EMPLOYMENT TRIBUNALS

Claimant: Mr R Kiss

Respondents: (1) Dephna Estates Limited
(2) Dephna Group
(3) Rajive Sachdev
(4) Dephna Group Limited

Heard at: London Central **On:** 23 - 27 January 2017

Before: Employment Judge Grewal

Members: Mr D Carter
Mr M Simon

Representation

Claimant: In Person
Respondent: Mr T Fuller, Consultant

JUDGMENT having been sent to the parties on 30 January 2017 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1 In a claim form presented to the Tribunal on 11 April 2016 the Claimant complained of unfair dismissal, religious discrimination and harassment.

The issues

2 The issues to be determined in this claim were identified at the preliminary hearing on 1 August this year and reconfirmed with the parties at the outset of this hearing. They were as follows.

2.1 Whether the Claimant was employed by the First or the Second Respondent;

2.2 Whether on 21 November 2015 the Claimant told Rajive Sachdev that the installation method at Samia Dairy Ltd was highly unsafe;

2.3 If he did, whether that amounted to a qualifying disclosure under section 43B(1)(d) and/or (e) ERA 1996;

2.4 If it did, whether the reason or the principal reason for the Claimant's dismissal was that he made that protected disclosure;

2.5 Whether the Claimant directly discriminated against the Claimant by dismissing him because of his religion (Roman Catholic);

2.6 Whether on 9 December 2015 Rajive Sachdev engaged in the conduct set out in paragraphs 16 and17 of the Claimant's particulars of claim;

2.7 If he did, whether that amounted to harassment related to religion;

2.8 Whether any of the complaints were not presented in time and, if they were not, whether the Tribunal has jurisdiction to consider them.

The Law

3 Section 18 of the Employment Tribunals Act 1996 provides,

> "*(1) Before a person ("the prospective Claimant") presents an application to institute relevant proceedings relating to any matter, the prospective Claimant must provide to ACAS prescribed information, in the prescribed manner, about that matter.*
>
> *(2) On receiving the prescribed information in the prescribed manner, ACAS shall send a copy of it to a conciliation officer.*
>
> *(3) The conciliation officer shall, during the prescribed period, endeavour to promote a settlement between the persons who would be parties to the proceedings.*
>
> *(4) If –*
>
> *(a) during the prescribed period the conciliation officer concludes that a settlement is not possible, or*
> *(b) the prescribed period expires without a settlement having been reached.*
>
> *the conciliation officer shall issue a certificate to that effect, in the prescribed manner, to the prospective Claimant.*

4 The information that must be provided includes the name and address of the prospective Claimant and of the prospective Respondent. The certificate provided by ACAS also has to contain that information (paragraphs 2(2) and 8 of the Early Conciliation Rules of Procedure 2014. Rule 12(2A) of the Employment Tribunals Rules of Procedure 2013 provides that an Employment Judge shall reject a claim if the name on of the Respondent on the claim form is not the same as the name of the prospective Respondent on the early conciliation certificate unless the Judge considers that the Claimant made a minor error in relation to the name or address and it would not be in the interests of justice to reject the claim.

5 Section 111(2) of the Employment Rights Act 1996 ("ERA 1996") provides that an employment tribunal shall not consider a complaint of unfair dismissal unless it is presented to the tribunal before the end of the period of three months beginning with the effective date of termination or within such further period as the tribunal considers reasonably practicable for the complaint to be presented before the end of the period of three months. Section 207B ERA 1996 provides for the extension of time limits to facilitate early conciliation before institution of proceedings. It defines the day when early conciliation notification is given as "Day A" and the day on which the certificate is granted as "Day B". It then provides,

> "*(3) in working out when a time limit set out by a relevant provision expires the period beginning with Day A and ending with Day B is not to be counted.*
> *(4) If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period."*

6 Section 43B(1) ERA 1996 provides,

> "*In this Part a "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following –*
> …
>
> *(d) that the health or safety of any individual has been, is being or is likely to be endangered,*
> *(e) that the environment has been, is being or is likely to be damaged."*

A qualifying disclosure made by a worker to his employer is a protected disclosure.

7 Section 103A ERA 1996 provides that an employee is unfairly dismissed if the reason or principal reason for the dismissal is that the employee made a protected disclosure.

