



EMPLOYMENT TRIBUNALS

Claimant: Dr A Kear

Respondent: Bournemouth University

Heard at: Bristol **On:** 12th December 2024

Before: Employment Judge P Cadney

Representation:

Claimant: In Person

Respondent: Ms J Duane (Counsel)

PRELIMINARY HEARING JUDGMENT

The judgment of the tribunal is that:-

- i) The claimant's claims of direct sex discrimination are struck out as having no reasonable prospect of success;
- ii) The claimant's claims of public interest disclosure detriment are dismissed as having no reasonable prospect of success;
- iii) No order is made in respect of the claimant's claim of automatic unfair dismissal and further directions are given below.

Reasons

1. This case came before EJ Livesey for a TCMPh on 15th October 2024. He listed the case for a PH today to determine:

1. *Whether all or any part of the claim should be struck out as disclosing no reasonable prospect of success;*
 2. *Whether all or any part of the claim should be struck out on the grounds that the Claimant has failed to comply with case management directions;*
 3. *Whether all or any part of the claim has little reasonable prospect of success and whether, therefore, the Claimant should be required to pay a deposit, limited to £1000 in each case;*
 4. *What further case management directions ought to be made and when any further hearing ought to be listed, if appropriate.*
2. EJ Livesey summarised the earlier stages in the claims as set out below (numbering as in EJ Livesey's CMO) .

The Claimant issued his Claim Form on 7 December 2023. He had been employed by the Respondent from 17 September 2017 as a Senior Lecturer in Digital Communications and Media.

23. *In his Claim Form, he indicated that he was making another type of claim than one of those commonly presented and included the following description of it; "Bullying hate, conspiracy. to commit murder CR/012209/22. Assault/actual bodily harm CR029082/22. Hiring of escort/entrapment stop taking research/teaching ideas."*
24. *Attached to his Claim Form was a document entitled 'Areas of Grievance'. The document contained 23 paragraphs of allegations, none of which immediately suggested that the Tribunal had jurisdiction to determine them. Accordingly, on 12 January, the claim was rejected by Legal Officer King as it was considered that the Tribunal lacked jurisdiction.*
25. *The Claimant sought reconsideration of that decision in an email dated 25 January. Whilst his email contained allegations for which the Tribunal did not appear to possess jurisdiction, he did suggest that he had been the victim of "bullying and harassment based on gender discrimination." It was then accepted on 29 February.*
26. *The Respondent was served and a response was received in which it was asserted, perhaps not surprisingly, that the claim was insufficiently particularised. It had nevertheless read the claim to include complaints of discrimination and/or detriment on the grounds of public interest disclosure (whistleblowing).*

27. *On 6 May, the Response was accepted and Employment Judge Bax asked the Claimant to provide further information in relation to the claims which the Respondent considered that he was pursuing. On 20 May, the Claimant supplied those particulars and they formed a substantial portion of the discussion during the first Case Management Preliminary Hearing (see below).*
28. *Meanwhile, on 22 May, the Respondent dismissed the Claimant. He made an application for interim relief on 17 June, which was dismissed. No complaint of unfair dismissal was before the Tribunal and the application was out of time in any event.*
29. *An initial Case Management Preliminary Hearing took place on 28 June 2024 before Employment Judge Roper. The Claimant did not attend. He was required to explain his not non-attendance and a strike out warning was contained within the Order. Within paragraphs 4 to 7 of the Order, the Judge set out very specific directions in respect of the provision of further information by the Claimant but he did identify in his Case Summary what he considered to have been the issues, as disclosed in the further information which had been supplied on 20 May.*
30. *Communication followed from the Claimant about his absence; he said that he had been delayed because of a spinal issue. A lengthier response was then provided on 22 July (16 pages). It purported to contain a response to Judge Roper's very specific request for information about his claim, but;*
 - *It contained a table of over 100 allegations/incidents which appeared to have been his allegations of discrimination on the grounds of sex. Some of the allegations appeared to relate to his involvement in a local children's football team and an allegation that he was accused of preventing girls from playing. Others appeared to relate to disputes which he had had with neighbours and/or fellow road users, others concerned helicopters, oil leaks in his car, allegations of conspiracy to murder and many other apparently seemingly un-associated matters;*
 - *Some of the incidents dated back to a period even before he had commenced employment with the Respondent (the first 21 allegations were dated to 2016 or before);*
 - *Some others post-dated the Claim Form; 8 of the last 9 allegations were dated after 7 December 2023;*
 - *The table did not address the questions raised in paragraph 5 (or 6 and 7) of Judge Roper's Order in that order or at all,*

although it appeared to have been an attempt to identify the complaints of discrimination on the grounds of sex;

- *After the table, there was an attempt to grapple with the other paragraphs in the Order, paragraphs 6 and 7 which concerned the public interest disclosures that he was relying upon and the detriments alleged. In that section, the Claimant reiterated the disclosures that he had referred to before (see the issues below), but;*
 - *They went beyond the six previously identified. The last in time appeared to have been dated 2 December 2022;*
 - *The alleged detriments were poorly explained, undated and vague. Some were as generic as “generating hate to support harassment and negative treatment” or “causing issues regarding Dr Kear’s teaching to harass and affect his work and perceptions thereof” or “generating hate and isolation of Dr Kear”.*

31. *On 12 August, the Respondent applied to have the claim struck out. I will return to that application in due course.*
32. *On 13 August, the Claimant emailed the Tribunal to say that the final stage of the panel hearing had been conducted and that the decision to dismiss him had been confirmed. He stated, somewhat boldly, “this case should also include now - unfair dismissal.” There was no application to amend nor did he set out the grounds upon which such a claim was being advanced. He had, of course, been dismissed on 22 May and was, in August, in receipt of the result of the appeal hearing. Employment Judge Self indicated that his application would be considered further at this hearing but that the precise basis of the amendment should be clearly set out (email of 15 August).*
33. *In a further email dated 19 August, the Claimant stated that the complaint of unfair dismissal “is based upon numerous acts by the Respondent...and includes; breach of whistleblower rights.” Needless to say, that did not serve to clarify matters.*
34. *Finally, there was the Claimant’s Agenda for this hearing in which he identified the complaints in his claim as follows;*

“Harassment, Breach of Duty of Care, Defamation, Fraudulent misrepresentation, Conspiracy to murder, Grievous bodily harm. Breach of GDPR. Failure to adhere to the Breach of whistleblowing protections. Unfair dismissal (to be added).”

