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# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs C Tomy  
**Respondent:** Mid Essex Hospital Services NHS Trust  
**Heard at:** East London Hearing Centre  
**On:** Tuesday 8, Wednesday 9, Thursday 10 and Friday 11 October 2019  
**Before:** Employment Judge Allen  
**Members:** Ms M Long  
Mr D Ross

## Representation

**Claimant:** Mr T Sebastian (Claimant's husband)  
**Respondent:** Mr C Kennedy (counsel)

# JUDGMENT

The judgment of the Tribunal is that:-

- 1 The Claimant's claims for harassment related to race and/or religion or belief fail and are dismissed.
- 2 The Claimant's claims for direct discrimination because of race and/or religion or belief fail and are dismissed.
- 3 The Respondent's conduct did not individually or cumulatively amount to a breach of the implied term of trust and confidence and the Claimant was not constructively dismissed. Her claim for constructive unfair dismissal fails and is dismissed.

# REASONS

1 By ET1 claim form presented on 28 September 2018 the Claimant brought a claim subsequently clarified as being for harassment related to race and/or religion or belief; direct discrimination because of race and/or religion or belief; and constructive unfair

dismissal.

2 The issues had been gradually identified at the preliminary hearings on 21 January 2019 and 21 May 2019 and were re-visited and further clarified at the outset of the hearing and are addressed in detail in the conclusions to this set of reasons. In outline the issues were:

2.1 *Harassment related to race and/or religion or belief:* Did the Respondent engage in conduct as follows:

2.1.1 Did the Respondent fail to increase the Claimant's salary to her previous and 6 level when she was promoted to Band 6 at the Respondent – the Claimant says with effect from December 2016?

2.1.2 Did the Respondent ask the Claimant not to wear her Thali around her neck whilst working with effect from 1 March 2017?

2.1.3 From 16 March 2018, was the Claimant subjected by the Respondent to malicious and fabricated allegations and an improper disciplinary investigation about the care of babies on 13 September 2017; and 16 March 2018?

2.1.4 Was the Claimant removed from clinical duties by the Respondent and put on administrative duties during the investigations?

2.1.5 Did the matters listed above cause the Claimant to resign?

2.2 If that conduct took place, was it unwanted?

2.3 If so, did the conduct relate to the protected characteristics of race and/or religion or belief?

2.4 If so, did the conduct have the purpose or (taking into account the Claimant's perception, the other circumstances of the case and whether it was reasonable for the conduct to have that effect) the effect of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?

3 *Direct Discrimination because of race and/or religion or belief*

3.1 If not an act or acts of harassment, did any of the conduct identified at 2.1 above, amount to less favourable treatment?

3.2 If so, was the less favourable treatment because of race and/or religion?

4 *Constructive Unfair Dismissal*

4.1 Did any of the conduct identified at 2.1 above, amount to a breach of the

implied term of trust and confidence, i.e. was there a fundamental breach of contract?

4.2 If so, did the Claimant resign on 4 June 2018 (with effect from 29 June 2018 or 4 July 2018) in response to the conduct and without undue delay, waiver or affirmation.

4.3 If so, the Claimant was constructively dismissed. Did that dismissal amount to an unfair dismissal?

5 The Claimant had clarified that there was no claim for indirect discrimination or victimisation.

6 The Tribunal had an agreed bundle of documents running to page 438 and the tribunal accepted some additional documents produced by the Claimant at the hearing, which although they appeared to have only tangential relevance, were not prejudicial to the Respondent. The Respondent provided a chronology.

7 The Tribunal heard from the Claimant and from Mel Chambers (who would have been the disciplinary decision maker), Toni Laing (Matron for Neonatal Unit), Laura Clover (disciplinary investigating officer) and Joyce McIntosh (Senior Sister) on behalf of the Respondent. Both parties had the opportunity to make oral submissions and both parties supplied written submissions. The Tribunal were supplied with the authorities of *Eweida v UK* (ECHR 15 January 2013); and *London Borough of Waltham Forest v Omilaju* [2004] EWCA Civ 1493.