8 Section 13 of the Equality Act 2010 ("EA 2010") provides that a person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others. Religion or belief is a protected characteristic.

9 Section 26 EA 2010 provides that a person (A) harasses another (B) if A engages in unwanted conduct related to a relevant protected characteristic and the conduct has the purpose or effect of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B. In deciding whether the conduct has that effect, each of the following must be taken into account – the perception of B, the other circumstances of the case and whether it is reasonable for the conduct to have that effect (section 26(4)).

10 Section 123(1) EA 2010 provides that proceedings on a complaint od discrimination under that Act must not be brought after the end of the period of three months starting with the date of the act to which the complaint relates, or such other period as the employment tribunal thinks just and equitable. Section 140B EA 2010 is to the dame effect as section 207B ERA 1996.

The Evidence

11 The Claimant and Maxine Edwards gave evidence in support of the Claimant. Nimesh Sachdev, Rajive Sachdev and Brindga Sachdev gave evidence on behalf of the Respondents. Having considered all of the oral and documentary evidence before the Tribunal, the Tribunal makes the following findings of fact.

Findings of Fact

12 "Dephna Group" is the trading or brand name used by a number of companies which include Dephna Estates Limited (formerly called Dephna Impex Limited) and Dephna Group Limited. Dephna Group is not a legal entity, Dephna Group Limited was incorporated on 4 December 2015 and it does not trade. The Dephna Group of Companies provide serviced offices, self-storage units, commercial kitchens and refrigerated cold rooms in North London. It is a small family run business. Nimesh Sachdev is director of Dephna Estates Limited and is also its managing director. His brother Rajive is the Company Secretary.

13 The Claimant has City & Guilds Level 2 and 3 diplomas in refrigeration, air conditioning and heat pump systems and an F Gas Category 1 qualification. He is a practising Roman Catholic and has previously taught his religion.

14 On 22 May 2014 the Claimant commenced employment with one of the companies in the Dephna Group as a refrigeration engineer. He was given a written statement of his terms and conditions on that date which stated that he was employed by the Dephna Group. A payroll form signed by him on the same day stated that his employer was Dephna Estates Limited. The ledger account shows that his salary was paid each month by Dephna Estates and his employer was shown as Dephna Estates Limited on the payslips which he received monthly and on his P60s and P45. In addition, almost all the emails in the bundle from the employees of the Group to the Claimant were said to be from those at Dephna Estates Limited. The termination letter referred to the termination of his employment with Dephna Estates Limited. On 26 February 2016 the Claimant sent a letter before action to Dephna Estates Limited in which he said that as its former employee he intended to take legal action against it. On his own website, which the Claimant created in May 2016, he said he was employed by Dephna Estates Limited. We are satisfied, having considered all that evidence, that the Claimant was in fact employed by Dephna Estates Limited, the First Respondent

in these proceedings, and that the reference to his employer being Dephna Group on his statement of terms and conditions was an error. All the references hereafter to the Respondent are to the First Respondent, Dephna Estates Limited.

15 The Respondent knew that the Claimant was a Roman Catholic and that he had previously been taught religion. Dephna Estates Limited had about twenty employees, half of whom were Catholics.

16 From the very start of his employment with the Respondent, the Claimant regularly sent reports of what he had done. That entailed him setting out the problems that he had found and how he had resolved those problems. The problems were sometimes due to the errors that had been made in the installations. If the Claimant considered there were any health and safety issues he raised them in his reports. The Claimant was not subjected to any detriments or any adverse treatment for raising those matters. On the contrary, his technical expertise and knowledge was valued by the Respondent, especially by Nimesh Sachdev, and there were many examples in the emails of Mr Sachdev seeking the Claimant's advice. The Claimant was the only qualified refrigeration engineer employed by the Respondent and he was given a fair amount of autonomy in carrying out his work. He was not closely supervised.

17 In March 2015 the Claimant was given responsibility for installing eleven new refrigeration units at the Respondent's site at 190 Acton Lane. In that role he was responsible for deciding what supplies were required and from whom they should be ordered. He identified what was required and contacted various suppliers to get quotes. Sometimes the Claimant ordered the material directly and sent the invoice to the Respondent, at other times he told the Respondent what he wanted ordered.

