EMPLOYMENT TRIBUNALS

Claimant: **Mr M Harris**

Respondent: **Colchester United FC Football in the Community**

Heard at: **East London Hearing Centre (by Cloud Video Platform)**
On: **22 - 25 February 2021 (hearing)**
and 26 February 2021 (in Chambers)

Before: **Employment Judge Paul Housego**
Members: **Ms J Clark**
Mr P Lush

Representation

Claimant: In person

Respondent: Mark Greaves, of Counsel, instructed by Birkett James LLP, Solicitors

JUDGMENT

1. **The claim for victimisation (by being dismissed) contrary to S27 of the Equality Act 2010 succeeds.**

2. **The other claims of unlawful discrimination are dismissed.**

3. **The claim of unfair dismissal by reason of making public interest disclosures is dismissed.**

4. **The case will be relisted for a remedy hearing**.

REASONS

1. This claim has many facets. This judgment sets out a summary of the case, then the facts, then the law, then the conclusions on the matters set out in the list of issues decided upon in an earlier hearing.

Summary

2. Mr Harris worked 10 hours a week for the Respondent, which is a charity attached to Colchester FC, which is owned by Robert Cowling, who is also the head of the trustees of the charity.

3. Mr Harris has in the past suffered mental health problems and feels strongly about standing up for those who may be vulnerable by reason of mental health issues, and he does so. He says that all went well in his first 10 months with the Respondent, until 20 December 2018 when he supported someone ("Person A"[1]) who had resigned, at her subsequent grievance meeting (on that date) after she was asked to repay the cost of a course she had been on during her employment. He says that he was then dismissed on 05 April 2019, at a meeting, on the basis that his role was not viable because a project he was involved in, which was said to be necessary to provide the income needed to pay him, was not going to take place. He says he had no indication that this was in mind, and that it was a pretext. He says that his grievance about this was mishandled, and the appeal taken by Mr Cowling was unsatisfactory, giving rise to further complaints.

4. Mr Harris claims that he was unfairly dismissed, on the basis that he was an employee, and was dismissed for making separate public interest disclosures about the treatment of each of the four individuals.

5. He says that his attendance at the meeting with the hr department on 20 December 2018 to support Person A marked a watershed, and that Mr Haines, "Head of Community" for the Respondent then ensured that he would lose his job, which was done at a meeting on 05 April 2019, without warning.

6. This he attributes to disability discrimination against himself, and victimisation for four protected acts, speaking up for four separate individuals. He says that the discrimination against Person A arose from mental health issues he says she had, and by reason of her sex.

7. He also claims that when he raised his own grievance about this (which the Respondent accepts was a protected act) the way the appeal was handled by Mr Cowling, and what happened immediately after it, was further victimisation.

8. The Respondent denies that Mr Harris was ever an employee. It says he was on a zero hours contract that was expressly and accurately set out as being not of employment. The Respondent accepts that Mr Harris qualifies as disabled by reason of mental health impairment, but

[1] Employment Tribunal judgments are public documents. It would not be right to name those about whom Mr Harris raised concerns. They are all referred to by initial in the order in which they appear in the decision. The parties will have no difficulty in identifying them.

not that they knew of it at any material time. They say that on 05 April 2019 Mr Haines told Mr Harris that there were at present no more hours for him, as the project that was to fund him was not going to run, for want of applications, They deny that that anything that occurred was detrimental to him (meaning something within the Equality Act 2010) or if it was they say it was unconnected with any protected characteristic.

9. The Respondent also said in their grounds of resistance, and at a case management hearing, that some of the matters raised by Mr Harris were outside the time limit for bringing a claim, but did not address this during the hearing.

Evidence

10. The Claimant gave oral evidence. For the Respondent, Mr Haines, the CEO of the Respondent, who has worked for the Respondent for over 20 years), Mr Cowling and Ms Berry (of Mr Cowling's company's human resources department) all gave oral evidence. All provided witness statements in advance and answered questions from the other side and from the Tribunal.

11. There was a very large agreed bundle of documents.

The hearing

12. Mr Harris had asked for an extra day for the hearing, which request had been declined. On the first day it became apparent that the Tribunal would not be able to deliver a judgment within the 3 day time allocation, but was able to arrange to sit in chambers on the Friday, so that the parties had 3 full days for evidence and submissions.

13. Mr Harris had indicated that he might need frequent breaks, and these were taken about every hour, with an hour for lunch on the first 2 days, longer on day 3 so that Mr Harris might have time to consider the written submissions of Counsel for the Respondent.

14. Mr Greaves provided a helpful written submission, to which he spoke. It can be read by a higher Court if required. Mr Harris spoke for some 30 minutes and I recorded his submissions in my typed record of proceedings.

Facts found

15. Mr Harris' contract expressly stated that it was a zero hours contract, and intended not to be one of employment. Mr Harris did not work for several weeks in the summer of 2018, having arranged to help someone with an Employment Tribunal case during that time. He told them of this before he started work. He worked 10 hours a week for the Respondent. He had set projects with which he was involved. He wore the Club kit when working for the Respondent at events. He had his own email address at the Respondent. He was the named point of contact on flyers produced for the traineeship scheme, which was the

focus of his work for the Respondent during 2019. He had a line manager and a job title. He booked holidays. Save for the absence for the Employment Tribunal hearing he worked 10 hours every week on 2 set days, unless on prebooked holiday. On 05 April 2019 Mr Haines asked hr to issue Mr Harris with a P45 as a leaver, although he soon after asked for that to be done later.

16. An email from Mr Haines to Mr Harris of 06 December 2017 set out the role:

"The role can be flexible which should suit both parties I would think at this stage? My initial thoughts are in the first instance around 10-15 hours per week claimed hourly @ £10.00 working as a Community Development Officer on the below:

New Education programmes – Traineeships, enrichments programmes within education strand utilising study support centre at shrub end

New Business – Sourcing potential new funding partners and funding pots whilst supporting with bid applications.

School Sport Programme development and strategy – Meeting schools, supporting with SOW, guiding schools in suitable use of School Sports Premium

CPD – Involvement in staff CPD events as required

Grassroots Club Development – CUFITC staff mentoring for clubs, building strong partnerships with key clubs, supporting recruitment for our development centres"

17. Mr Harris had 30 years' experience as a teacher. He had been involved in women's sport as a coach and had taken a volleyball team to 5 national titles. He had coached coaches. He had been involved at national level in cricket and tennis coaching.