He claimed that the claim had a value of £9.25m.

3. Amendment -After the submission of the ET1 the claimant had been dismissed, and EJ Livesey permitted the claimant to amend to add a claim of Automatic Unfair Dismissal (s103A ERA 1996 – public interest disclosure), but not “ordinary” unfair dismissal (s98 ERA 1996) .

Claims

4. In an earlier CMO EJ Roper had set out the claims as being:

- i) Public Interest disclosure detriment;
- ii) Direct Sex discrimination;
- iii) (In the light of EJ Livesey’s permitted amendment there is now a further claim) - automatic unfair dismissal (s1903A ERA 1996) before the tribunal.

5. As is set out above this claim has a chequered history :

- i) The claim was initially rejected as disclosing no claim falling within the jurisdiction of the ET;
- ii) It was subsequently accepted, the claimant asserting claims of sex discrimination and/or whistleblowing detriment;
- iii) In purported compliance with the case management directions of EJ Roper the claimant supplied Further and Better Particulars of his claims (although the respondent does not accept this constituted actual compliance);
- iv) Some of the potential difficulties with the Further and Better Particulars were identified by EJ Livesey in his para 30 (above)

6. In order to determine whether any or all of the claims should be struck out a having no reasonable prospect of success and/or a deposit ordered in respect of any having little reasonable prospect of success it is necessary to identify the claims with some clarity. This is not easy as, as is pointed out by EJ Livesey at para 30 above.

7. In determining the respondent’s strike out and/or deposit order applications I have considered the claims as set out in the claimants Further and Better Particulars of 22nd July 2024. The claimant contends that his claims are supported by evidence (see below) and that he should be given a proper opportunity to advance his claims.

8. Background – It must be said from the outset that these claims are based on a narrative of the claimant’s which includes many extraordinary allegations as summarised by EJ Livesey (above) and set out below. However I bear in mind that the fact that allegations may be extraordinary, and on their face implausible does not necessarily mean that they are untrue or simply fantasy; and whether or not they are permitted to proceed to a hearing must be judged on the merits.

9. In order to understand the claims the claimant contends that is necessary to understand the background. He was previously employed by the University of Gloucester (UoG) and alleges that he discovered, and blew the whistle on, fraudulent activity / money laundering involving UoG / the LEP/ Growth Hub. Having blown the whistle he left the UoG under the terms of the settlement agreement. However a campaign against him was hatched involving initially UoG / LEP/ Growth Hub / the Police and the Lord Lieutenant of Gloucestershire. Specifically one of the objects of this campaign was the lodging of false allegations against him with Gloucester FA by the parents of some girls who played in a girl's football team which he coached. These allegations included false allegations that he did not think girls should play football, and was a misogynist. In particular he contends that the allegation of misogyny has continued to be spread and dog him, and is at the heart of many of the subsequent events. Despite have left UoG the campaign has widened and now includes Gloucester FA, the University of Plymouth by whom he was briefly employed, and now the University of Bournemouth. The campaign is extremely wide ranging and does not simply involve action taken against him, and allegations made about him, in his professional life; but has involved false allegations being made about him by his neighbours who have been supported by the police, his car having been interfered with and attempts made to injure him or murder him when driving and kayaking, and blighting his son's football career by arranging for him not to be taken on by various professional clubs despite his being obviously the best player during training/matches (indeed £4 million of the claimant's claim for compensation of £9.25 million relates to his son's loss of earnings from his potential future career as a professional footballer.) Both his son and daughter have been victims of assaults apparently by other children / young people but which are in fact a continuation of this campaign.

10. Tribunal Proceedings/Respondent – At present the only respondent is the University of Bournemouth. However the claimant contends that he has asserted (for example in his case management agenda) that there are allegations against a number of the other bodies referred to above and that the tribunal will be required to investigate those claims irrespective of whether those bodies are or are not joined as parties, as without doing so it is impossible to assess or understand the University of Bournemouth's part in the overall campaign. Even if there is no evidence of it or its employees/agents involvement in some of the specific allegations, they are part of the larger campaign and therefore liable for all elements of the campaign, even those they may not have been actively involved in. By way of example, one of the allegations (see below) being pursued is that Newport FC did not take his son on a professional football training contract. When I asked how he asserted that UB were or could have been involved the decision of Newport FC the claimant accepted that the source of the interference with Newport FC's decision making and animus against him and son was probably more likely to be football connected, in this case probably via or including Gloucester FA. However this makes his point for him, that different conspirators are involved in different elements of the campaign against him, and what has to be appreciated is the overall campaign rather than focussing on the participation of an individual body in a specific incident.

11. In addition the claimant relies on the subtleties of the alleged interconnection of events; and asserts that even if there is no obvious or direct connection there is an underlying connection between them. By way of example one of his claims of sex discrimination (see below) relates to his desk being given to a colleague named Libby whilst he was absent. Whilst this might on the face of it seem an unremarkable event, he contends that one of the girls with whose parents he was in dispute in relation to the girls football team was named Libby; and he contends that the respondent allocating his desk to a colleague named Libby was not simply coincidental. They were in fact sending him a message that they were aware of the earlier dispute and paying him back/punishing him or intending to do so, for his alleged misogyny. This was not simply an ordinary administrative act within the university, but was directly connected with the earlier dispute.

12. Evidence – As set out above the claimant does not accept that there is no evidence to support his allegations. In particular he was extremely concerned that the tribunal listen to a brief audio recording of an OH referral which he contends that the OH doctor initially introduces himself as Dr Linwood (or something similar), and then corrects himself and gives an entirely different name of the doctor who was purportedly carrying out the referral. From this the claimant concludes, and invites the tribunal to conclude, that the doctor carrying out the OH referral was an imposter, who carried out the referral in substitution for the real doctor in order to perpetuate the false diagnosis of psychosis (see below), and which he contends was obtained by those who carried out the examination being suborned in some way by those who are part of the conspiracy/campaign against him. If it is correct that the doctor on this occasion was an imposter, it necessarily supports and is evidence the existence of the conspiracy / campaign and of the lengths that those involved will go to; and which therefore refutes the respondent's assertions that allegations are "outlandish" or "ludicrous".

