EMPLOYMENT TRIBUNALS

Claimant: **Mr R Ohene-Adjei**

Respondents: **(1) Ormiston Park Academy**
(2) Mr H Derrick
(3) Ms S Owen

Heard at: **East London Hearing Centre**

On: **10 May 2021**

Before: **Employment Judge Russell**

Representation
Claimant: **Mr P Jackson (Solicitor)**
Respondent (1)&(2): **Ms G Nicholls (Counsel)**
Respondent (3): **Ms Ibbotson (Counsel)**

JUDGMENT

1. The Third Respondent was not acting at the material time as an agent of the First Respondent.

2. In the alternative, the claims against the Third Respondent were presented out of time and it is not just and equitable to extend time.

3. All claims against the Third Respondent are struck out.

REASONS

1. By a claim form presented on 18 September 2020, the Claimant brings complaints of constructive dismissal, victimisation and direct discrimination because of race and/or sex. The Respondents resist all claims. The Third Respondent is the Local Authority Designated Officer for the Borough and submits that she is not a proper party to proceedings. The agreed List of Issues sets out the complaints against the Third Respondent under the heading "direct race/sex discrimination" at paragraphs 9 (b), (c), (d) and (f). Paragraph 15 of the List of Issues is whether at the material time the Third Respondent was acting as an agent of the first Respondent. This Preliminary Hearing was listed to decide whether the Tribunal has jurisdiction to hear the claims

against the Third Respondent.

2. I heard evidence from the Third Respondent as to her involvement in the First Respondent's disciplinary process and her conduct towards the Claimant. I heard submissions from Ms Ibbotson on her behalf and from Mr Jackson. Ms Nicholls largely played a neutral part in the hearing. There was an agreed bundle and I took into account those documents to which I was taken during the course of evidence.

Law

3. Section 39 of the Equality Act 2010 provides that an employer must not discriminate against a person, it applies both to applicants for employment and to employees within the broader definition contained within the Equality Act 2010.

4. Section 109 of the Act deals with the liability of employers and principals as follows:

> **"(1) Anything done by a person (A) in the course of A's employment must be treated as also done by the employer.**
>
> **(2) Anything done by an agent for a principal, with the authority of the principal, must be treated as also done by the principal.**
>
> **(3) It does not matter whether that thing is done with the employer's or principal's knowledge or approval."**

5. Section 110(1) of that Act deals with the liability of employees and agents as follows:

> **"A person (A) contravenes this section if –**
>
> **(a) A is an employee or agent;**
>
> **(b) A does something which by virtue of section 109(1) or (2) is treated as having been done by A's employer or principal (as the case may be); and**
>
> **(c) the doing of that thing by A amounts to a contravention of this Act by the employer or principal (as the case may be).**

6. In **Yearwood v The Commissioner of Police for the Metropolis** UKEAT/0310/03/RN, the Employment Appeal Tribunal held that the reference to agency in the predecessor provisions of the Sex Discrimination Act and the Race Relations Act is a reference to agency at common law. The EAT found that there was no agency relationship between the Chief Constable and Disciplining and Investigating Officers who were independently exercising an authority conferred by the Police Regulations. Although the Chief Constable chose them for the task, he was not thereafter the source of their authority and no implied authority from the Chief Constable was needed to explain why they had power to act.

7. In **Kemeh v Ministry of Defence** [2014] EWCA Civ 91, Elias LJ regarded the material provisions of the Equality Act 2010 relating to agency as almost identical to those in the predecessor legislation. Elias LJ held that there was no requirement in the

agency sections of the Race Relations Act that the principal must authorise the act of discrimination before liability arises as to hold otherwise would virtually render the provision a dead letter. At paragraph 11, Elias LJ held that Parliament must have intended that the principal would be liable wherever the agent discriminates in the course of carrying out the functions he is authorised to do. In the circumstances, the principal can be liable even though he has not authorised the act of discrimination itself and where it is done without his knowledge or approval. The statutory provisions avoid any uncertainty which might exist at common law.

8. In **Kemeh**, it was thought not appropriate to describe as an agent someone who is employed by a contractor, simply on the grounds that he or she performs work for the benefit of a third party employer, save perhaps where a senior manager is authorised to contract with third parties as they are acting both as an employee and as an agent. At paragraph 43, Elias LJ held that the fact that a person is employed by A does not automatically prevent them from being an agent to B as the two relationships can co-exist even in relation to the same transaction, but there would need to be very cogent evidence to show that the duties which an employee was obliged to do as the employee of A were also being performed as an agent of B. Even if a person is working for the benefit of one person, they are not necessarily acting on its behalf.

