13 January 2023, Nina Samota, Trustee subjected the Claimant to the comment that she was “not the first person to go through menopause”. The Claimant relies upon the protected characteristic of disability as the Claimant was going through menopause. (paragraph 2.7 of Particulars of Claim)

6.2 if so, was that unwanted conduct?

6.3 was it related to any protected characteristic? If so, which? The Claimant relies upon the protected characteristic of disability.

6.4 Did the conduct have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

6.5 if not, did it have that effect, taking into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

## 7 Victimisation

7.1 Did the claimant do a protected act by raising a grievance on 20 January 2023?

7.2 What are the alleged acts relied on by the claimant in her victimisation claim?

7.2.1 In late-January 2023 a consultation event for the Girls Project was planned to take place in Nottingham; volunteers working with the project were informed late by their own employers that they could have the day off to attend. This late notification meant additional monies were allocated to cover the increased transport costs. Despite the Claimant's numerous calls and texts to, Dr Michael Shiner, as she was unclear about who was supposed to be supervising her; the Claimant received no response and was unable to support the project officer in this regard. The Claimant was deliberately ignored by Michael Shiner which undermined her authority as a director. (paragraph 2.8 of Particulars of Claim – "From then on things got worse." and paragraph 2.9 of Particulars of Claim – "I on the other hand, was snubbed, blanked, and ignored, this led me to feel isolated and excluded.")

7.2.2 On 24th January 2024, the Girls Project event took place and the predicted budget for that event did not contain an expenditure line for additional refreshments. The Claimant as the director, was aware of the budget and thus agreed to spend on said refreshments as an immediate decision was required. The Claimant was later on 2<sup>nd</sup> February 2023 sanctioned by Michael Shiner for taking this decision and stated that he "and Trustees could take action against me [the Claimant] as a result of agreeing to purchase the extra catering". (paragraph 2.8 of Particulars of Claim – "From then on things got worse." and paragraph 2.9 of Particulars of Claim – "I on the other hand, was snubbed, blanked, and ignored, this led me to feel isolated and excluded.")

7.2.3 On 24th January 2023, Michael Shiner de facto took over the supervision of the Girls Work Project Manager, thereby undermining the Claimant's authority within the organisation. (paragraph 2.8 of Particulars of Claim – "From then on things got worse." and paragraph 2.9 of Particulars of Claim – "I on the other hand, was snubbed, blanked, and ignored, this led me to feel isolated and excluded.")

7.2.4 In February 2023, a report to the charity commission was developed, Trustee Rebekah Delsol, stated that the Claimant's contribution to the report was not good enough and she should redraft using the outline delivered by colleague using hyperlinks throughout the text. The Claimant explained she would try to redraft, but this might take some time. However, it was later stated on 27th March 2023 by Neena Samota that that Claimant had refused to complete the report, which was not the case. (paragraph 2.8 of Particulars of Claim – "From then on things got worse.")

7.2.5 On 7th February 2023, the Claimant was requested by a funder to provide them with a preliminary report to facilitate the release of additional funding. The Claimant promptly submitted the requested report and, during subsequent discussions with the funder, agreed to provide a more comprehensive report at a later time. However, in response to the Claimant's grievance, Michael Shiner and Rebecca Delsol told the Claimant that this report was inadequate. (paragraph 2.8 of Particulars of Claim – "From then on things got worse.")

7.2.6 Dr. Michael Shiner refused to take any phone calls and emails from the Claimant, which made the smooth running of her post impossible e.g. on 10th February and 7th March 2023 as well as various emails to Richard Gaside regarding the lease signing for tenancy of a building. (paragraph 2.8 of Particulars of Claim – "From then on things got worse." and paragraph 2.9 of Particulars of Claim – "I on the other hand, was snubbed, blanked, and ignored, this led me to

feel isolated and excluded.”)

7.2.7 On 7th March 2023, during project support, after the failed visit to Nottingham, Michael Shiner later shouted at the Claimant during an online Teams meeting with the Girls Work Project officer; thus, undermining and belittling the Claimant.

7.2.8 On 18th March 2023, the Claimant’s asked the accountant for details of the agency’s bank address and account details to complete a project return report. The Claimant was admonished at length by Michael Shiner for making this request, instructing that in the future direct questions about banking were to be sent to him and/or Neena which added to the Claimant’s feelings of being victimised and harassed. (Paragraph 2.8 of Particulars of Claim – “From then on things got worse.” And paragraph 2.9 of Particulars of Claim – “I on the other hand, was snubbed, blanked, and ignored, this led me to feel isolated and excluded.”)

7.2.9 In a letter dated 5th April 2023, Rebecca Delsol invited the Claimant to attend a Contractual Review Meeting made assumptions that the Claimant was failing to properly discharge the duties of Executive Director; had mismanaged relationships with funders and regulators; failed to comply with the Respondent’s financial policies and procedures; health issues affecting performance despite alleged adjustments in place. In this letter the Claimant was told the potential outcomes may be a formal warning or termination of employment. (Paragraph 2.8 of Particulars of Claim – “From then on things got worse.” (Paragraph 2.10 of Particulars of Claim).

7.2.10 On 6th April 2023, the Claimant was placed on garden leave (special leave), subject to an investigation. (paragraph 2.10 of Particulars of Claim)

7.3 Did the respondents subject the claimant to detriment with respect to these alleged acts?

7.4 If so, has the claimant proven facts from which the tribunal could conclude that it was because the claimant did a protected act or because the respondent believed the claimant had done, or might do, a protected act?

7.5 If so, has the respondent shown that there was no contravention of section 27?

## **The evidence**

5. The Tribunal had the benefit of a bundle of documents running to 566 pages. There were witness statements from the claimant, and from four witnesses on behalf of the respondent: Dr Rebekah Delsol; Professor Lee Bridges; Neena Samota, Associate Professor and Dr Michael Shiner. All attended the Tribunal and were cross examined.
6. In this case, we have found it appropriate to take an overview of the evidence and assess credibility, before embarking on the fact-finding exercise. That is not to say that this preliminary view on credibility determines the outcome of each and every conflict of evidence, but it does inform that process.
7. The respondent’s witnesses gave clear, compelling, and credible evidence.



8. By contrast, the Tribunal found the claimant's evidence less consistent and credible. By way of example, the claimant sought to suggest that it was not true that she missed deadlines for reports despite significant documentary evidence to the contrary. She said it was about "the relationship", implying that if you had the right relationship with funders then it didn't matter if reports were late, but gave no detail or any evidence to show that deadlines had been waived or delayed by the funders, or that she had brought the fact that an extension had been agreed to the attention of the respondent who were expecting the reporting requirements to be met. In cross examination, the claimant said that she had not failed to follow the management instruction to complete reporting on time as she had been in contact with the funders and had had discussion about the reporting. The Tribunal does not accept the claimant's evidence in this regard as there was no evidence of such communication (other than some evidence of a conversation in relation to Paul Hamlyn) or agreement from the funders and nor did the claimant give any precise detail about those conversation other than to say that she had had communications with the funders. When asked about the contact at Esme, the claimant could only recall that her name was Laura "something" and said that she could not develop relationships in just six months, which is inconsistent with her answer that she had established relationships and agreed extensions of time.
9. The claimant also alleged that documents existed that were not in the bundle and had not been requested during disclosure. For example, she said that she had definitely sent some proposed amendments as regards the co-director model, but these were not referred to in her witness statement nor did they appear in the bundle. Further, all the documentary evidence suggested that the claimant was very happy to agree to the co-director model. This undermined the claimant's credibility because the claimant's position was inconsistent with the documentary evidence available to the Tribunal. Another example was in relation to allegation 7.2.8 in which the claimant said, in cross examination, that she had been admonished by Dr Shiner not by the email in the bundle but by a text which was not in the bundle. She said they were not in the bundle because she had lost her phone, but it did not appear that any attempt had been made to request the text messages from the respondent. Further, her witness statement did not refer to a text or the alleged content of it. In a further example, the claimant confirmed in oral evidence that she had not been allowed an opportunity to comment on the probation form, but the completed form was produced (albeit that it was not in the bundle as the incorrect version had been included) in which the claimant had been given the opportunity to comment, had in fact commented, and had clearly signed her name.
10. Further, the Tribunal found that the claimant was inconsistent and therefore not credible in relation to reporting her mental health condition to the respondent. In her impact statement and in her oral evidence she said that she had told Dr Shiner that she "felt suicidal" in January 2022. That date is inconsistent with her witness statement and indeed the grievance letter when she reports that date as having been in June or July, respectively.

11. A number of the allegations made were inaccurate. In relation to the Girls Project, the dates were incorrect. In relation to the allegation that Ms Samota had said that the claimant had refused to complete a report, it was in fact Dr Delsol who is alleged to have said that.
12. A number of the allegations the claimant made in her claim, and which were included in the list of issues were not addressed at all either by the claimant's witness statement or by reference to any of the documents in the Bundle. As such, the claimant was not cross examined on these points by the respondent. Accordingly, when the claimant's representative sought to re-examine the claimant on those allegations, the Tribunal prevented that questioning in the interests of justice and to avoid prejudice to the respondent in circumstances in which the claimant had had the opportunity to put forward her evidence on the allegation in the witness statement and disclosure but had chosen not to do so. Those allegations are identified in the Tribunal's conclusions set out below.

### **The findings of fact on the balance of probability**

#### The respondent

13. The respondent is a charity which works to "promote fair, effective and accountable policing in England and Wales, with a primary focus on Stop and Search."
14. The respondent is run by Trustees all of whom are very passionate about the respondent and the work it does. The four witnesses to this Tribunal were all Trustees of the respondent (there are around seven in total). Generally speaking, the Trustees have full (or at least part) time work commitments outside of their work for the respondent and so seek to fit in their work for the respondent outside their other work commitments.
15. Each of the Trustees has a specific role within the respondent: Dr Delsol is involved in ensuring compliance with legal duties and strategy and Dr Shiner is the treasurer.
16. Being a charity, the respondent is subject to statutory requirements, including in relation to financial reporting. The respondent's Trustees must ensure proper management of finance, ensuring funds are used only for the charity's purposes and associated provisions, and must report to the Charity Commission annually. The respondent has a Financial Management and Accounting Policy.
17. The respondent relies heavily, for its very existence, on grant funding. The organisations which provide funding have reporting requirements with which the respondent is expected to comply.

#### The claimant

18. The claimant commenced employment as an Executive Director with the respondent on 1 June 2021. Prior to that she was a long-term friend of Dr Michael Shiner, one of the respondent's Trustees, to the

extent that he was the godfather of her daughter. Because he knew her well, Dr Shiner elected not to have any involvement in the recruitment process concerning the claimant. His evidence was that he had not encouraged her to apply and was concerned from the outset that things could go wrong. The claimant had, however, confirmed to him that, if she felt their relationship would be damaged, she would step down.

