

Summary Judgment

1. The Claimant was employed as a Professor by the Respondent from 1 August 2016 until her resignation on 2 December 2021. The Claimant presented her first claim form on 3 November 2021 before the termination of her employment. The Claimant then presented her second claim form on 24 December 2021. The Claimant brought claims of direct discrimination, harassment, post employment harassment and victimisation, constructive dismissal and wrongful dismissal.
2. The claim arises out of the Claimant's stated gender critical beliefs. The Claimant said she was subjected to harassment and direct discrimination on the grounds of those beliefs. The Claimant said that the failure of the Respondent to support and protect her from discrimination and harassment was the reason why she resigned from her employment, and she was constructively dismissed as a result. Even after the Claimant's employment ended, the Claimant said she was subjected to continuing harassment or direct discrimination and/or victimisation. The Respondent said that it did all that could be reasonably expected of it in respect of its responsibilities to the Claimant and acted in accordance with its obligation to uphold academic freedom. The Respondent said that the Claimant was not subjected to harassment or discrimination, and it did not dismiss the Claimant.
3. The hearing lasted 15 days in public and the Employment Tribunal heard evidence from 20 witnesses.
4. The Employment Tribunal found that the Claimant was subjected to a targeted campaign of harassment following the launch by the Claimant and her colleagues of the gender critical research network at The Open University. The gender critical research network is a network of academics researching their chosen area of specialism from a gender critical perspective.
5. The Employment Tribunal was satisfied that the Claimant's gender critical belief is a protected philosophical belief worthy of protection in a democratic society (see Forstater v CGD Europe [2022] ICR 1).
6. The Respondent failed to protect the Claimant from the targeted harassment campaign because of their fear of repercussions arising from being seen to support the Claimant and her gender critical beliefs. The Claimant resigned as a result and was constructively dismissed. Furthermore, the Respondent's failure to remove a signed public letter after the Claimant left employment was continuing harassment. The signed public letter referred to the Claimant as making transphobic comments and associated the gender critical network with putting human lives at stake (both of which we found not to be the case) and called on The Open University to "deplatform" the gender critical network. The Respondent victimised the Claimant by deciding not to continue with the Claimant's grievance after the end of her employment because she had brought an Employment Tribunal claim against them. The Claimant did not succeed in her claim that she was denied work opportunities whilst employed at The Open University.