8 The Claimant in giving evidence was clearly genuine in her devotion to the wearing of the Thali, which the Tribunal accepted was important to her (as did the Respondent). The Claimant also clearly has many years of extensive clinical experience. In her answers to question in cross examination, the Claimant frequently attempted to avoid answering questions directly. The Respondent's witnesses were impressive. Ms McIntosh and Ms Laing painted a very clear picture of the operational needs of a busy neonatal unit, which the Tribunal accepted. For those reasons, in the small number of areas in which the parties were in conflict on the facts, the Tribunal preferred the evidence of the Respondent's witnesses.

9 When Mr Sebastian, the Claimant's representative (her Husband), was questioning the Respondent's witnesses, the tribunal - taking into account his non-professional lay status - encouraged him to put the elements of his case to the Respondent's witnesses; including in particular whether their actions were 'related to race and / or religion or belief'; or 'because of race and / or religion or belief'. It was notable that save for pointing out that the Thali was a religious / racial symbol, Mr Sebastian did not take up this opportunity to put the Claimant's case to the Respondent's witnesses. In particular, despite the invitation from the Tribunal to do so, Mr Sebastian did not question Ms McIntosh as to why she had asked the Claimant to remove the Thali.

### *Findings of Fact*

10 The Claimant was employed by the Respondent from 1 May 2013 until her

resignation on 4 June 2018. Her last day of service was 29 June 2018.

11 The Claimant has been qualified and working as a registered nurse since 1990. Prior to her employment by the Respondent in its neo-natal unit at Grade 5, the Claimant had been employed in the NHS as a nurse at Grade 6. Within each band there are pay points. The Claimant had wide and varied experience as a nurse including abroad including a substantial period in a paediatric unit in Saudi Arabia. She had not worked in a neo natal unit in the NHS prior to 1 May 2013. Her salary dropped considerably when she went to work at the Respondent at a lower Band – but she wanted to work in the neo-natal unit. The Claimant worked towards becoming Band 6 at the Respondent, which she achieved with effect from 1 March 2017, as confirmed by the relevant paperwork in the bundle. The Claimant explained to the tribunal that she had understood that when she became Band 6 at the Respondent, she would not be placed on the lowest Band 6 pay point that exceeded her previous Band 5 salary (as provided for by her Agenda for Change terms and conditions) but rather that she would be placed on or above the pay point that she was previously on at her previous employer when she was at Band 6 – in effect placing her at or near the top of Band 6. In oral evidence the Claimant accepted that there had been no guarantee that she would ever even get to Band 6 (as she might not have completed the requisite training). The Respondent denied that any agreement to place the Claimant at the top of Band 6 had ever been reached. There was nothing in the written evidence before the tribunal that suggested that the Claimant had any such right or even expectation to be paid at a higher level than anyone else promoted from Band 5 to Band 6 or even that the Respondent would have been able to pay her at such a level, given the operation of the Agenda for Change terms and conditions. In fact the Claimant did receive a pay increase when she became Band 6 at the Respondent – being placed on a Band 6 salary point that was higher than her Band 5 salary – but this was still lower than her previous Band 6 salary.

12 The Claimant raised this issue internally by letter dated 7 April 2017. It was investigated internally and on 2 November 2017 the Respondent rejected her argument on the basis that she had been treated fairly and in line with the Agenda for Change terms and conditions. The Claimant was offered the right of appeal but she did not appeal. She stated in oral evidence that this was because she considered that ‘nothing would change’ if she had appealed. In her oral evidence the Claimant was unable to explain how this issue could be related to race and / or religion or belief; or how it could have arisen because of race and / or religion or belief.

