Case Number: 6000042/2022

EMPLOYMENT TRIBUNALS

Claimant: **Ms D Fahmy**

Respondent: **Arts Council England**

Heard at: Leeds
On : 18,19, 22, 23, 24 and 25 May 2023
Deliberations in Chambers: 16 June 2023

Before: **Employment Judge Shepherd**
Members: **Mr J Lancaster**
Mr S Moules

Appearances:
For the claimant: Ms Palmer, counsel
For the respondent: Ms McColgan KC

RESERVED JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The claim of harassment related to the protected characteristic of Religion or belief is well-founded and succeeds

2. The claims of victimisation are not well-founded and are dismissed.

3. A further hearing will be listed to deal with the question of remedy.

REASONS

1. The claimant was represented by Ms Palmer and the respondent was represented by Ms McColgan KC.

2. The Tribunal heard evidence from:

Denise Fahmy, the claimant, Relationship Manager, Visual Arts;
Ian Matthews, HR director;
Simon Mellor, Deputy Chief Executive;
Paul Roberts, Member of the Respondent's National Council and Chair of the Performance and Audit Committee.

Craig Ashcroft, HR Partner, did not give oral evidence and the representatives indicated that the Tribunal should not consider his witness statement.

3. The Tribunal had sight of a bundle of documents which, together with documents added during the course of the hearing, was numbered up to page 873. The Tribunal considered those documents to which it was referred by parties. There were a number of redactions and the Tribunal was provided with the unredacted copies.

4.On 17 May 2023, the day before this hearing commenced, the respondent's representatives made an application for an order under rule 50 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 requesting that the names and personal details of individuals named within the papers should be redacted.

5.The parties discussed this issue and it was agreed that the redactions would be made in order to protect the anonymity and personal details of people who were not witnesses or named in this Tribunal. It was agreed by both parties that no rule 50 order was required and the application was not pursued.

The issues

The parties' representatives provided an agreed list of issues as follows:

1. **GENDER CRITICAL BELIEF**

It is not in dispute that the Claimant's gender critical belief amounts to a philosophical belief qualifying for protection under section 10 of the Equality Act 2010 in accordance with **Forstater v CGD Europe & Others 2022 ICR 1, EAT.**

2. **HARASSMENT**

2.1 Did the Respondent and/or any of its employees engage in unwanted conduct relating to the Claimant's protected characteristic? The Claimant relies on:

(a) Simon Mellor's words and/or actions and omissions during the drop-in session on 14 April 2022: Expressing the opinion that the LGB Alliance "has a history of anti-trans activity";

(b) Expressing the view that it was a mistake for LCF to make an award to the LGB Alliance in respect of the Let's Create Jubilee Fund;

(c) Expressing the view that he quite understood that a number of the Respondent's staff were very angry and upset about a perceived lack of action on behalf of the Respondent in respect of the grant;

(d) Assuring those present that there had been no lack of activity or action or concern by senior staff in respect of the grant and that "a lot of stuff has been going on behind the scenes";

(e) Failing to point out that gender critical views are protected in law; and/or

(f) Ignoring the Claimant's question "How are gender critical views protected at ACE?";

2.1.2 Comments made by colleagues of the claimant during the drop-in session on 14 April 2022 (the respondent does not accept that this has been pleaded – The claimant says that it was agreed and points to paragraphs 4, 5 and 6 of her further information);

2.1.3 SB's actions on 11 May 2022 in sending an email to all staff linking to an online petition;

2.1.4 Comments posted by AI-W, PH and/or CF to the online petition circulated by SB on 11 May 2022

2.2 To the extent that the Claimant complains of any omission on the part of the Respondent and/or any of its employees, whether any such omission could amount to or involve unwanted conduct for the purposes of section 26 of the Equality Act 2010.

2.3 If any of the matters at paragraph 2.1 are made out, did such conduct have the purpose or effect of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?

3. **VICTIMISATION**

First claim

3.1 Did the Claimant's letter to Sir Nicholas Serota on 20 April 2022 constitute a protected act within the meaning of section 27 (2) of the Equality Act 2010? More particularly, did either or both of the following amount to a protected act, in that:

3.1.1 She complained that in the drop-in meeting on 14 April 2022 Simon Mellor failed to challenge a member of staff who asserted that beliefs are not a protected characteristic, despite the Respondent being under a duty to uphold the Equality Act 2010, and/or

3.1.2 She complained that she personally was subjected to detriment in the drop-in meeting in that "the meeting chat evidenced staff

hostility to her because of her gender critical views, views that are entirely legal and are protected beliefs. I am appalled that the meeting was conducted in such a way that my views were seen as intolerable"?

The Claimant contends that the letter was a protected act within section 27(2)(d) Equality Act 2010 (making an allegation (whether or not express) that someone has contravened the Act).

3.2 If the Claimant did a protected act, did the Respondent and/or any of its employees victimise the Claimant by subjecting her to a detriment because she did the protected act:

3.2.1 The Claimant alleges that Darren Henley failed to take prompt action on 11 and 12 May 2022 to take down the online petition, and that this maintained and aggravated an intimidating and hostile environment that had been created on 14 April?

3.2.2 To the extent the above is proven, did he fail to do so because the Claimant had done the protected act?

Second claim

3.3 The Respondent accepts that the Claimant did/ [Did the Claimant do] a protected act pursuant to s.27(2)(a) Equality Act 2010, namely, brought these tribunal proceedings?

3.4 If so, did the Respondent and/or any of its employees subject the Claimant to a detriment when it removed her systems access on 28 March 2023?

3.5 If so, did the Respondent and/or any of its employees victimise the Claimant by subjecting her to that detriment because she did the protected act.

4. RESPONDENT'S DEFENCE UNDER S.109(4) EQUALITY ACT

4.1 If any of the respondent's employees are found to have harassed or victimised claimant, has the respondent established, in relation to those employees, but it took all reasonable steps to prevent them from

(a) Doing that thing, or

(b) Doing anything of that description?

5. PRELIMINARY REMEDY ISSUES

5.1 In relation to the Claimant's claim for an uplift under section 207A TULR(C)A:

5.1.1 Is the claim one which raises a matter to which the ACAS Code of Practice on Discipline and Grievance ("Code") applies??