18. In 2013 Mr Harris had made public interest disclosures about schools where he had worked. This became of national interest. He brought a claim to the Employment Tribunal about it. It caused him great stress, for which he received counselling, and was prescribed medication which he continues to take.

19. The Respondent is a charity attached to Colchester FC, and that football club is wholly owned by Mr Cowling. The Respondent has trustees of whom Mr Cowling is the chair. It runs projects in the community, for which it raises funds in one way or another, from various grant awarding institutions. Mr Harris was involved in helping progress some of these, and was entitled "Community Development Officer". He was not involved in delivering any programmes, or (save minimally) in coaching.

20. He organised a schools conference hosted by Colchester FC, held in September 2018. This was successful, but the feedback was that more people would have attended had there been more notice. April is preparation for SATS, May is SATS, June is external exams, and July and August holidays, so March or before is a sensible time to start preparation and get the date in people's diaries.

21. Mr Harris was tasked with applying to the Colchester Institute for the Respondent to run an apprenticeship scheme. Mr Harris recruited Person B as an apprentice. Person B had some cognitive difficulties. He had some difficulties in performing the role. Mr Haines ended the apprenticeship on capability grounds. Mr Harris thought that there were reasonable adjustments that could and should have been made for someone he regarded as having a disability, rather than being dismissed as lazy. This was in 2018.

22. A colleague, Person A, had told Mr Harris that she had suffered abuse when a pupil at a local school, from a PE teacher. In May 2018 Mr Harris told Mr Haines of this, because he was concerned about her mental health.

23. On 29 October 2018 Mr Harris learned that on that day Person A had resigned and not worked her notice. Her resignation letter stated that she had really enjoyed her time at the Respondent but was unable to continue due to personal circumstances.

24. Those personal circumstances appeared to be several. She was a single mother with 2 young children. She was obliged to work the cover rota, which was only set a week ahead and that caused her great problems with child care. Mr Haines made her work 1 hour on a Friday, which cost her more than she earned. While she was allowed to bring her children with her on Fridays, and they attended coaching sessions free of charge while there, this led to her colleagues making adverse comment. The historical abuse case had reached the stage where there might be a prosecution, and this was very stressful for her.

25. She was asked by hr to repay of a course fee of £1,285 incurred in taking a course for a minibus driving licence. On 31 October 2018 she was asked by Ms Berry of hr to attend a meeting with Mr Haines. Person A objected, stating:

    "…you are asking me to meet with Corin [Haines] there also, the person I am raising an issue with… The thought of that alone has put me into such a panic…"

    It is not apparent what the issue was, but it is in the singular, and it is reasonable to conclude that this was the repayment of the £1,285, which was the sole reason why she had asked for the meeting. However, as appears below, it was apparent that Person A thought that by his requests of her he had made life difficult for her.

26. Person A chased this issue up on 16 November 2018 saying that she was very stressed by the matter. She became even more so when she received a letter from the accounts person, dated 14 December 2018, saying that the Respondent would be taking County Court action to recover the £1,285. On 20 December 2018 Mr Harris wrote to Mr Haines to say that he been in touch with Person A who had been distressed, and he had suggested that she ask for a meeting. She had asked him to go too, and he had agreed. It was later that day. He wrote that he was there to hold her hand and as moral support. He said that he did not want it to jeopardise relationships with work colleagues, and best for her to resolve the issue and move on. He said that he wanted Mr Haines to hear this from him, and to reassure him that it would remain confidential, and would draw a line under the affair.

27. The meeting was attended by someone from hr and by the person who had written the letter threatening Court action. Person A said that she had applied for a full time role, and then said that she did not want to be interviewed as she could not do full time, but that Mr Haines had then offered her a part time role, and that he had pushed her to work every day and now although only 25 hours a week was working 5 days a week. Person A could now drive a minibus for anyone, but she had never wanted to do the course to get the licence to do so, and had no wish to do so in the future. She had only done the course because they required her to do so. She had not been paid more as a result of it. She set out the problems enumerated above. The person from hr stated that

    "… from Corin's point of view as well because I know that also I think he is taking it quite personally as well because I think he thinks that possibly you think that he's not been accommodating at all and has made your life really difficult in the whole time you've been there… I think he's just trying to run the business like he's been told to do so".

28. During the meeting, after the topic of the course fee refund had been discussed there was then a break at Mr Harris' request. When they returned she raised being bullied at work to the extent of being bullied out of the role.

29. After that meeting the Respondent decided not to ask Person A to pay the cost of the course.

30. One or other of Mr Harris and Mr Haines was then away from work until 04 January 2019, when they met. By then (it is not clear from the evidence when or how) Mr Haines knew of the outcome of the meeting of 20 December 2018. On the balance of probabilities the Tribunal accepts that Mr Haines said something to the effect that Mr Harris was siding with Person A against him. It is entirely consistent with the rest of the evidence. Mr Haines' approach towards Mr Harris changed after the meeting on 20 December 2018, and became negative.

31. On 11 January 2019 Mr Haines met Mr Harris. Their accounts differed. Mr Haines stated that they reviewed progress on the developmental project he was working on. His witness statement says:

"We also discussed the viability of his role at this meeting as he had been working for the … Respondent for almost a year by this stage. At this meeting we agreed how the traineeships programme should now become his primary focus and he would become accountable for this programme."

32. In his oral evidence Mr Haines said that at that meeting he made clear to Mr Harris that he had to have a funding stream linked to a project for which he was responsible, and otherwise his role would not be viable.

33. Mr Harris says that at that meeting he was told to focus on the traineeship programme, but given no idea that his job depended on it, or that he was to do nothing else.

34. There is no email from Mr Haines to this effect, at any time, and no minute of the meeting, of what would be an important discussion.

35. The Tribunal finds that at no time prior to the termination of Mr Harris's employment on 05 April 2019 did Mr Haines (or anyone else) tell Mr Harris that he would be dismissed if the traineeship programme did not run.

36. On 15 January 2019 Mr Haines emailed Mr Harris to say that while Mr Harris had suggested a good idea (about something else), he should focus on the matters they had discussed the previous Friday (that is, the traineeship programme).