18 On 4 March Rajive Sachdev told the Claimant that the site needed to be operational by 1 April and asked him to dedicate the next two weeks to that. The compressors that were needed for that arrived around 30 March and the Claimant was asked at that stage if he could have two units ready by the end of that week. The Claimant responded that it would be impossible to do that if he was to produce them to a standard that he considered to be satisfactory.

19 It is clear from email exchanges that by 20 April the Sachdevs were getting frustrated with the delays in installing the eleven units at 190 Acton Lane, which they attributed to the Claimant, and the amount of materials being ordered. They raised these matters in emails with the Claimant around 20 April. On 20 April Mr Sachdev asked the Claimant when he was likely to complete the task and said that the rate of progress at that stage it would take five to six days per unit. The Claimant responded that if the job was to be done properly he would need to spend at least three days per unit on it.

20 At about the same time Nimesh Sachdev attended at the site. He saw a lot of materials lying around which led him to believe that the Claimant had been over ordering materials. He was also frustrated at the rate of progress and he said to his brother that he did not want to see the Claimant there and that he should be sent to do drainpipe cleaning in Acton. He subsequently apologised to the Claimant for that.

21 Sometime in April or May 2015 the Sachdev family brought a Hindu Priest over the weekend to the site to bless it. It was a family affair and none of the employees were invited. The Claimant happened to be working on the site at the time the priest attended. The priest offered water which, was considered to be holy water, to all those who were present to drink in their cupped hands. The Claimant was also offered it but he indicated that he did not want it. He never complained about it thereafter and nobody took any offence at his not wanting to drink it.

22 The installation of the eleven units at 190 Acton Lane were ultimately concluded on 1 June 2015. Following the completion there were a lot of contractors, switches and thermostats which had not been used. The Claimant was asked to return as many of those items as he could. He managed to return some of them but was unable to return others.

23 In July 2015 the Claimant asked the technical department of Kide International Limited, a Spanish Company which supplied refrigeration units to the Respondent, certain questions about the diameters of pipes. When he received the replies to his questions, he sent them an email that the answers revealed a "huge and dangerous gap in the knowledge of its author" and he strongly advised him or her to re-read certain literature and to "spend some sometime reflecting on his/her competence in refrigeration". The supplier responded that the head of its technical engineering department, who had over 25 years' experience in refrigeration sector designing, had been offended by the Claimant's comments. The Claimant's response to that was that he never felt offended if somebody reminded him of his lack of knowledge or a dangerous practice. Nimesh Sachdev wrote to the supplier to apologise for the Claimant's comments and also asked the Claimant to apologise which he did.

24 On 9 November 2015 there was a disagreement between Nimesh Sachdev and the Claimant about the order in which certain testing had to be done. Mr Sachdev sought advice from Kide as to the correct approach. The Claimant disagreed with the advice given by Kide.

25 On 21 November Rajive Sachdev informed the Claimant that he was to install milk cooling machinery for one of the Respondent's clients on its Portal Way site the following week. The client in question was Samia Dairy Limited. A few days later the Claimant and Mr Sachdev had a discussion about the job and, in particular, where the machinery, a compressor, should be installed. Mr Sachdev's view was that the compressor should be installed on a kingspan panel outside, next to a unit which housed a gas powered machine which also rested on the same panel. The Claimant's view was that theat was not a good place to locate the compressor because the panel was not stable enough and would cause the compressor to vibrate. He suggested having a supporting bracket welded onto the metal fence and installing the unit on top of that. Mr Sachdev took the view that if pads called "big feet" were placed under the compressor that would stop the vibration, and he instructed the Claimant to install it on the panel with the big feet. The Claimant agreed to do it that way and on 25 November the Claimant ordered equipment needed for that contract which included two big feet.

26 The Claimant commenced work on the installation on 26 November. At around 4pm Mr Sachdev told the Claimant that he had to finish the pipe work by the end of that day. In order to do that the Claimant had to work until 9 or 10pm.

He was very unhappy about that and sent a text to Maxine Edwards his girlfriend in which he said he would have to work until 9 or 10 and that he was "about to explode". At about 6 he saw Simona de Vietri from the client company. He told her about his disagreement with Mr Sachdev about the location of the compressor and said that the compressor would stop working if it was installed in the way that Mr Sachdev had instructed him to install it. She was very upset by that and immediately called Mr Sachdev. She was very angry on the telephone and complained about the location of the compressor. It was clear to Mr Sachdev that her unhappiness must have stemmed from something that the Claimant had said to her. As a result of her call, Mr Sachdev instructed the Claimant not to do any further work on the unit. By that stage the Claimant had done half the job.