19. One of the essential criteria for the job was “solid financial management experience, with proven success in fundraising... and financial reporting.” In response, the claimant’s supporting statement for her application for the role states that the claimant notes “there is a requirement for financial management experience, with proven success in fundraising and building managing relationships with funders. I have developed successful funding applications for funders.... The successes in these areas required sound and robust accountability and financial management systems.” At that time, the claimant was also an elected city councillor. The statement goes on to say, “I have completed and can complete tasks and projects with limited supervision” and “I have strong IT skills.”
20. Other essential criteria of the role were “Ability to organise own time and work to often tight and shifting deadlines” and “take lead on budgetary matters.” As Executive Director she was to have primary responsibility for all these matters, including reporting and fund-raising, and for the organisation generally.
21. The appointment was an important one for the respondent as the Trustees needed some assistance given their other duties and responsibilities and given their role within the respondent was a voluntary one.
22. It is fair to say that the claimant’s employment with the respondent did not start well. She was difficult to contact and often did not turn up for key meetings and events. She missed deadlines for reporting requirements (notably as regards the Esme Fairburn Foundation) despite specific instructions from Dr Delsol (who ended up having to do the work herself) and was haphazard in her approach. This was ironic, because the funding from the Esme Fairburn Foundation was for the funding for the claimant’s own role.
23. The respondent was operating within a budget of around £250k which needed to be carefully managed. Effective relationships with funders were therefore critical. Each funder approved certain projects or expenditure which was tightly controlled by the funder. The funders therefore required regular reporting to show how their money was being spent. One of the fundamental requirements of the claimant’s role was therefore meeting the reporting requirements and the deadlines imposed. The funders were the lifeblood of the respondent, without whom the respondent would not exist. The fundamental requirement of the respondent was that the claimant would meet the reporting deadlines. The Bundle included a document which set out all the funders and the reporting deadlines with which the claimant should have complied.

24. The claimant had a probation review on 21 January 2022. It was noted that improvement was required as regards efficiency and time management. Although the respondent had some concerns about the claimant's performance of her role, including her failure to meet the reporting deadline mentioned above, it was reluctant to change things (given the respondent had been through a lot of change) and wanted to give the claimant a chance. The Tribunal finds that the respondent sought to provide the claimant with every chance of success in her role within the organisation. The respondent wanted it to work. Despite concerns being raised, the claimant did not mention any health issues at the probation review.
25. The probation review also highlighted areas which needed increased focus and development. The first of these was fundraising. The probation review form sets out the following: "Fundraising – this was identified as a priority but has not been focused on. The expression of interest for Esme was six months late going in, putting in jeopardy three years funding for the ED post. Paperwork and grant reporting, which is key to reporting on our work, securing funds and developing relationships, is also late. We are currently overdue on reporting for OSF, Paul Hamlyn and Quadrant. Grant reporting needs to be completed on time and relationships developed with all funders."
26. Other areas which were identified as needing increased focus included time management, prioritisation, and organisation on the basis that deadlines were not being met, emails missed or not answered in a timely manner and that the claimant could appear disorganised and unprepared for meetings. It continued: "There needs to be a focus on prioritising fundraising, external relationships ....and greater preparation and organisation."
27. It was also noted that the claimant needed to develop understanding and oversight of the respondent's infrastructure and policies, taking ownership of finance and HR with support from relevant Trustees.
28. Although the claimant said in re-examination that she had not had an opportunity to comment on this form, in fact she had done so, and a copy of the form with the claimant's comments was produced into evidence. She had signed it and it was noted that she accepted that she had "dropped the ball" on the Esme application and was not on top of reporting to funders. She recognised the need to be more strategic and agreed to prioritise funding reporting and relationships.
29. In the event, a new deadline for Esme was agreed for May which the claimant missed again. She then submitted a strategic plan which was not fit for purpose just before she went off on extended leave. In explanation the claimant said, "It was a very difficult time" without giving any explanation for why or how her alleged disability impacted upon her in relation to the submission of that report.

The claimant's alleged disability

30. The claimant's stated disability is mental ill-health because of menopause. The respondent does not accept that the claimant was disabled within the meaning of the Equality Act 2010. Its position is that the evidence before the Tribunal does not establish that the claimant had at any time in the relevant period suffered from a serious impairment which had lasted, or was likely to last, twelve months or more.
31. The claimant says that she disclosed her alleged disability in January 2022, she believed to Dr Shiner. She recollected that she said: "My menopause is madding me." That disclosure is not accepted by the respondent or by the Tribunal, nor was it backed up by any medical evidence.
32. The claimant's particulars of claim state that, from January 2022, the claimant: "shared with the Trustees....my struggles with irritability, sweat, insomnia, brain fog, anxiety, low moods, and difficulty concentrating." The claimant's witness statement gives the same list but says that she began making the respondent aware of it "since before Christmas 2021." She says in her witness statement that she informed Dr Shiner that she was "suffering significant challenges with my mental health provoked by my menopause" in June 2022.
33. The claimant disclosed her medical records. The only record of any relevance to mental ill-health was the report of Ms Dilks (see below) which referred to "low mood".

#### Extended leave

34. On 13 June 2022, Dr Delsol wrote to the claimant in relation to the Trustee meeting which was due to be held "on Wednesday evening". Dr Delsol asked the claimant to get a reminder to people and asked the claimant to prepare an agenda and to provide her staff report so that everyone would have time to read them in advance.
35. On 14 June 2022, the claimant wrote to Dr Shiner and Rebecca Delsol as follows: "As you may know, I have a few issues in my personal life that are causing me anxiety and seem impossible to resolve. I need me to be still for a while to gather my energy. I have not taken any holiday this year so far. So I am asking if I can take leave from now 14<sup>th</sup> until 21 June. Hopefully I will be back on track by then."
36. Dr Delsol replied less than an hour later as follows: " I know that things have been difficult, and we will be very happy for you to take some time off. But given your role and all the challenges at the moment, I think that it will be important for you to do so after the Trustee meeting tomorrow and a clear handover to me, Mike and Habib so that we are able to pick up ongoing work and ensure the staff are supported. We could meet before the Trustee meeting tomorrow to do the handover and then the meeting. Then you could take 16-24<sup>th</sup> off or longer if necessary." In the event, the claimant did not attend the Trustee meeting, and it was cancelled.

37. During the claimant's period of absence, Dr Shiner stepped up and took on additional responsibility despite working full time elsewhere. Mr Kadiri acted up in the Executive Director role but had no prior management experience, as a result of which the Trustees promised significant support.
38. On 16 June 2022, Dr Delsol sent an email to the Trustees which stated the following: "Deborah has taken annual leave this week. She took it without any notice on Tuesday and without doing the handover I'd requested to me or the team. She has been unwell and has a lot going on but is not functioning as ED. ..Deborah again missed the deadline for the Esme Fairbairn Trust for the £170k for her salary and core costs for three years. Despite having five months she left it to the last minute and then when came to write it, had some family issues and couldn't get it done. When she shared it with Mike and I it was in such bad shape it wasn't submittable. Rather than a proposal she has chosen to update the strategic plan but used an old document and only added some bullet points. Mike rewrote the whole document over the weekend....Deborah....is not on top of relationships, strategy, fundraising. Things are often missed or not followed up on. She started new projects that are ill-conceived and poorly executed, and we are behind on a lot of work that is promised to funders (such as updated complaints guide, parents' guide, surviving stop and search guide, Girls Project deliverables). Deborah has created a nice staff atmosphere but is struggling to manage the staff."
39. Following a Trustee meeting, Dr Delsol wrote to the claimant on 23 June 2022 to offer her one month's paid leave and asking her to take some steps to assist the respondent. The respondent indicated that it was intending to ask Mr Kadiri to act up in the claimant's absence, with support from the Trustees.
40. On 5 July 2022, the claimant attended a private consultation with a menopause specialist Ms Dilks. Ms Dilks prescribed HRT/oestrogen. The report prepared by Ms Dilks reports: "menopause symptoms – tearful, low mood, brain fog, poor memory, hot flushes, night sweats, poor sleep, fatigue. Joint pain, no libido and a lack of motivation." Despite the claimant's assertion that, around this time she told Dr Shiner that she was suicidal or felt she was having a nervous breakdown this is not reflected in the notes of her consultation with Ms Dilkes and the claimant's account in this regard is not accepted and Dr Shiner's account preferred.
41. On 26-27 July 2022, there was a discussion around the claimant's return to work with Dr Shiner. Dr Shiner took a detailed note of that conversation which he shared with the claimant. The claimant reported that she was feeling much more like her old self. It notes that the claimant described the difficulties she was experiencing related to the menopause as "remembering things, losing words, anxiety over public speaking, emotional regulation, and fatigue. She also described a "fused" feeling in her head. A phased return was discussed with regular supervision and well specified roles. Dr Shiner reported back to the Trustees. The claimant confirmed that she was happy with the co-Director model proposed.

42. From 5 September 2022, the claimant returned to work on a phased basis.
43. On 6 September 2022, a discussion took place between the claimant and Dr Shiner about the claimant's phased return. The claimant confirmed that she was ready to return to work and that she would like a phased return. There was discussion of the co-director model, which the claimant alleges made her feel viewed as old, tired and ineffective. However, the claimant had readily agreed to the proposal during discussions, which meant that Mr Kadiri, who had been acting Executive Director in the claimant's absence, became the claimant's co-director and her role was effectively split in two, with the claimant being responsible for half of her previous responsibilities and duties. This was a measure taken to support the claimant who had been struggling in her role. Although the claimant alleged that her role was not only halved, but also changed, on the basis that she went from having oversight of things to actually having to do them, she could give no examples of this and her evidence in this regard was not accepted by the Tribunal.
44. On 11 October 2022, the claimant wrote to the Trustees as follows: "Writing to let you know I am back at work and firing on more cylinders than before. I would like to thank you all for your support over the past few months....".
45. Separately, but on the same date, she wrote to Dr Delsol "a real and heartfelt thank you for your personal support in and through this, my "menopause madness". The claimant described her symptoms as "night sweats, no sleep, creaking aching bones and a constant dehydration of the many parts that should be hydrated....". This was a discussion of her physical symptoms. The claimant explained that her time away from work had given her much needed time with her daughter and said, inter alia: "Noone in my circle has had the support I have received through you and the other Trustees. I don't know the name for being proud, grateful and humbled .... but that's how I feel." Apart from a reference to menopause "madness" there was no mention whatsoever of any mental health issues the claimant had faced, other than as regards general forgetfulness.
46. The claimant returned full time on 17 October 2022. The co-director model was in operation. A big event, RAW, was coming up at the beginning of December. The end of the year was also an important time for reporting.
47. On 9 December 2022, there was a supervision meeting attended by the claimant, Professor Bridges and Ms Samota. Two further supervisions with the claimant were held on 9 and 15 January 2023. The claimant was informed when she returned that Professor Bridges and Ms Samota would take over her supervision.
48. Around 12 January 2023, a conversation took place between the claimant and Dr Shiner. It resulted from Dr Shiner being aware that there was a long list of concerns over the claimant's performance

which were to be raised with her at the forthcoming supervision meeting. The Tribunal accepts Dr Shiner's evidence that a caring conversation which took place, one of the purposes of which was to ensure that the claimant understood the seriousness of the concerns being raised. Dr Shiner believed that the claimant's demeanour did not always demonstrate that she understood the seriousness of the issues to be addressed.