37. On 18 January 2019 Mr Harris emailed Mr Haines informing him of his previous public interest disclosure matter, and that it had made him very ill in terms of his mental health, for which he received psychiatric support and for which he still took medication. He stated that the issue related only to that case. He said that he was not in need of any reasonable adjustment as an employee with a disability. He raised it at this point because he wanted to make sure that he would not have any teaching responsibilities in schools.

38. Hr was sent a copy of this. It was not raised in connection with disability, and it expressly did not require any action.

39. On 12 February 2019 Mr Harris emailed the colleagues who were to coach on a new programme, RealPE, with an action plan he had prepared, to be piloted in April 2019, to start in September 2019. By 08 March 2019 he emailed Mr Haines and others to say that he had done everything he could on this project, and that it was now for others to complete the rest of the items on the list.

40. On 15 February 2019 Mr Harris emailed Mr Haines that the English Football League ("EFL"), whose scheme this was, wanted trainees to start work placements immediately upon starting (rather than part way through). This meant that the work placements had to be in place at the

start of a course, and that everyone at the workplaces needed to be DBS checked, and risk assessments carried out at each workplace.

41. Mr Haines later told Mr Harris that this could all be done after the trainees were all signed up, in a 7 week period before the start date of the course.

42. On 19 February 2019 Mr Harris asked Mr Haines if he was to be organising the conference for November 2019, and if so said that he would like to start planning shortly.

43. On 21 February 2019 Mr Haines told Mr Harris to do no more work on a project he had been involved with, the Elite testing programme. Mr Harris asked *"Any reason why?"* in an email later on 21 February 2019, to which Mr Haines did not reply.

44. There were several emails about important matters from Mr Harris to Mr Haines, to which he did not respond. In his oral evidence Mr Haines said the points were covered in meetings, but in no case was there any meeting minute, email discussion, or any other document supporting the account. The Tribunal finds the email of 21 February 2019 was simply ignored, as were others.

45. The traineeship programme was aimed at those not in education employment or training ("NEETs"). There was to be a component for teaching them maths English and Information and Computer Technology (about 10% of the total and about 30 hours in total). This requires very skilled teachers, for such attendees are likely not to have prospered in conventional education. No step was ever taken to recruit such teachers.

46. Mr Haines suggested in his oral evidence that Mr Harris could have done this himself if need be. Mr Harris was never intended by Mr Haines to be part of the delivery of the programme. While Mr Harris readily accepted that he had the skills and ability to do so, he rightly pointed out that this would require him to teach 6 hours in the 2 days a week he was at work (and this is another pointer to him being an employee – that this is suggested necessarily implies that Mr Harris would have to attend those 2 days weekly). It is not credible that the cohort would be susceptible to learning (however creatively it was organised) maths and English for 3 hours in a day.

47. Mr Haines was of the view that first the numbers attending the course had to be recruited, and then the staff and course could be organised before they started. Mr Harris thought it essential to have something to offer before getting people signed up. While it is obvious to the Tribunal that Mr Harris is correct, that does not mean that Mr Haines wished to attempt to do it this way, and the Tribunal concluded that this was indeed his intention. It was also his intention to dismiss Mr Harris if the scheme did not run, for he had moved him away from other matters to concentrate on this scheme. If sufficient people were signed up they would have to find a way to deal with matters, but if not it gave him the

reason to terminate Mr Harris' employment. Whether Mr Haines decided this over Christmas / New Year or as 2019 unfolded with no trainees signing up is not knowable. The most likely scenario is that this was a gradual realisation as time passed and no one signed up. Mr Haines did not take any significant step to assist the success of the programme. The change in atmosphere between the two after the meeting of 20 December 2018 is clear from the tenor of emails. These become more formal, and Mr Harris ceased to use a sign off such as "ta" before his name when making a request.

48. The Tribunal finds that Mr Haines made the decision to dismiss Mr Harris soon after 28 February 2019 by reason of events that day, detailed below, if reason could be found. When he came to that decision that was because his attitude towards Mr Harris had changed following the 20 December meeting, and because of it. That was a protected act (as was very sensibly conceded), and it matters not whether they matters raised in that meeting were factually correct or not. Mr Harris certainly believed what he was saying was factually correct. Mr Harris may have been primarily irritated by being overruled over the £1,285 (which was nothing to do with a protected act), but he must have known of the other matters – in effect that Person A had been bullied out of her role over gender related matters such as part time working (more fully set out above where the meeting is covered).

49. There is therefore a causative link between Mr Harris helping Person A at a grievance meeting, which was partly about discrimination (both disability and gender), causing Mr Haines attitude towards Mr Harris to worsen, leading him to ring fence Mr Harris in the traineeship programme, and to use its failure to dismiss Mr Harris as *"not viable"* when he had never before been linked to any project's financial return or costing budget, and without telling him at any point before dismissing him on 05 April 2020.

50. At 12:21 on 28 February 2019 Mr Harris emailed Mr Haines to say that he was sorry he had missed a call from Mr Haines, and that he was with the person who had succeeded Person A at a meeting with Essex FA (Person E). Mr Haines said in his oral evidence that he had been worried about where Person E was, having not noticed that the appointment was in the Outlook calendar. He had rung Mr Harris to find out if he knew, although it was not a day Mr Harris worked. Mr Haines did track down Person E, and then knew that Mr Harris had been with her. On the balance of probabilities that is where he thought Mr Harris was, which why Mr Haines phoned him in the first place. There was no reason why Mr Harris would have known where she was if he was not thought to be with her.

51. Mr Harris and Mr Haines spoke later on 28 February 2019. It was plainly an angry exchange. Mr Haines says that Mr Harris apologised for attending. Mr Harris says this did not occur. He points to an email of 01 March 2019 at 13:30 which is clearly one written shortly after being told off by Mr Haines for attending that meeting. Mr Haines thought Mr Harris had no place being there. Mr Harris pointed out that he had gone

as a volunteer, at the request of the person in charge of female sport, an area in which he had a good track record. Mr Haines in oral evidence agreed that he was unhappy in part for had assumed that Mr Harris had gone in Colchester kit, of which there was no evidence. Mr Haines had never put this to him, and Mr Harris said in his oral evidence was not the case. Mr Harris pointed out that Mr Haines had great trust in the person in charge of female sport, but he had not told her off for inviting him. As for him allegedly orchestrating this, an email invite had arrived in his inbox and he had logged it in the Outlook Calendar for the person in charge of female sport either to accept or reject; that was no more than being efficient. Mr Harris did not apologise to Mr Haines for attending with Person E.