9. In **Unite the Union v Nailard** [2018] EWCA Civ 1203, the Court of Appeal approved **Kemeh** when applying sections 109 and 110 of the Equality Act 2010. The principal will liable wherever the agent discriminates in the course of carrying out the functions he or she is authorised to do, whether the act in question was specifically authorised or not. In **Nailard**, the Court of Appeal were not required to consider whether there was in fact an agency relationship at all, simply whether the Union was liable in tort for acts done in the course of that agency relationship.

Findings of Fact

10. The Third Respondent is employed as the Local Authority Designated Officer ("LADO") by Thurrock Council. A LADO is appointed by a Local Authority to discharge their statutory duty imposed by section 11 of the Children's Act 2004 to ensure that the authorities' functions and any services provided by others on its behalf are discharged having regard to the need to safeguard and promote the welfare of children.

11. The Third Respondent's job description with Thurrock is consistent with those aims. Relevant duties of the LADO are:

- To co-ordinate and manage the process and framework for allegations of abuse against individuals who are in a position of trust in relation to children.

- To chair chairing initial and review management planning meetings and attending strategy meetings where the expertise of the LADO is required.

- To provide a professional consultation service to the Council and partner agencies in relation to allegations against staff and to form active links with them to raise awareness in relation to their responsibilities for allegations against professionals and those in a position of trust.

- To ensure that appropriate investigations are carried out by the Council, partner agencies, employers or a combination of those and where necessary scrutinise/challenge relevant participants.

- To review and monitor cases to achieve thorough/fair/timely investigations and retain accurate records about the allegation and the outcome.

- To manage the process and framework for allegations of abuse against people who work with children.

12. The Department for Education has published statutory guidance on keeping children safe in education to which schools must have regard. It emphasises the need for a multi-agency approach and requires the school to work with the local authority and police as appropriate when allegations of abuse are made against teachers. It anticipates an active role for the LADO in the investigation process, decision making and communication of the outcome (see for example paragraph 222). The designated officer has overall responsibility for oversight, resolving inter-agency issues and liaison throughout the process. Unless the allegation is malicious, a clear and comprehensive record should be maintained on the teacher's personnel file.

13. The roles and responsibilities of the LADO are to manage the procedure where allegations are made against professionals who work in a position of trust with children. There are three potential strands to the process: (1) police investigation of a possible criminal offence; (2) social care enquiries and/or assessment as to whether a child is in need of protection or services; and (3) consideration by an employer of disciplinary or capability action. The LADO is responsible for co-ordinating the safeguarding and investigative process, providing advice, information and guidance to employers, managing and overseeing individual cases from all partner agencies, monitoring the progress of cases to ensure that they are dealt with as quickly as possible, recommending a referral and chairing the strategy meeting in cases where the allegation requires investigation by police and/or social care, resolving any inter agency issues and keeping detailed records.

14. On 17 December 2019, the Second Respondent (hereafter referred to as "the Principal") contacted the Third Respondent in her capacity as LADO to inform her of an allegation made by a pupil against the Claimant which, if true, could amount to grooming. The Third Respondent advised the Principal not to proceed any further with an internal disciplinary investigation whilst the police decided whether there should be a criminal investigation. It is important to record that the Claimant strongly denies the allegation made against him.

15. The Third Respondent's evidence is that during the telephone conversation, the Principal asked for her advice on the school's decision to suspend the Claimant pending investigation; she confirmed that this was appropriate in the circumstances but it was purely a decision for the employer. The Claimant's case is that it was the Third Respondent who told the Principal that the Claimant should be suspended, thereby overstepping her role as LADO and involving herself in an internal disciplinary process. The Principal completed a suspension assessment form after his conversation with the Third Respondent. In the section dealing with alternatives to suspend, it states: "**following LADO recommendation supported by Academy [Designated Safeguarding Lead]"**. In the section for recording the particular views of those concerned, one of whom is the

designated officer, the Principal wrote "**LADO recommendation to suspend immediate strategy meeting (MASH) not to investigate (LA Police to investigate) await outcome**." The Principal gave his name as the person responsible for the decision to suspend.

