

**IN THE COUNTY COURT AT SOUTHEND**

**CASE NO: K00SS485**

**HHJ Duddridge sitting with Lay Assessor Balvinder Saund**

**B E T W E E N:**

**KARIM ANNABI**

**Claimant**

**And**

**VISITCREST LIMITED**

**Defendant**

**JUDGMENT**

**Hearing Date: 9 March 2026**

**Judgment handed down: 23 June 2026**

**Introduction**

1. I shall refer to the parties as “C” and “D” respectively. I intend no disrespect by using this shorthand.
2. This is a claim under the Equality Act 2010 (“the Act”) for damages for discrimination on the basis of religious belief.
3. C describes himself as an American, British and Algerian Muslim and a resident of Southend-on-Sea. He is the founder of the Sir David Amess Peace Initiative (“the Initiative”). The Initiative aims to honour the memory of the late MP, who was murdered on 15 October 2021 by a Muslim and was himself a practising Roman Catholic. The Initiative is, amongst other things, campaigning for Sir David’s nomination for sainthood and a US Presidential Medal of Freedom Award, raising

funds for his charities, and seeking to persuade the Roman Catholic church to pay the costs of investigating the nomination for sainthood.

4. D is the publisher and owner of The Muslim News (“TMN”) which, as its name suggests, aims to publish news and articles of interest to Muslim readers in the UK. It was co-founded by Mr Ahmed Versi, who works as its editor on a voluntary basis. According to Mr Versi’s evidence, it publishes 12,000 to 15,000 physical copies of its monthly newspaper and operates a website which receives between 20,000 to over 1,000,000 hits per month.
5. As described below, C claims that D refused to allow him to place advertising in the newspaper and that the reason for this refusal was the religious nature of the Initiative and its association with Christianity and the Roman Catholic church.
6. By an order dated 5 February 2024, I allocated the proceedings to the Fast Track and directed that they be listed for trial with a time estimate of 1 day.
7. For various reasons, the trial did not take place until 9 March 2026. C represented himself. D was represented by Ms Safia Tharoo of Counsel, acting pro bono. I was assisted by a lay assessor, Mrs Balvinder Saund, who sits as an Employment Tribunal member and has experience of discrimination cases, including religious discrimination, in that context. This Judgment contains my decision following my discussions with Ms Saund: I am most grateful to her for her expert assistance and insight in this case.
8. At the start of the trial, for the reasons I gave at the time, I allowed an application for relief from sanctions by C and gave him permission to rely on his Revised Particulars of Claim, save that I did not permit him to rely on a belief in interfaith dialogue as a protected characteristic.
9. C’s pleaded case in the Revised Particulars of Claim is that D unlawfully discriminated against him contrary to ss.13 and 29 of the Act. He seeks damages for injury to feelings and financial losses, but the Revised Particulars of Claim

contain no particulars of any specific financial losses. In making his application for relief from sanctions, he said that he was also alleging victimisation contrary to s.27. I permitted him to pursue that allegation, which is made in his witness statement, although it is not pleaded in the Revised Particulars of Claim.

10. D denies discrimination and victimisation. It avers that all but one of the alleged acts of discrimination relied on by C happened more than six months before the claim was issued, with the effect that C's claims in relation that conduct are out of time under s.118 (1) of the Act. C alleges that those acts formed a continuing course of conduct with the latest alleged discriminatory act, so that the whole of the course of conduct is treated as falling within that six month period, and therefore "in time", in accordance with s.118 (6) (a). Alternatively, he invites me to exercise discretion to extend time on just and equitable grounds.

11. Although the trial was listed for one day, there was insufficient time for submissions and judgment at the conclusion of the evidence. I therefore directed the parties to file written submissions with a view to my preparing a written judgment.

