



EMPLOYMENT TRIBUNALS

Claimant: Mr M Kelly

Respondents: Hestia Housing and Support R1
South West London & St Georges Mental Health NHS
Trust

Heard at: Croydon **On:** 28/11/2019

Before: Employment Judge Wright

Representation

Claimant: Mr R Oliver - consultant
Respondents: R1 Mr P Gorasia – counsel
R2 Mr B Jones - counsel

PRELIMINARY HEARING JUDGMENT

1. The claimant's claim for a failure to inform and consult under Regulation 13 of the Transfer of Undertakings (Protection of Employment Regulations) 2006 is struck out as misconceived.
2. The claimant's claim under s.19 of the Equality Act 2010 is struck out as having no reasonable prospect of success.
3. The claimant's claim of being subject to a detriment having made a protected disclosure are struck out against the second respondent as being out of time.
4. The claimant's claim of being subjected to a detriment and in the alternative of being dismissed as a result of making a protected disclosure proceed in the limited manner set out at the preliminary hearing and are subject to an order to pay a deposit as a condition of continuing the claims as per Rule 39 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013.
5. The second respondent's costs order application has been reserved

pending receipt of a schedule of costs.

6. Subject to that, all issues in the case, including remedy, will be determined at a final hearing before an Employment Judge sitting with Members at the **Employment Tribunals, Montague Court, 101 London Road, West Croydon, Surrey CR0 2RF**, on **13/7/2020 – 14/7/2020**, starting at 10 am or as soon as possible afterwards. The parties and their representatives, but not necessarily any other witnesses, must attend by 9.30 am on the first day.

ORDERS

Made pursuant to the Employment Tribunal Rules of Procedure

1. Statement of remedy / schedule of loss

- 1.1 In addition, the claimant must provide to the respondent by **24/1/2020** a document – a “Schedule of Loss” – setting out what remedy is being sought and how much in compensation and/or damages the tribunal will be asked to award the claimant at the final hearing in relation to each of the claimant’s complaints and how the amount(s) have been calculated.

2. Amended ET3

- 2.1 The respondent has leave to present an amended ET3 in respect of the claims as now understood by **7/2/2020**.

3. Documents

- 3.1 On or before **21/2/2020** the claimant and the respondent shall send each other a list of all documents that they wish to refer to at the final hearing or which are relevant to any issue in the case, including the issue of remedy. They shall send each other a copy of any of these documents if requested to do so on or before **6/3/2020**.

4. Final hearing bundle

- 4.1 By **27/3/2020**, the parties must agree which documents are going to be used at the final hearing. The respondent must paginate and index the documents, put them into one file (“bundle”), and provide the claimant with a ‘hard’ and an electronic copy of the bundle by the same date. The bundle should only include documents relevant to any disputed issue in the case and should only include the following documents:
 - the Claim Form, the Response Form, any amendments to the grounds of complaint or response, any additional / further information and/or further particulars of the claim or of the response, this written

record of a preliminary hearing and any other case management orders that are relevant. These must be put right at the start of the bundle, in chronological order, with all the other documents after them; and

- documents that will be referred to at the final hearing and/or that the Tribunal will be asked to take into account.

In preparing the bundle the following rules must be observed:

- unless there is good reason to do so (e.g. there are different versions of one document in existence and the difference is relevant to the case or authenticity is disputed) only one copy of each document (including documents in email streams) is to be included in the bundle;
- the documents in the bundle must follow a logical sequence which should normally be simple chronological order; and
- the documents should be legible and if any are handwritten or are in a font size that is less than size 12, a written transcript or copy of the document in larger font should be provided.

5. Witness statements

- 5.1 The claimant and the respondent shall prepare full written statements containing all of the evidence they and their witnesses intend to give at the final hearing and must provide copies of their written statements to each other on or before **1/6/2020**. No additional witness evidence will be allowed at the final hearing without the Tribunal's permission. The written statements must: have numbered paragraphs; be cross-referenced to the bundle; contain only evidence relevant to issues in the case. The claimant's witness statement must include a statement of the amount of compensation or damages they are claiming, together with an explanation of how it has been calculated.

6. Final hearing preparation

- 6.1 By 9.30am on the first day of the hearing the following must be lodged with the Tribunal:
- 6.1.1 by the respondent, five copies of the bundle;
 - 6.1.2 five hard copies of the witness statements, by whichever party is relying on the witness statement in question;
 - 6.1.3 three hard copies a neutral chronology, a 'cast list' and a reading list.

Employment Judge Wright
29 November 2019

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.