5.1.2 If so:

(a) did the Respondent fail to comply with the Code by not affording the Claimant the opportunity to appeal the outcome of her Dignity at Work complaint?

(b) Did the Claimant fail to comply with the Code by not raising a grievance under the Grievance Procedure before presenting her tribunal claim?

5.1.3 To the extent that either party failed to comply with the Code, was such failure to comply unreasonable?

5.1.4 If so, what uplift or reduction, if any, should the tribunal apply to any compensation awarded to the Claimant to reflect that failure?

These issues were discussed at the commencement of the hearing and it was agreed that those were the issues for this Tribunal to determine.

Background/facts

6. Having considered all the evidence, both oral and documentary, the Tribunal makes the following findings of fact on the balance of probabilities. These written findings are not intended to cover every point of evidence given. These findings are a summary of the principal findings that the Tribunal made from which it drew its conclusions.

7. Where the Tribunal heard evidence on matters for which it makes no finding, or does not make a finding to the same level of detail as the evidence presented, that reflects the extent to which the Tribunal considers that the particular matter assists in determining the issues. Some of the Tribunal's findings are also set out in its conclusions, to avoid unnecessary repetition and some of the conclusions are set out within the findings of fact. Where the Tribunal considers it to be helpful the page numbers of the documents in the bundle the page numbers have been included in brackets.

8. The Tribunal has anonymised the identity of those mentioned who were not parties, senior members of the respondent or did not appear before the Tribunal or provide a witness statement.

9. The claimant was employed by the respondent as a Relationship Manager from 25 March 2008. She was also an experienced Trade Union representative She worked with a number of organisations to whom the respondent provided funding.

10. The claimant holds what are referred to as "gender critical" beliefs. She describes this as:

> "I believe that sex is real, important, immutable, not be conflated with "gender identity" (what sex a person feels they are or would prefer to be. I do not believe that "trans women are women" ("trans women" are men who think they are women) that "trans men are men" (trans men are women who think they are men). I understand that both my "gender critical" beliefs and

> my lack of belief that "trans women are women" are a protected belief for the purposes of sections 4 and 10 of the Equality Act 2010."

11. The respondent accepts that, in accordance with the Employment Appeal Tribunal judgment in the case of **Forstater v CGD Europe and others UKAEAT/010520**, those beliefs are capable of amounting to a philosophical belief qualifying for protection under section of the Equality Act 2010.

12. In January 2020 the claimant had an exchange of emails with Ian Matthews, Human Resources Manager with regard to training issues in respect of the different positions held on trans-activist and gender critical beliefs.

13. On 21 February 2020 Ian Matthews sent an email to the claimant (147) indicating:

> "… As has already been discussed, there are few if any external providers who can present the different angles of what is a strongly contested debate externally… A reading list, comprised of material from both trans activist and gender critical sources, could be provided for staff to digest and a team discussion could then follow. Colleagues will be able to carry out self-directed learning into this issue and hopefully to come away understanding the different perspectives."

14. The claimant raised concerns about sex and gender identity within the respondent including, on 28 May 2021, the claimant sent an email to Darren Henley, Chief Executive Officer of the respondent, and Ian Matthews, HR Director, raising concerns about the respondent's links with Stonewall which she referred to as promoting self-identification and the notion of gender identity. She said that association with this advice presented a reputational risk to the Arts Council.

15. On 15 November 2021 the claimant sent an email to Darren Henley, Abid Hussein, Director of Diversity, and Ian Matthews providing her concerns about how the respondent collected data for monitoring purposes and questions regarding "gender identity".

16. On 11 April 2022 it was announced that the LGB Alliance had been awarded a grant by the London Community Foundation (LCF) under the Let's Create Jubilee Fund. This was to make a film "Queens – 70 years of queer history". Following reaction on social media, LCF suspended this grant.

17. The claimant sent an email to Ian Matthews and Abid Hussein on 11 April 2022 (305) in which she referred to:

> "… The appalling attacks going on online as a result, accusing LGB Alliance of transphobia. I note with real alarm an online target appears to be a grant manager at Community Foundation who made the award."

She also referred to a major bullying problem in the arts.

18. On 13 April 2022 Simon Mellor sent an email to all staff with regard to an Executive Board (EB) drop-in session which he was holding the following day. He

referred to the suspension of the award by LCF to the LGB Alliance as he expected that issue would come up. The respondent, along with UK Community Foundations, the umbrella body running wider programme continued to be in conversation with LCF.

19. On 14 April 2022 Simon Mellor hosted a drop-in session open to all members of staff. There are approximately 700 members of staff and claimant said that 411 attended the drop-in Teams Meeting. The Tribunal had sight of a transcript of that drop-in meeting and screenshots of the Teams Chat.

20. The meeting became, in effect, two meetings running alongside each other. There was the video meeting including discussions and the Teams Chat running at the same time where written comments were made leading to discussion. There were around 25 contributors to the chat. The claimant made five separate contributions

21. The claimant raised the question about why Simon Mellor had a concern about the LGB Alliance. In response Simon Mellor is shown as saying(267):

> "… Nevertheless, the LGB Alliance, I'm afraid has, is a divisive organisation that has a history of, of anti anti trans-exclusionary activity. And in my view, I have to stress I did not read the application and all I can do is express a personal view at this point. In my view, an award to that organisation is not within the spirit of the let's create Jubilee fund which is about bringing communities together and celebrating this moment so that that's that's just my, and I have to stress there is no collective position into that I've just giving you my personal views on why I think it was a mistake."

22. The claimant was the only person in the meeting who challenged the view that the LGB Alliance was anti-transgender. She stated:

> "Why do you have concern about the LGB Alliance"
>
> "The charitable status of LGB a has been agreed by the Charity Commission in April 21"
>
> "LGBAlliance is not anti- trans-Simon – that is misleading."
>
> "Do you have any concerns Simon about the impact on freedom of speech that this case highlights?"
>
> "How are gender critical views protected at the arts Council and in the arts?"