12. C's written submissions (which I directed to be filed after D's) were filed on 9 April 2026. They are 82 pages in length and contain a detailed, elaborate, prolix and in some cases tendentious analysis of the evidence and issues in the case. It is only fair to note that I did not impose any page limit on the parties' written submissions. However, as serious as discrimination claims are, I consider that C's submissions are disproportionate by any measure. The facts in this case are relatively straightforward, and that is reflected in the relatively limited length of the pleadings and witness statements. For example, the Revised Particulars of Claim and C's witness statements dated 20 February 2024 and 29 April 2024 are each only 6 pages long. Ms Tharoo's closing submissions are 15 pages long (albeit single line spaced whereas C's appear to be 1.5 line spaced) and the entire trial bundle contained only 215 pages. Whilst Mrs Saund and I have read, considered and discussed C's submissions, it is not possible within the bounds of the

proportionate use of the court's resources to address them in the same level of detail. Therefore, I do not intend to deal with every issue they raise in detail but shall address those matters which I have found significant to my decision.

13. It is not in dispute in these proceedings that the religious nature of the Initiative and its association with Christianity and the Roman Catholic Church are capable of being a protected characteristic as defined by the Act. The issues for me to decide are:

- a. Did D treat C unfavourably because of that protected characteristic?
- b. Did D victimise C because of a protected act?
- c. Were any acts of discrimination that pre-dated 10 February 2023 a continuing course of conduct with the act that post-dated that date or are the claims based on that earlier conduct out of time?
- d. If those claims are out of time, should I exercise discretion to extend the time for bringing them?
- e. If D is found to have discriminated against or victimised C, what is the appropriate quantum of damages.

14. It is common ground, and Mr Versi agreed, that inter-faith work is valuable, important and newsworthy. However, this case is not directly concerned with the merits of the Initiative, the work it carries out, the campaign to have Sir David Amess canonised, the value of interfaith relations, C's motivation in seeking to publicise the Initiative, or whether other publications and organisations have recognised its value or promoted it. C deals with all of those subjects in some detail in his witness statements and closing submissions, but it is not necessary for me to make any findings about those matters and I shall address them only so far as necessary to deal with C's submissions that they are relevant to the inherent probabilities and therefore probative of his claim.

## Relevant Background

15. C's first contact with D was on 8 February 2022. He both telephoned and sent an email on that day. It appears that the first substantive contact was an email he sent to Mr Versi at 09.45.56 GMT that day, in which he said he had called to speak to Mr Versi and the receptionist had asked him to send an email. The email went on to say *"I'm a UK (US and Algerian) Muslim and I would like to give [TMN] an exclusive story about an interfaith initiative I started relating to Sir David Amess, which has the support of local and global religious leaders, as well as a social enterprise startup I am working on with a bold and ambitious plan to create social impact on a massive scale, which is also related to Sir David and is newsworthy on its own..."*
  
16. C spoke to Mr Versi by telephone at 3.42 pm that day. According to his witness statement, he spoke to Mr Versi about the Initiative with a goal to have TMN report on the story. During that call, Mr Versi said *"We don't believe in Saints"*, and that TMN had already covered the murder of Sir David Amess. Either the call dropped or Mr Versi asked C to call him back. C made two further calls that day, at 4.02 and 4.12, but was unable to speak to Mr Versi. According to Mr Versi's witness statement, he spoke to C by telephone after receiving the email, but C spent most of the conversation talking about himself and his desire to nominate himself for an award for excellence. He informed C that the nomination and forms were available on the newspaper's website. It appeared to him that C was looking for free exposure for his projects by means of an article on TMN and this was not an appropriate reason for publishing such an article. He made it clear to C that, if he wanted such exposure, he should pay for an advert or even an advertorial. After that, C called him a number of times between February and June 2022, trying to push him to write an article showcasing C's work, although he can't remember the specific dates of those calls. He found C time-consuming and difficult to deal with. Mr Versi denies saying *"We don't believe in saints"*, although he deals with that allegation out of sequence, in a paragraph of his witness statement addressing events later in the chronology (see paragraph 24 below).