27 On the following morning Mr Sachdev spoke to the client and agreed to relocate the compressor to where she said it should be located.

28 The office Christmas party took place at a Hotel on Saturday 28 November. It was attended by both employees and clients. At the party it was noticed the Claimant and Maxine Edwards, who had recently joined the company, were dancing very closely together and being openingly affectionate. Nimesh Sachdev had become aware shortly before that they were in a relationship and had made it clear that the Respondent had no objection to that but that it was important to be professional in front of their colleagues and clients. In the course of that evening, the Claimant referred jokingly to Mr Nimesh Sachdev's "cowboy" ways of working.

29 On Tuesday 1 December the Claimant received a phone call from Rajive Sachdev to attend a meeting in the meeting room. Mr Sachdev was accompanied by his brother and his brother's wife. Mr Sachdev told the Claimant told that the Respondent wished to terminate his employment for a number of reasons. These were his disagreements with manufacturers and other contractors on technical refrigeration matters, his interaction with staff, contractors and suppliers (he was rude and argumentative), inappropriate behaviour with management, length of time it took him to complete installations and repairs, overordering of products. He was given notice and told that his employment would terminate on 31 December. He was offered a role as a contractor but the Claimant declined that. After that meeting the Claimant was given a letter terminating his employment and he was told that his final day of employment would be 31 December.

30 On 9 December Rajive Sachdev received an email from a client who had a cold room (number 703) in Cumberland Avenue. The client said that he had spoken to an engineer from Dephna (it is not in dispute that he was referring to the Claimant) about a problem with his freezer. As a result he had discovered that the problem was that the compressor had been wrongly placed. He said that one half of the freezer was warmer than the other half, his fruit was not freezing properly, he would have to throw away a lot of his produce and his heating bills were high. He said that he wanted someone to sort out the problem as soon as possible.

31 Mr Sachdev was furious when he received that email. He felt that if the Claimant was aware of problems he should raise them with his employer rather than discussing them with clients. This was the second time in a period of two

weeks that the Claimant had told clients that their problems arose from where their compressor had been installed. He forwarded the email to the Claimant and asked him to explain it. He then called the Claimant into a meeting with him. The Claimant covertly recorded that meeting.

32 The meeting took place in Mr Sachdev's office. The Claimant was sat by the door and could have left at any stage. The meeting lasted some 40 minutes. During the meeting Rajive Sachdev shouted and swore at the Claimant and banged his fist on the table. It is clear from reading the transcript of the meeting and having heard part of the recording that he was extremely angry and out of control. Whatever the reason for his behaviour, it was a wholly unacceptable way for a manager in a company to behave and there is no justification for such behaviour. In the course of that tirade, he said that the Claimant called himself a good Christian man who used to be a priest but it was bullshit because the Claimant would not know the word good if it came and smacked him in the face. He also said that according to the Claimant everybody else was in the wrong - the manufacturer, the engineers and even God - and he, the Claimant, was always right. He said to the Claimant "You are almighty Jesus Christ" and later referred to him as "Mr Jesus Christ, educated best engineer in the world". Mr Sachdev also referred to the Samia Dairy incident. He said that the Claimant had fucked up that deal and had cost him a lot of money.

33 The Claimant's employment terminated on 31 December 2015.

34 On 26 February the Claimant sent a letter before action to Dephna Estates Limited believing it to be his employer.

35 On 1 March 2016 the Claimant gave notification to ACAS to commence early conciliation. He had instructed solicitors by this time. He was advised that the name of the Respondent for early conciliation purpose should be the company whose name appeared on his contract of employment. As a result the Claimant gave the name of his employer as Dephna Group. The address for Dephna Group and Dephna Estates Limited was the same. The individuals involved in the early conciliation where the Sachdevs, who where the director and company secretary of Dephna Estates Limited. Although the Claimant had incorrectly named his employer, early conciliation in fact took place with the individuals who were the representatives and senior managers of Dephna Estates Limited. Early conciliation certificate was granted on 21 March 2016.