23. Another employee (PH) made a comment that:

> "… It's extremely disappointing to see people trying to defend them here of all places"

24. CR, another attendee, replied to the comment of the claimant stating:

> "ACE doesn't have an obligation to protect people's views, it has an obligation to protect the welfare of its employees. Being trans isn't an opinion/view it's being a person."

25. There was a Teams exchange between Simon Mellor and the claimant at 3:30 p.m. on 14 April 2023 in which Simon Mellor stated(303):

> "Hi Denise. I'm conscious that that must have been an uncomfortable session for you this morning and that you might be feeling a little isolated and bruised. I wanted to reach out and thank you for expressing your views openly and raising difficult questions. These are hard issues to resolve and involve strongly held opinions but we'll only be able to move forward if all staff feel able to express their views in an open and respectful manner. Happy Easter. Best wishes Simon."
>
> The claimant replied:
>
> "Thanks for getting in touch Simon. That is appreciated. However I do not feel bruised and I do not feel isolated. This is indeed a difficult subject, and that is why so many people internally and externally are in touch with me, telling me how they cannot voice their legal opinions for fear of bullying, losing their jobs or contracts or public vilification. The vast majority of these people are women. The arts council has a duty to foster freedom of speech in the sector and at work. You stated your personal opinion that a legal organisation, representing gay people, should not see ace funding, due to the objections and smears people internal & external with a different opinion. Your opinion was not based on the charity status issue, but on your opinion as you voice it that LGB Alliance is trans phobic, although you had not read the application. Personal opinion, otherwise known as bias, shuts down access to public funding has no place in a democratic society, and certainly cannot foster free speech or a respectful working environment. Ace staff, artists and arts people will always have different, conflicting opinions and life experiences. That indeed is the mark of a diverse organisation, is it not? It is the job of our organisation and its leaders not to resolve dispute by dictating a new intellectual status quo but to enable a tolerant and respectful thinking environment, in which all artists can make work and tell their stories. The comments alone in that drop-in evidence you did not foster such an environment in our workplace – I can tell you a large number of people called me afterwards, mainly women, 1 in tears. More importantly the meeting left me profoundly disturbed that you confirmed our arts funding can now be closely tied to the personal opinions of funders – that cannot be right. I will be raising a formal complaint in the next few days."

26. Simon Mellor then made an offer to meet the claimant and others and the claimant told the Tribunal that she thought she had replied by giving an emoji thumbs up.

29. At 15:44 Simon Mellor sent an email to all staff(302*)*:

> "Thanks to those of you came along to my drop-in this morning, and to those of you that contributed so honestly and bravely to the conversation. We

know this is an issue on which people have strong views. We will continue to make time and create safe spaces to have important and challenging conversations and develop our thinking. As we have these conversations it is important that we all treat all of our colleagues with the respect and dignity they deserve. The well-being of everyone works that here in the Arts Council is our number one priority, and it always will be. This includes all our LGBTQIA+ colleagues. On behalf of EB, I particularly want to express my personal solidarity with our trans and non-binary colleagues.…

Based on the ground we covered in the drop-in, I wanted to share the following with you:

- I can confirm that we are not producing any proactive external communications now, while the London Community Foundation (LCF) investigation is ongoing. We expect their investigation to be resolved soon. However, we will be replying to some FOIs and complaints we've received assumes we are able. We'll also report to media requests and social media queries where needed, as we continue to engage with UK Community foundation and LCF on the issue. If you receive any comments yourself, please do share with your relevant communication colleagues.
- We will undertake an After Action Review of this programme as a whole (as well as the LGB Alliance decision) and try to draw clear lessons we can apply in future. We will also use this opportunity to look at our role with third parties are making grant decisions using our funding.
- We also heard requests from colleagues for training around gender identity and trans awareness. Liz confirmed that we are soon to roll out a wider suite of training around Equality, Diversity and inclusion. This comprehensive training will provide learning opportunities on all protected characteristics, Liz will be sharing and update on this with everyone soon…"

30. On 20 April 2022 the claimant submitted a protected disclosure under the respondent's whistleblowing policy to Sir Nicholas Serota, the Chair of the respondent. In that disclosure the claimant referred to Simon Mellor having contravened the Staff Code of Ethics on 14 April 2022 by deliberately not adhering to the Arts Council's codes of practice because he had breached the Nolan Standards of in public life. She stated (307):

> "In particular, Simon breached the Nolan Principle of Objectivity. That is 'Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias'…

31. The claimant referred to the challenge to LGB Alliance's charity status and:

> "However, Simon went on to state unequivocally that in his personal opinion the award should not have been made, irrespective of the organisation's charity status or the appeals outcome; he stated that in his personal opinion the organisation is anti-trans. Simon went as far as to say that the Arts

> Council should think carefully about how we delegate small grant schemes in future, given the decision of LCF and by association the UK Community Foundation, to fund, what he stated is an anti-trans organisation."

32. On 3 May 2022 Darren Henley sent an email to all members of staff indicating that the issues raised by the LGB Alliance grant was a cause for concern for the Executive Board and indicated that, for now, they would not respond to questions about the matter in the next few drop-in sessions but the matter was receiving ongoing attention.

33. On 5 May 2022 the claimant attended a meeting to discuss her protected disclosure letter of 20 April 2022. The meeting was held with Jenny Kendall, Senior Manager North area, Liz Bushell, Chief Finance Officer and Executive Board Member, Darren Henley, Chief Executive and Ian Matthews. The claimant referred to the staff drop-in call with Simon Mellor. She said that she did not wish to pin personal blame on him but rather viewed the statement and failure/refusal to counter the many views expressed by others as indicative of a deeper political bias in the organisation.

34. It was proposed that Paul Roberts, a member of the National Council would investigate the claimant's disclosure and provide a report of findings for consideration by the Chief Executive. The claimant agreed to that proposal.

35. On 11 May 2022 at 13:39 SB sent an email to all staff which was referred to as "allies support sheet" including a link to a petition. The petition was open to all staff to be view and add comments The email stated (327):

> "I am forwarding around our allies support sheet. The LGBTQIA+ working group is raising a formal grievance in accordance with the company's grievance procedure in response to how the LGB Alliance funding decision was handled in the drop-in sessions, avoiding accountability, the conflict of interest of senior members of staff with clear, homophobic/anti-trans views in positions of decision-making and members of HR, the historic refusal to include trans awareness training (a request which has been continuously refused for years) and the unfair treatment of our working group compared to the others within the organisation. The reason for this is to investigate the concerns which we have raised, with a view to resolving then as soon as possible.
>
> And several staff members outside of the group asked about showing their support, if you would kindly sign your names it will be submitted alongside our grievance."