49. Although the claimant alleges that Dr Shiner told her during that conversation that the Trustees had decided to "go for dismissal". The Tribunal prefers Dr Shiner's evidence that he said that claimant that "all options were available" as regards the claimant's employment. Dr Shiner found himself in an impossible position, as he considered the claimant a good friend, but he was conflicted between his friendship and his role of Trustee and the needs of the respondent.
50. A supervision meeting took place on 13 January 2023 attended by the claimant, Professor Bridges and Ms Samota. The Tribunal notes that Mr Kadiri's supervisions were held by Dr Shiner and Dr Delsol.
51. Professor Bridges explained that his aim in this supervision meeting was to "clear the decks". The meeting concluded with action points. The Tribunal accepts Professor Bridges' evidence which was that he genuinely wanted to help the claimant. However, there were some serious concerns which needed to be addressed with the claimant, and which it was proper and appropriate to raise in a formal, recorded supervision meeting.
52. The agenda for the supervision meeting had a number of bullet points under the heading: "Progress report on the following items of work". The second heading was "Areas of Trustee concern over performance in role as Co-executive director" and included: attendance and preparation for meetings; communications with Trustees; adequacy of line management/supervision of [Sheena] and Ras-I; use of IT systems and finance systems; staff compliance with holiday and sickness policies and procedures; responsibility for scheduling and completing reports to funders; and responsibility for financial oversight and management of project budgets".
53. The minutes of the meeting indicate numerous concerns being raised, for example that the claimant had not sent an updated report on the Girls Project and Changemakers before Christmas. The claimant committed to the final report to the Open Society Foundation by the end of the following week and to raise cost of living issues with them and to produce the Charity Commission report which she knew had to be submitted soon (and in fact had been requested before Christmas for reasons set out below).
54. Professor Bridges outlined Trustee concerns to the claimant regarding her overall performance. The claimant acknowledged that she felt overwhelmed at times and estimated that she was only operating at 70% of her former self at best. Professor Bridges asked what was preventing 100% performance and the claimant said she didn't know but that perhaps it was linked to mental illness. She acknowledged that



prioritising things was an issue. She acknowledged that she had missed some meetings due to an emergency situation with her brother and that she should have sent notes. She complained about not having sufficient supervision meetings, noting that Mr Kadiri had weekly sessions with his supervisors, Dr Shiner and Dr Delsol.

55. It was noted that the claimant was not efficient at answering emails and she was advised to send a holding email so people would know the email was received and that the claimant would get back to them soon. She agreed that she needed to manage Shenna more closely as she was in the dark about some of Shenna's activities. She also acknowledged that she was still getting up to speed with the respondent's systems. The claimant acknowledged that Dr Shiner had helped with financial oversight and management of project budgets and that she was grateful for his support. It was noted that his considerable involvement was unsustainable, and the claimant confirmed that she was still getting up to speed with the respondent's financial management policies.
56. It was noted that the respondent had shared out the claimant's role between her and Mr Kadiri to ease her transition back to work and she was only doing part of the job set out in her original job description but was still receiving her full salary. The claimant said she was "beyond grateful" for the time she had off. It was noted that she had asked for regular supervision but that this was only her second meeting since Professor Bridges and Ms Samota had taken over as her supervisors. Prof Bridges pointed out that they had been awaiting the report on the Girls Project and Changemakers which the claimant had promised before Christmas, but which had only arrived in the last few days. The claimant said that changes to her physiology and mental health were big factors in her transition back to work.
57. The claimant followed up after the meeting with her own comments but does not mention her allegation that Ms Samota said that she was not the first person to go through menopause. In fact, the word menopause does not appear at all. The Tribunal prefers Ms Samota's evidence and finds, for reasons stated in the conclusions below, that Ms Samota did not say those words.

#### *Charity Commission report*

58. There was some pressure to conclude the report to the Charity Commission early in January as the accountant was due to go on paternity leave. To that end the claimant had been asked to send her contribution before Christmas but failed to meet the deadline.
59. The claimant sent her part of the report to Dr Delsol for review on 15 January 2023. Dr Delsol sent the claimant an email on 16 January 2023 to thank her for sending the report. It said: "It is nice to see the summary of all the community work from last year. Can you now write it up fully in the format of Habib's section, expanding on each of the point providing some detail and examples and adding the web link to reports, events, films etc."

60. The claimant took the view that she was being asked to re-do it. She says those words were spoken in a zoom call with Dr Delsol. She wrote to Dr Shiner to say: "I have been asked to re-do the report. I did suggest that redoing it, the report would lead to delay." Dr Delsol immediately responded to confirm that the report did not have to be re-done but needed some further detail and substance and gave an example of what was required. Dr Delsol thought this would take no more than 1.5 hours and offered help from Ras-I to add the hyperlinks if the claimant was struggling. Dr Delsol asked for the report to be with the accountant by the next day (20<sup>th</sup>) so that he could submit it before his leave (the claimant's input having originally been requested before Christmas).
61. The claimant's evidence was that what was written by Dr Delsol was not what was said but could not give any detail of what was said or any response from her to indicate that the respondent had said or done anything different to what was written in the emails. Her evidence was not accepted in this regard.

*The claimant's grievance*

62. On 20 January 2023, the claimant raised a grievance. This was a protected act within the meaning of the Equality Act 2010. The claimant stated that she believed she was being treated less favourably on grounds of disability, sex and age contrary to the Equality Act. In her grievance, she says that, in July 2022 she informed the organisation, through Dr Shiner that she was experiencing levels of mental ill-health triggered by menopause and that she had noted to Dr Shiner that she felt as though she was experiencing a nervous breakdown. She says that the symptoms she shared with Dr Shiner were in addition to the symptoms she had already shared with others eg irritability, sweats, insomnia.
63. One of the matters raised in the grievance by the claimant was supervision. The claimant alleged, and alleges in her claim before this Tribunal, that Mr Kadiri was having "uninterrupted supervision". The claimant explained that she was referring to access to the Trustees for general conversations and to bounce ideas off. She considered that Mr Kadiri had far more support than her.
64. It is the claimant's case that once she raised her grievance things became incredibly difficult for her at work.

*Manchester Girls Research project*

65. On 24 January 2023, there was a Manchester "Girls' Research Project" event. The claimant authorised a refreshment spend which was outside of the budget, having been faced with more attendees than expected. She had made a decision there and then about offering those additional attendees' refreshments.
66. On 26 January 2023, Dr Shiner wrote to the claimant and Shenna asking them to add receipts so that the transactions could be

reconciled and asking why the train tickets and catering cost so much more than anticipated.

67. Shenna explained that three people had unexpectedly been able to attend (hence the additional train tickets) and that they had increased the numbers from 50 to 75 hence the increase in catering cost.
68. Dr Shiner responded on 31 January 2023 outlining three levels of concern regarding the overspend: some items were being overpaid for, for example, train travel should be booked in advance where possible to ensure spend was a good use of charitable funds; there were no receipts on the respondent's accounting system (Pleo), as required by the Financial Management and Accounting Policy; and the spending side-stepped the controls put in place via the Finance Committee and constituted a breach of procedures. He pointed out that he had been trying to agree revised budgets for the Girls' Project for several months but had been unable to do so because he had not received the necessary information. He says, "Exceeding what was agreed by the Finance Committee is effectively unauthorised spending." He said he had been expecting narrative explanations to agree the revised budget but still hadn't received them despite expecting them on 20 January 2023.
69. The claimant replied to say that they had not realised the rooms were inadequate until they arrived on the day and so they had to upgrade; and the late attendees accounted for the increased travel expense.
70. An email was sent to the claimant and Shenna, the claimant's direct report, by Dr Shiner on 6 February 2023. He said he did not think that the overspend could be framed as unavoidable cost increases and highlighted the need for tighter planning. He explained why the internal financial controls were needed to ensure compliance with regulations on charitable spending and how that required the respondent's policies and procedures to be followed. He confirmed that authorisation should have been sought for the overspend. He explained that, had the budget been agreed in advance the money could have been spent by the appropriate budget holder (for figures up to £150) but that that required agreement of the budget in advance. The email confirmed the need for the budget to be agreed as a matter of urgency as there could not be any further expenditure without it. He asked for the narrative explaining the budget breakdowns as soon as possible.

### *Grievance hearing*

71. The grievance hearing took place on 31 January 2023. The grievance was heard by Professor Bridges. The claimant was accompanied by her union representative.
72. At that hearing, the claimant accepted that her menopausal symptoms were present before June but she also accepted that she had no supervisions "or anywhere to put the facts that her brain was foggy, that she was having difficulties remembering, that she wasn't sleeping and that she was isolating. She said she had [humorously] raised in staff meetings that she was shouting at everybody that she was so

upset all of the time, but she did not have any supervision or anywhere to raise it.” She confirmed that she was not taking HRT medication which she had been prescribed because it had sent her blood pressure up. She confirmed that she had not seen her GP since July or August.

*Access to Work assessment*

73. On 7 February 2023, the claimant attended an Access to Work assessment. On the same day, Ms Tanner, from the Paul Hamlyn Foundation wrote to the claimant to request an urgent conversation about interim reporting and said they could discuss a reduced version. The claimant replied and asked for a convenient time for a conversation. It appears from the communications in the bundle that a call took place at 2pm.
74. On 11 February 2023, Access to Work made some recommendations after the respondent had assisted the claimant with a referral. The recommendations related largely to dictation software, auxiliary aids and so on. There was nothing relating the claimant’s mental health.

*Nottingham Girls’ project*

75. There was subsequently a Nottingham Girls’ Project. The Nottingham event is erroneously referred to in the list of issues as having occurred in late January 2023. In fact, it was scheduled for 11 February 2023.
76. The claimant sent an email to Dr Shiner, Ms Samota and the respondent’s finance team at 1745 on 10 February 2023. That email referred to Dr Shiner stating that “funds necessary to support the attendance of the Girls Project Research Team to the Nottingham event on Saturday 11 February was contingent on a project budget being made available for review and approval.” She stated that the budget had been completed and that she was satisfied with it, other than that there may need to be a review of the budget for the Writers Retreat. She stated that, for the project visit to take place, she urgently needed approval or otherwise of the budget. She stated that both she and Shenna had contacted Dr Shiner but “not been able to contact him. She stated that, “For the project to go ahead it is imperative for a Trustee to agree spend as per Mike Shiner’s stipulation”.
77. The claimant received a reply from Dr Shiner at 1937. He explained that he had been trying to get a revised budget for the Girls Project agreed by the Board for several months and had requested a narrative explaining the budget on 1 and 6 December 2022 and verbally at finance meetings (which the claimant attended weekly) in November and December. Despite that he was yet to receive the narrative, and it had not been possible for the Board to agree the budget. The Board therefore agreed, in the absence of the requested narrative, that no further spend could be authorised. This had been communicated to the claimant on 31 January and 6 February 2023. He said he was unable to authorise further spending until the revised budget had been agreed by the Board and could not therefore pay for anything event related over the weekend. He confirmed that he had missed a call from the claimant at 1729 but had not received a call from Shenna.

78. Dr Shiner was therefore aware of a call, but says that he did not ignore the claimant's calls, rather that he did not take them for good reason, namely that he would have been in a meeting or in data analysis, which would mean that he would not look at his phone for a period of time.
79. The claimant's approach was haphazard and very last minute. There was no budget in place for this event despite Dr Shiner's attempts to get the claimant to put appropriate budgets in place. Had she done so, there would have been no difficulty in authorising the spend. The claimant's approach caused the Trustees to have to incur additional time which would have been unnecessary had the claimant applied for budget sign off in good time; and ultimately prevented necessary spending for the success of the project.