52. At 12:26 on 28 February 2019 Mr Haines emailed Mr Harris and told him that the traineeships were to be his sole focus and area of work. The aim was to get people signed up by 01 April 2019, so he had 4 weeks to recruit the people and 3 weeks before start to do the DBS work before 23 April 2019.

53. On 05 March 2019 Mr Harris met Mr Haines, at Mr Haines' request, to discuss this. At this meeting he referred to another employee, Person D, who he said had told him was being bullied by a male colleague, and that this was worsening her mental health problems. After Mr Harris left, Person D resigned without giving notice.

54. There was a marked deterioration in their relationship after 28 February 2019, which seems to the Tribunal to have been likely (on the balance of probabilities) to be the point at which the decision to dismiss Mr Harris was made, and the Tribunal so finds.

55. Mr Haines emailed on 08 March 2019 stating that there was time between 01 and 23 April 2019 to complete risk assessments and placement roles, and asking him to design placement roles. On 08 March 2019 Mr Harris emailed Mr Haines in reply with a skeleton programme (which Mr Harris said was all he could design without knowing what providers could provide). Mr Haines acknowledged it, and wrote *"Focus on recruitment until 1st April then we can link in with the club[2]…"* Mr Harris' email also said that this project was not his area of expertise, and to deal with it he had been taken off all the other project work in which he had been engaged.

56. Also on 08 March 2019 Mr Harris saw Mr Haines speak to a 16 year old apprentice, Person C. This reduced the boy to tears, and Mr Harris took him away to console him. He then went to see Mr Haines, and said the boy had some difficulty personal issues, and that he had concerns about his mental health. Nothing happened after that, and Mr Haines did not respond to a follow up email from Mr Harris. Mr Haines states that he was *"stern"* with the boy but not that he shouted at him. Whether he shouted at him or not, it is not disputed that the conversation took place, that Mr Haines was telling the boy off, and the boy was distressed to the point of tears.

[2] Meaning Colchester FC

57. On 12 March 2019 Mr Harris emailed Mr Haines and wrote *"We cannot leave this until the last minute as it will unravel. I am unsure what advantage is gained by putting this off until the trainees are virtually here. Can you tell me what date we can approach the club and what happens if they decide they cannot accommodate the trainees"*.

58. In another email of the same day (12 March 2019) Mr Harris emailed Mr Haines asking if there could be another person who could field calls and emails as he was only in 2 days a week. Mr Haines did not respond. In oral evidence he said that calls would be put through to him by the receptionist. He did not say how emails were to be answered.

59. Mr Harris complains that there was no point of contact with the EFL so that the EFL had no easy means of contacting the Respondent if trainees contacted the EFL, which was administering the programme nationally. This is the case. It is also the case that there is no evidence that anyone did contact the EFL about joining a project run by the Respondent (for it appears that no enquiry has been made of them).

60. On 19 March 2019 schools attended an event at the club. Mr Harris asked Rick Goldsborough if he could to and speak to teachers there. Mr Goldsborough asked Mr Haines if this was ok. Mr Haines heard was not happy about the idea. He emailed both the next day to say that this was not their event and that the school staff would have supervisory responsibilities. The Tribunal was not able to understand why a brief introduction on the touchline would not be wholly appropriate and sensible.

61. On 22 March 2019 Mr Haines sent a costing for the traineeship programme to Mr Harris. It showed its cost at £19,975. Mr Harris was not shown as a cost element in the traineeship programme. Mr Haines said that with a cohort of 10 it broke even, and with the full cohort of 12 made a profit of £5,000, this approximating to Mr Harris' pay for a year. The Tribunal accepted Mr Harris' evidence that the EFL recommended a first course at 6 people. Mr Harris was never intended, even on Mr Haines' account, to deliver training (unless, according to Mr Haines, there was no-one else to do so). For these reasons the Tribunal did not find convincing Mr Haines' assertion that Mr Harris was required to be self funding by being responsible for a project that would fund his pay. He had not been funded that way hitherto, and his role was to organise the project, not run it, so apart from having generated a way of making income, he would not personally be involved in earning it, and it would not, in its first iteration, be likely to turn a profit.

62. There are the following difficulties with Mr Haines' explanation of why Mr Harris was dismissed:

    62.1. He had never before been part of the profit and loss account or budget for any programme.

    62.2. His input was always of the sort that is an overhead.

62.3. His work on the traineeship programme was not part of the budget for setting it up.

62.4. Nor part of the budget for the cost of delivering it.

62.5. He was not going to be involved in delivering the project.

62.6. If it ran it might repeat, but that would be a continuation of the contacts he had made to set up the first course.

63. For these reasons the Tribunal finds that this was not the reason Mr Harris was dismissed. That was because, now that the project had not received any recruits, Mr Haines was able to use that as the reason for dismissing him, he having decided to do so soon after 28 February 2019, because his attitude towards Mr Harris had changed because of the protected act on 20 December 2018.

64. On 05 April 2019 Mr Haines told Mr Harris at a meeting that there were no more hours for him, with immediate effect as he was *"not viable"*. Mr Harris had no inkling that this was under consideration until Mr Haines summarily dismissed him at that meeting.

65. Mr Haines asked hr to process Mr Harris *"as a leaver from today"*, but 15 minutes later emailed her to say issuing a P45 immediately might not be the best option. The Tribunal accepted Mr Harris' evidence that Mr Haines made clear that there would be no work for at least a couple of years, and Mr Harris was correct in thinking that it was Mr Haines' intention not to give him more work.

66. On 17 May 2019 Mr Harris lodged a grievance. Miles Bacon heard it on 28 June 2019. He dismissed the grievance on 13 July 2019. Mr Harris does not make any allegation concerning disability or public interest disclosure about Mr Bacon (and there is no simple unfair dismissal claim as Mr Harris was employed for less than 2 years). Mr Harris went through his concerns about the other members of staff, past and present, as well as his own situation.

67. There was then an appeal (lodged on 04 July 2019, before the grievance outcome report was provided by Mr Bacon, and supplemented on 13 July 2019, he having received an undated copy on 11th) on the basis that Mr Bacon had made a number of errors.