36. On 11 May 2022 there was an email exchange between PH and SB in which there was mention of the Teams chat and that (639):

> "… a certain member of staff kept trying to shut down conversation"

37. The Tribunal had sight of the spreadsheet or petition and the comments which included some extremely offensive comments referring to anti-trans(gender critical) language from numerous employees of the respondent:

38. PH commented, among other things that (344):

> "It is clear that there are members of our own organisation who are happy to be vocally anti-trans and "gender critical". We shouldn't have to put up with this any more than we would racist or sexist behaviour. It's time to stamp out bigotry in the Arts Council in general and that change is to come from the top down and filtered through all departments
>
> PS. Just to add to this that I don't believe that ACE was at fault in terms of the initial funding decision, which was not made by us, but by another organisation we had given the power to. The mistake imho has come from the lack of clear condemnation of a transphobic organisation and no action being taken against the so-called "gender critical" anonymous who are openly expressing their distaste at the funding been withdrawn. Much like how our recent antiracism training has illustrated there is an ongoing problem with racism in our ranks that needs to be challenged, this cancer needs to be removed from our organisation. Hatred of others for their differences should not be tolerated."

39. Another example of a comment was by EH referred to open anti-trans (gender critical) offensive language and:

> "..openly discriminatory transphobic staff"

40. A-IW provided comments including(343):

> "if I came to work one day, and attended a drop-in session where staff members were openly making racist statements, and asking Arts Council what protection will be offered to them as race – critical staff members – I would feel terrified. I can't imagine what my trans and nb colleagues are feeling right now…."

41. CF commented(345):

> "The LGB Alliance is a cultural parasite and a glorified hate group that has funds and supporters that also happen to be neo-nazis, homophobes and Islamaphobes…."

42. On the afternoon of the 11 May 2023, on or around 3:00 p.m., SB was suspended by reason of misconduct. The letter of confirmation of suspension set out the reasons for suspension which was a result of the all staff email that had been sent on 11 May and included a reference to having (626):

> "Rejected the right of colleagues to hold a belief or beliefs, (which are contrary to your own) in violation of their rights under the Equality Act.
>
> Possible action in contravention of the Dignity at Work Policy (section 4.1, page 18 – insubordination intended to underline a colleague)…."

43. On 12 May 2022 at 07:49 Catherine Mitchell, Senior Relationship Manager and the claimant's line manager, sent an email to Darren Henley. The Tribunal considers that it is appropriate to set out the contents of that email in full. It stated (390):

> "I want to express my concerns, as Denise Fahmy's line manager, about yesterday's email circulated by SB entitled *Ally support of grievance and demand for trans awareness training.* You'll be aware that the email contains a spreadsheet inviting staff to sign their support of a grievance (not included) and provide optional comments.
>
> I am concerned that it is encouraging poor and unprofessional behaviour from staff, to write as if they are on Twitter, with no thought to the consequences of the marks. Many are just signing their solidarity with trans people, with quite a few saying they would like to see the actual grievance before they can firmly sign. However, some of the comments, irrespective of whatever ideological position one might take on this debate, could be seen as inciting hate, as bullying and victimisation. I don't know the legal ins and outs, but I can't believe that it is OK to let this public vilification continue and not protect the welfare of all our staff. Could the spreadsheet place Arts Council in legal jeopardy?
>
> Some of the comments refer to gender critical believes being expressed during Simon Mellor's LGBA drop-in session and, as such, point very obviously to Denise. These comments lighten gender critical beliefs to *bigotry*, to a *cancer*, to being *anti-trans, transphobic, offensive,* and other assumptions. Neo-Nazis even get a mention, although I don't think that directed at Denise specifically. These are very damaging and serious allegations. The way this grievance is being carried out gives Denise no route to reply. She can only read the hateful comments being shared amongst the whole staff body. Is this really what we want for our organisation – to see Twitter style mudslinging hiding behind an HR process?
>
> Denise is a valuable member of staff. She is incredibly thoughtful, great awareness, and I do not believe she is transphobic. As today's email from EB stated, we have to be able to create *a respectful and caring work environment for each of us, which might mean these issues are raised where relevant and that this is done in a way that is mindful of the impact on others. Even if we hold deeply opposed beliefs, every colleague deserves all our care and respect and each of us should be sensitive and thoughtful in how we conduct discussion*
>
> .
>
> EB acknowledged that there is a balanced view to be taken, answer me this was a welcome message, particularly as a manager of a team whose individuals hold different beliefs. However, the continued presence of this spreadsheet gives a staff a platform and licence to speak hatefully against anyone who doesn't hold their views
>
> I'm not sure that gender critical beliefs represent an homogenous set of beliefs. I'm not sure that everyone signing up to the allyship email

> will have the same beliefs within the group either. I imagine there will be many commonalities across the so-called polarized 'sides' in the debate. Unfortunately it has been made nearly impossible to have any kind of reasonable discussion to discover what those shared beliefs might be. Instead we see that some of our staff seem to think it is up OK to bring the behaviours of social media into the workplace. These behaviours are not fostering an environment where progress and reconciliation can be made.
> Please do consider the distress is causing to Denise and to other silenced staff. Is this grievance really following a proper process and does the manner in which it is being conducted really reflect Art's Council's values?"

44. On 12 May 2023 at 9:33 Sarah Maxwell, Area Director sent an email to Darren Henley stating (401):

> "Catherine has kindly shared this with me and I'm writing to say I fully support what she is saying here and her concerns. I was deeply dismayed and shocked to see the comments in the circulated spreadsheet yesterday and I believe this is bound to add to the division and toxicity within the staff body on this issue.
>
> I welcome the qualification in EB's statement yesterday that there is protection under Equality Law both for the rights of trans and non-binary people and people who hold gender critical beliefs. It is clear from some of the comments that this is not universally understood moreover, as EBs statement said, we should treat colleagues with respect and courtesy, even whilst we might strongly disagree.
>
> Denise has been open about her position. I know there are others who hold similar views refrain from speaking because of this toxicity. Others understand that as public servants we behave at work in a way which impartially respects the law and our corporate values, whatever I will personal deeply held beliefs."