*Grievance outcome*

80. On 13 February 2023, the claimant was sent the 8-page grievance outcome letter prepared by Professor Bridges. In the grievance outcome, Professor Bridges stated: "On the information currently available to us, StopWatch does not accept that the menopause and the problems you have encountered with it would constitute a qualifying disability under the Equality Act. At the grievance meeting I asked you about your treatment, specifically whether you had consulted with and/or followed treatment prescribed by your GP. You explained that you have not seen your GP for around 6 months. I should also point out that it seems uncertain as to how transitory the symptoms you have referred to might be, which is a pertinent consideration should it become necessary to determine whether there is a qualifying disability present. As matters stand, we are able to confirm that we shall in any event continue to make any appropriate and reasonable adjustments."
81. The outcome letter explained, as regards the supervision point raised by the claimant, that Mr Kadiri was working at an executive level of which he had limited previous experience in contrast to the claimant. He noted that it had been intended to support Mr Kadiri in his new role as he transitioned but also that Mr Kadiri was proactive in seeking support and putting meetings in Trustees' diaries, as well as setting the agenda, providing papers and drawing up meeting notes and action points which he followed up on. He explained that, by contrast, the supervision meetings with the claimant were more often than not initiated by the Trustees, who also provided the meeting notes and also found that action points were often not completed in a timely manner. He explained that it was not for the Trustees to have to remind the claimant of deadlines and chase for these items, or to have to re-work what has been submitted. He noted that this was an inappropriate but also unsustainable role for them to perform.
82. The grievance outcome did make recommendations relating to supervision, specifically: "I will therefore be asking the Trustees...to review our practices in respect of supervision of senior staff with the aim of achieving more equitable levels of provision as between yourself and your co-director. Once the Trustees have had the opportunity to consider this matter, you and Habib will be consulted as to your views

on the way forward, including the number and form of supervisions required.” He continued; “However, I would stress, as I mentioned in the grievance meeting, that where Trustees have concerns about your levels of performance, not just in terms of the type of routine matters mentioned above, but also major facets of your work such as those outlined in your probation review, they are duty bound in the interest of the organisation and out of fairness to you, to raise these concerns with you as part of the supervision process.”

83. Professor Bridges did agree to more frequent supervision for the claimant and formal supervision meetings took place on 17 February 2023; 6 March 2023 and 29 March 2023. This was despite his view that monthly supervisions should be adequate and that, prior to the grievance, he considered that more frequent supervision would be excessive and not give the claimant the chance to carry out agreed actions.

### *Supervision*

84. The Tribunal finds that the term “supervision” was used very loosely by the claimant, and referred to a number of different forms of “supervision” (hence Professor Bridges reference to “forms” of supervision) which included less formal “supervision” by way of contact with Trustees, perhaps by phone call or by informal chats. The claimant said in evidence that Mr Kadiri received, after the grievance outcome, more supervision and that Mr Kadiri would take calls from the Trustees, which she referred to as catchups. These were informal conversations and calls rather than part of any structured supervision and cannot be referred to as “supervision” which has a formal meaning and, in the respondent’s case, would require a written record. The claimant said that she “assumed” that the calls Mr Kadiri would take on a Wednesday were catch ups but that she could not say with any accuracy.
85. Dr Shiner confirmed that he would meet with Mr Kadiri more frequently than the claimant met with the people supervising her, but said that was part of the package put in place for Mr Kadiri who was nervous, not a natural leader and that support had been part of the negotiation when he agreed to take on the role. In fact, there was evidence that, on 23 March 2023, the Trustees moved to fortnightly supervisions with Mr Kadiri.
86. On 17 February 2023, there was a supervision meeting attended by the claimant, Ms Samota and Professor Bridges.
87. A further supervision meeting was held on 6 March 2023, attended by the claimant, Ms Samota and Dr Delsol.

### *Liverpool Girls’ Research Project*

88. On 7 March 2023, Shenna emailed Dr Shiner at 1306 to request confirmation that she could book train tickets for four people for an event in Liverpool. This was followed up by the claimant by a further email at 1502 and a further email asking for an urgent decision at 1507

sent to Ms Samota and Dr Shiner. The claimant alleges that Dr Shiner refused to take her calls or respond to emails.

89. On 9 March 2023 the Liverpool Girls Research Project was held.
90. On 15 March 2023, the claimant requested bank details from the accountant. Dr Shiner responded as follows: "For future reference, please direct questions about banking to me and/or Neena. David doesn't have much to do with the bank and generally refers such questions to me."
91. On 23 March 2023, Dr Shiner wrote to the Trustees as follows: "Management of the Girls Research Project and the grant from the National Lottery falls squarely within Deborah's area of responsibility and this issue should have been identified/resolved months ago. The failure to address it may mean we will not receive uplift funding that we should have been eligible for. It's also worth noting that this and the issue Rebekah has identified in relation to the novella pre-date the difficulties Deborah had last summer".
92. Dr Delsol responded as follows: "I know Jane Tanner from Paul Hamlyn.... The grant report to them was due months ago. She had agreed with Deborah a reduced report as Deborah hasn't managed to do a full report. But the financial report has not been submitted and without it, payment cannot be made. They understand the work has been done but haven't got a sense of it but the experience has left them questioning Stopwatch and any future funding.....I promised we would get her the financial report the following week and now three weeks later, it still hasn't been submitted. She added the following: "In terms of supervision, I have started developing a policy and had one meeting with Deborah and Habib but the connection was bad, so we agreed to set another time but haven't been able to do so yet."

*Lease*

93. On 24 March 2023, the claimant alleges that Dr Shiner refused to respond to calls/emails from the claimant regarding the lease of a building.
94. The history to this allegation is as follows. On 20 March 2023 at 1313, A contact emailed Dr Shiner, copying in Mr Kadiri and the claimant, about getting the "much-delayed" leases signed. He wanted the names and contact details of two Trustees who would be signing the lease. It can be assumed that he received no response, because on 23 March 2023, the contact sent a follow up, chasing email to Dr Delsol and Dr Shiner, copying in the claimant and Mr Kadiri. The claimant immediately responded to apologise for the delay and to confirm that she would discuss with the Trustees and revert with an update. She received a reply from the contact (to her only) asking for a call to update her on some last-minute variations. The claimant responded to say she would need to run everything past the Trustees, and it would be best to email. Again, the email was only between the claimant and the contact, and further email correspondence remained that way.

95. The contact emailed the claimant the following day to ask for an update. The claimant confirmed she had had no response from the Trustees. He chased again on 27 March 2024 and the claimant responded to say that he might be better to contact the Trustees who would be more likely to be able to give a response. The claimant says that Habib did get an immediate response from the trustees but there was no documentary evidence of that, and the claimant's account is not accepted.

*29 March 2023 supervision*

96. On 29 March 2023, there was a supervision meeting attended by the claimant, Ms Samota and Dr Bridges. There was a significant increase in the number of supervisions the claimant had in 2023. In addition, there were scheduled weekly finance meetings with Dr Shiner (as well as others).

97. At this supervision meeting it was noted as follows as regards Paul Hamlyn: "DS confirmed that the overdue/scheduled narrative report had been submitted, although it appeared that it had not been circulated to trustees in advance or since. The financial report was still outstanding and could not be completed until a budget for Changemakers had been confirmed and agreed by trustees. MS had reported some progress on this working with SD." The action was for a copy of the narrative report to be circulated to the trustees and for the financial report to be submitted without delay.

*Invitation to contractual review*

98. On 5 April 2023, the claimant was invited to a contractual review meeting, to take place on 13 April 2023, "to consider whether it would be appropriate to terminate your contract due to serious concerns relating to the discharge of your duties in the role of Executive Director." The letter outlined the respondent's concerns and stated: "The issues which we set out below are extremely serious as they have brought into question whether we can have trust and confidence in you to continue in the role of Executive Director. This is due to your failure to perform several of your duties as Executive Director, which have placed in jeopardy our relationships with funders and the prospects of obtaining future funding from them and have therefore caused or are likely to cause serious reputational and/or financial harm to Stopwatch. This is coupled with your failure to develop any new relationships with funders leaving Stopwatch without a fundraising strategy in the face of significant financial deficits for the years 2023-4 and 2024-5".

99. The letter was long and detailed and gave examples; referred back to concerns raised at the claimant's probation review; and gave recent examples which caused concerns under the headings: mismanagement of relationships with funders and regulators and failure to comply with the respondent's financial policies and procedures.

100. On 6 April 2024, there was a further invitation to a contractual review meeting at which the claimant was warned that her employment



could be terminated without notice. It relied on the issues in relation to the management of the respondent's relationship with the Paul Hamlyn Trust and cited that a representative of Paul Hamlyn had contacted Dr Delsol directly to discuss their concerns about the claimant's management of the grant.

101. The letter to the claimant states: "The grant from Paul Hamlyn was awarded in March 2021...the interim report was due on 1 December 2022 to trigger final payment in March 2021. The report you shared with Paul Hamlyn in February is generic and not tailored to the purpose of grant.... It fails to reflect any of the substantive work conducted by the Youth Voice Lead. The report focuses ...on work that is not covered by the grant or directly relevant to youth voice. The presentation of the report is poor, inconsistently formatted and includes several hyperlinks that do not work. The report also doesn't articulate what the grant has been or will be spent on. The financial report was supposed to accompany the interim report in December has still not been submitted. The lack of financial management and failure to agree a budget for Changemakers has created uncertainty around the project and made it very difficult for us to report to Paul Hamlyn. The treasurer and accountant had had to step in in an attempt to resolve the situation. We are left in a situation where the only reasonable course of action is to ask the funder to roll over the unspent money over to this year, there are no guarantees we will be able to do so."
102. The claimant was placed on special paid leave during which she continued to be paid her full salary. During that period the claimant was not required to attend the respondent's offices but was required to remain available and contactable.
103. On 17 April 2023, the claimant attended a contractual review meeting with her union representative Mr Stanley and Dr Delsol.
104. In an ensuing investigation, Dr Delsol wrote to the claimant to request further evidence of some of the points raised. She said, "I know there are quite a few areas so do not feel you need to compile things neatly but can send in note form or voice note and forward the relevant emails, documents and records individually as you find them if helpful." The claimant did not send any evidence as requested.
105. On 27 April 2023, the claimant resigned. She gave one month's notice. She stated that working conditions had become unbearable and that she had no other choice but to resign.
106. At no point did the claimant ever say to the respondent that she was unable to submit a specific report, such as the Paul Hamlyn report, because of her alleged disability. She was vague and unspecific and did not link her ill-health to her failings in a way that the respondent could contemplate that her failings were down to her alleged disability. However, the respondent bent over backwards to support her, reducing her role by half, and yet the claimant still did not perform or even properly communicate with the respondent to explain why reports were late and so on despite numerous opportunities to do so. The claimant showed no

appreciation for what they had done for her, seeking in this Tribunal to complain that her role had been split, even though she could not perform the half which remained.

## **The Law**

### Discrimination

107. The relevant law is set out in the Equality Act 2010.
108. Section 39(2)(d) proscribes an employer from discriminating against an employee by subjecting the employee to a detriment.
109. Section 40 prohibits harassment by an employer.

### Direct Discrimination

110. The claimant says that she was directly discriminated against because of her disability, sex and age. Direct discrimination is defined at s.13(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".
111. Section 23 provides that in making comparisons under section 13, there must be no material difference between the circumstances of the Claimant and the comparator. The comparator may be an actual person identified as being in the same circumstances as the Claimant, but not having her protected characteristic, or it may be a hypothetical comparator, constructed by the Tribunal for the purpose of the comparison exercise. The Claimant must show that he has been treated less favourably than that real comparator was treated or than the hypothetical comparator would have been treated.
112. The leading authority on when an act is because of a protected characteristic is **Nagarajan v London Regional Transport** [1999] IRLR 572 and in particular, the speech of Lord Nicholls of Birkenhead, (I quote from paragraphs 13 and 17): "...in every case it is necessary to enquire why the complainant received less favourable treatment. This is the crucial question. Was it on grounds of race? Or was it for some other reason, for instance, because the complainant was not so well qualified for the job? Save in obvious cases, answering the crucial question will call for some consideration of the mental processes of the alleged discriminator... I turn to the question of subconscious motivation. All human beings have preconceptions, beliefs, attitudes and prejudices on many subjects. It is part of our make-up. Moreover, we do not always recognise our own prejudices. Many people are unable, or unwilling, to admit even to themselves that actions of theirs may be racially motivated. An employer may genuinely believe that the reason why he rejected an applicant had nothing to do with the applicant's race. After careful and thorough investigation of a claim members of an employment tribunal may decide that the proper inference to be drawn from the evidence is that, whether the employer realised it at the time or not, race was the reason why he acted as he did. It goes without saying that in order to justify such an inference the tribunal must first make findings of

primary fact from which the inference may properly be drawn.”