68. The appeal was heard by Mr Cowling. Mr Cowling is an entrepreneur. He gets things done. Mr Harris wanted his objections sustained and for his grievance to be reheard. Mr Cowling wanted to get to the bottom of the matter. Mr Harris thought this was his appeal, so it should not be a rehearing, and the appeal result in a proper investigation which should be undertaken and then his grievance be reheard (which would itself have a right of appeal). He asserts that Mr Cowling was discriminating against him in following his (Mr Cowling's) own agenda.

69. Mr Harris had said, to Mr Cowling's knowledge, that he was to start an Employment Tribunal claim by this time. Towards the end of a 4 hour meeting, Mr Cowling went through what Mr Harris wanted out of the grievance. This was for Mr Haines to be subject to disciplinary action, and given professional guidance. Mr Haines should apologise to him. Person A and Person D should be contacted and compensated, with £1,500 to pay Person A's training course fee and the same for Person D towards the cost of her University course. They must also receive compensation for injury to feelings and other financial losses.

70. Mr Cowling said that presumably Mr Harris was looking for a compensation package for himself. Mr Harris agreed this was so. Mr Cowling asked him to elaborate. Mr Harris said that the other matters were his priority, and once they were conceded that could be discussed. The meeting ended a few minutes later. Mr Harris was to wait for the memory stick with the recording, and did so, outside.

71. Mr Cowling was seething over Mr Harris' demands, particularly the fact that he had preconditions relating to others before he would even talk about himself. When he went outside to hand over the memory stick he asked Mr Harris if he had a minute. Mr Harris did. His phone was still recording, and the exchange is recorded. Mr Cowling asked for a without prejudice discussion. He did not mean without prejudice, but *"off the record"*. He told Mr Harris that he had sought legal advice and that Mr Harris' claim was frivolous and that they would go after him for costs. Mr Cowling added that he would defend an Employment Tribunal claim, whatever it cost him. Mr Harris told Mr Cowling that the test was vexatious rather than frivolous, and then became angry, insulting him with foul language. Mr Cowling responded in kind. The dialogue then seems to indicate that Mr Cowling was egging Mr Harris on to hit him, and the CCTV the Tribunal has seen seems to back this up, because Mr Cowling is seen standing with his hands behind his back while they are speaking almost nose to nose. Mr Harris then turned on his heel and walked away. When he was about 10 metres away Mr Cowling said something, undoubtedly deeply offensive to Mr Harris, who spun round, walked straight back to Mr Cowling and barged into him, stomach first.

72. Both complained to the police. Mr Cowling said that Mr Harris had head-butted him. The CCTV does not indicate any such contact, but the matter is not one which requires a finding of fact from the Tribunal other than to observe that Mr Harris saw the CCTV only after he had accepted a community resolution order based on Mr Cowling's account.

73. Neither Mr Harris nor Mr Cowling come out of this episode with any credit. Mr Harris appeared the more ashamed of the two about the incident.

Relevant law: Disability discrimination

74. The claims are for:

74.1. Direct discrimination[3].

74.2. Indirect discrimination[4].

74.3. Discrimination arising from disability[5].

74.4. Failure to make reasonable adjustments[6].

74.5. Harassment[7], and

74.6. Victimisation[8] arising from a protected act[9].

75. The test for a claim that the Claimant has suffered unlawful discrimination is whether or not the Tribunal is satisfied that in no sense whatsoever[10] was there less favourable treatment tainted by such discrimination. It is for the Claimant to show reason why there might be discrimination[11], and if the Claimant does so then it is for the Respondent to show that it was not. Discrimination may be conscious or unconscious, the latter being hard to establish and by definition unintentional. It is the result of stereotypical assumptions or prejudice. The test for a claim for harassment differs from that for direct discrimination[12].

76. For a claim for discrimination arising from disability there is no requirement for a comparator. For other claims a comparator is required. The Claimant may choose a real or a hypothetical comparator. The comparator will have similar circumstances as the Claimant, save for disability.

77. The test for victimisation is:

'Victimisation

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or
(b) …

(2) Each of the following is a protected act—

(a) …
(b) …

[3] S13 Equality Act 2010 ("EqA")
[4] S19 EqA
[5] S15 EqA
[6] S 20 & 21 EqA
[7] S26 EqA
[8] S26(1) EqA
[9] S26(2) EqA
[10] Igen Ltd & Ors v Wong [2005] EWCA Civ 142, para 14 applying Barton v Investec Securities Ltd. [2003] ICR 1205 para 25.
[11] Igen v Wong (above), Madarassy v Nomura International plc [2007] EWCA Civ 33, Laing v Manchester City Council [2006] I.C.R. 159, and Ayodele v Citylink Ltd & Anor [2017] EWCA Civ 1913
[12] Set out fully in Bakkali v. Greater Manchester Buses (South) Ltd (t/a Stage Coach Manchester) (HARASSMENT - Religion Or Belief Discrimination) [2018] UKEAT 0176_17_1005

*(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."

[Emphasis added]

Relevant law: Public interest disclosure

78. The relevant section of the Employment Rights Act 1996 is S103A. There is no claim for pre-dismissal detriment. That section provides:

"Protected disclosure.
An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure."

79. The burden and standard of proof applicable is set out in Kuzel v Roche Products Ltd [2008] EWCA Civ 380. It is for the employer to put forward the reason for dismissal, here conduct or some other substantial reason. The Tribunal must first make its primary findings of fact. It must then decide what was the reason or principal reason for the dismissal, the burden being on the employer to show it was as asserted. If the employer does not do so, then it is open to the Tribunal to find that the reason was that asserted by the employee. But the Tribunal does not have to do so. It does not follow that if it was not for the reason given by the employer it must have been for the reason advanced by the employee. The true reason may have been another reason. An employer may fail to show a fair dismissal, but that does not mean that the employer must fail in disputing the case put forward by the employee. But it is not for the employee to prove that the dismissal was for a public interest disclosure reason.