13 The Claimant was born in India (Kerala) and was brought up as a practising Catholic. She has been married for 26 years and since her wedding, she has always worn a Thali on a chain around her neck. The Claimant explained to the tribunal that the Thali is blessed by the priest during the wedding and must always be worn by a married woman from her racial and religious background. It is not jewellery or ornament but a religious symbol which is very significant to her. Her evidence was that she had worn the Thali in all previous workplaces including at the Ipswich Hospital NHS Trust (Critical Care Unit) during her employment there between 2003 and 2013. It was the Claimant’s evidence (not contradicted by the Respondent) that she was the only person of her religious and racial background in the Respondent’s neo-natal unit and that other people of a similar background worked elsewhere in the hospital and were allowed to wear the Thali. The tribunal saw evidence of other members of staff being required to remove items such as a diamond wedding ring and threatened with disciplinary action if they did not comply.

14 The Respondent operates a Dress Code / Uniform Policy which contains the following relevant sections:

1.4 The policy is intended to maximize safety in the workplace and minimise the risk of cross infection.

2.1 The Trust recognises the diversity of culture, religions and disability of its employees and will take a sensitive approach when this affects dress and uniform requirements.

2.2 If any member of staff believes that for any reason they are unable to comply with the policy they must inform their line manager, who will give due consideration to the concerns raised. However priority will be given to health and safety, security and infection control considerations.

2.3 Any ethnic, religious or special requirements will be available on an individual request basis, and if appropriate the uniform can be adapted as required. This may, for example, include the provision of trousers and / or tunics and long sleeves if appropriate, (but sleeves must be rolled up when undertaking clinical procedures and for hand washing).

3.2 Adherence to this policy is a mandatory requirement for all Trust employees . . .

3.4 All line managers and professional leads are expected to monitor staff uniforms and / or clothing.

3.5 Failure to adhere to this policy may result in disciplinary action.

6.9 Clinical Staff when in uniform may wear the following jewellery;

- One plain stud per earlobe for pierced ears

- One plain band ring

15 By 2017, the Claimant was the infection control nurse. She had a history of uniform infractions – including wearing earrings which were non-compliant with policy and not ensuring that her hair was tied up off her collar. She was asked to remove the Thali by Joyce McIntosh on 14 June 2017 on the basis that health and safety and infection control in the neo-natal unit was very important and that a baby could grab the necklace and hurt itself. The Tribunal accepted Ms McIntosh’s evidence as to why she made this request. It was suggested that the Claimant pin the Thali inside her uniform instead. The Claimant did not agree and did not ever remove the Thali despite further requests from Joyce McIntosh, who had taken advice from human resources. The Claimant attempted to explain to the Respondent why the Thali has such significance for her - including in an email dated 7 July 2017 and the Claimant sought support from her union, the RCN. On 27 September 2017 the Claimant was again requested (in writing) to remove her necklace and told that “similar misconduct is next time likely to lead to formal disciplinary action”. The tone of that letter was unfortunate in that it did not express regret or indicate any awareness of the significance of the Thali to the Claimant, however it was clear from the oral evidence of Ms McIntosh in particular that the Respondent’s decision did take the Claimant’s representations into account.

16 The Claimant agreed in oral evidence that the wearing of the Thali did not comply with section 6.9 of the policy (although the Claimant did not agree that the Thali could be

categorised as 'jewellery) and that she had not requested permission from the Respondent to wear the Thali, before Joyce McIntosh raised it with her first. The Claimant maintained that the Thali was less of an infection risk than the wearing of a plain gold ring – and pointed out that she took her wedding ring off when at work and that she had reduced the size of the chain holding the Thali. In her oral evidence the Claimant was unable to explain how she said that the request for her to remove the Thali was 'because of' race or religion. Instead, the Claimant repeatedly referred to that undisputed fact that the Thali was a religious/cultural symbol which was of considerable importance to her.

17 The Respondent also operates a Grievance Policy, a Bullying and Harassment Policy, and a Disciplinary Policy which contains a non-exhaustive list of types of gross misconduct including "Gross negligence or incompetence – any action of failure to act, which threatens the health and safety of a patient/client, visitor, member of the public or another member of staff."

18 The Claimant did not bring a grievance about the Thali during her employment – despite having brought a grievance about the Band 6 pay issue at a similar time.