36 The Claimant gave notification of early conciliation with Rajive Sachdev on 7 March and the certificate was granted on 18 March.

37 Subsequently, just before the Claimant presented his claim to the Tribunal he was advised that if there was a possibility that his employer might be Dephna Estates Limited or Dephna Group Limited he should name them as Respondents in his claim form, but in order to do so he would need to get entry clearance in respect of them and therefore on 6 April the Claimant gave notification to commence early conciliation against them and the certificate was granted on the following day 7 April.

Conclusions

38 We have found that the correct employer is Dephna Estates Limited. It was submitted on behalf of Dephna Estates Limited that the claims against it were out of time because early conciliation did not commence until 6 April 2016. We do not accept that. We find that early conciliation with Dephna Estates Limited in fact took place between 1 March and 21 March, although the Claimant had made an error in giving the name of his employer as Dephna Group rather than Dephna Estates Limited. It is important to remember that the purpose of early conciliation is to give the parties an opportunity to resolve their employment disputes before coming to the Employment Tribunal. In this case both parties had that opportunity. The second early conciliation with Dephna Estates Limited was, in our view, superfluous and unnecessary. If the claim had been presented without that conciliation taking place, the Tribunal would have accepted it under Rule 12(2)(a) of the Tribunal's Rules of Procedure rules on the basis that there had been a minor error in the name of the Respondent and that it was in the interests of justice to do so. Therefore, we conclude that the claims against Dephna Estates Limited had been presented in time and we had jurisdiction to consider them.

Unfair dismissal

39 We considered first whether the Claimant made a protected disclosure. The Claimant made clear at the preliminary hearing on 1 August 2016 that the only matter that he was alleging was a protected disclosure was in relation to what he said to Rajive Sahcdev in respect of the Samia dairy job. He was not claiming that anything he said to the client at Samia Dairy amounted to a protected disclosure. Had he relied on that, the mere fact that he had raised matters with her would not in itself have been sufficient for it to amount to a protected disclosure. The Claimant would have had to establish all the additional factors which are set out in section 43G of the Employment Rights Act 1996.

40 We accept that the Claimant gave information to Mr Sachdev that if the compressor was positioned where he wanted it to be, it would vibrate and it would move. We considered whether he believed, at the time he gave that information, that it tended to show that health and safety would be endangered or the environment damaged if it was installed in the way Mr Sachdev wanted it to be. We have found that the Claimant did not say to Rajive Sachdev at the time anything about it being a health and safety issue or that it would explode or that it would endanger the lives of children in the proximity of the area. If the Claimant had had all those concerns at the time, we think it is inconceivable that he would then have gone on to install it in the way that he had been instructed to do so. It is clear from previous exchanges that the Claimant had with his employers that if he felt strongly about an issue or the correct way of doing things he stood his ground and maintained his position. He made it clear in protracted correspondence with the Respondent that he was not happy with doing things as they had suggested. All the evidence indicates to us that the Claimant did not have those concerns at that time. There was a disagreement between him and his employer as to what was the best place to install that compressor. Therefore, we do not think that what the Claimant said amounted to a qualifying disclosure.

41 However, in case we are wrong in that conclusion, we have nevertheless gone on to consider whether if he did have those beliefs, he believed he was

raising them in the public interest. We accept that if did have those beliefs then clearly he would have been raising them in the public interest. It would, therefore, have amounted to a protected disclosure.

42 If it was a protected disclosure, we would also have had to consider whether it was the sole or principal reason for the Claimant's dismissal. We set out below what we would have concluded on that issue.

43 We did not accept that the reasons given to the Claimant on 1 December 2015 were in fact the real reasons for his dismissal. Many of them related to matters which were historical, things that had occurred months before the Claimant's dismissal. Some of them we found to have been exaggerated, for example the value of the goods that had been over ordered and some we found were relatively trivial matters that had been given much more importance after the event. We also thought it significant that the call from the client at Samia Dairy did not feature at all in the reasons the Respondent gave. It is clear from what Rajive Sachdev said about it at the meeting on 9 December that he was very angry about that call, that he blamed the Claimant for it and that he felt that it had cost the company money and we think it is inconceivable that the event on 26 November did not play any part in the decision to dismiss the Claimant five days later.