80. This was summarised at paragraph 30 of Royal Mail Group Ltd v Jhuti [2019] UKSC 55:

"Section 103A is an example of what is often called automatic unfair dismissal. It is to be contrasted with the provision in section 98, entitled "General", under which, if pursuant to subsection (1) the employer establishes that "the reason (or, if more than one, the principal reason) for the dismissal" is of the kind there specified, the fairness of the dismissal falls to be weighed by reference to whether it was reasonable in all the circumstances pursuant to subsection (4). The application of subsection (4) to section 103A is excluded by section 98(6)(a). So there is no weighing by reference to whether the dismissal was reasonable in all the circumstances: under section 103A unfairness is automatic once the reason for the dismissal there proscribed has been found to exist. In Kuzel v Roche Products Ltd [2008] EWCA Civ 380, [2008] ICR 799, the Court of Appeal addressed the location of the burden of proof under section 103A. It held that a burden lay on an employee claiming unfair dismissal under the section to produce some evidence that the reason

for the dismissal was that she had made a protected disclosure but that, once she had discharged that evidential burden, the legal burden lay on the employer to establish the contrary: see paras 57 and 61 of the judgment of Mummery LJ."

Conclusions

Employment status

81. While Mr Harris in his oral evidence accepted that the Respondent did not have to offer him work, and that if they did offer him work he was not obliged to do it, and that the contract stated that it was not one of employment, the facts point in only one direction. The work he undertook was integral to the organisation, which told him what to do, and when it had to be done by. He worked regular hours, had a line manager. He wore uniform, and had his own work email address. He had a rate of pay fixed by the Respondent. The Supreme Court in Uber BV v Aslam [2021] UKSC 5 at paragraphs 74-76 indicates that for worker status one looks at the degree of integration, and how much the person was controlled by the Respondent, and that one does not start from the contract, which is only one of the factors. He was an employee. The matters about how he worked matter far more than the way the contract was drafted, over which he had no control or influence. In practice he did not refuse work, and it is not uncommon to say to a new employer that there is a pre-booked event that has to be accommodated. The Tribunal has noted an email of 23 January 2019 in which Mr Haines said that Mr Harris was free to accept or reject work, but that was in connection with coaching work, which Mr Harris had never undertaken for the Respondent (in any significant way), and was outside his implied job description. While some organisations process pay through PAYE without having employment status for the worker, this is another indicator that he was an employee. He was issued with a P45 as a "leaver". This is all indicative of employment.

Disability

82. As Ms Berry entirely correctly agreed, any hr professional would appreciate that the email of 18 January 2019 meant that this was likely to qualify a person as disabled within the meaning of the Equality Act 2010. That Mr Harris was carrying out his role without any difficulty and had been since the start, and that there were no performance concerns is not to the point, for it means only that the mental health impairment was being addressed successfully by his medication[13].

83. For this reason the Tribunal determined that Mr Harris was disabled at all material times with a mental health condition, and that the Respondent knew of it on 18 January 2019.

Failure to make reasonable adjustments

[13] Paragraph 5 of Schedule 1 to the Equality Act 2010

84. There was absolutely nothing to indicate that any adjustments needed to be made, and Mr Harris had expressly stated that none were needed. There was no issue with his work at all, and that no one signed up for the traineeship programme is unconnected with disability. Mr Harris says that he should have been allowed more time, by reason of his disability. This is illogical, as his medication has enabled him to function in a way that meant that no-one would know unless he told them: no adjustment was needed, on his own statement at the time.

85. Mr Harris says, further, that because the period of time given him to recruit students should have been longer, the short time period placed him under pressure, with which he was less able to deal given his disability, so making it harder for him than someone not so disabled. There was absolutely no indication from Mr Harris at any time that the period was too short by reason of disability. Mr Harris said that it was too short for *anyone*. He did not say that it was too short *for him* by reason of his disability. He had performed well in the past. He had stated in January 2019 that he was in need of no adjustment, that it was in the past and he was fully coping with medication. There was, quite simply, no reason to consider making any adjustment. This is not proved.

Protected Act

86. Mr Harris names Person A.

    86.1. Person A: the meeting of 20 December 2018 is the primary matter said to be a protected act. He supported Person A at a meeting after she left employment, convened at her request to seek not to have to repay the cost of a driving course, and (secondarily, because she only raised her grievance because she was asked to pay a substantial amount of money and was threatened with Court action to recover it) about the way she was treated. She said at the meeting that her hours were a matter of sex discrimination. Mr Greaves submitted that S27(2)(d) does not bite, because an individual only does a protected act if they are themselves the one making the allegation. This does not deal with S27(2)(b). Attending a grievance hearing as the companion of a former colleague who complains of sex discrimination is plainly within the definition of *"doing any other thing … in connection with this Act"*. This was a protected act within S27.

    86.2. The Respondent accepts that the grievance of 17 May 2019 was a protected act.

Detriments alleged against Mr Haines

87. There were 14 factual matters set out in the list of issue. Numbers 2 and 7 were withdrawn by Mr Harris at the start of the hearing. The Tribunals decisions on the detriments are as follows (causation is later in the list of issues):

87.1. *In the first week of January 2019 Mr Haines displayed upset with the Claimant for supporting Person A and said "it looks like you're siding with her, both of you against me."* Found proved.

87.2. (withdrawn)

87.3. *Mr Haines phoned Mr Goldsborough to inform the Claimant that he could no longer engage with school teachers at a football tournament held sometime in January and March 2019*: found proved.

87.4. *On 19 February 2019 the claimant emailed Mr Haines requesting to attend the school and headteacher conference which he had done in 2019. Mr Haines did not respond*. This was accepted by the Respondent to be the case.

87.5. *Mr Haines prevented the claimant from organising the training programme regarding the apprenticeships in February 2019*. (Dealt with by both Claimant and Respondent with 6 and 10)

87.6. *On 15 February 2019 and in March 2019 the Claimant asked for details of the names of the tutors and the individuals involved in the locations involved in the workplace placements and Mr Haines failed to give the information which was necessary for safeguarding. By refusing to provide this information Mr Haines prevented the claimant demonstrating one of the essential criteria for assessment of success in the project he was working on.* The Tribunal found that Mr Haines had stonewalled the work needed to implement the traineeship programme. In the hearing the analogy of a shop was used. Mr Haines said that there was no point buying stock until they were sure they would have the customers to buy it. Mr Harris said that there is no point in having a shop and opening its doors unless you have stock to sell. Mr Harris was plainly correct in saying that it was not going to be possible to set up a course starting on 23 April 2019 if you did not start work on how it was going to be delivered (what work placements – the first activity – and what people to deliver the teaching, and what classrooms to book) until 01 April 2019. This is proved.

87.7. (withdrawn)

87.8. *On 19 February 2019 Mr Haines informed the Claimant that he would no longer be involved in Talent ID. The Claimant queried why on 21 February 2019 and did not get a reply.* This is not disputed.