113. The protected characteristic does not have to be the only, nor even the main, reason for the treatment complained of, but it must be an effective cause. Lord Nicholls in **Nagarajan** referred to it being suffice if it was a, “significant influence”: “Decisions are frequently reached for more than one reason. Discrimination may be on racial grounds even though it is not the sole ground for the decision. A variety of phrases, with different shades of meaning, have been used to explain how the legislation applies in such cases: discrimination requires that racial grounds were a cause, the activating cause, a substantial and effective cause, a substantial reason, an important factor. No one phrase is obviously preferable to all others, although in the application of this legislation legalistic phrases, as well as subtle distinctions, are better avoided so far as possible. If racial grounds or protected acts had a significant influence on the outcome, discrimination is made out.”

114. Detriment was defined in **Shamoon v Chief Constable of the Royal Ulster Constabulary** [2003] IRLR 285; the Tribunal has to find that by reason of the act or acts complained of, a reasonable worker would or might take the view that he or she had been disadvantaged in the circumstances in which he or she had thereafter to work. However, an unjustified sense of grievance does not amount to a detriment.

### Harassment

115. Harassment is defined at s.26:

“(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...  
(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.  
(5) The relevant protected characteristics are—  
...  
sex.  
disability;  
age  
....”

116. We will refer to that henceforth as the proscribed environment. There are three factors to take into account:  
a. The perception of the Claimant,  
b. The other circumstances of the case, and  
c. Whether it is reasonable for the conduct to have that effect.

117. The conduct complained of that is said to give rise to the proscribed

environment must be related to the protected characteristic. That means the Tribunal must look at the context in which the conduct occurred.

118. HHJ Richardson observed in **Hartley v Foreign and Commonwealth Office Services** UKEAT/0033/15/LA at paragraph 23: “The question posed by section 26(1) is whether A’s conduct related to the protected characteristic. This is a broad test, requiring an evaluation by the Employment Tribunal of the evidence in the round — recognising, of course, that witnesses will not readily volunteer that a remark was related to a protected characteristic. In some cases, the burden of proof provisions may be important, though they have not played any part in submissions on this appeal. The Equality Code says (paragraph 7.9): ‘7.9. Unwanted conduct ‘related to’ a protected characteristic has a broad meaning in that the conduct does not have to be because of the protected characteristic.’ ...”

119. The motivation and thought processes of those accused of harassment may be relevant to the question of whether their conduct amounted to harassment, see **Unite the Union v Nailard** [2018] IRLR 730 at paragraphs 108 -109.

120. Sir Patrick Elias said in **Grant v Her Majesty’s Land Registry** [2011] EWCA Civ 769 of the words, “intimidating, hostile, degrading, humiliating or offensive” that Employment Tribunals, “should not cheapen” the significance of those words, they are an important control to prevent trivial acts causing minor upsets being caught up in the concept of harassment.

121. In **Pemberton v Inwood** [2018] EWCA Civ 564 Underhill LJ said at paragraph 88: “ In order to decide whether any conduct falling within sub-paragraph (1) (a) has either of the proscribed effects under sub-paragraph (1) (b), a tribunal must consider both (by reason of sub-section (4) (a)) whether the putative victim perceives themselves to have suffered the effect in question (the subjective question) and (by reason of sub-section (4) (c)) whether it was reasonable for the conduct to be regarded as having that effect (the objective question). It must also, of course, take into account all the other circumstances – sub-section (4) (b). The relevance of the subjective question is that if the claimant does not perceive their dignity to have been violated, or an adverse environment created, then the conduct should not be found to have had that effect. The relevance of the objective question is that if it was not reasonable for the conduct to be regarded as violating the claimant’s dignity or creating an adverse environment for him or her, then it should not be found to have done so.”

### Victimisation

122. Section 27 defines victimisation as follows:

- (1) A person (A) victimises another person (B) if A subjects B to a detriment because—
  - (a) B does a protected act, or
  - (b) A believes that B has done, or may do, a protected act.
- (2) Each of the following is a protected act—

- (a) bringing proceedings under this Act.
- (b) giving evidence or information in connection with proceedings under this Act.
- (c) doing any other thing for the purposes of or in connection with this Act.
- (d) making an allegation (whether or not express) that A or another person has contravened this Act.

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

(4) This section applies only where the person subjected to a detriment is an individual.

(5) The reference to contravening this Act includes a reference to committing a breach of an equality clause or rule.

123. The meaning of “detriment” is explained above.

124. To be an act of victimisation, the act complained of must be, “because of” the protected act or the employer’s belief. The protected act does not have to be the sole cause of the detriment, provided that it has a significant influence, (see Lord Nicholls in **Nagarajan v London Regional Transport** [1999] ICR 877 cited above). “Significant influence” does not mean that it has to be of great importance, but an influence that is more than trivial, (see Lord Justice Gibson in **Igen v Wong** cited below).

### Burden of Proof

125. Section 136 deals with the burden of proof:

“(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if (A) shows that (A) did not contravene the provision.

126. It is therefore for the Claimant to prove facts from which the tribunal could properly conclude, absent explanation from the Respondent, that there had been discrimination. If he does so, the burden of proof shifts to the Respondent to prove to the tribunal that in fact, there was no discrimination. The appeal courts’ guidance under the previous discrimination legislation continues to be applicable in the context of the wording as to the burden of proof that appears in the Equality Act 2010. That guidance was provided in **Igen Limited v Wong** and others [2005] IRLR 258, which sets out a series of steps that we have carefully observed in the consideration of this case. We will set them out-

- a. It is for the Claimant to prove, on the balance of probabilities, facts from which the Tribunal could conclude, in the absence of an adequate explanation that the Respondent has committed an act of discrimination against the Claimant.
- b. If the Claimant does not prove such facts, he will fail.
- c. It is important to bear in mind that it is unusual to find direct evidence

of discrimination. Few employers would be prepared to admit discrimination even to themselves.

- d. The outcome, at this stage, of the analysis by the Tribunal will, therefore, depend upon what inferences it is proper to draw from the primary facts found by the Tribunal.
- e. At this stage, the Tribunal does not have to reach a definitive determination that such facts would lead to the conclusion that there was an unlawful act of discrimination. At this stage, the Tribunal is looking at the primary facts proved by the Claimant to see what inferences of secondary fact could be drawn from them.
- f. In considering what inferences or conclusions can be drawn from the primary facts, the Tribunal must assume that there is no adequate explanation for those facts.
- g. These inferences can include, in appropriate cases, any inferences that are just and equitable to draw from evasive or equivocal replies to questionnaires.
- h. Likewise, the Tribunal must decide whether any provision of any relevant Code of Practice is relevant and if so to take it into account. This means that inferences may also be drawn from any failure to follow a Code of Practice.
- i. Where the Claimant has proved facts from which conclusions could be drawn, that the Respondent has treated the Claimant less favourably on the prohibited grounds, then the burden of proof moves to the Respondent.
- j. It is then for the Respondent to prove that it has not committed the act.
- k. To discharge that burden of proof it is necessary for the Respondent to prove, on the balance of probabilities, that the prohibited ground in no sense whatsoever influenced the treatment of the Claimant, (remembering that the test now is whether the conduct in question was, "because of" the prohibited ground – see **Onu v Akwivu** ).
- l. The above point requires the Tribunal to assess not merely whether the Respondent has provided an explanation for the facts from which such inferences can be drawn, but further that it is adequate to discharge the burden of proof on the balance of probabilities that the prohibited ground was not a ground for the treatment in question.
- m. Since the facts necessary to prove an explanation would normally be in the possession of the Respondent, the Tribunal would normally expect cogent evidence to discharge that burden of proof. In particular the Tribunal will need to examine carefully explanations for failure to deal with the questionnaire procedure and/or code of practice.

127. This does not mean that we should only consider the Claimant's evidence at the first stage; **Madarassy v Nomura International plc** [2007] IRLR 246 CA is authority for the proposition that a Tribunal may consider all the evidence at the first stage in order to make findings of primary fact and assess whether there is a prima facie case; there is a difference between factual evidence and explanation.

128. In **Hewage v Grampian Health Board** [2012] UKSC 37 Lord Hope of Craighead said: "It is important not to make too much of the burden of proof provisions. They will require careful attention where there is room for doubt as to the facts necessary to establish discrimination. But they

have nothing to offer where the tribunal is in a position to make positive findings on the evidence one way or the other.”

129. Having said that, HHJ Tayler cautioned in **Field v Steve Pye and Co limited & Others** [2022] EAT 68: “Although it is legitimate to move straight to the second stage, there is something to be said for an employment tribunal considering why it is choosing that option “
130. In essence, one may as well set out the reasoning in the two stages as simply going straight to and accepting the Respondent’s explanation.
131. Tribunals are cautioned against taking too fragmented an approach when there are many individual allegations of discrimination. Although we should make individual findings of fact on each allegation and consider whether they amount to an instance of discrimination, we should also stand back, look at the bigger picture and adopt a holistic view on whether the Claimant has been subject to discrimination. See **Quershi v Victoria University of Manchester** [2001] ICR 863 and **Rihal v London Borough of Ealing** [2004] IRLR 642.

## **Conclusions**

### Burden of Proof

132. In each instance of alleged discrimination, we have considered whether on our findings of fact, there are facts from which we could properly conclude, absent explanation from the Respondent, that there had been discrimination such that the burden of proof shifts to the respondent to satisfy us that discrimination played no part in its actions. In doing that, we considered not only the facts pertinent to each individual allegation, but we have also looked at the case overall in the round.

### Direct age discrimination

133. In respect of her age discrimination claim, the claimant says her age group is late 50s/nearly 60.

### Comparators

134. The comparator relied upon is Habib Kadiri whose age group is ‘early 30s’. The Tribunal finds that he was not in the same or not materially different circumstances as the claimant. He had significantly less experience than the claimant in an Executive role and he had been asked by the respondent to “step-up”, rather than having applied for an Executive role, in return for which the Trustees had agreed to support him. He behaved in the role differently to the claimant, as identified by Professor Bridges in the grievance outcome, in that he was pro-active, organised, wrote up minutes of supervision meetings and so on.
135. A hypothetical person would be a person in their 30’s who had applied for and was appointed to an Executive Director role, who had had a period of time off and who behaved in the same way in the role as the claimant.

*Allegation 3.1.1*

136. Allegation 3.1.1 is that the respondent treated the claimant less favourably by failing to follow the recommendations of the grievance outcome relating to supervision. Specifically, “to review our practices in respect of supervision of senior staff with the aim of achieving more equitable levels of provision as between yourself and your co-director. Once the Trustees have had the opportunity to consider this matter, you and Habib will be consulted as to your views on the way forward, including the number and form of supervisions required.”

137. There was no formal review of the supervision arrangements between the grievance outcome and the termination of the claimant’s employment, though it is apparent from an email from Dr Delsol that a conversation was had with Mr Kadiri and the claimant in this regard, with a view to undertaking that review. Professor Bridges did see to it that there was more frequent supervision of the claimant. Mr Kadiri’s supervision appears to have been weekly, though it appears to have been fortnightly from March 2023. The formal review of supervision was not completed. Nonetheless, the claimant’s supervisions were increased and Mr Kadiri’s level of supervision was decreased from March 2023.