19 Laura Foss, a Band 5 Registered Nurse in the Neo Natal Unit raised a concern about the Claimant's treatment of a baby on 12 September 2017. In oral evidence, the Claimant accepted that if true the concerns raised were serious and that it was appropriate to investigate – however she maintained that Toni Laing should have initially come to her to ask for her account, before starting an investigation. From 20 October 2017 to January 2018, the Claimant was absent from work due to illness. The Claimant met with Toni Laing in December 2017 to discuss her alleged treatment of the baby and the Claimant provided a statement dated 14 December 2017 setting out her actions on the night in question.

20 Following a meeting on 1 February 2018 with Toni Laing, on 5 February 2018 the Claimant was sent a letter from Toni Laing setting out that a full investigation had been commissioned into allegations:

20.1 That the Claimant failed to follow a patient pathway including appropriate escalation of a child fitting throughout the shift

20.2 That the Claimants nursing documentation regarding the nursing care plans of an infant were not in line with Trust standards.

20.3 That the Claimant persistently refused to engage with her learning and development including completing set competencies.

21 The Claimant was informed in that letter that the allegations were potential gross misconduct and she was given a copy of the disciplinary policy. It was the Claimant's evidence that until she went to this meeting on 1 February 2018, she was unaware that *her* conduct on the day in question was the subject of the investigation.

22 An investigation proceeded – conducted by Laura Clover. A meeting with the

Claimant took place on 9 March 2018 and the Claimant provided a statement to Ms Clover. In oral evidence, the Claimant accepted that there were defects in her nursing documentation – but suggested that this was understandable in the circumstances and that “nothing major was missing in terms of my care”.

23 The Claimant, having returned to work, was then the subject of a further concern raised by Joyce McIntosh about the Claimant’s care of a baby on 16 March 2018 and a failure to check blood glucose. In oral evidence, the Claimant again agreed that if those allegations were true, they were serious. The Tribunal accepted Joyce McIntosh’s evidence that her concerns were genuine and rejected any contention that they were made maliciously.

24 The Claimant was removed from clinical duties following this second allegation. She remained on the same pay.

25 The second matter was then added to the existing disciplinary investigation and following a meeting on 26 March 2018, a letter was sent to the Claimant adding the following matters to the investigation:

25.1 That on 16 March 2018 the Claimant failed to assess and escalate when caring for an infant; and

25.2 That on 16 March 2018 the Claimant’s nursing documentation regarding the nursing care plans of an infant was not in line with Trust standards.

26 The Claimant met again with Laura Clover in relation to this new matter on 1 May 2018.

27 It is not for the tribunal to make findings on clinical matters, however there was sufficient clear documentary evidence before the tribunal to indicate that there was good reason for investigating the Claimant’s conduct in relation to those allegations. The tribunal rejected the contention that either set of allegations was made maliciously.

28 In oral evidence, the Claimant struggled to explain how either the first or second allegations or the ensuing investigation and disciplinary process were said to be ‘related to race and/or religion’; or were ‘because of race’. During his cross examination of the Respondent’s witnesses, the Claimant’s representative stated more than once that ‘race and / or religion or belief’ was only relevant to the Thali issue. However the Claimant did not withdraw any part of the claim.

29 The Claimant resigned by letter dated 4 June 2018 to Toni Laing. The resignation letter merely stated “Kindly accept this letter as my notice of resignation with effect from today. My last working day will be 3<sup>rd</sup> July 2018 under my 1 month notice. However if possible kindly relieve me of my duties at the earliest as possible.” By letter dated 13 June 2018, the Respondent pointed out that the Claimant was actually required to give 8 weeks notice but that it would agree to treat 4 July 2018 as her last working day. In the event, 29 June 2018 was the Claimant’s last working day.

30 In oral evidence in answer to a question suggesting that she had resigned because of the impending disciplinary hearing, the Claimant said that she had resigned because she had got a new job and that she didn't want to continue in a workplace where she didn't feel that she was supported.

31 By letter dated 14 June 2018, the Claimant was invited to a disciplinary hearing on 28 June 2018. At that hearing, the Claimant's representative requested an adjournment on the basis that further information was available and should have been given to the Claimant and to enable without prejudice discussions to take place. The meeting was adjourned but then did not reconvene - the Claimant's employment having ended in the meantime.