87.9. *The Claimant had been involved in developing schemes in entitled RealPE in November 2018. The Claimant wrote the schemes of work and trained staff. In February 2019, Mr Haynes told the Claimant that he would not deliver it despite the claimant doing all the preparation for it.* The Tribunal finds this proved.

87.10. *In early March 2019, Mr Haines informed the Claimant that it would not be running the Warwick course* [the traineeship programme in conjunction with the EFL] *in line with their stated structure, specifically relating to the start date of the course.* This was found proved, as with 5 and 6.

87.11. *In March 2019 Haines telephoned the Claimant at home and angrily asked why the Claimant had attended a meeting arranged by Person E of [really "with" not "of"] the Essex FA*. This is accepted to have occurred. For the avoidance of doubt the Tribunal finds the word *"angrily"* to be correct. The tenor of Mr Haines subsequent email, and that Mr Haines accepts that he can be, in his word *"stern"*, and the oral evidence of both are the reasons for that finding.

87.12. *In March 2019 Haines aggressively asked the claimant why he was getting involved and why he was talking to [Person D] following her raising concerns of bullying.* This is found proved, based on the written and evidence of Mr Haines and of the Claimant.

87.13. *In March 2019 Mr Haines aggressively asked the Claimant why he was accusing him of shouting at a 16 year old apprentice* [Person C]. The Tribunal finds this proved for the same reasons as above.

87.14. *In April 2019 Mr Haines terminated the contract of the Claimant.* This is self evidently the case.

Detriments - allegations against Mr Cowling

88. There are 3, the third subdivided into 6.

88.1. *Rehearing the matter and challenging what the Claimant had said.* Mr Cowling did indeed seek to come to a complete resolution to Mr Harris' grievance rather than to go through Mr Harris' objections to Mr Bacon's findings, and if satisfied that Mr Harris was correct to order a rehearing of the grievance, which was what Mr Harris wanted. Mr Harris regarded it as his grievance and his appeal, and so he set the terms of reference. It was entirely open to Mr Cowling to seek to move beyond that to the substance of the grievance itself, not just examine whether Mr Bacon had investigated it properly himself.

88.2. *Telling the Claimant that what he was saying was untrue and false.* Mr Harris was clear, for example at 2:40 of the transcript, that Mr Cowling was taking Mr Haines' accounts of matters for without even speaking to him about it. Mr Cowling accepted that he had worked with Mr Haines for 20 years, respected him and that his starting point was that he was going to believe him, but said that on evidence he could change his mind. Since he did not

ask Mr Haines, Mr Harris' point that this was Mr Cowling's view and the substance of his words is proved, although the transcript of their meeting does not contain anything expressly to that effect.

88.3. *After the hearing, outside the building, Mr Cowling goaded the Claimant for a reaction under the CCTV camera by saying:*

88.3.1. that he was going to ruin the Claimant

88.3.2. that they would take the Complainant for every penny

88.3.3. that the Claimant's case was frivolous

88.3.4. that they were going to go for the Claimant now

88.3.5. as the Claimant walked away started swearing at the Claimant and called him a fxxxing cxxx

88.3.6. the Claimant responded and bumped Mr Cowling with his stomach.

The transcript and the video recordings make clear that Mr Cowling said that the claim would be regarded as frivolous, that they would defend, however much it cost, and that because it was frivolous they would go after him for costs at the end when they won. The Claimant doubtless viewed it as he alleged, but the whole thrust of what Mr Cowling said was to deter Mr Harris from starting this claim, he having already having started the early conciliation procedure. The first 4 subpoints are therefore not made out. The recorded part of the conversation (before Mr Harris walked away and before he turned on his heel) and the video of it show Mr Harris then goading Mr Cowling, not the other way round.

After walking away, Mr Harris spun on his heel and returned, walking at speed. This can only have been in response to something said by Mr Cowling (it is, in the video, plainly a reaction, not a sudden idea of his own). Given the foul language from Mr Cowling (and Mr Harris) earlier, the Tribunal finds (without difficulty) that Mr Cowling said what Mr Harris says was said.

Mr Harris' account of what he did in response accords with the video of him doing it.

Causation: for those matters found proved, were they detriments, and if so were they caused by a protected act?

89. So far as the meeting with Person A is concerned, the Tribunal notes that the deterioration of the relationship started after Mr Harris attended the meeting as Person A's companion. It notes Mr Harris' contention that the dismissal was months later simply in order to put distance between the meeting and dismissal to conceal motivation. It certainly

soured the relationship. The main issue was the demand for £1,285. Mr Haines knew he had in effect been overruled on the matter. While he contended that it was accounts which asked for the money and that he was pleased with the outcome this does not square with Person A not wishing to be in a meeting with him: she says that it was he that was causing the issue. While Mr Haines was criticised at the meeting for conduct said to fall within the Equality Act 2010, so making the meeting a protected act. It is inevitable that Mr Haines knew of this.

90. The souring of the relationship was a consequence of that meeting. That is: the cause of the souring of the relationship was the protected act. The souring of the relationship lead to the dismissal. So the dismissal is causally linked to the protected act. The events of February may have precipitated the process, but were not a *novus actus interveniens* (didn't break the chain of causation).

91. Mr Harris says that Mr Haines ring fenced Mr Harris to the traineeship programme, and then ensured its failure. It is easy to see why Mr Harris thinks this was why he was dismissed. However, had Mr Harris succeeded in getting 10 or 12 – or 6 – young people to a course it is inconceivable that Mr Haines would have intended to let them down. He has spent 20 years in community work. He cares about it. The Tribunal finds that he might have hoped that it would fail and so afford him the opportunity to get rid of Mr Harris, but he would not have turned away young people to do so, particularly as that would deprive the Respondent of (for a full complement) a surplus of £5,000 a course. The soured relationship led to the other matters being taken up – going to the touchline, and with Person E to an event off site on a day off. The last clearly inflamed Mr Haines, and ensured that he gave Mr Harris little or no help.