138. The Tribunal is satisfied that a hypothetical comparator, a person in the same circumstances as the claimant, a person in their 30’s who had applied for and was appointed to an Executive Director role and who behaved in the same way in the role as the claimant would have been treated in the same way as the claimant. There are no facts from which we could properly conclude that the reason for the treatment, namely the failure to complete the review and provide a more equitable level of supervision was age and the burden of proof does not shift.

139. Even if the burden had shifted, the explanation provided by the respondent satisfies the Tribunal that discrimination played no part in its actions. Any difference in treatment was due to Mr Kadiri’s inexperience and the promise made to him to support him when he took on the role. As far as the failure to complete the review, there was little time and the respondent, though it did have an initial conversation, had other priorities in that short time period between the grievance outcome and the termination of the claimant’s employment.

140. This allegation is not upheld.

*Allegation 3.1.2*

141. Allegation 3.1.2 is the claimant having two supervisions following publication of her grievance outcome on 17.02.2023 and 29.03.2023 held by Lee Bridges and Neena Samota, whereas her male counterpart received uninterrupted supervision, updates and conversations with the lead Trustees on a weekly basis.

142. The allegation is factually incorrect as there were three supervisions on 17 February; 6 March and 29 March 2023. By any account, that is frequent and regular supervision for someone in as senior a position as



the claimant notwithstanding that she had had time off work.

143. Further, the Tribunal finds the level and frequency of supervision of the claimant was far greater than would ordinarily be necessary or expected for a person with the claimant's experience and in her position, notwithstanding having had time off work. Nonetheless, the frequency of supervision meetings did increase after the grievance. This was a compromise as Professor Bridges gave evidence to say that he believed monthly supervision to be an appropriate frequency prior to the grievance, as it gave the claimant the opportunity to do what was needed in between meetings.

144. It appears from the allegation that the claimant is not relying only on formal supervision meetings but is alleging that Mr Kadiri received more less formal supervision and catch ups with Trustees, presumably by way of ad hoc calls and conversations.

145. The Tribunal does not accept that informal catch ups with Trustees is the same or equivalent in any way to formal supervision meetings for which there is a requirement to be written up. The claimant herself said that she could not be sure, but that Mr Kadiri took calls from the trustees on Wednesdays which she assumed were catch ups.

146. In any event, a hypothetical comparator, a person in the same circumstances as the claimant, a person in their 30's who had applied for and was appointed to an Executive Director role and who had had time off work in the same way as the claimant would have been treated in the same way as the claimant. There are no facts from which we could properly conclude that the reason for the treatment was age, and the burden of proof does not shift.

147. If the burden had shifted, the explanation provided by the respondent satisfies the Tribunal that age discrimination played no part in its actions. Any difference in treatment was due to Mr Kadiri's inexperience; the promise made to him to support him when he took on the role; and his own engagement and pro-activity which led to more informal conversations with the Trustees.

148. This allegation is not upheld.

*Allegation 3.1.2.1*

149. In allegation 3.1.2.1 the claimant avers Mr Kadiri was supervised weekly, via teams and he was able to call Trustees to receive a prompt response.

150. Mr Kadiri had weekly supervision meetings until March 2023 when his supervision sessions were moved to fortnightly supervisions.

151. Further, the claimant did give evidence that Mr Kadiri was able to obtain a speedier response than herself in relation to a query from a landlord regarding a lease, when she alleges her attempts were ignored. However, her evidence in this regard was not accepted. It does appear that there was no response to the claimant's emails regarding the lease

but there was no response to the emails on the same subject from the contact either (which had been direct to the trustees).

152. In any event, a hypothetical comparator, a person in the same circumstances as the claimant, a person in their 30's who had applied for and was appointed to an Executive Director role and who had had time off in the same way as the claimant and who behaved in the same way in the role as the claimant would have been treated in the same way as the claimant. There are no facts from which we could properly conclude that the reason for the treatment was age, and the burden of proof does not shift.

153. If the burden had shifted, the explanation provided by the respondent satisfies the Tribunal that age discrimination played no part in its actions in having an increased level of supervision for Mr Kadiri. Any difference in treatment was due to Mr Kadiri's inexperience and the promise made to him to support him when he took on the role at the Trustee's request. The Tribunal further accepts Dr Shiner's explanation for his lack of an immediate response to the claimant. He explained that this was the sort of thing that should be referred to the Board hence no one Trustee wanting to take responsibility for. He explained that the claimant's modus operandi was not a practical way to engage with Trustees all or most of whom had busy day jobs. Further, the Trustees had also not responded to the contact when he emailed them, which supports Dr Shiner's evidence above.

154. There is nothing from which the Tribunal could conclude that the claimant's treatment was related to her age.

155. This allegation is not upheld.

#### *Allegation 3.1.2.2*

156. In allegation 3.1.2.2, the claimant alleges that, on Wednesdays when the claimant was present in the building, Trustees would come in and spoke only to Habib Kadiri, ignoring the claimant.

157. In oral evidence the Trustees confirmed that they rarely attended the building on a Wednesday but when they did, they certainly did not ignore anyone and sought to create a happy atmosphere. The Tribunal preferred the respondent's evidence. Ms Samota, in particular, stated that, as she did not attend the office very often, when she did it was an engagement event, and she would take in sweets or samosas and ensure that she engaged with others. Dr Shiner said that he was only in the office twice between the claimant's return to work and the termination of her employment and that he never ignored her. Dr Delsol did not visit the respondent's offices during the relevant period as she was only free to volunteer as a Trustee on Fridays due to a senior role outside of the respondent.

158. This allegation is not upheld.

#### *Allegation 3.1.3*

159. There are three parts to the allegation in 3.1.3. The first, is the claimant being snubbed, blanked and ignored leading her to feeling isolated and excluded. Specifically, on 11th January 2023, by this time the office had moved upstairs, to the first floor, and again there was no desk for the claimant. The claimant tried to raise this with Michael Shiner but her concern about this was dismissed. This was one of the allegations which was not covered in the claimant's witness statement, and so she was not cross examined on it. There was therefore no evidence on which to uphold this part of the allegation.
160. The second part of the allegation 3.1.3 is as follows: "I had presented my work around the bystanders guide and the complaints guide, I received no response nor feedback from Trustees, who had the last say." In her evidence the claimant alleged that "weeks and weeks" passed without any feedback.
161. It is accepted that the claimant did not receive feedback when requested.
162. However, a hypothetical comparator, a person in the same circumstances as the claimant, a person in their 30's who had applied for and was appointed to an Executive Director role and who behaved in the same way in the role as the claimant would have been treated in the same way as the claimant. There are no facts from which we could properly conclude that the reason for the treatment was age, and the burden of proof does not shift.
163. The way the claimant behaved is that she did not seem to have any grasp of the fact that the Trustees were volunteers, most of whom were engaged in full time work outside of the respondent. They had to prioritise the work they did for the respondent according to its urgency, but they each also had specific areas of responsibility. Dr Delsol confirmed that the Bystanders guide would not fall within her remit.
164. Given how much work the claimant was behind with, it is astonishing that she focussed on the Bystanders guide, which was not overdue and urgent, and that she can have felt any upset about it not being responded to when there were so many other more urgent priorities.
165. Even if the burden had shifted, the explanation provided by the respondent satisfies the Tribunal that age discrimination played no part in its actions. If, in fact she did not receive feedback for weeks and weeks, there was very good reason for that. That was that, as confirmed by Dr Delsol in her evidence, there were a number of other guides (complaints, stop and search, parents') for which the claimant was responsible which were urgent as they were overdue for submission to the grant funder. The Bystander guide was not urgent and was not overdue. It would not have been a priority for the Trustees when other more urgent work was overdue.
166. There is nothing from which the Tribunal could conclude that the claimant's treatment was related to her age.
167. In any event, this allegation is out of time (see below).

168. The allegation is not upheld.

169. The third part of the allegation is that, on or around, 29th March 2023 the claimant raised this again at her supervision with Lee Bridges and Neena Samota however Lee's response was "you don't do yourself any favours". This was one of the allegations which was not covered in the claimant's witness statement, and so she was not cross examined on it. There was therefore no evidence on which to uphold this part of the allegation.

#### *Allegation 3.1.4*

170. In allegation 3.1.4 the claimant alleges that work carried out collaboratively by the claimant and her colleague resulted in the claimant's colleague, Mr Kadiri being commended for the work whereas the claimant was seen as failing. Specifically, on 16th January 2023, Rebekah Delsol via email stated to the claimant, "Can you now write it up fully in the format of Habib's section," Rebekah did not even notice that Habib's work was inaccurate and Rebekah was aware that the claimant did not know how to imbed hyperlinks at the time.

171. It is not disputed that Dr Delsol asked the claimant to write up her section "fully in the format of Habib's section". However, the Tribunal finds that is not the same as Mr Kadiri being commended for the work. It is also accepted that the claimant pointed out an inaccuracy in Mr Kadiri's section of the report.

172. Dr Delsol's request for improvements was perfectly legitimate as the claimant's work was substandard, did not include sufficient information and was in the context that the report had been needed much earlier, but the claimant had not delivered on time despite chasing. When she did deliver it, late, it was substandard. That was the reason for the request. More work was required by the claimant for the completion of the report, and the claimant had submitted it much later than the agreed deadline.

173. Mr Kadiri is not a relevant comparator as he did not submit his part of the report late and had submitted the report in the correct format.

174. A hypothetical comparator, a person in the same circumstances as the claimant, a person in their 30's who had applied for and was appointed to an Executive Director role and who behaved in the same way in the role as the claimant, who had had performance issues identified in the probation review, and who submitted her contribution to the report late despite repeated requests and with insufficient information would have been treated in the same way as the claimant. The fact that Dr Delsol didn't notice a mistake in Mr Kadiri's work does not indicate greater scrutiny of the claimant. Her part of the report, submitted late, was incomplete and did not contain sufficient information. There are no facts from which we could properly conclude that the reason for the treatment was age, and the burden of proof does not shift.

175. If the burden had shifted, the explanation provided by the respondent

satisfies the Tribunal that age discrimination played no part in its actions. Any difference in treatment was due to the following factors: the claimant's failure to meet deadlines and to do the work required of her in such a way that it did not require significant further input and review.

176. There is nothing from which the Tribunal could conclude that the claimant's treatment was related to her age.

177. In any event, this allegation is out of time (see below).

178. The claimant's claim of age discrimination fails and is dismissed.

#### Direct sex discrimination

##### *Allegation 4.1.1*

179. In allegation 4.1.1 the Claimant alleges that she had only two supervisions following publication of her grievance outcome on 17.02.2023 and 29.03.202 held by Neena Samota and Lee Bridges, whereas her male counterpart received uninterrupted supervision, updates, and conversations with the lead Trustees on a weekly basis.

180. The allegation is identical to allegation 3.1.2.

181. In this case the hypothetical comparator would be a man in the same circumstances as the claimant, who had applied for and was appointed to an Executive Director role and who had had time off and who behaved in the same way in the role as the claimant. The Tribunal is satisfied that the hypothetical comparator would have been treated in the same way as the claimant. There are no facts from which we could properly conclude that the reason for the treatment was sex, and the burden of proof does not shift.

182. If the burden had shifted, the explanation provided by the respondent satisfies the Tribunal that sex discrimination played no part in its actions. Any difference in treatment was due to Mr Kadiri's inexperience; the promise made to him to support him when he took on the role; and his own engagement and pro-activity which led to more informal conversations with the Trustees.