32 On 31 July 2018 the Claimant's husband submitted a grievance on her behalf making reference to the Band 6 salary issue, the request to remove the Thali the alleged raising of malicious allegations against the Claimant and other matters. That complaint was investigated and rejected in a report dated 8 February 2019.

### *The legal framework*

33 The relevant parts of sections 13, 26, 123 and 126 Equality Act 2010 state:

#### **13 Direct discrimination**

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

#### **26 Harassment**

(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.

#### **123 Time limits**



- (1) Proceedings on a complaint within section 120 may not be brought after the end of—
  - (a) the period of 3 months starting with the date of the act to which the complaint relates, or
  - (b) such other period as the employment tribunal thinks just and equitable.
- (3) For the purposes of this section—
  - (a) conduct extending over a period is to be treated as done at the end of the period;
  - (b) failure to do something is to be treated as occurring when the person in question decided on it.
- (4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—
  - (a) when P does an act inconsistent with doing it, or
  - (b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

**136 Burden of proof**

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

34 Section 95(1)(c) Employment Rights Act 1996 states:

*(1) For the purposes of this Part an employee is dismissed by his employer if (and, subject to subsection (2) ..., only if)—*

*...*

*...*

*(c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct.*

35 If the employer is guilty of conduct which is a significant breach going to the root of the contract of employment or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract, then the employee is entitled to treat himself as discharged from any further performance. If he does so, then he terminates the contract by reason of the employers conduct. He is constructively dismissed.

36 The question of whether there is a breach of the mutual term of trust and confidence is an objective test (i.e. to be judged by reference to the standard of the reasonable man).

37 An employee must demonstrate that the employer's breach of contract was the reason for their resignation. Where there are a mix of reasons for the employee's resignation, a claim of constructive dismissal can only be maintained where the repudiatory breach relied on was at least a substantial part of those reasons.

38 An employee can indicate by his conduct that he has affirmed the contract. If the employee does not resign within a reasonable period of time after the breach, this may indicate affirmation.

## **Conclusions**

### Harassment related to race and / or religion or belief

*(1) Did the Respondent fail to increase the Claimant's salary to her previous and 6 level when she was promoted to Band 6 at the Respondent – the Claimant says with effect from December 2016?*

39 It is not disputed that this did happen. The operative date was 1 March 2017.

*(2) Did the Respondent ask the Claimant not to wear her Thali around her neck whilst working.*

40 It is not disputed that this did happen. The request was certainly made by 14 June 2017 and repeated thereafter. It may have been made less formally before that date. The Claimant did not comply with the request and although threatened with disciplinary action, no such action took place.

*(3) From 16 March 2018, was the Claimant subjected by the Respondent to malicious and fabricated allegations and an improper disciplinary investigation about the care of babies on 13 September 2017; and 16 March 2018?*

41 The Claimant was the subject of two allegations in relation to her actions on those dates. The Claimant has not shown on the balance of probabilities that those allegations were malicious or fabricated. There was sufficient documentary evidence before the tribunal to indicate that there was good reason for investigating the Claimant's conduct in relation to those allegations. The Claimant herself accepted in oral evidence that there were some defects in her record keeping. The Claimant accepted that the matters alleged were serious. The Tribunal find that the ensuing investigation and disciplinary processes were reasonable and proper.

*(4) Was the Claimant removed from clinical duties by the Respondent and put on administrative duties during the investigations?*

42 It is not disputed that this did happen following the March 2018 allegations. It was reasonable and proper for the Respondent to have done so.

*(5) Did the matters listed above cause the Claimant to resign?*

43 The Claimant's resignation letter dated 4 June 2018 was silent as to her reason for resignation. Her oral evidence was that she resigned because she had got a new job and because she didn't want to continue in a workplace where she didn't feel that she was supported. In that answer, she did not refer to race or religion or harassment or discrimination as a reason for resignation. It is quite clear to the Tribunal that the reason for the Claimant's resignation was that she was facing a potential disciplinary hearing which could have led to her dismissal for gross misconduct.