13. In my judgement what is being said on the tape is by no means as clear the claimant asserts, and in any event it is a very limited and narrow basis to assert that there is any evidential foundation for the claims. In addition, given that it is the evidence relied on by the claimant, it in and of itself demonstrates the absence of any other evidential foundation for the claims.

Respondent's Strike out Application

14. The respondent asserts that the claims should be struck out on the basis of rules 37 (1) (a) and 37(1)(c) when read in conjunction with the overriding objective:.

Rule 37 (1) – At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

(1)(a) - that it.....has no reasonable prospect of success;.

(1)(c) – for non-compliance with any of these Rules or an order of the Tribunal.

15. Rule 37(1)(c) – I will deal first with what in my judgment is the easier of the two bases of the application to resolve. The respondents application is based on the proposition that the claimants Further and Better Particulars, although in purported compliance with EJ Roper's Case Management Order, does not in fact comply.
16. EJ Roper gave the following order:

Further information

4. *Date For Compliance: The claimant shall send to the Tribunal and to the respondent within fourteen days from the date this Order is sent to the parties the following further information:*
5. *Direct Sex Discrimination: Full details of all matters upon which the claimant relies in support of the allegations that the claimant has been discriminated against by Bournemouth University on the grounds of his sex, providing in each case: (a) date of incident; (b) summary of the less favourable treatment alleged; (c) parties and/or witnesses involved; and (d) the comparator(s) relied upon.*
6. *Public Interest Disclosures: Full details of all matters upon which the claimant relies in support of the allegations that the claimant has made public interest disclosures, providing the following information in respect of each of his six email disclosures relied upon (which are set out in the List of Issues): (a) what information was disclosed; (b) name and title of person to whom the disclosure was made; (c) what breach or likely breach of the respondent's obligations is alleged to have been raised; (d) why it is said to be reasonable for the claimant to believe such a breach; and I how was such a disclosure in the public interest*
7. *Public Interest Disclosure Detriment: Full details of all matters upon which the claimant relies in support of the allegations that the claimant has suffered detriment by Bournemouth University on the grounds of the six alleged disclosures, providing in each case: (a) date of the detriment suffered; (b) summary of the detriment suffered; (c) parties and/or witnesses involved; and (d) which of the six disclosures relied upon is said to have caused the detriment.*
17. The respondent contends that this has to be seen in context. As is set out in the extract from EJ Livesey's CMO the original ET1 was rejected as it contained a discursive narrative that did not appear to assert any claim falling within the jurisdiction of the tribunal. The claim was accepted following an assertion that they were in fact claims of gender discrimination. EJ Bax ordered Further and Better Particulars, which were provided but not sufficient to clarify the claims being brought; which in turn led EJ Roper to give direction

for Further and Better Particulars. This is therefore the third chance the claimant has been given to set out clearly and precisely what his claim is, but is still impossible to work out in sufficient detail for the respondent to know what claims it has to meet.

18. It follows that the claimant has failed to comply with EJ Roper's order, and whilst it would be unusual at an early stage to strike out for non-compliance, particularly if a fair trial is still possible, in the context set out above a strike out order would be justified.
19. The claimant does not accept the basic premise of this application. He contends that he has, at very least to the best of his ability, complied with EJ Roper's order; and that it is possible to identify the claims with reasonable clarity.

Sex Discrimination Claims

20. In my judgement different considerations may apply to the sex discrimination claims (which are in my judgement much more clearly set out) and the public interest disclosure claims (which are still much more difficult to follow) and I will deal within the applications in respect of each set of claims separately.
21. In my judgement in respect of the sex discrimination claims the claimant is broadly correct. Whilst the information is not set out as it would be by an employment lawyer it is possible to identify the claimant's claims and reach conclusions as to the strike out/deposit orders application. In my judgement if the claims are sufficiently identifiable to allow that exercise to be carried out, it must follow that there has been broad and sufficient compliance with EJ Ropers order.
22. It follows that none of the claimant's sex discrimination claims will be struck out for non-compliance with tribunal orders.
23. Rule 37(1)(a) – No reasonable prospect of success. – The respondent makes the following general submissions:
 - i) Many of the allegations either pre-date the claimant's employment with the respondent and/or have apparently no connection with the respondent in any event;
 - ii) The allegations are in any event "outlandish" and "ludicrous" and it is not a proper use of tribunal proceedings to compel the respondent to meet allegations which self-evidently only exist in a world of fantasy, and in respect of which there is no possibility of the claimant producing any evidence in support of them;
 - iii) Whilst it is unusual in discrimination / whistleblowing cases to strike out and/or order a deposit at an early stage before consideration of the evidence there are claims, this being one, in which the allegations are so obviously without foundation and unmeritorious that such an order is appropriate. The tribunal is entitled, and required, to apply some form of common sense test and to

strike out patently absurd allegations unless the claimant is able to point to some very powerful evidence capable of supporting them.

24. In this case they contend that, although unusual it is appropriate to strike out the claims as having no reasonable prospect of success. Firstly they rely on *Cox v Adecco Group UK & Ireland 2021 ICR 1307, EAT*, and specifically the observation that ‘no-one gains by truly hopeless cases being pursued to a hearing’. Whilst discrimination claims are generally less susceptible to strike out at an early stage than other claims, strike out will be appropriate for claims that are plainly hopeless.
25. They contend that the claims are self-evidently fanciful and preposterous in and of themselves, and plainly and obviously only exist in a fantasy world of the claimant’s devising; and the attempted linkage of the allegations against the current respondent with events in the claimant’s private life and/or other professional contexts with no link to the current respondent is obviously doomed to failure. Moreover the allegation that the acts are allegations of sex discrimination is based on the bare assertion that the event in question would not have happened to a female academic, without any basis for any such assertion having been set out and/or that the alleged sex discrimination by the respondent is in fact the perpetuation of a campaign which is discriminatory on the grounds of sex as it relates back to false allegations of misogyny made against the claimant when coaching a girls football team. In respect of the first there is absolutely nothing to suggest the claimant has any prospect of adducing primary evidence sufficient to reverse the burden of proof; and in respect the second nothing which would allow any tribunal conclude either that the respondent was aware of the allegations or even if it were why it should have any interest in them or acted on them.
26. Time Limits – The respondent also contends that many of the allegations ae out of time. However I bear in mind the claimant’s contention that all of the allegations are factually linked as being part of an overall conspiracy/campaign against involving many people and institutions over many years.
27. I have set out the claims individually below and addressed these points in relation to the individual claims.
28. As set out above in July 2024 the claimant produced Further and Better Particulars in a table of the allegations setting out the particulars of some of the events he contends are part of and/or evidence of the conspiracy/campaign against. In respect of a number of them he has added words such “This would not have happened to a female academic” or similar. At the commencement of the hearing he accepted that they were the allegations relied on as allegations of sex discrimination against the current respondent – and they are the allegations set out below and the description of each event is as set out by the claimant in the F and BPs.
29. Attached to this PH Judgment is a copy of the Further and Better Particulars which contains the full allegations (set out in summary form below) relied upon as claims of sex discrimination. In determining the applications I will first