45. Access to the spreadsheet/petition was removed at 15:50.

46. On 13 May 2022 the claimant submitted a complaint under the respondent's Dignity At Work policy. She referred to the drop-in meeting and the email from SB referring to senior members of staff with clear homophobic/anti-trans views in positions of decision-making. She stated that as she was the only person to question the Executive Director's decision, she knew the statement was targeted at her. The claimant referred to comments and that the Executive Board had allowed the spreadsheet to circulate for more than 24 hours.

47. The Dignity At Work complaint from the claimant was considered by Paul Roberts together with the whistleblowing complaint.

48. On 13 July 2022 Paul Roberts provided an investigation report in which it is concluded that there was insufficient evidence to demonstrate that the respondent had breached any of the Nolan principles of objectivity, accountability and

openness. There had been difficulties for Simon Mellor in having to chair the drop-in meeting and respond to the large volume of comments in the chat, many of which were posted after the call had officially finished, and it was not found to be a failure of leadership.

49.It was recommended that the whistleblowing complaint was not upheld.

50. With regard to the Dignity At Work complaint, the recommendation was to find that the content and tone of the email and accompanying petition were capable of causing offence to persons such as the claimant who hold gender critical views.

51. There was insufficient evidence to support the claimant's view that she was the specific target. Anyone reading those comments who held the same gender critical beliefs as the claimant could be offended by the comments and it was entirely unacceptable for the respondent's internal email system to be used in this way. The speed with which the Executive Board removed the offensive email/petition did not appear wholly unreasonable.

52. On 9 August 2022 Sir Nick Serota wrote to the claimant providing the outcome of the investigation into Whistleblowing and Dignity at Work complaints. In respect of the Whistleblowing complaint it was concluded that there was no evidence of a breach by the respondent of their legal obligations.

53. In respect of the Dignity at Work complaint (569):

> "In conclusion I support the findings of the investigation, that the content and tone email and accompanying petition were capable of causing offence to persons such as yourself who hold gender critical views, and that ACE should take steps to ensure that where expressions of opinions and viewpoints by employees are made in future, they are done in a respectful and appropriate way which acknowledges that individual employees may hold different viewpoints to their own. This element of your complaint is upheld."

The Letter concluded (575):

> "Your complaints have been investigated independently and considered that the highest level within Arts Council. As noted in our Whistleblowing policy, if you are not satisfied with this response you can raise the matter with one of the people or organisations listed in the policy, they will then handle your complaint in line with their own policies. Further information regarding the relevant prescribed people and bodies in line with PIDA can be found here with the most relevant being The Charity Commission, the EHRC and for financial matters the NAO.
>
> If you have any questions about the content of this letter, please do not hesitate contact me…."

54. On 12 September 2022 the claimant wrote to the Department for Digital, Culture, Media & Sport appealing solely on the whistleblowing aspects.

55. The claimant presented a claim to the Employment Tribunal on 20 September 2022. She brought a claim of discrimination on grounds of religion or belief.

56. On 15 December 2022 the Department for Digital, Culture, Media & Sport wrote to the claimant indicating that it was not considered that respondent's procedures were incorrectly followed or that the response was insufficient

57.On 10 February 2023 the claimant tendered her resignation giving 3 months' notice.

58. The claimant initiated a number of social media and public speaking engagements in respect of her case. A national newspaper article was written about her case. The respondent considered that the claimant might be in breach of the respondent's code of ethics and communication and disciplinary policies. On 12 May 2022 The claimant was suspended from duty with the respondent and it was indicated that she would not be entitled to access to the respondent's premises or computer systems.

59.The claimant continued to take part in media events including a television appearance and YouTube publication.

The law. .

Protected Characteristics

60. Section 10 Equality Act 2010 (Religion or belief) provides:

> (1) Religion means any religion and a reference to religion includes a reference to a lack of religion.
>
> (2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

61. The Employment Appeal Tribunal held in the case of **Forstater v CGD Europe [2022] ICR 1**, that for a belief to be protected under the Equality Act 2010, in respect of the requirement that the belief must be worthy of respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others, it would only be if the belief involved a very grave violation of the rights of others, tantamount to the destruction of those rights, that a belief would be one that was not worthy of respect in a democratic society and fail to qualify for protection.

62. It is accepted by the respondent that claimant has the protected characteristic of her gender critical belief that sex is biological and immutable, people cannot change their sex and sex is distinct from gender identity.

Harassment

63. Section 26 of the Equality Act provides

> (1) A person (A) harasses another (B) if--
> (a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of--

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(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.

64. The test is part objective and part subjective. It requires that the Tribunal takes an objective consideration of the claimant's subjective perception. was reasonable for the claimant to have considered her dignity to be violated or that it created an intimidating, hostile, degrading, humiliating or offensive environment.

65. In the case of **Grant v HM Land Registry [2011] IRLR 748** the Court of Appeal said that:

> "Tribunals must not cheapen the significance of the words "intimidating, hostile, degrading, humiliating or offensive environment". They are an important control to prevent trivial acts causing minor upsets being caught by the concept of harassment."

66. In the case of **Richmond Pharmacology v Dhaliwal [2009] IRLR 336** the EAT stated

> "We accept that not every racially slanted adverse comment or conduct may constitute the violation of a person's dignity. Dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended. While it is very important that employers, and tribunals, are sensitive to the hurt that can be caused by racially offensive comments or conduct (or indeed comments or conduct on other grounds covered by the cognate legislation to which we have referred), it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase."

Victimisation

67. Section 27 of the Equality Act provides 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.

68. In a victimisation claim there is no need for a comparator. The Act requires the Tribunal to determine whether the claimant had been subject to a detriment because of doing a protected act. As Lord Nicholls said in **Chief Constable of the West Yorkshire Police v Khan [2001] IRLR 830**:-

> "The primary objective of the victimisation provisions ... is to ensure that persons are not penalised or prejudiced because they have taken steps to exercise their statutory right or are intending to do so".