16. As part of her duty to keep records, the Third Respondent created and maintained contemporaneous notes as a live record of progress in the investigation. This was not a document created for the purposes of this litigation but part of the multi-agency investigation into the allegations. It is a credible and reliable record. The entry for 17 December 2019 records that the school would suspend the Claimant. The notes for telephone conversations on 20 December 2019 record the Third Respondent making clear to the Academy's HR Officer and Principal that she had not told the First Respondent that they needed to suspend the Claimant as this was a decision for the employer. The notes further record the Principal confirming that the decision to suspend was purely his.

17. On balance, I accept the evidence of the Third Respondent that she was asked by the Principal for her opinion and advised that suspension was appropriate. She made it clear to the Principal on 17 December 2019 and again on 20 December 2019 that suspension was a decision for the employer and not her. The use of the word "recommendation" in the notes is more consistent with advice properly given in the discharge of her responsibilities as LADO than an instruction or decision taken by her that the Claimant should be suspended. The reference to the recommendation being supported by the Academy Designated Safeguarding Lead also confirms that the Third Respondent gave advice but that it was the Principal's decision to follow that advice with the support of his internal team. The Third Respondent did not decide that the Claimant should be suspended.

18. From the contemporaneous notes and emails, it is clear that the Academy's HR Officer wanted to provide the Claimant with more details of the allegation and to start an internal investigation. The Third Respondent advised that this would not be appropriate as the police had not yet decided whether there would be a criminal investigation.

19. Ultimately, the police decided that they would not investigate further due to the pupil's age and whether the conduct would satisfy the legal requirements for a realistic chance of conviction. The Third Respondent challenged this assessment but the police decision remained the same. A concurrent child protection investigation by Children's Social Care concluded that although the concerns raised were substantiated, the child was not judged to be at continuing risk of significant harm. Throughout this process, the Third Respondent liaised with the police, the Social Care Team and with the First Respondent, providing updates on the multi-stranded investigation process.

20. On 13 January 2020, the Third Respondent advised the Principal that the police were not intending to conduct a criminal investigation so an internal disciplinary investigation could now proceed. I accept as credible and reliable the Third Respondent's evidence that she was not a decision maker in the internal disciplinary investigation although she did provide advice to the Principal. Her contemporaneous notes are detailed and record every email and telephone call during this period, they show that the Third Respondent provided the Principal with a copy of the pupil's police statement and asked for updates as the internal process progressed. On 24 January

2020, after the investigation meeting, the Principal informed the Third Respondent that the Academy had decided that there was no case to answer. The Third Respondent asked about the extent of the investigation into the Claimant's response to the allegation and whether other witnesses had been interviewed. The Principal told the Third Respondent that it had decided not to interview any other pupils.

21. In an email on 24 January 2020 to the Principal, the Third Respondent confirmed the five further points for investigation. The Principal put the further questions to the Claimant but confirmed to the Third Respondent on 27 January 2020 that the outcome of the investigation remained that there was no case to answer and no disciplinary action would be taken.

22. I find that the Third Respondent's conduct was consistent with the responsibility of a LADO to provide advice, information and guidance to employers and to ensure a thorough investigation. The Third Respondent did not overstep her role nor insert herself into the disciplinary investigation but gave guidance as to further areas for investigation to ensure that the process was appropriate and discharged the statutory obligation to safeguard a pupil. As made clear in the job description, part of the role of the LADO is to scrutinise and challenge where necessary others involved in an investigation, including employers. The Third Respondent was acting in her capacity as LADO on behalf of the Council in its discharge of its statutory duties, not on behalf of the First or Second Respondent.

23. On 3 February 2020, the Principal wrote to the Claimant to inform him that the investigation had concluded, that there was no case to answer, there would be no further action and that his suspension would be lifted with immediate effect.

24. Consistent with her multi agency duties, the Third Respondent arranged a review management planning meeting on 4 February 2020 with the Principal to agree an outcome to the investigation. Contemporaneous notes of the meeting were produced by the Third Respondent as part of her duties as LADO and are included in the bundle; given the importance of record keeping, I am satisfied that they are a reliable record of the discussion. The agreed outcome was that the allegation was "unsubstantiated" as there was insufficient evidence. The Principal thanked the Third Respondent for her support and advice throughout the investigation, describing her as a key contact for him to seek advice. It was agreed that the Third Respondent would send the Claimant an outcome letter explaining more fully how the decision of unsubstantiated was arrived at and why.