consider whether the allegations have “no reasonable prospect of success” (strike out application); and then go on to consider if necessary whether they have “little reasonable prospect of success (deposit order application).

30. In determining these issues I bear in mind that it is always possible that any allegation might subsequently be made out, but that I am required to judge whether, on the information before me there is no or little reasonable prospect of the claimant doing so. In assessing those questions I have asked the question within the statutory framework- is there information before me which would allow me to conclude that there is prospect of success above no or little, of the claimant adducing primary evidence sufficient to satisfy the first stage of the Igen v Wong test and to transfer the burden of proof to the respondent. If there is it would not be appropriate to either strike out a claim or make a deposit order. If there is not one or other order may be appropriate.
31. In my judgement the allegations fall relatively naturally into a number of different groupings, together with some free standing allegations and I will briefly set them out and deal with by reference to those groupings (if reference to the full details is necessary they can be obtained from the F and BPs)
32. Allegations 1 - Pre employment allegations 2016/2017 - The claimant relies on the allegations in 2016/2017 pre-dating his employment by the respondent.

2016 -Girl football issue / non-issue – weaponised as part of smear campaign – The individuals alleged to be involved are John Brookes, Greg Coopey, and Rula (Greek);

2016 – Threat of violence and swearing in front of the team – The individuals alleged to be involved are Bryan Mountford/ Marcus Jones/ Gareth James ;

2016 – Second meeting with Bryan Mountford – The individuals alleged to be involved Bryan Mountford/ Marcus Jones;

2017 – Friend of estranged parents girls football – The individual alleged to be involved- Robert Baldwin;

March 2017- Harassment statement re penis- Lisa Dobson, Sarah Maddock, Philippa Ward.

March 2017 – Statement pertaining to issue re daughters – Huw Conway (Head of Department Plymouth)

May 2017 -Students assignment submission set up incorrectly – assignment office

33. As set out above, in respect of each of the allegations the claimant makes the same assertion that it “would not have been an issue for a female academic” (or similar), which is the basis for the allegation that these are acts of direct sex discrimination.

34. These allegations all pre-date the claimant's employment with the respondent; the earlier ones relate to disputes surrounding the claimant's coaching of the girl's football team, and the later ones to events at the University of Plymouth. There is no obvious connection with the respondent in that none of the individuals against whom the allegations are made is, or is alleged to be employed by the respondent. The claimant does not in fact allege any involvement specifically by the respondent but, as set out above, alleges that the respondent is part of a wider conspiracy and must bear some legal liability for all aspects of the conspiracy even if they took place before the claimant was employed by them and/or even if they had no specific involvement in the events themselves.
35. In my judgement there is no legal basis for the claims in respect of these allegations. The respondent is liable for the acts of its employees in the course of their employment and/ or its agents. Given that it is not alleged that any of those involved were either, and given that they all occurred before the claimant was employed by the respondent, in my judgement there is no reasonable prospect of the claimant establishing that the respondent bore any responsibility for any of these allegations and they will be dismissed as having no reasonable prospect of success.
36. Allegations 2 – The allegations set out below are all allegations which, although taking place after the claimant was employed by the respondent, on their face have no connection with the respondent:

Sept 2017 - Coach ladies football team – Jack Walsh;

October 2017 – Coach the local girls team – Oscar's dad Mr Hatland;

Sept 2018 - Dr Kear takes time off due to stress and is incorrectly diagnosed as suffering from psychosis. – Dr Hayes / Rachel Long;

Feb 2020 Zak plays for Newport against Welsh Girls team – Ben Stait (Sasha Folkes)

Feb 2020 – Daughter Penny Kear Brownies – Staff at Brownies.

25th May 2022 – Neighbour threatens to kill Dr Kear – Mike O'Neill, Jan O'Neill, Jane Brown.

37. I understand the claimant's point that the tribunal needs to see and appreciate the bigger picture of the inter-connectedness of all the allegations; but in the final analysis unless there is some evidence of the respondent or individuals for whom they bear some legal liability participating in these incidents, they in my judgment have no reasonable prospect of success. None of the allegations on their face involve the respondent or anyone for whom the respondent could even arguably bear any legal responsibility and they will be struck out.
38. Allegations 3 – Messaging Allegations – These allegations are:

Sept 2017 - Posters of burning man on hallway to office – BU staff involved in targeting Dr Kear

July 2018 – Burning Man Hat left in RRS

2019 – Giant mural of girls football on the wall outside where Dr Kear was scheduled to teach – BU staff involved in the targeting of Dr Kear

19 August 2022 Dr Kear's desk taken by Libby Head of Department and Dept Heads

14th Feb 2023 - Dr Kears unit site was being sabotaged and re-arranged - Persons at BU with access to Dr Kears' site;

