



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr S Fairclough

**Respondent:** Dave Whelan Sports Limited

**HELD AT:** Liverpool

**ON:** 24 June 2020

**BEFORE:** Employment Judge Horne

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Mr J Howarth, solicitor

## JUDGMENT AT A PRELIMINARY HEARING

Following a remote hearing using the CVP video platform, the tribunal's judgment is as follows:

1. The following complaints will be determined at a final hearing and are not struck out:
  - 1.1. a complaint of unfair constructive dismissal, contrary to sections 94 and 98 of the Employment Rights Act 1996; and
  - 1.2. a complaint of harassment, contrary to sections 26(2) and 40 of the Equality Act 2010 ("EqA").
2. The following complaints require an amendment to the claim:
  - 2.1. a complaint of discrimination because of age, contrary to sections 13 and 39 of EqA;
  - 2.2. a complaint of discrimination because of sexual orientation, contrary to the same sections of EqA.
3. Permission to amend the claim is refused.
4. Had the tribunal not determined that an amendment was required,

- 4.1. the complaint of discrimination because of sexual orientation would have been struck out on the ground that it had no reasonable prospect of success; and
- 4.2. the claimant would have been ordered to pay a deposit, not exceeding £1,000, as a condition of proceeding with his complaint of discrimination because of age, on the ground that it had little reasonable prospect of success.

25 June 2020

Employment Judge Horne

SENT TO THE PARTIES ON  
13 July 2020

FOR THE TRIBUNAL OFFICE

Notes:

1. Advance notice of the hearing was published in the tribunal's lists, which were made available to the public in advance of the hearing. The CVP platform had a facility to allow members of the public to observe the hearing. No members of the public asked to join as observers.
2. Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party makes a request within 14 days of the date on which the judgment is sent to the parties. If written reasons are provided, they will be displayed on the tribunal's website.