25. The Third Respondent wrote to the Claimant on 11 February 2020, with a copy sent to the Academy to be kept on the Claimant's personnel file. The letter confirmed the initial referral, confirmed that there had been a multi-agency strategy meeting, the police decision not to commence a criminal investigation and an internal disciplinary investigation then commenced. The letter informed the Claimant of the outcome of the s.47 child protection investigation and the Academy's disciplinary decision that there was not a case to take forward. The Third Respondent stated that feedback from the police at the initial strategy meeting and the later child protection investigation was that the pupil had been clear and consistent in her account which was in conflict with the Claimant's account at the investigation meeting. The Claimant was informed of the "unsubstantiated" finding and the reasons as agreed at the review meeting on 4 February 2020. Finally, a record would be maintained on the LADO files and the

Academy personnel file. This is consistent with the record-keeping requirement set out in the Department of Education statutory guidance.

26. The Claimant's case is that the fact that the outcome letter was written by the Third Respondent is a further example of her actions as the agent of the Academy. His case is that it was not part of the role of a LADO to write such an outcome letter; the outcome of an internal disciplinary investigation should be communicated by the employer to the employee and the LADO has no legitimate role for direct contact with the Claimant. I found the Third Respondent's response to this suggestion in cross-examination to be spontaneous, credible and reliable. I accept her evidence that it was common practice for the LADO to write such an outcome letter at the conclusion of a multi-stranded investigation, as it provided a composite record of the different investigation processes. The Third Respondent's letter did not just deal with the internal disciplinary process but the whole investigation, by the police, employer and child protection. It is inherently plausible that she would compose and send the agreed outcome to this multi-agency investigation given that the role of LADO is to co-ordinate and manage the whole process. It is also was consistent with paragraph 222 of the Department of Education statutory guidance.

27. On 19 February 2020, the Academy's external HR provider sent an email to the Third Respondent asking whether it was usual practice for such a detailed letter to be sent directly from the LADO and to ask for clarification of the retention period. The Third Respondent replied that this had been the outcome agreed with the Principal at the management planning meeting. Following the Claimant's reaction to the allegations and continued absence from work, the letter was more detailed than would usually be the case as it was felt important that the Claimant fully understand the process and how decisions had been arrived at in reaching the recorded outcomes. The HR response was that their experience is that the employer would usually share the outcome and that they interpreted the Third Respondent's response as an acknowledgement that it was not usual but due to the fact that the Claimant was struggling with the outcome.

28. The Third Respondent replied on 25 February 2020 asking for clarification of why a friend of the pupil who was potentially a witness had not been interviewed. Mr Jackson on behalf of the Claimant submits that this is significant; he asks me to draw an inference that the Third Respondent was acting as the agent of the First Respondent in covering up an injustice as the outcome letter stated that there had been no witnesses when she clearly had known that there had been at least one possible witness. I decline to draw the inference. Whilst the outcome letter does state that there were no independent witnesses present who could be interviewed in respect of much of the conduct alleged, it also refers to another pupil being present on one occasion and the decision of the Academy not to involve that pupil in the investigation. I am not satisfied that there is an inconsistency, far less one of such weight as to permit an adverse inference that a LADO participated in a cover up in respect of an allegation of grooming of a pupil by a teacher.

29. Other than by providing documents on 17 March 2020 in response to the Claimant's Data Subject Access Request, the Third Respondent had no further involvement in the case.

Conclusions

30. Mr Jackson submitted that whilst the creation of an agency relationship broadly required one person to be acting on behalf of the other person, the authority to do so could be express or implied, with no need for any written instruction, and therefore could be inferred from the Third Respondent's conduct. Therefore, I could conclude that the Third Respondent was acting as an agent of the First Respondent for the following reasons: (1) the LADO made the decision to suspend and directed the Academy to do it, even if she did not write the letter; (2) the detail and fact that she sent the outcome letter rather than leaving it to the Academy as employer; direct contact with the Claimant is indicative of an agency relationship; (3) her action (meddling as he put it) in requiring that the outcome letter be kept on the Claimant's personnel file; and (4) her cover-up of the Academy's school's failure to interview a relevant witness.