183. This allegation is not upheld.

##### *Allegation 4.1.2*

184. In allegation 4.1.2 the Claimant avers Habib Kadiri was supervised weekly, via teams and he was able to call Trustees to receive a prompt response.

185. This allegation is identical to 3.1.2.1.

186. In any event, a hypothetical comparator, a person in the same circumstances as the claimant, a man who had applied for and was appointed to an Executive Director role and who behaved in the same way in the role, having had time off, as the claimant would have been

treated in the same way as the claimant. There are no facts from which we could properly conclude that the reason for the treatment was sex, and the burden of proof does not shift.

187. If the burden had shifted, the explanation provided by the respondent satisfies the Tribunal that sex discrimination played no part in its actions in having an increased level of supervision for Mr Kadiri. Any difference in treatment was due to Mr Kadiri's inexperience and the promise made to him to support him when he took on the role at the Trustee's request. Mr Bridges explained in his evidence how Mr Kadiri actively initiated contact. It was open to the claimant to have done so.

188. The Tribunal further accepts Dr Shiner's explanation for his lack of an immediate response to the claimant. He explained that this was the sort of thing that should be referred to the Board hence no one Trustee wanting to take responsibility for. He explained that the claimant's modus operandi was not a practical way to engage with Trustees all or most of whom had busy day jobs. Further, the Trustees had also not responded to the contact when he emailed them, which supports Dr Shiner's evidence above.

189. There is nothing from which the Tribunal could conclude that the claimant's treatment was related to her sex.

190. This allegation is not upheld.

#### *Allegation 4.1.3*

191. In allegation 4.1.3. the claimant alleges that, on every Wednesday when the claimant was present in the building, Trustees e.g. Rabekka Delsol and Michael Shiner would come in and speak only to Habib Kadiri, ignoring the claimant.

192. This allegation is identical to 3.1.2.2, save that the claimant in this allegation gives Dr Delsol and Dr Shiner as examples of those who ignored her.

193. In oral evidence the Trustees confirmed that they rarely attended the building on a Wednesday but when they did, they certainly did not ignore anyone and sought to create a happy atmosphere. The Tribunal preferred the respondents' evidence. Dr Shiner said that he was only in the office twice between the claimant's return to work and the termination of her employment and that he never ignored her. Dr Delsol did not visit the respondent offices at any time as she was employed in a role outside of the respondent and was only able to volunteer on Fridays throughout the relevant period,

194. This allegation is not upheld.

#### *Allegation 4.1.4*

195. In allegation 4.1.4 the claimant alleges that she was repeatedly ignored e.g. on 29.03.2023 during the claimant's second supervision held by Lee Bridges and Neena Samotta, the Claimant had completed a

draft of the Bystanders guide and sent this to the Trustees for comment; nothing was received. Habib Kadiri sent out requests, around the same time, about the website and the newsletter and the Trustees responded immediately.

196. It is accepted that the claimant did actually not receive feedback when requested. It is also accepted that Mr Kadiri sent out a request about the website and was responded to.

197. The Tribunal finds that Mr Kadiri was not a relevant comparator for the reasons stated above and also because his request for a response involved a cursory review and a quick response, whereas a guide such as the Bystanders guide would require a detailed review and significant time input.

198. The Tribunal is also satisfied that a hypothetical comparator, a person in the same circumstances as the claimant, a man who had applied for and was appointed to an Executive Director role and who behaved in the same way in the role as the claimant would have been treated in the same way as the claimant. There are no facts from which we could properly conclude that the reason for the treatment was sex, and the burden of proof does not shift.

199. If the burden had shifted, the explanation provided by the respondent satisfies the Tribunal that sex discrimination played no part in its actions. If, in fact she did not receive feedback for weeks and weeks, there was very good reason for that. That was that, as confirmed by Dr Delsol in her evidence, there were a number of other guides (complaints, stop and search, parents') for which the claimant was responsible which were urgent as they were overdue for submission to the grant funder. The Bystander guide was not urgent and was not overdue. It would not have been a priority for the Trustees when other more urgent work was overdue.

200. There is nothing from which the Tribunal could conclude that the claimant's treatment was related to her sex.

201. The allegation is not upheld.

### Direct disability discrimination

#### *Allegation 5.1.1*

202. In allegation 5.1.1, the claimant alleges that on her return to work from extended leave, her treatment in the organisation upon her return from sickness absence was markedly different to that of her co-director and relies specifically on allegations 5.1.1.1-5.1.1.4.

#### *Allegation 5.1.1.1*

203. The claimant alleges that, on 08.02.2023, Michael Shiner discussed work matters directly with Shenna Darcheville, research coordinator, ignoring the claimant as her line manager. This was one of the allegations which was not covered in the claimant's witness statement,

and so she was not cross examined on it. There was therefore no evidence on which to uphold this part of the allegation.

*Allegation 5.1.1.2*

204. The claimant alleges that on/around 21st November 2022, Habib Kadiri and the claimant held a meeting with a potential funder. The claimant was then kept out of the loop regarding developments about this thus she was not aware of what happened afterwards. The claimant was instead later blamed for not bringing more money into the organisation. This was one of the allegations which was not covered in the claimant's witness statement, and so she was not cross examined on it. There was therefore no evidence on which to uphold this part of the allegation.

205. In any event, this allegation is out of time (see below).

*Allegation 5.1.1.3*

206. In allegation 5.1.1.3, the claimant alleges that, on Wednesdays when the claimant was present in the building, Trustees e.g. Rabekka Delsol and Michael Shiner would come in and speak only to Habib Kadiri, ignoring the claimant.

207. As stated above (allegations 3.1.2.2 and 4.1.3), in oral evidence the Trustees confirmed that they rarely attended the building on a Wednesday but when they did, they certainly did not ignore anyone and sought to create a happy atmosphere. The Tribunal preferred the respondents' evidence. Dr Shiner said that he was only in the office twice between the claimant's return to work and the termination of her employment and that he never ignored her. Dr Delsol, despite being named specifically, did not visit the respondent's offices at any time during the relevant period as she was employed outside of the respondent and so her ability to volunteer was limited to Fridays.

208. This allegation is not upheld.

*Allegation 5.1.1.4*

209. In allegation 5.1.1.4, the claimant alleges that, on 18.01.2023 Rabekka Delsol ignored the claimant and only spoke to Habib Kadiri, about cancelling a meeting that had been arranged to take place with Rabekka Delsol, the claimant, Ras-Kawas-I Grant and Shenna Darcheville. Rabekka Delsol instead chose to discuss the Claimant's work with Habib Kadiri. This was one of the allegations which was not covered in the claimant's witness statement, and so she was not cross examined on it. There was therefore no evidence on which to uphold this part of the allegation.

*Allegation 5.1.2*

210. In allegation 5.1.2, the claimant alleges that, at the supervision meeting of 13 January 2023, Nina Samota, Trustee subjected the claimant to the comment that she was "not the first person to go through



menopause”.

211. The Tribunal prefers the evidence of Ms Samota, which is backed up by Professor Bridges who was also present at the meeting. The Tribunal accepts further the respondent’s submission that the allegation as pleaded would be completely contrary to Ms Samota’s committed ethical position as regards equality generally and the specific work she described having carried out in support of women requiring support in relation to menopause and its effects as St Mary’s University.
212. There is no mention of any discussion of menopause on the meeting notes though the claimant does refer to physiological and mental health changes. Even though the claimant had the opportunity to comment on the minutes supplied to her, and did so, this comment was not mentioned.
213. In any event, the Tribunal does not accept that the comment was a detriment. It is simply a fact that the claimant is not the first person to have been through the menopause. It is a factual statement which, could, depending on its context, be a detriment but there was no evidence as to that. The context was a supervision meeting focussing on actions and next steps.
214. This allegation is out of time (see below).
215. This allegation is not upheld.

## Harassment

### *Allegation 6.1.1*

216. The claimant alleges in allegation 6.1.1 that the respondent conducted the supervision meeting of 13 January 2023 in an unreasonably negative fashion. The claimant relies upon the protected characteristic of disability as she was “forced to explain that my mental health and well-being had been impacted by menopause”.
217. This allegation is not upheld. The respondent did not carry out the supervision meeting in an unreasonably negative fashion. Despite having her role halved the claimant was failing to perform; meet deadlines and perform key areas of her role and had not provided any explanation for that other than general comments about menopause. The respondent is entitled to raise performance issues with the claimant during a supervision meeting which is designed for that very purpose. It was a progress chasing agenda. The respondent had valid criticisms of the claimant which needed to be raised.
218. In any event, the respondent’s actions/treatment of the claimant was in no way related to disability, nor could it be said that the conduct had the purpose or effect of violating the claimant’s dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for her, taking into account her perception, the relevant circumstances and whether it could be said to be reasonable for the conduct to have that effect.

219. In any event, this allegation is out of time (see below).

*Allegation 6.1.2*

220. In allegation 6.1.2, the claimant alleges that the respondent held the supervision meeting of 13 January 2023 with 2 Trustees present, including the chair of the board. The claimant relies upon the protected characteristic of disability, alleging that this created an intimidating, hostile, humiliating environment which exacerbated the symptoms of her mental health.

221. This allegation is not upheld.

222. There were two supervisors, but Mr Kadiri also had two supervisors (Dr Shiner and Dr Delsol). The claimant was told, when she came back to work, that professor Bridges and Ms Samota would take over her supervision. She did not complain, object or even comment to that. In any event, Professor Bridges was not the chair of the Trustees as alleged, something the claimant should have known.

223. The respondent's actions/treatment of the claimant was in no way related to disability, nor could it be said that the conduct had the purpose or effect of violating the claimant's dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for her, taking into account her perception, the relevant circumstances and whether it could be said to be reasonable for the conduct to have that effect.

224. In any event, this allegation is out of time (see below).

*Allegation 6.1.3*

225. In allegation 6.1.3, the claimant alleges that, at the supervision meeting of 13 January 2023, Nina Samota, Trustee subjected the Claimant to the comment that she was "not the first person to go through menopause". The Claimant relies upon the protected characteristic of disability as the claimant was going through menopause.

226. For the reasons stated above (allegation 5.1.2), this allegation is not upheld.

Victimisation

227. It is not disputed that the claimant did a protected act by raising a grievance on 20 January 2023.

*Being ignored by Dr Shiner around the Nottingham Girls' Project event*

228. The allegation is that: "In late-January 2023 a consultation event for the Girls Project was planned to take place in Nottingham; volunteers working with the project were informed late by their own employers that they could have the day off to attend. This late notification meant additional monies were allocated to cover the increased transport costs. Despite the claimant's numerous calls and texts to, Dr Michael Shiner,

as she was unclear about who was supposed to be supervising her; the claimant received no response and was unable to support the project officer in this regard. The claimant was deliberately ignored by Michael Shiner which undermined her authority as a director.”

229. The Tribunal finds that the claimant was not deliberately ignored by Mr Shiner. Mr Shiner was engaged in full time work other than for the respondent which meant he could not necessarily take calls at any time.

230. The Tribunal finds that, had the claimant been organised and had the budget properly approved beforehand, it would not have been necessary to make these calls to obtain approval. Dr Shiner had been waiting to approve the budget since December but had not received the narrative he needed from the claimant. Even if the claimant had been ignored, it was not because she raised a grievance, but because she was disorganised and had not had the budget approved prior to the event which meant that the project was proceeding in a haphazard way. Not only that, but the claimant’s failure to obtain the correct budgetary approval meant that the respondent was not operating within the strict guidelines and not in accordance with its own policy. The claimant admitted that she was not familiar with the policy despite it having been sent to her on multiple occasions by the respondent. The claimant appeared unwilling to follow the respondent’s instructions in this regard.