39. These are a number of allegations which are essentially allegations that the respondent, or others in the wider conspiracy, were sending messages to the claimant, broadly relating back to the issues surrounding the girls football team. These are firstly the "burning man" allegations. The claimant contends that the figure of a burning man sends a message that an individual is being targeted, and that this was a message sent by the respondent and was intended to be understood by the claimant as referring to him, both in relation to the poster and the hat left in a car when he collected it. Secondly is the allegation of the giant mural of girl's football. On the face of it is not unusual for a university to have murals emphasising inclusivity, including women's sports teams. However the claimant contends that this was in fact a specific message sent to him, again referring back to the allegations of misogyny relating to girls football. Thirdly there is the "Libby" allegation referred to above; and fourthly the allegation of his unit site being sabotaged.
40. The first two appear to me to be perfectly ordinary features of a university campus and there is nothing from which a tribunal could conclude that they were in any way targeted at the claimant. In respect of the hat left in the car there is nothing to connect this with the respondent in any event, but it is convenient to deal with the two "burning man" allegations together. The third presupposes that the university authorities were aware of the identities of the girls and their families with whom he was in dispute as a football coach and that they had selected a woman with the same first name deliberately to send a message indicating their knowledge. In respect of this allegation, my judgment is that the respondent is correct and that this is a ludicrous allegation. In respect of the fourth I will assume that the claim could factually be made out, but I can see nothing from which a tribunal could properly conclude that sex was in any way a factor .
41. It follows that these allegations will also be struck out as having no reasonable prospect of success.
42. Sasha Folkes allegations – The claimant alleges that the Sasha Folkes allegations exemplify the inter-connectedness of his allegations. He alleges that he first met her whilst in Gloucester when she was using another name, and he then recognised her when she appeared in his class at the university

purporting to be a student. She had in fact previously worked as an escort and had reputedly killed a man, and she had been placed in his class in an attempt to lure him into some form of relationship with her.

43. In respect of the two allegations he alleges that in the first “Sasha Folkes” made comment in his class about a married man in his forties needing a girlfriend. This is, as I understand it, is the basis of the allegation she was attempting to lure him into some form of liaison. In relation to the second he alleges that whilst dropping her off at a hotel she headbutted him and then shouted at him to hit her:

Oct 2017 – Sexual harassment statement – Sasha Folkes, Bridgeworks, Rayelle Pentland Smith, Phillippa Ward

March 2019 – Headbutt incident and shouting to hit person named Sasha Folkes;

44. The respondent submits that these are especially preposterous allegations even by the standards of this case. The suggestion that the respondent had hired a former escort who may or may not previously killed a man, to infiltrate the claimant’s class masquerading as a student in order to lure him into some form of liaison so as to inflict some unnamed punishment; and all because the respondent was aware that he had previously been accused of misogyny in relation to the coaching of a girls football team is so transparently ludicrous that it cannot reasonably be permitted to go any further. At some point the tribunal is both entitled, and required, to allow common sense to intrude into the proceedings and strike out patently absurd allegations. In any event the evidential basis for this whole narrative is that the claimant believes he recognised her from Gloucester, and from that belief has constructed this absurd fantasy. These allegations exemplify why, in the respondent’s submission all of the claims should be struck; this is simply one of the most clearly fantastical.
45. Other than the “evidence” in relation to the fake/imposter doctor referred to above, and his own belief that he recognised “Sasha Folkes” from Gloucester the claimant does not suggest that there is any evidence which could possibly support these allegations; and in my judgement without very powerful evidence both in support of them and linking the respondent to them, the respondent is correct to identify them as essentially hopeless and they will be struck out as having no reasonable prospect of success.
46. Darren Lilleker / Stacey Wall Allegations – The claimant alleges that Stacey Wall was introduced into his class by Darren Lilleker to act as some form of saboteur

June 2019 – Darren Lilleker introduces Dr Kear to next saboteur - Darren Lilleker / Stacey Wall.

Jan 2020 - AK shows Stacey Wall how to run the tech seminar;

Feb 2020 – Stacey Wall sets up assignment submission incorrectly;

Stacey Wall statement – I don't know why you are not broken"

The allegations appears to be that, just as with Sasha Folkes, but in this regard to sabotage his work, Stacey Wall was introduced.

47. The respondent essentially submits that although the allegation itself is not quite as outlandish as that relating to Sasha Folkes, it contains the same basic flaw; that unless the overall conspiracy theory is accepted there is nothing to suggest that this is true, or if true has anything to do with a previous dispute about a girls football team; or any relationship to sex at all. On any analysis as an allegation of sex discrimination it is bound to fail.
48. In my judgement this is correct and these claims will be struck out as having no reasonable prospect of success.
49. Psychosis Misdiagnosis – The claimant alleges that he was misdiagnosed with psychosis and that the respondent engaged in some form of conspiracy to obtain or advance the misdiagnosis.

Sept 2018 - Dr Kear takes time off due to stress and is incorrectly diagnosed as suffering from psychosis. – Dr Hayes / Rachel Long

50. The respondent contends that there is not, and never could be any evidence that this was a misdiagnosis, nor that even if it were that the respondent had any involvement in it. By definition the diagnosis must have come from a qualified medical professional and the suggestion that s/he could have been suborned by the respondent to misdiagnose a patient is absurd; as is the suggestion that the respondent would in any event have any interest in or desire to involve itself in a purely medical issue. This is another allegation that is so preposterous that it should not be permitted to proceed.
51. In my judgement the respondent is correct that this is a very remarkable allegation for which there is no evidential support, and it will be struck out as having no reasonable prospect of success.
52. False Rape Myth Perpetuation email – March 2020- The claimant makes an assertion that student sent an email to him in relation to this subject. It is not at all clear how it is said to be discriminatory, on the grounds of sex or any other basis for this to have been sent to him. There is not any assertion of any allegation of rape against him , and this would not , on that basis appear to be an allegation of a "messaging" email such as those referred to above.
53. Given that there is no obvious or apparent link with sex at all so as to engage an allegation of direct sex discrimination, this allegation will be dismissed as having no reasonable prospect of success.
54. Aug 2020 Union Rep Andre Misiura confirms the issue of Dr Kear stopping girls playing football – This is an allegation that is extremely difficult to understand as a freestanding allegation. If anything it appears to allege that the claimant's union rep supported the claimant's interpretation of events. It

does not, on the face of it appear to include any allegation of direct sex discrimination, and will be struck out as having no reasonable prospect of success.

55. March 2021 Date Rape Drug Statement in Digital Futures Class- The claimant alleges that a student in this class stated on multiple occasions “Date rape drug ask for Andrew” – which the claimant interprets as a reference to himself. Just as with the “false Rape Myth” email allegation above this appears to be a freestanding allegation of a student making comments that would suggest that the claimant has either used or is able to supply date rape drugs. This is not an allegation which appears as part of the wider conspiracy, and there is no evidence to suggest that the student is or could be an employee or agent of the respondent, or how or why this has any connection to sex; and will be struck out as having no reasonable prospect of success.