*If that conduct took place, was it unwanted?*

44 The tribunal accepted that the conduct was unwanted.

*If so, did the conduct relate to the protected characteristics of race and / or religion or belief?*

*If so, did the conduct have the purpose or (taking into account the Claimant's perception, the other circumstances of the case and whether it was reasonable for the conduct to have that effect) the effect of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?*

45 None of the conduct related to race and / or religion. By the end of the hearing, the Claimant did not seem to be suggesting that any of the conduct related to race and / or religion, save for the Thali issue. On that issue, the Tribunal considered that the request was related to health and safety and an adherence to policy. Even if that is not correct, the Tribunal accepted the Respondent's evidence that the request to remove the Thali was made for good reasons relating to health and safety and infection control and the protection of the small babies in the neo natal unit. The request was made taking into account the advice of human resources and the requirements of the Respondent's policy to take account of racial and religious concerns. It was not reasonable for the Claimant, who did not make a complaint or grievance at the time, to have regarded the request as violating her dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her.

*Direct Discrimination because of race and / or religion or belief*

*If not an act or acts of harassment, did any of the conduct identified above, amount to less favourable treatment?*

46 None of the conduct amounted to less favourable treatment.

46.1 Any member of staff would have been treated the same way in relation to the Band 6 salary issue in accordance with Agenda for Change terms and conditions. On the evidence before it, the Tribunal rejected the contention that there was any agreement that the Claimant would be treated

differently upon her promotion and in any event, the failure to treat her more favourably does not amount to less favourable treatment.

- 46.2 The request to remove the Thali was made because of health and safety concerns and an adherence to policy. The Claimant was treated in the same way as anyone else – as evidenced by the firm request made for another member of staff to remove her diamond wedding ring.
- 46.3 In relation to the two allegations, the investigation and disciplinary process - these occurred because of the perceptions by those making the allegations of the Claimant's activities on the days in question. There were good reasons for concerns being raised about the Claimant's actions. It was reasonable and proper to investigate the allegations and to instigate disciplinary proceedings following investigation. Any other member of staff in similar circumstances would have been treated in the same way.
- 46.4 Any other member of staff in similar circumstances would have been removed from clinical duties following two such allegations.

*If so, was the less favourable treatment because of race and / or religion?*

47 There was no less favourable treatment and therefore this question does not strictly apply, however the tribunal addressed it briefly anyway. None of the treatment of the Claimant was 'because of race and /or religion or belief'.

*Constructive Unfair Dismissal*

*Did any of the conduct identified above, amount to a breach of the implied term of trust and confidence, i.e. was there a fundamental breach of contract?*

48 On the evidence before the Tribunal, there was no action taken either individually or cumulatively that amounted to a breach of the implied term of trust and confidence. There were good reasons for the reasonable and proper actions taken by the Respondent, as outlined above.

*If so, did the Claimant resign on 4 June 2018 (with effect from 29 June 2018 or 4 July 2018) in response to the conduct and without undue delay, waiver or affirmation.*

49 In relation to the Band 6 salary issue and the Thali issue, even if these had amounted individually or cumulatively to a breach of the implied term of trust and confidence, the Claimant had affirmed her contract and waived those supposed breaches, which occurred in 2017, several months before her resignation in June 2018.

50 As stated above, the Claimant's resignation letter dated 4 June 2018 was silent as to her reason for resignation. Her oral evidence was that she resigned because she had got a new job and because she didn't want to continue in a workplace where she didn't feel that she was supported. It is quite clear to the Tribunal that the reason for the Claimant's resignation was that she was facing a potential disciplinary hearing which could have led to her dismissal for gross misconduct.

*If so, the Claimant was constructively dismissed. Did that dismissal amount to an unfair dismissal?*

51 Given the tribunal's other findings, this question does not arise.

52 The Claimant's claims of harassment, direct discrimination and constructive unfair dismissal therefore fail and are all dismissed.

Employment Judge Allen

Dated: 13 December 2019