231. In her evidence the claimant appeared to criticise Dr Shiner for effectively being pedantic in his management of the accounts. The Tribunal concludes that Dr Shiner probably did have a sense of frustration with the claimant’s attitude to finance, not least because her chaotic and disorganised approach meant that the respondent’s financial compliance, in a highly regulated sector, was at risk. Her approach meant that she would or could not take on more responsibility as budget holder which was what was expected of her. There was no evidence whatsoever to suggest that this was because of any menopause related ill-health. To the contrary, as stated above, the claimant appeared to consider that it was because Dr Shiner was fastidious in his approach to finance, an approach with which she did not agree.

232. The claimant’s treatment has nothing to do with the fact that she submitted a grievance.

233. In any event, this allegation is out of time (see below).

*Being sanctioned by Dr Shiner for allowing additional expenditure for refreshments*

234. The allegation is that: “On 24th January 2023, the Girls Project event took place and the predicted budget for that event did not contain an expenditure line for additional refreshments. The Claimant as the director, was aware of the budget and thus agreed to spend on said refreshments as an immediate decision was required. The claimant was later on 2<sup>nd</sup> February 2023 sanctioned by Michael Shiner for taking this decision and stated that he “and Trustees could take action against me [the claimant] as a result of agreeing to purchase the extra catering”.

235. The Tribunal finds that there is no evidence whatsoever of any sanction being imposed on the claimant. The claimant appears to rely on a polite exchange of emails in which Dr Shiner asks for information and requests the claimant to comply with the Financial Management Policy in order to avoid any financial compliance issues.
236. That the letter, which is in fact dated 6 February 2023, set out clear instructions on what the claimant was expected to do cannot be denied. But this was necessary as the claimant had failed to engage with the respondent's necessary and clear financial management policy.
237. If there was any change in how Dr Shiner was communicating with the claimant it was because of the sheer frustration of the way in which she operated, without heed to the respondent's financial requirements and policies and seemingly unable to comply with simple and repeated requests for narratives, for example, so that budgets could be approved . Her approach was causing him a lot of work. The Tribunal is satisfied that this had nothing to do with the claimant raising a grievance.
238. In any event, this allegation is out of time (see below).
239. This allegation is not upheld.

*Allegation 7.2.3*

240. On 24th January 2023, Michael Shiner de facto took over the supervision of the Girls Work Project Manager, thereby undermining the Claimant's authority within the organisation.
241. In cross examination, the claimant said that "Dr Shiner's supervision of the project was a "de facto" takeover because I was treated not like I was the director but that I was Sheena's equal."
242. In her witness statement, the claimant appears to allege that Dr Shiner communicated directly with Shenna leaving the claimant out of the loop and effectively treating her and Shenna as equals. The Tribunal finds that there were some examples of where Dr Shiner emails the claimant and Shenna, but this was because, for example, that he had been told that Shenna would be providing the narrative requested in order for the budget to be approved. The Tribunal does not accept the claimant's version of events. Throughout, Dr Shiner's involvement was limited to that in line with his role as Treasurer. That role was the greater for him for the claimant's non-compliance with the financial and budgetary requirements. To the extent that he contacted Shenna, he was chasing outstanding items which he believed Shenna was responsible for. It is notable that the claimant acknowledged in the supervision meeting on 13 January that she did not have full visibility of what Shenna was doing.
243. In any event, there are no facts from which we could conclude, without an explanation, that anything Dr Shiner did was to do with the fact that the claimant had raised a grievance.
244. This allegation is not upheld.

245. In any event, this allegation is out of time (see below).

*Allegation 7.2.4*

246. In allegation 7.2.4, the claimant alleges that, in February 2023, a report to the charity commission was developed, Trustee Rebekah Delsol, stated that the claimant's contribution to the report was not good enough and she should redraft using the outline delivered by colleague using hyperlinks throughout the text. The Claimant explained she would try to redraft, but this might take some time. However, it was later stated on 27th March 2023 by Neena Samota that that Claimant had refused to complete the report, which was not the case.

247. As regards Dr Delsol's conversation with the claimant, the Tribunal finds that Dr Delsol's email to the claimant following the conversation about the report gives the best impression of what was said. Dr Delsol did not say the report was not good enough but that it needed some further detail and substance.

248. This conversation and follow up email took place on 19 January 2023 so before the claimant raised her grievance and was in the context that the report had been needed much earlier, but the claimant had not delivered on time despite chasing. When she did deliver it, late, it was substandard. That was the reason for the conversation and the email. It had nothing to do with the claimant's grievance.

249. Whilst it is accepted that Dr Delsol asked the claimant to write up her section in the format Habib had used, that was what was required for the completion of the report.

250. The claimant suggested that it was actually Dr Delsol who made the comment that the claimant had refused to complete the report. Dr Delsol confirmed in cross examination that she didn't refuse but didn't respond when being chased for the overdue report which was one of her key tasks. Any such comment by Dr Delsol was in the context that the claimant had not complied with the deadlines imposed by the impending paternity leave of the accountant and that she was not responding to emails chasing her. It had nothing whatsoever to do with the raising of her grievance.

251. The allegation is not upheld. The claimant's contribution to the report was not good enough and was late despite chasing. Dr Delsol's comment, which was incorrectly attributed to Ms Samota, was made in the context of frustration and had nothing whatsoever to do with the claimant raising a grievance.

252. There are no facts upon which the Tribunal could conclude, without an explanation, that it was anything to do with the claimant raising a grievance.

*Allegation 7.2.5*

253. In allegation 7.2.5 the claimant alleges that, on 7th February 2023,

the claimant was requested by a funder to provide them with a preliminary report to facilitate the release of additional funding. The claimant promptly submitted the requested report and, during subsequent discussions with the funder, agreed to provide a more comprehensive report at a later time. However, in response to her grievance, Dr Shiner and Dr Delsol told the claimant that this report was inadequate.

254. In this regard, Dr Delsol's evidence is preferred, and the Tribunal find that Dr Delsol did not say those words. However, the fact is that the report was inadequate, so, had it been made, the criticism was made for good reason. Even if the claimant had agreed a reduced version with the contact at Paul Hamlyn, she had not communicated that to the Trustees when she submitted her report, and so what she drafted was not what they were expecting. There are no facts on which the Tribunal could conclude, without an explanation, that the alleged criticism was to do with the fact that the claimant had raised a grievance.

#### *Allegation 7.2.6*

255. In allegation 7.2.6 Dr. Michael Shiner refused to take any phone calls and emails from the Claimant, which made the smooth running of her post impossible e.g. on 10th February and 7th March 2023 as well as various emails to Richard Gaside regarding the lease signing for tenancy of a building.

256. Dr Shiner is a Trustee with a full-time role (see above). One of the calls complained about was at 445pm and the claimant has complained that he did not call her back immediately. The claimant was causing significant workplace issues as a result of her approach, and it was not reasonable to an immediate response.

257. The allegation is not upheld.

258. In any event, there are no facts on which the Tribunal could conclude, without an explanation, that this was to do with the fact that the claimant had raised a grievance.

#### *Allegation 7.2.7*

259. In allegation 7.2.7, the claimant alleges that, on 7th March 2023, during project support, after the failed visit to Nottingham, Michael Shiner later shouted at the claimant during an online Teams meeting with the Girls Work Project officer; thus, undermining and belittling the claimant. This was one of the allegations which was not covered in the claimant's witness statement, and so she was not cross examined on it. There was therefore no evidence on which to uphold this part of the allegation.

#### *Allegation 7.2.8*

260. In allegation 7.2.8, the claimant alleges that, on 18th March 2023, the claimant's asked the accountant for details of the agency's bank address and account details to complete a project return report. The claimant was admonished at length by Michael Shiner for making this

request, instructing that in the future direct questions about banking were to be sent to him and/or Neena which added to the claimant's feelings of being victimised and harassed.

261. It is clear that Dr Shiner emailed the claimant asking her to redirect queries about the bank account to himself. The words used were: "I understand you need the bank details for the Quadrature invoice. Please see below. .... Best wishes Mike." This was not the claimant being "admonished at length". The claimant in cross examination sought to suggest that this admonishment occurred over text on a phone she no longer had. The claimant's evidence is not accepted in this regard. There was no evidence that the claimant asked the respondent for Dr Shiner's texts to her in this regard.

262. This allegation is not upheld. In any event, there are no facts on which the Tribunal could conclude, without an explanation, that this was to do with the fact that the claimant had raised a grievance.

#### *Allegation 7.2.9*

263. In allegation 7.2.9. the claimant alleges that, in a letter dated 5th April 2023, Rabbecca Delsol invited her to attend a Contractual Review Meeting made assumptions that she was failing to properly discharge the duties of Executive Director; had mismanaged relationships with funders and regulators; failed to comply with the Respondent's financial policies and procedures; health issues affecting performance despite alleged adjustments in place. In this letter the Claimant was told the potential outcomes may be a formal warning or termination of employment.

264. The letter written was a stiff letter but was entirely correct and accurate. It is a disciplinary letter setting out and laying out the issues to be discussed which had everything to do with serious issues around the claimant's performance and nothing whatsoever to do with the fact that the claimant had raised a grievance. In any event, the grievance was raised in January, over two months previously. Further, the letter was written after a series of events in which the claimant failed to deliver, with further deadlines missed, and did not just come out of the blue. The claimant asserts she was told by Dr Shiner that the respondent was "going for dismissal" on 12 January 2023. This evidence was not accepted by the Tribunal, but if the conversation did happen as the claimant suggests, it took place before the claimant raised her grievance which indicates that the Trustee's response was nothing to do with the fact she had raised a grievance.

265. This allegation is not upheld. There are no facts on which the Tribunal could conclude, without an explanation, that this was to do with the fact that the claimant had raised a grievance.

#### *Allegation 7.2.10*

266. In allegation 7.2.10, the claimant alleges that, on 6th April 2023, she was placed on garden leave (special leave), subject to an investigation.

267. There is no dispute that the claimant was placed on “special” leave or, effectively garden leave. However, the Tribunal is satisfied that this was because the respondent had significant issues with the claimant having found out that Paul Hamlyn was concerned about the lack of reporting and that they might lose their funding. For the respondent, this turned it into a potential gross misconduct issue.
268. They received a copy of the report on 5 April. It was so bad that it turned the situation into a gross misconduct/last straw. The claimant’s position was untenable as she was jeopardising the respondent’s funding, despite it having been made clear to the claimant how crucial these grants were to the existence of the organisation.
269. This allegation is not upheld. There are no facts on which the Tribunal could conclude, without an explanation, that this was to do with the fact that the claimant had raised a grievance.

### Time limits

270. Given the date the claim form was presented and the effect of early conciliation, any complaint about something that happened before 3 February 2023 was not brought in time. There was no conduct extending over a period as none of the claims have been upheld. The claimant has not provided any evidence as to why she did not bring the claims in time, and it is therefore not just and equitable to extend time.

### Disability

271. Given the Tribunal’s findings above, there is no need for the Tribunal to determine whether the claimant was a disabled person within the meaning of the Equality Act 2010.

Employment Judge Rice-Birchall  
Date: 25 April 2025

JUDGMENT & REASONS SENT TO THE PARTIES  
ON  
30 April 2025

FOR THE TRIBUNAL OFFICE

P Wing

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