69. The Tribunal has to consider (1) the protected act being relied on; (2) the detriment suffered; (3) the reason for the detriment; (4) any defence; and (5) the burden of proof. To benefit from protection under the section the claimant must have done or intended to or be suspected of doing or intending to do one of the four kinds of protected acts set out in the section. The allegation relied on by the claimant must be made in good faith. It is not necessary for the claimant to show that he or she has a particular protected characteristic but the claimant must show that he or she has done a protected act. The question to be asked by the tribunal is whether the claimant has been subjected to a detriment. There is no definition of detriment except to a very limited extent in Section 212 of the Act which says, "Detriment does not ... include conduct which amounts to harassment". The judgment in **Shamoon v Chief Constable of the Royal Ulster Constabulary** [2003] IRLR 285 is applicable.

70. The protected act must be the reason for the treatment which the claimant complains of, and the detriment must be because of the protected act. There must be a causative link between the protected act and the victimisation and accordingly the claimant must show that the respondent knew or suspected that the protected act had been carried out by the claimant, see **South London Healthcare NHS Trust v Al-Rubeyi** EAT0269/09. Once the Tribunal has been able to identify the existence of the protected act and the detriment the Tribunal has to examine the reason for the treatment of the claimant. This requires an examination of the respondent's state of mind. Guidance can be obtained from the cases of **Nagarajan v London Regional Transport** [1999] IRLR 572 and **Chief Constable of West Yorkshire Police v Khan**

[2001] IRLR 830, and **St Helen's Metropolitan Borough Council v Derbyshire** [2007] IRLR 540. In this latter case the House of Lords said there must be a link in the mind of the respondent between the doing of the acts and the less favourable treatment. It is not necessary to examine the motive of the respondent see **R (on the application of E) v Governing Body of JFS and Others** [2010] IRLR 136. In **Martin v Devonshires Solicitors** EAT0086/10 the EAT said that:

> "The question in any claim of victimisation is what was the "reason" that the respondent did the act complained of: if it was, wholly or in substantial part, that the claimant had done a protected act, he is liable for victimisation; and, if not, not. In our view there will in principle be cases where an employer had dismissed an employee (or subjected him to some other detriment) in response to a protected act (say, a complaint of discrimination) but he can, as a matter of common sense and common justice, say that the reason for dismissal was not the act but some feature of it which could properly be treated as separable."

71. In establishing the causative link between the protected act and the less favourable treatment the Tribunal must understand the motivation behind the act of the employer which is said to amount to the victimisation. It is not necessary for the claimant to show that the respondent was wholly motivated to act as he did because of the protected acts, **Nagarajan v Agnew** [1994] IRLR 61. In **Owen and Briggs v James** [1982] IRLR 502 Knox J said:-

> "Where an employment tribunal finds that there are mixed motives for the doing of an act, one or some but not all of which constitute unlawful discrimination, it is highly desirable for there to be an assessment of the importance from the causative point of view of the unlawful motive or motives. If the employment tribunal finds that the unlawful motive or motives were of sufficient weight in the decision making process to be treated as a cause, not the sole cause but as a cause, of the act thus motivated, there will be unlawful discrimination."

72. In **O' Donoghue v Redcar and Cleveland Borough Council** [2001] IRLR 615 the Court of Appeal said that if there was more than one motive it is sufficient that there is a motive that there is a discriminatory reason, as long as this has sufficient weight.

Liability of employers and principals

Section 109 of the Equality Act provides:

> (1) Anything done by person (A) in the course of A's employment must be treated as also done by the employer.
>
> (4) In proceedings against A's employer (B) in respect of anything alleged to have been done by A in the course of A's employment it is a defence for B to show that B took all reasonable steps to prevent A –
>
> (a) from doing that thing, or
> (b) from doing anything of that description.

Burden of Proof

73. Section 136 of the Equality Act 2010 states:

> "(1) This Section applies to any proceedings relating to a contravention of this Act.
>
> (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 sub-Section (2) does not apply if (A) shows that (A) did not contravene the provision.
>
> (4) The reference to a contravention of this Act includes a reference to a breach of an equality clause or Rule.
>
> (5) This Section does not apply to proceedings for an offence under this Act.
>
> (6) A reference to the court includes a reference to –
>
> (a) An Employment Tribunal."

74. Guidance has been given to Tribunals in a number of cases. In **Igen v Wong [2005] IRLR 258** and approved again **in Madarassy v Normura International plc [2007] EWCA 33.**

75. To summarise, the claimant must prove, on the balance of probabilities, facts from which a Tribunal could conclude, in the absence of an adequate explanation that the respondent had discriminated against her. If the claimant does this, then the respondent must prove that it did not commit the act. This is known as the shifting burden of proof. Once the claimant has established a prima facie case (which will require the Tribunal to hear evidence from the claimant and the respondent, to see what proper inferences may be drawn), the burden of proof shifts to the respondent to disprove the allegations. This will require consideration of the subjective reasons that caused the employer to act as he did. The respondent will have to show a non-discriminatory reason for the difference in treatment. In the case of **Madarassy** the Court of Appeal made it clear that the bare facts of a difference in status and a difference in treatment indicate only a possibility of discrimination: "They are not, without more, sufficient material from which a tribunal 'could conclude' that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination".

76. In the case of **Strathclyde Regional Council v Zafar [1998] IRLR 36** the House of Lords held that mere unreasonable treatment by the employer "casts no light whatsoever" to the question of whether he has treated the employee "unfavourably".

77. In **Law Society and others v Bahl [2003] IRLR 640** the EAT agreed that mere unreasonableness is not enough. Elias J commented that

> "all unlawful discriminatory treatment is unreasonable, but not all unreasonable treatment is discriminatory, and it is not shown to be

> so merely because the victim is either a woman or of a minority race or colour … Simply to say that the conduct was unreasonable tells nothing about the grounds for acting in that way … The significance of the fact that the treatment is unreasonable is that a tribunal will more readily in practice reject the explanation given for it than it would if the treatment were reasonable."