31. In the alternative, Mr Jackson submitted that even if acting within the scope of her role providing advice, there was an agency relationship between the First Respondent and the Third Respondent. He drew an analogy with a situation where the employer obtains advice from Occupational Health who then interact directly with the employee on behalf of that employer. Mr Jackson relied upon what he described as the lack of direct evidence from the Academy about the nature of the relationship beyond a bare denial of agency. Applying the authorities to the facts of this case, he described the First Respondent as principal and the Third Respondent as agent acting with its authority to directly affect the Claimant's relationship as a third party. Finally, that there was nothing inconsistent with the Third Respondent being both an agent of the Academy and also acting as the LADO.

32. By contrast, Ms Ibbotson submitted that there was simply no evidence before the Tribunal to suggest that the Third Respondent had been acting on behalf of the Academy or with their authority. The LADO was employed by the Council and was responsible for overseeing each agency's response, providing advice on internal disciplinary steps but at no stage being given authority to act on behalf of the Academy, far less taking over the Academy's decisions or acting as their agent.

33. Applying the law to the facts as I have found them, I decline to draw an inference that the Third Respondent was acting as an agent because she overstepped her role as LADO and acted instead on behalf of the First Respondent employer. I have found that the decision to suspend was not taken by the Third Respondent but by the Principal after he obtained her advice. The step of sending the outcome letter was not unusual and was consistent with the requirements of her role in a multi-agency investigation, consistent with paragraph 222 of the Department of Education statutory guidance. The Academy had already sent the Claimant an outcome letter for the internal disciplinary investigation, the Third Respondent's letter was the outcome of the three different investigations. I took into account that the detailed outcome letter had been an agreed action item at the final review meeting.

34. The Department of Education statutory guidance requires a copy of the outcome letter to be retained on the personnel file. Inevitably, the Academy would have to keep a copy of the outcome letter on the personnel file. I reject the submission that it was improper, far less an over-reach, for the Third Respondent to advise the Claimant of this fact particularly given the importance of retaining accurate records about the allegation and the outcome. Finally, I have declined to draw the inference that there

was a cover-up. This submission was factually misconceived; it was the Academy which refused to act on the Third Respondent's advice to interview the pupil who was present for part of the alleged misconduct, a fact which was clearly stated in the outcome letter.

35. I conclude that the Third Respondent was acting at all material times in her capacity as the LADO employed by Thurrock Borough Council to provide advice and guidance to ensure a fair and throughout multi-agency child protection investigation. Nothing in her conduct amounted to insinuating herself into the internal, disciplinary investigation outside of her role as LADO.

36. I turn to Mr Jackson's alternative submission that even if acting within the scope of the LADO role, the Third Respondent was nevertheless also acting as the First Respondent's agent.

37. There can be no doubt that the Third Respondent provided advice at the request of the First Respondent. She also sent the outcome letter with the express authority of the First Respondent and I accept that its contents were capable of affecting the Claimant's relationship with his employer. That is not enough, however, as section 109(2) requires that when she did so, the Third Respondent was acting as its agent.

38. On the facts of this case, the Third Respondent was not providing an outcome to the internal disciplinary investigation on behalf of the Academy. The Academy had already provided that outcome in their own letter of 3 February 2020. Rather, the Third Respondent's letter provided the outcome to the multi-agency investigation which was under her direct management and control and which took into account, as one of three distinct strands, the conclusions of the internal disciplinary investigation. In so doing, she was exercising the duties of her own role as LADO on behalf of Thurrock Borough Council; this was the source of her authority to act, as in **Yearwood.** Even if it was to the benefit of the Academy for a more detailed letter to be produced given the effect of the allegations upon the Claimant, she was not acting on its behalf, a distinction clearly drawn in **Kemeh.** As is made clear at paragraph 43 of **Kemeh**, although it is possible that an employee of A may also be acting as an agent of B in relation to the same transaction, there would need to be very cogent evidence to show that they were also acting as an agent of B. This is a case in which there is no cogent evidence to support the Claimant's case.

39. I did not regard the analogy drawn by Mr Jackson with the relationship of Occupational Health and an employer as helpful in deciding this preliminary issue. There the authority to act comes from the employer's appointment of Occupational Health and instruction to the employee to submit to an assessment. The advice sought from Occupational Health is both to the benefit of the employer and obtained on its behalf, just as it would be if a company employed a doctor directly to provide medical advice. The role of the LADO is entirely different. It is a post created to discharge the local authority's statutory duty imposed by section 11 of the Children's Act 2004. The statutory guidance issued by the Department for Education sets out clearly the role of the LADO and requires the school to work with the local authority and police as appropriate when allegations of abuse are made against teachers. The LADO is not acting on behalf of the employer of a teacher accused of abuse, but on behalf of the Local Authority legally responsible for child protection.