56. REF 2021 – No submission of Dr Kear’s multiple papers – The allegation of the failure to submit academic papers of the claimant would, if correct clearly be capable of constituting less favourable treatment. The difficulty for the claimant is that even assuming that the allegation is correct, which for the purposes of this application I will, there appears to be nothing from which any tribunal could infer that sex played any part. The allegation of sex discrimination is mere assertion, and to the extent that it relies on the allegation that this is part of the wider allegation of a conspiracy against the claimant arising from allegations in relation to girls football coaching. it comes up against the same objection that it is essentially absurd.

57. Again for this reason the claim will be struck out as having no reasonable prospect of success.

58. Jan 2024 Coercive and collusion damaging statements– It is alleged that during the disciplinary appeal two staff members stated that “Dr Kear just sits in the staff room and does not interact with staff”. The claimant asserts that this is a falsehood. Again however, even if true, the assertion that this is direct sex discrimination is mere assertion, and the claimant himself does not seek to set out any basis for the contention, or to attempt to link it to the wider allegations of conspiracy. There is no information before me that in my judgement could lead to the conclusion that the allegation in and of itself would be sufficient to transfer the burden of proof and the claim will be struck out as having no reasonable prospect of success.

59. Overall Conclusions – It follows that none of the claims identified by the claimant as the claims for direct sex discrimination have any reasonable prospect of success and will be struck out.

Public Interest Disclosure –

60. As set out in EJ Roper’s original CMO the protected disclosures relied upon were:

2.1.1.1 1: an email dated 18 March 2021 to Stephen Marston; and

2.1.1.2 Disclosure 2: an email dated 11 June 2021 to Stephen Marston, John Vinney, Marion Meyer, and Brian Rutherford; and

2.1.1.3 Disclosure 3: an email dated 16 August 2021 concerning Stacey Wall; and

2.1.1.4 Disclosure 4: an email dated 1 March 2022 to Stephen Marston and John Vinney; and

2.1.1.5 Disclosure 5: an email dated 25 April 2022 to Stephen Marston and John Vinney; and

2.1.1.6 Disclosure 6: an email dated 5 August 2022 to Stephen Marston and John Vinney.

61. As pointed out by EJ Livesey, in the Further and Better Particulars there are further disclosures relied on although no application to amend to rely on them has been made; and for the purposes of this application I have only considered the original disclosures relied on.

62. The respondent makes essentially the same submissions as set out above in relation to the sex discrimination allegations:

- i) The claimant has not complied with EJ Roper's directions in that the allegations both in respect of the disclosures, the detriments and any link between them are essentially incomprehensible, and it is still not possible to understand the allegations it has to meet. This is now the third iteration of the claimant's claims and he has been given very specific directions as to what is necessary. Although he is a litigant in person he is highly intelligent and an academic and there is no reasonable excuse for the failure to follow EJ Roper's clear directions.
- ii) As is set out in respect of each of the disclosures it is impossible to follow how or why the detriments are alleged to be causally linked to any disclosure. The allegations of detriment are for the most part vague in the extreme, and/or seek to rely on detriments which precede the disclosure, and/or which are in fact the subject matter of the disclosure. The claims therefore remain totally incomprehensible.
- iii) The claimant cannot have had any reasonable belief in the information he is allegedly disclosing as it is necessarily tainted as being "ludicrous/outlandish" and "fanciful" as set out above; and all of the claims are bound to fail for his reason alone;
- iv) The same is true of the alleged detriments; and looked at in the round the disclosures and the detriments all exist only in the fantasy world of the claimant's imagination.
- v) Specifically he has not complied with directions 6 c) 7c) and d) above.

- vi) There is nothing to suggest that the claimant has any reasonable prospect of establishing any link between any disclosure and any of the alleged detriments.

63. Claimants Summary – The F and BPs include the following note/summary - *Note: The Protected Disclosures / Public Interest Disclosures. The methods used to target and destroy a person. The following represents collusion and the willingness to break multiple laws as part of a smear campaign after the whistleblowing acts at the University of Gloucestershire*

64. Dealing specifically with the alleged failure to comply with 6 c) and 7 c) and d) –

65. 6c) *what breach or likely breach of the respondent's obligations is alleged to have been raised – In the F and BPs the claimant states :*

" The breach of the respondents obligations include failure re Duty of Care to an employee. To provide a safe equal opportunity environment (Equal rights). Failure to act in accordance with the Nolan principles across honesty, openness, selflessness and integrity. Failure to enforce their own rules on bullying and harassment. Failure to create an equal opportunities environment. Failure to properly conduct a grievance hearing and subsequent appeal. Failure regarding unfair dismissal. Failure by contributing to the falsehoods and endangering Dr Kear and families lives".

He has however, made no attempt to identify which of the disclosures allege which of these breaches.

66. 7 d) *It is reasonable for the claimant to believe these breaches due to the overwhelming evidence held that supports the testimony of the claimant. Including the weaponising and galvanising the hatred towards Dr Kear.*

67. As with the sex discrimination allegations I will set out and deal with the specific allegations individually. However as a general proposition I accept the respondent's submissions that the detriments are either vague and /or incomprehensible; and/or are simply a repetition of the events relied on as acts of sex discrimination and that no attempt has been made to assert any link between the alleged disclosures and the alleged detriments (which in many cases either pre-date or form the basis of the disclosures themselves).

68. Rule 37 (1)(c) – Unlike the sex discrimination claims, there is in my judgement more force in the respondent's submission that the claimant has failed to comply with EJ Roper's case management directions in respect of the public interest disclosure detriment claims. However, there has clearly been an attempt to comply; and if any do have more than no or little reasonable prospect of success, in my judgement a fair trial of them would still be possible; and, therefore I would (as with the sex discrimination claims) not have struck out any of the claims on this basis.

69. Rule 37(1)(a) – In determining this application I bear in mind the respondent's submissions as summarised above; and that unless the allegations are

comprehensible and it is possible to understand what is alleged to have been disclosed; what detriment occurred; and how the two are allegedly linked that the claims necessarily have no reasonable prospect of success.

70. First disclosure—

18th March 2021 –

Disclosure- (A) Email 18th March 2021 to Stephen Marston re Malicious Gossip inciting hate. Defamation of character.