78. A Tribunal must also take into consideration all potentially relevant non-discriminatory factors that might realistically explain the conduct of the alleged discriminator.

79. The Tribunal had the benefit of detailed written and oral submissions provided by Ms Palmer, on behalf of the claimant, and Ms McColgan, on behalf of the respondent. These were helpful submissions. They are not set out in detail but both parties can be assured that the Tribunal has considered all the points made and all the authorities relied upon, even where no specific reference is made to them.

Conclusions

80. The Tribunal is aware that there are sometimes very strong, perhaps rhadamanthine, views held on either side of the "transgender debate". It was made clear to the parties that Tribunal is entirely neutral and does not take any side in that debate. The respondent has accepted that the claimant has the protected characteristic of her gender critical belief and this Tribunal has applied the appropriate legal tests and principles in respect of the claims of harassment and victimisation.

81. The Tribunal has given careful consideration to all the evidence, both oral and documentary and has reached the following conclusions:

82. The first issue that the Tribunal has to consider is whether the claimant was subject to harassment in the drop-in session on 14 April 2022. Simon Mellor made it clear to the employees that he was providing his personal views. This had been discussed prior to the drop-in meeting by members of management and it had been agreed in advance that he could express his personal opinion.

83. Ms Palmer referred to Simon Mellor descending into the arena and making disparaging comments about the LGB Alliance.

84. The Tribunal doubts the wisdom of Simon Mellor providing his personal opinions during this meeting which was available to all members of staff.

85. It is accepted by the respondent that Simon Mellor did make the comments set out at 2.1.1 (a)-(d) of the agreed issues.

86. He did express the opinion that the LGB Alliance "has a history of anti-trans activity"

87. He did express the view that it was a mistake for LCF to make an award to the LGB Alliance In respect of the Let's Create Jubilee Fund.

88. He did express the view that he quite understood that a number of the respondent's staff were very angry and upset about a perceived lack of action on behalf of the respondent in respect of the grant.

89. He assured those present that there had been no lack of activity or action or concern by senior staff in respect of the grant that 'a lot of stuff has been going on behind the scenes'.

90. It is also accepted that those comments were unwanted and that he failed to point out that gender critical views were protected in law although it is denied that that was a deliberate action.

91. The Tribunal has given very careful thought to this allegation of harassment.

92. It is clear that the comments in the Teams chat and in the questions raised in the Teams meeting were to the effect that the majority of those present and engaging were of the view that the LGB Alliance was an anti-trans organisation and they supported Simon Mellor's personal view. The discussion was robust. The claimant chose to engage. Her comments were part of the robust debate among the participating employees. It was upsetting for the claimant and some of the comments were of concern.

93. The session, the personal opinions expressed by Simon Mellor and the email after the meeting in which he stated that it was important that the respondent treated all colleagues with respect and dignity indicating his personal solidarity with their trans and non-binary colleagues, did provide the basis, or opened the door, for the subsequent petition and the comments within that petition. Whether intended or not, it led to the petition. It was inappropriate for him to provide his personal views and express solidarity with one side of the debate.

94. The Tribunal has given very close consideration as to whether that conduct amounted to harassment within the meaning of section 26 of the Equality Act 2010.

95. The Tribunal has concluded that, although it did upset the claimant, the comments and the actions of Simon Mellor did not cross the threshold of creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.

96. General views were expressed. The claimant entered the chat room debate to provide her comments. She was angry and upset. She denied being bruised and isolated. Even if that were the case, the Tribunal is not satisfied that that the comments and actions had the proscribed effect.

97. The Tribunal is not satisfied that it was reasonable for the conduct to have that effect taking into account the perception of claimant and the other circumstances of the case.

98. The claimant had raised issues about gender critical views and the Forstater case. She wanted to enter into the discussions and debate. No complaint was made by the claimant about these events until almost a month after the petition.

99. This was a debate open to all members of the respondent's staff. The claimant was aware of the controversy in respect of these competing beliefs and protected characteristics. It did not come as a shock to her. It was upsetting but it was not an act of harassment by the respondent through Simon Mellor.

100. The Tribunal is aware that there is a dispute as to whether the allegations in respect of comments made by colleagues of the claimant during the drop-in session was pleaded as an act of harassment. The Tribunal is not satisfied that those comments were harassment in any event.

101. The position with regard to SB's actions and the comments of three employees on the petition is a different matter.

102. PH acknowledged in his disciplinary investigation that he specifically meant that the claimant was the "certain member of staff" referred to in his email exchange with SB on the day of the launch of the petition.

103. It is not necessary for an act of harassment to be targeted at the claimant individually. It is harassment if it is related to the relevant protected characteristic. However, the respondent reached the view the claimant was not the specific target of the comments.

104. The respondent found the tone and content of the email and comments went beyond the reasonable expression of personal opinion in terms which were highly derogatory. Disciplinary investigations were carried out. SB, who had been suspended, resigned before the respondent completed the disciplinary process as did A I-W. It was found that PH was guilty of harassment of colleagues by creating an intimidating, hostile, degrading or humiliating environment in breach of the respondent's Dignity at Work policy and he was provided with a written warning.

105. The Tribunal is satisfied that the email and comments were unwanted conduct which had the purpose and effect of violating the claimant's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. The claimant was deeply upset and there was an intimidating hostile, degrading, humiliating or offensive environment created for her. The actions did have the purpose of creating that effect.

106. Ian Matthews referred to the length of time taken to remove the petition. He said there was discussion and it was considered by the managers of the respondent that immediately removing the petition would only inflame feelings of the group who had initiated the petition and other colleagues who might have been sympathetic to the issue the petition was seeking to address. He said that this was to demonstrate that they would be listening to the concerns rather than immediately closing them down. The respondent was concerned with protecting its employees against discrimination in respect of transgender employees and those holding similar views.

107. The Tribunal has gone on to consider the claims of victimisation.
The protected act claimed is the claimant's letter to Sir Nicholas Serota dated 20 April 2022.

108. This was a letter stated to be a protected disclosure under the respondent's Whistleblowing Policy. The claimant complained that in the drop-in meeting Simon Mellor failed to challenge a member of staff who asserted that beliefs are not a protected characteristic despite the respondent being under a duty to uphold the Equality Duty.