92. The reason for this change was apparent from the evidence of Mr Harris and Mr Haines. Mr Harris regards himself (with considerable justification) as someone with both expertise and a great track record in both female sport and in coaching coaches. He regarded himself as someone who could mentor Mr Haines, for whom he professed to have a high regard, save for matters concerning himself and in relation to those with mental health issues (where he thought Mr Haines had something of a blind spot). Mr Harris wanted to help Person E, as he wanted to with Person A, to build up work with female sport, and women's football is burgeoning, so he felt he had a real opportunity to work with Person E (who all regard as excellent) to further this. Mr Harris thinks that Mr Haines was not keen on female sport, and resented Mr Harris standing up for those with mental health issues.

93. Mr Haines had 20 years in his job, and that he was much younger than Mr Harris did not mean that he needed help from Mr Harris. He did not want a mentor, and it was no part of Mr Harris role to appoint himself as such. Women's sport might have a greater profile than in the past, but he found it very hard to find a way to monetise that for the Respondent, and unless it could be monetised it could not be promoted. He did not appreciate Mr Harris being a self appointed representative of people

who had not asked to be represented. Still less did he appreciate it after 20 December 2018.

94. The Tribunal finds (after spending the better part of a day deliberating on the facts and on causation) that while other factors added to the snowball as it went down the hill, the snowball which ended in Mr Harris' dismissal started with, and was caused by, the protected act.

95. As to the other matters, there was no detriment in being asked to run the traineeship programme, and being asked to concentrate on it. Mr Harris did not complain about what he was asked to do, nor was it a detriment to stop working on other projects. He had always worked to facilitate a project, then moved on to another. There was the detriment of being dismissed, and the failure of the traineeship programme enabled that to be done with the excuse of lack of viability (for it was a pretext – there is no evidence that there was any budgetary reason for the dismissal, or anything to give credence to Mr Haines' oral evidence that the role had been trialled for a period but now had to be changed to be self-funding).

96. It really would call for an implausible degree of malevolent planning for Mr Haines to arrange for a dismissal 4 months later on by moving him to another programme, removing him from other work, then undermining that programme so that it failed to accord him the opportunity for dismissal. The Tribunal does not consider that this is likely. However, that it was not planned from the start does not mean that dismissal was not caused by the protected act, and the test is *"in no sense whatsoever".*

97. Mr Harris may well be right in saying that delivery would be difficult if he had got the trainees signed up: but if he had signed people up, and either the programme was cancelled or went ahead and was a failure, the externally directed blame would fall on Mr Haines as head of the organisation. Mr Cowling might also be less than impressed.

98. Mr Harris had got the word out to all the organisations who were to be the means people were to find out about, and be encouraged to participate in, the programme. If Mr Harris had got the people into the programme he would might have been dismissed on 05 April 2019 (or at least the failure of the programme would not have been a reason that could have been given), but that is not to the point, as the people were not recruited.

99. So far as Mr Cowling is concerned, there was no detriment to Mr Harris in his attempt to resolve the grievance in one go, at the appeal. Insofar as he did it unfairly (by accepting Mr Haines' version of events uncritically) that is not connected with the protected act of filing the grievance. The conversation after the meeting was to try to deter Mr Harris from lodging this claim by saying it would be defended regardless of cost, and by making the threat of costs. That is not a detriment caused by the protected act.

100. Swearing at Mr Harris was unpleasant, but in the context of the abuse directed at him by Mr Harris beforehand, nothing more than responding in kind.

101. Mr Harris bumping Mr Cowling cannot be a detriment by Mr Cowling.

Protected disclosures

102. Person B: expressing concerns about the apprentice dismissed for capability reasons soon after Mr Harris joined the Respondent. This was in September 2018. Mr Harris says that it is part of a series of disclosures, and so not out of time, and is part of a pattern of discriminatory treatment of those with mental health issues. It was 6 months before Mr Harris' dismissal, and so is out of time. Mr Harris did not raise it after September 2018. However, the Tribunal did not find that a reason to discount the matter, as it could form part of a series (and in context it would be just and equitable to permit it to proceed). It was a discussion with the person said to have treated Person B unfairly about that unfairness. It is not a public interest disclosure: nothing was disclosed. It was to confront someone thought to be bullying another. The Tribunal did not accept the Respondent's contention that it was incapable of being in the public interest because it was a private matter: there is a public interest in people not being discriminated against by reason of a protected characteristic.

103. Person A: Mr Harris says that he expressed concerns in November 2018 about the impact on Person A's health of the concerns Person A had about her work patterns. This was not set out in the Claimant's particulars of claim. The Claimant's witness statement (at paragraph 25) does not say that he disclosed anything about Person A. On the contrary, he sets out how Mr Haines informed him of matters in Person A's past, and that they were currently under investigation. For these reasons there was not a public interest disclosure issue on which the Tribunal could adjudicate (not pleaded, and information passing to, not from, Mr Harris).

104. Person D: in March 2019 expressing concerns about the impact on her health of bullying by a male colleague of Person D. Mr Harris is accepted to have said that Person D was struggling with work and outside family issues. There was no assertion that anyone was failing to comply with any legal obligation. It is too big a stretch to say that this was a public interest matter because the effect on Person D of being bullied was said (by Mr Harris) to impact on her mental health to the extent of making her disabled through mental health issues.

105. Person C: in March 2019 expressing concerns to Mr Haines about how he had reduced a 16 year old apprentice to tears. This was to remonstrate with Mr Haines about how badly Mr Harris felt Mr Haines had treated the boy. That he was probably right (it was not said that his boy was particularly sensitive, or had some sort of disability) does not make this a public interest disclosure. Nothing was disclosed. No legal obligation was broken (other than perhaps the duty of mutual trust and

confidence between Respondent and Person C, which would not be a matter of public interest). It was not a public interest disclosure.

Automatically unfair dismissal

106. This is based on the premise that it was caused by the making of public interest disclosures and so cannot succeed given the findings above.

Time limits

107. This is in the list of issues, but was not the subject of any cross examination and did not feature in the submissions of the Respondent. While being cognisant of the fact that this is a jurisdictional matter, so for the Tribunal to consider regardless of whether the parties do so, if any matter is out of time, the Tribunal finds it just and equitable to allow the claim to proceed.

Disposal

108. For these various reasons, the claim for victimisation (dismissal) by reason of the protected act of attending at the meeting on 20 December 2018 succeeds, and all other claims fail and are dismissed. For the avoidance of doubt, had Mr Harris had two years' service a claim for unfair dismissal would have been likely to succeed, but such unfairness does not fall within the statutory provisions permitting such a claim without such service.

Employment Judge Housego
Date 22 March 2021