Targeting a minor age 9 / 10. Confirmation documentation that this was the case and that the continuation of such has caused irreparable harm. BridgWorx honey trap.- American friend shouting to claim rape. Entrapment and false misrepresentation.

Detriment - 7, (B) Detriment Generating hate to support harassment and negative treatment. Demonstrates belief in falsehoods and confirms substantial damage to his reputation

71. In my judgment it is still:

- i) Not at all clear what is said to have been disclosed; what breach of what legal obligation/ criminal offence of other category of s43B is alleged;
- ii) What the detriment alleged is and/or how it is alleged to be causally related to the disclosure

72. In my judgement there is no reasonable prospect of the claimant establishing any detriment and/or any detriment causally linked to this disclosure; and this claim will be dismissed as having no reasonable prospect of success.

73. Second Disclosure -

11th June 2021

Disclosure

11th June 2021 to Stephen Marston and John Vinney, Marion Meyer and Brian Rutherford (copying in JV to the 18th March 2021 email of protected disclosures). Person alleging a false sexual incident from 30 years ago who was connected to the Head of Communications, (lives on Tivoli Road Chelt) at BU and persons involved.

Detriment

7, (B) Detriment Generating hate to support harassment and negative treatment mostly from females due to the powerful axiom of Dr Kear being falsely labelled a misogynist and stopping girls play football.

6, (A) *Persons including conservative council member conspiracy to cause murder. 29th Sept Black and silver truck drives at AK to cause serious harm on forest walk track. Note Bailey plumbing and H Kear vehicle parked at entrance. RPS (American) states she had the Folkes up from Farnham. American friend shouts to claim rape it will be good for your career. Statement there is an app re how hard a person kicks a football. Campaign against Zachary Kear.*

Acknowledged by John Vinney 23^d June 2021

7, (B) *Detriment Generating hate and isolation of Dr Kear. Conspiracy to kill Dr Kear causing fear and uncertainty. Demonstrates belief in falsehoods and confirms Substantial damage to his reputation.*

Detriment Generating hate to support harassment and negative treatment mostly from females due to the powerful axiom of Dr Kear being falsely labelled a misogynist and stopping girls play football that makes it ok to target Zachary Kear. Also demonstrates belief in falsehoods and confirms Substantial damage to his reputation.

74. This is in my judgement simply impossible to follow. On the face of it the claimant appears to be alleging that he both disclosed a conspiracy to murder him, (apparently including a councillor) and that the detriment was the conspiracy to murder him. In addition he appears to allege that his son was targeted; and again that it apparently all relates back to the dispute over his coaching of the girls football team. The claimant has made no attempt to assert any causal link between the disclosure and the alleged detriments, which at least in respect of the conspiracy to murder appears impossible as it cannot simultaneously precede and be the subject matter of the disclosure and to be causally linked to the disclosure.
75. Again in my judgement there is no reasonable prospect of the claimant establishing any detriment linked to any this disclosure; and the claim will be dismissed as having no reasonable prospect of success.
76. Third Disclosure -

16th August 2021

Disclosure

Email 16th August 2021 Stacy Wall involvement. Attempt at Bristol Inner City FC to falsify a negative reaction and to verbally abuse Zachary (age 14). Again to support the false diagnosis of some signs of Psychosis to protect the careers and financial interests of instigators.

Detriment

Detriment Generating hate to support harassment and negative treatment mostly from females due to the powerful axiom of Dr Kear being falsely labelled

a misogynist and stopping girls play football. Also demonstrates belief in falsehoods and confirms Substantial damage to his reputation

Detriment to Zachary Child abuse. Destroyed his love of football and his path to being a football professional.

7, (B) Detriment to Dr Kear Causing issues regarding Dr Kear's teaching to harass and affect his work and perceptions thereof. Demonstrates belief in falsehoods and confirms Substantial damage to his reputation.

77. As with the previous allegation in my judgement the disclosure alleged is incomprehensible, as is the detriment. If anything both appear to relate not to the claimant but his son. Whilst, as set out above, I appreciate that it is part of the claimant's wider case that the detriments included targeting his children, it is impossible to understand how an alleged disclosure of the abuse of his son is causally linked to the detriment in any way. Again and even more pertinently, the subject matter of the disclosure and the detriment appear to identical, and yet they cannot simultaneously be both. Again for this reason there appears to me no reasonable prospect of the claimant establishing any link between any disclosure and any detriment and these claims will be dismissed as having no reasonable prospect of success.

78. Fourth Disclosure 1st March 2022

Email Mar 1st 2022 Stephen Marston and John Vinney 16th Feb Conspiracy to commit murder. Combinatory motives to destroy Dr A Kear, my reputation and immediate family. Neil Towers introduces person S Folkes as working with BridgWorx. John Oliver – Chris Oliver Kayaking incident and Bullet in someone's head. 6 years ongoing my sons mental health, substantial damage to son and family. Damage to house and Walls. Fire at Hancock's home -stated by builder. Then fire at home through Chimney (Note Song don't want to set your house on fire (Music link)). Note Helen Hancock on the Dr A Kear psychological evaluation team.

7, (B) Detriment to Dr Kear's reputation in addition to making it questionable his version of events. However a constellation of errors and recordings support the wrong doing and the lengths that persons will go to for money and position. Damage to Dr Kear by way of intimidation, corruption and collusion. Multiple evidences prove this.

79. In this case he alleged disclosure is clear and involves an allegation of conspiracy to murder, which necessarily involves the commission of a criminal offence. However it is impossible to understand the detriment or any link between it and the alleged disclosure.
80. Again it appears that the detriment at least arises from the subject matter of the disclosure; and it is not specifically alleged that the disclosure caused any

detriment. Again it follows, in my judgement that there is no reasonable prospect of the claimant establishing that he suffered any detriment as a result of making the disclosure and this claim will also be struck out as having no reasonable prospect of success.

81. Fifth Disclosure - 25th April 2022

Email 25th April Stephen Marston and John Vinney. Diesel leak onto engine by either Glos Land Rover or Beale -Garage Coleford. Near vehicle miss on the 16th February.

7, (B) Detriment to Dr Kear's right to basic human rights. Detriment to Dr Kear not being harassed and his safety being compromised. Hurt feelings, Vehicle costs. Also Demonstrates belief in falsehoods and confirms Substantial damage to his reputation.