109. The letter also complained that the claimant had suffered a personal detriment. The first allegation was withdrawn as it was not contained within that letter but in a later account.

110. The second allegation with regard to the personal detriment was included within the letter and the Tribunal is satisfied that was a protected act.

111. The detriment alleged was the failure to take down the online petition which maintained and aggravated an intimidating and hostile environment. The Tribunal accepts that the petition should have been taken down sooner. Darren Henly was made aware of the email with the petition shortly after it was sent and it was discussed whether it should be taken down. Emails were sent by claimant's line manager, Cathy Mitchell and Sarah Maxwell. However the petition was left up for approximately 26 hours.

112. Ms McColgan, on behalf of the respondent referred to only 10 of those hours as being working hours. However, there remained, during this time, the ability to gain access by employees. It was unreasonable and inappropriate for the petition to be left up for that time.

113. However, there was no evidence showing a causal link to the protected act. Ian Matthews indicated that they had other priorities and immediately removing the petition would only inflame the group who had initiated the petition. Once again, the concern was to avoid unfavourable treatment of the staff LGBTQ IA+ and "allies". However, the Tribunal is satisfied those were the reasons. There was no credible evidence to conclude that it was because of the protected act.

114. The second victimisation claim is in respect of the protected act of bringing these Tribunal proceedings. This is accepted by the respondent as a protected act.

115. The detriment was removing the claimant's systems access on 28 March 2023.

116. The evidence of Ian Matthews was clear on this point. The suspension of the claimant's access to the systems was as a consequence of the claimant engaging a in media campaign and the claimant's crowdfunding site, which was not in line with the respondent's policies, including the staff communications policy and code of ethics. The respondent was of the view that the claimant had potentially breached the policies and by speaking to the media without having sought the respondent's permission, the claimant had disclosed information that was capable of bringing the respondent into disrepute The respondent would normally take disciplinary action in the circumstances. However, it did not do so because the claimant remained off work sick.

117. The removal of the claimant's systems access was not until approximately six months after the Tribunal proceedings were commenced. The suspension of the claimant's systems access was not because she did the protected act.

118. With regard to the respondent's reliance on the statutory defence under section 109(4), Ms McColgan referred to the case of **Forbes v LHR Airport Ltd UKEAT [2019] IRLR 890** in which Choudhury J (President) stated that it is important to bear in mind that the Code of Practice is not to be considered as comprising a list of statutory requirements, each of which must be met in order for an employer to be regarded as having taken all reasonable steps. It was also stated that events occurring after, as well as before, alleged harassment can be taken into account in the application of section 109(4).

119. The Tribunal has considered all the circumstances including the action taken by the respondent following the events. The respondent did take disciplinary action against a number of employees who had made comments on the petition.

120. The respondent's Dignity at Work policy was dated 2019 with the next review to be March 2022. The definition of harassment refers to being "related to age, gender, race, impairment, religion, nationality or any personal characteristic". It is notable that it does not make reference to belief.

121. The claimant had raised the issue of training in respect of the different positions held on trans-activist and gender critical beliefs in January 2020. The respondent had made reference to find external providers but had not found anyone suitable.

122. The respondent was aware this was a contentious issue. The respondent was aware of the need to update its policies and provide appropriate training with regard to issue of belief but the Tribunal is not satisfied that the respondent has taken all reasonable steps as required in section 109(4) to prevent its employees from harassing someone with the claimant's protected characteristic.

123. In accordance with section 109(1) the respondent is liable for the acts of its employees which were carried out in the course of their employment.

124. In all the circumstances, the unanimous judgment of the Tribunal is that the claim of harassment related to the protected characteristic of Religion or belief is well-founded and succeeds

125.The claims of victimisation are not well-founded and are dismissed.

126. A further remedy hearing will be arranged. The parties are invited to provide suggested case management directions

127.The agreed list of issues includes provision for preliminary remedy issues. These are in relation to the Claimant's claim for an uplift under section 207A TULR(C)A.

128. The Tribunal is satisfied that the ACAS code of Practice on Discipline and Grievance applies.

129. In the outcome letter from Sir Nick Serota in respect of the investigation into the Whistleblowing and Dignity at Work complaints stated that:

> "Your complaints have been investigated independently and considered at the highest level within the Arts Council."

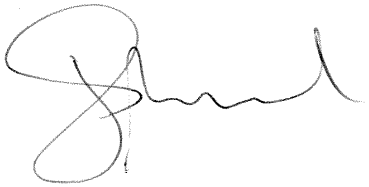
130. There was an indication that, if the claimant was not satisfied with the response, she could raise the matter with one of the people or organisations listed in the Whistleblowing policy and they would handle complaint in line with the policies. There was no indication as to how the claimant could appeal under the Dignity at Work policy. That policy includes an indication that, if not satisfied with the action taken, she should use the grievance procedure.

131. It was submitted by Ms Palmer that the claimant could hardly be criticised for not asking for something that the outcome letter tells her she cannot expect.

132. It was submitted on behalf of the respondent that the claimant was an experienced Trade Union representative and failed to make use of the respondent's grievance procedure as she was entitled under the Dignity at Work. She should have known to check the policy with regard to what she could do if she was not satisfied with the outcome.

133. Her case was that, as the complaint had been dealt with at the top of the organisation, she did not think there was anything further she could do. She could make further enquiries. The respondent provided her with information about what to do next but did not inform her of her right to raise a grievance which is within the Dignity at Work policy.

134. Taking this into account, Tribunal considers it is appropriate for an uplift to be made to the award in view of the respondent's unreasonable failure to provide a specific right of appeal. Ms McColgan submitted that Tribunals should generally not fix the percentage of the uplift until they had heard evidence with regard to quantum so that the monetary effect was proportionate to the seriousness of the breach. The Tribunal has not reached a fixed view but this was identified as an issue and the Tribunal is prepared to give an initial indication that its preliminary view is that the uplift should be in the region of 10% subject to any further evidence and submissions.



Employment Judge Shepherd
21 June 2023

JUDGMENT SENT TO THE PARTIES ON

26 June 2023

FOR THE TRIBUNAL OFFICE