44 We would have concluded that some of the reasons given by the Respondent, such as the reference to Mr Nimesh Sachdev's cowboy methods at the Christmas party in front of clients did contribute to the decision to dismiss, but that the main reason for the dismissal was what the Claimant had said to the client at Samia Dairy on 26 November 2015. We think the reason the Respondent was reluctant to admit that that was the real reason was because it was concerned that the Claimant would, as indeed he did initially, allege that what he told the client amounted to a protected disclosure. However, we would not have concluded that the Claimant was dismissed because he expressed his views to Rajive Sachdev about where the compressor should be installed. We have found that on many occasions the Claimant had had different views from his employers about how things should be done, and he had expressed those views and no action had been taken against him as a result. We would, therefore, have concluded that even if that did amount to a protected disclosure, it was not the sole or principal reason for the dismissal and that the dismissal not unfair under Section 103A of the Employment Rights Act.

Religious discrimination

45 We then considered the complaint that the dismissal was an act of religious discrimination. There was no evidence before us of an actual comparator i.e. another employee who had complained to clients about the Respondent's working practices or their ways of doing things. There was no evidence from which we could infer that a hypothetical comparator i.e. somebody who had done precisely what the Claimant did with the client at Samia Dairy but was of a different religion would have been treated any differently from the way in which the Claimant was treated. We, therefore, concluded that there was no prima facie case that the Claimant's dismissal had anything to do with his religion, and the burden of proof did not shift. In case we are wrong in that conclusion and the burden does shift, we were satisfied that the reason for the dismissal was that the Claimant had been critical of the Respondent to its clients and damaged its

relationship with its clients, and that his religion had played no part whatsoever in the decision to dismiss him.

Harassment related to religion

46 We have found that at the meeting on 9 December four comments were made which were related to religion. Three of them related to the Claimant's religion (the reference to him thinking he was a good Christian and the two references to Jesus Christ) and one related to religion in general (a reference to God).

47 We considered that the comments made fell into two different categories. The comment about the Claimant thinking he was a good Christian but would not recognise good if it smacked him in the face and the Claimant thinking that he was always right and everybody else, including God, was wrong fall into one category. The references to Jesus Christ we think fall into a separate category.

48 The comments in first category are not insulting or offensive about or denigrating of Christianity or, indeed, religion at all. They are in essence a criticism of the Claimant, a suggestion that he is not a good person that he is somebody who always thinks he is in the right and everybody else is in the wrong. We did not consider that that unwanted conduct was related to religion, nor would it have been reasonable for anyone to feel that it had had the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment.

49 The comments in the second category are of a different nature. Mr Sachdev used a religious figure, who was important to the Claimant because of his religion, to demean and insult the Claimant. We do not think the comments were in any way offensive or insulting about Jesus Christ. What was being said to the Claimant was that he thought he was perfect and almighty like Jesus Christ. It was nevertheless an inappropriate use of a religious figure, who is revered by those of the Catholic faith, to insult a Catholic. We accept that the Claimant was offended by it and we accept that it was reasonable for him as a practicing and devout Catholic to be offended by it. The real issue for us was whether it had the effect of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant. We found that a difficult issue. We found that the Claimant felt that it created an offensive and humiliating environment. Was it reasonable for it to have that effect on him? Not every offensive remark amounts to harassment. On balance, we concluded that these two remarks just crossed the threshold. We, therefore, concluded that the making of those two comments amount to a harassment related to religion.

Remedy

50 In considering the level of the compensation to award we took into account the nature of the harassment in this case. It was a one off incident. There has been no suggestion that there was any previous reference to the Claimant's religion. We also noted that the Claimant continued working thereafter for the Respondent and there was no further incident. We also noted that nothing derogatory or offensive was said about the Claimant's religion. In considering the level of the seriousness, these two remarks were, in our view, at the lower end of the spectrum of seriousness. There was very limited evidence of any injury to

the Claimant's feelings. All that the Claimant said in his witness statement were that the comments were humiliating and derogatory.

51 The Respondent relied on the fact that Mr Sachdev apologised in the course of this hearing. We think his apology would have alleviated any hurt or injury the Claimant felt had it been offered much sooner after the event rather than at these proceedings a year later.

52 Having taken into account all the above, we felt that this case fell into the lowest band of the Vento guidelines, and that the appropriate amount to award was £3,000.

Employment Judge Grewal
27 April 2017