82. The disclosure is factually reasonably clear, but the claimant does not appear to be alleging that he fact suffered any detriment as a consequence of the disclosure. Once again the detriment appears to be the acts, or the consequences of the acts which are the subject matter of the disclosure. Again it follows, in my judgement that there is no reasonable prospect of the claimant establishing that he suffered any detriment as a result of making the disclosure and this claim will also be struck out as having no reasonable prospect of success

83. Sixth Disclosure -

Email Aug 5th 2022 Stephen Marston and John Vinney. Damage to vehicle (29 Aug 2020 Richard Cooke) that potentially causes serious physical harm. Relation to ((Amy / Aimee) Williams(relation to Canon Williams (Dept. Lieutenant) who stated know a great Barrister in London))? Recipient of grant and / or privileged position MD.

Detriment to Dr Kear's ability to basic human rights. Detriment to Dr Kear not being harassed and his safety being compromised. Hurt feelings, Vehicle costs.

7, (B) Detriment to Dr Kear's right to not be threatened. Also Demonstrates belief in falsehoods and confirms Substantial damage to his reputation.

6, (A) Damage to structure of house and retaining walls. Relation to (stated Bryan (Brian) Williams)?

Kyle (Bristol) driving vehicle dangerous and recklessly causing car bump.

Men cause / contribute to canoeing incident. Link to relation of John Oliver BU?

Threat of being shot. Link to relation of John Oliver BU?

Possible arson attempt at my family home?

Faking my sons identity and getting someone to pretend to be him playing in a football match? (Joe Price (Son of

John Nelmes Brother (prison)). Note Jon Nelmes (threatened violence to Dr Kear at childrens football tournament) son had taken Zak's place at the West Brom Academy where further issues had a substantial impact on Zak Kear (son of claimant).

Malicious spreading and creation of hate culture predicated on falsehoods. Sabotaging my lectures. Lecture content, Seminar.

Aligning me to Units that no longer existed.

False rape claim perpetuation statement.

Multiple rape statements at BU made including date rape drug use. 'Ask for Andrew' repeated by person in

Claimants class.

Homophobic statement made by member of BU staff pretending to be a student.

7, (B) Detriment to Dr Kear's ability to basic human rights. Detriment to Dr Kear not being harassed in his work place and his safety being compromised. Hurt feelings. Also Demonstrates belief in falsehoods and confirms Substantial damage to his reputation.

6, (A) Attempted setup for serious damage / murder? 16th Feb 10.55am

Damage to house extension caused by incorrect advice and sabotage by the builder who cited "Bryan / Brian Williams"

7, (B) Detriment to Dr Kear's ability to basic human rights. Detriment to Dr Kear not being harassed and his safety being compromised. Hurt feelings, House repair costs. Also Demonstrates belief in falsehoods and confirms Substantial damage to his reputation.

6, (A) Research regarding Digital Technology Addiction laundered through OMD by person called Sasha Folkes. Massive impact potential.

7, (B) Detriment to Dr Kear's ability to progress his career based on global impact of research. Detriment to Dr Kear not being accredited correctly and the submission into the REF2021.

6, (A) Neighbour being advised by local police to state things re Dr A Kear's medication, Also stated that they know people. And they want to kill me. Police then wanted to interview me about running the neighbour over. (Audio recording confirms Dr A Kear's position).

7, (B) Detriment to Dr Kear's right to basic human rights. Detriment to Dr Kear not being harassed and his safety being compromised. Hurt feelings.

The digital intervention method to deliver hate messages and cause psychological destruction to Dr A Kear.

7, (B) Detriment to Dr Kear's right to basic human rights. Detriment to Dr Kear not being harassed and his safety and well-being compromised. Hurt feelings. Note this represents a conversion therapy method with multiple targeted messages to result in destabilising Dr Kear. Messages from 2019 onwards. In addition represent an opportunity for persons to claim success in their efforts as well as intent. Also Substantial damage to his reputation

84. This allegation is impossible to follow. It appears to suggest that the disclosure was a portmanteau disclosure consisting of many of the allegations of which the claimant contends had happened over the years. However, once again, there does not appear to be any allegation of any detriment causally linked to the disclosure, but again the detriments are alleged to be the events which form the subject matter of the disclosures, or the consequences for the claimant of those events. In the absence even of any allegation of any detriment alleged to flow from any of the disclosures, on the face it these claims are bound to fail. Again it follows, in my judgement that there is no reasonable prospect of the claimant establishing that he suffered any detriment as a result of making the disclosure and this claim will also be struck out as having no reasonable prospect of success
85. Overall Conclusions – In my judgement the central difficulty with the claimants public interest disclosure allegations is that (as will be apparent from the assessments above), that despite EJ Roper's very clear directions, he has failed even to assert any link between any disclosure and any of the detriments. The detriments are in many cases set out in the most generic terms and critically and fatally, appear to assert that the detriment alleged is the underlying subject matter of the disclosure or its consequences. Any such allegation is inevitably bound to fail as the essence of a public interest disclosure detriment claim is that the individual has been subjected to a detriment because he made the disclosure. The disclosure of pre-existing allegations of detriment are simply by definition bound fail.
86. I take into account that the claimant is a litigant in person; but as pointed out he is an academic and was given very specific and clear directions by EJ Roper. If in those circumstances he is not able to produce a simple and comprehensible list of the disclosures to together with the detriments that are alleged to be causally linked to the disclosures it does not appear to me that it is fair to the respondent simply to give him endless bites at the same cherry, if he has not been able to assert any claims with any reasonable prospect of success, which in my judgement he has not.
87. For those reasons the public interest disclosure detriment claims will be struck out as having no reasonable prospect of success.

Public Interest Disclosure — Automatically Unfair Dismissal (s103A Employment Rights Act 1996)

88. As set out above EJ Livesey gave the claimant permission to amend to include this claim. However no response has a yet been entered and it does not appear to me in the circumstances possible to make any assessment of the prospects of success of that claim.
89. In the circumstances I give the following directions:
- i) The respondent is directed to serve a response to the automatic unfair dismissal claim within 28 days;
 - ii) The EJ will give further directions thereafter.

Employment Judge P Cadney
Dated: 14th April 2025

JUDGMENT SENT TO THE PARTIES ON
06 May 2025 By Mr J McCormick

FOR THE SECRETARY TO EMPLOYMENT TRIBUNALS