40. For all of these reasons, I conclude that the Third Respondent was not acting at the material time as an agent of the First Respondent.

Time

41. The claim form was presented on 18 September 2020, ACAS early conciliation having started and ended on 18 September 2020. Any act before 19 June 2020 is therefore out of time. The last conduct of the Third Respondent was on 25 February 2020; thereafter all she did was to provide documents on 17 March 2020 in response to the Claimant's DSAR.

42. Mr Jackson submitted that the Claimant could not have known the actions of the LADO until he received the relevant documents following his DSAR. These documents were provided to him on 30 April 2020. Moreover, as the claim against the Third Respondent is part of the same conduct alleged against the First and Second Respondents, it would be just and equitable to extend time.

43. Ms Ibbotson opposed the application, submitting that the Claimant had been legally represented since at least 12 March 2020 and has provided no reason why it is just and equitable to extend time.

44. Section 123 of the Equality Act 2010 provides that no complaint may be brought after the end of the period of three months starting with the date of the act to which the complaint relates or such other period as the employment tribunal thinks just and equitable. For the purposes of this section conduct extending over a period is to be treated as done at the end of that period and failure to do something is to be treated as occurring when the person in question decided on it.

45. If the claim is presented outside the primary limitation period (that is, after the relevant three months), the tribunal may still have jurisdiction if, in all the circumstances, it is just and equitable to extend time. This is essentially an exercise in assessing the balance of prejudice between the parties, using the following principles:

- The claimant bears the burden of persuading the tribunal that it is just and equitable to extend time. There is no presumption that time will be extended, however, nor is there any magic to that phrase and it should not be applied too vigorously as an additional threshold or barrier;

- The tribunal takes into account anything which it judges to be relevant and may form a fairly rough idea of whether the claim appears weak or strong. It is generally more onerous for a respondent to be put to defending a late, weak claim and less prejudicial for a claimant to be deprived of such a claim;

- This is the exercise of a wide, general discretion and may include the date from which a claimant first became aware of the right to present a complaint. The existence of other, timeously presented claims will be relevant because it will mean, on the one hand, that the claimant is not entirely unable to assert his rights and, on the other, that the very facts upon which he seeks to rely may already fall to be determined.

- In considering whether it is possible to have a fair trial of the issues, the Tribunal will take into account the general prejudice that inherently follows from being required to respond to a claim which is presented out of time (the prejudice of meeting the claim) and any prejudice to the evidence caused by the delay (the forensic prejudice);

- There is no requirement to go through all the matters listed in section 33(3) Limitation Act 1980, provided no significant factor has been left out of account, **British Coal Corporation v Keeble** (length and reason for delay, effect on the cogency of evidence, cooperation between the parties and steps taken once the party knew that it had a possible cause of action).

46. I am satisfied that the claim is out of time as there was no relevant conduct or omission of the Third Respondent after 17 March 2020 which could give rise to a cause of action. Even if the Claimant did not know that he had a cause of action until he received the DSAR documents, he did not start ACAS early conciliation until 18 September 2020 (the same day as the claim was submitted). The Claimant was legally represented at the time and has provided no explanation for his failure to start ACAS conciliation for the Third Respondent on 18 July 2020, the date he notified ACAS in respect of the First and Second Respondents.

47. Whilst there is no evidence of actual prejudice to the cogency of the evidence, there is general prejudice to the Third Respondent in being required to answer a claim of which she had no knowledge until the very day that the Claimant presented the claim form to the Tribunal. Any prejudice to the Claimant is minimal as he has claims against the First and Second Respondent which were presented in time.

48. If I had accepted that the Third Respondent was acting as the agent of the First and/or Second Respondent at the material times, I would have concluded that the Tribunal did not have jurisdiction to hear it as it was presented out of time and it is not just and equitable to extend time.

49. All claims against the Third Respondent are dismissed.

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Employment Judge Russell
Date: 4 October 2021

RESERVED JUDGMENT AND REASONS
SENT TO THE PARTIES ON: 5 October 2021

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FOR THE TRIBUNAL OFFICE