17. On 4 May 2022, C sent an email to Mr Versi saying *“Per our whatsapp call, please see attached the information included in the nomination, which describes work and news that UK Muslims may be interested in reading about in your paper. Could you have a read and let me know if you would like to cover this story? FYI Alex has also nominated me for the following award in “The Together Award” Category ...”* followed by a link to that award. The email then reproduced a lengthy statement, running to 10 pages, beginning *“I would like to nominate Karim Annabi for [TMN] Exceptional Covid Response Award...”* According to C’s witness statement, the nomination was written by his friend Alexander Sullivan. Mr Sullivan had previously sent that nomination to D at its dedicated email address for such nominations (*“awards@muslimnews.co.uk”*) on 18 March 2022, but it appears that Mr Versi was not aware that he had done so or had not read the nomination. In his statement, Mr Versi says that C’s email dated 4 May 2022 led to further conversations in which he highlighted to C that he needed to follow the proper (nomination) process and that, if C wanted to feature his projects in TMN, this would need to be by way of advert.

18. On 24 May 2022, C telephoned TMN and spoke to a woman who he believes was Mrs Versi, requesting a telephone meeting with Mr Versi. C says he made his first request to purchase advertising for the Initiative during that call. In his statement, he says that the telephone call was at 3.49 pm and he followed it up by Whatsapp message. The copy of that message in the bundle is timed at 10.52 am on 24 May 2022. I note, at this point, that C resides in Canada and differences in the times recorded in his evidence, Whatsapp messages and emails may reflect the fact that the parties were in different time zones. Later that day, he sent a text message chasing his request to purchase advertising. Mr Versi does not expressly refer to that call and message in his witness statement.

19. On 27 May 2022, C sent an email to D stating *“I would like to purchase the below front-page bottom strip advert for the [Initiative] and Charities Fundraise. While I believe Mr Versi has personal objections to my work, I hope he will not interfere in*

*this commercial transaction and further complicate matters for everyone.*” It is not clear from C’s statement what specifically prompted the last sentence of that email but, as there was no written communication from Mr Versi expressing any such objection, it must have been prompted by their telephone discussions. Mr Versi says in his statement that he had not told C that he had any personal objection to his work, but that he did not think it was an appropriate subject for a newspaper article. However, he found that C was difficult to deal with and refused to listen.

20. It is common ground that C and Mr Versi had another phone conversation, in which they discussed C’s request to purchase the front-page strip advert. Mr Versi explained to C that he could not offer that space to C because it was booked by a charity on a long-term deal. C says that he asked when that contract would end, and Mr Versi told him that the charity in question had “*indefinite rights*” over the advertising space. C then said he wanted the same style of advert on the bottom of the inside front page. He says that Mr Versi tried to discourage him from buying saying “*no one would read it there*” and, when he wasn’t deterred, Mr Versi refused to sell him advertising anywhere in TMN.

21. Mr Versi’s statement says that he shared with C his opinion, based on experience, that such a strip would not be effective and suggested that instead C consider a “box style” advert, whether on the front inside page or elsewhere. He says that C did not take this advice positively but became aggressive and accused Mr Versi of refusing to give him advertising space in TMN. Mr Versi found this upsetting and offensive. He felt that he was simply trying to offer advice, but C was unwilling to listen. He says the call ended with him agreeing to provide C the rates for various size adverts. However, the rates were not sent out until after C had sent a chasing email asking for them on 10 June 2022. Mr Versi says this was through oversight, because he works for TMN on a voluntary basis and was otherwise employed.

22. According to C’s witness statement, he had a call with Mr Versi on an unknown date, presumed to be 10 June 2022, during which Mr Versi again asked him to

email the proposed news story. He sent an email on that date with a further copy of the nomination. That email also stated that he had not yet received the requested prices for a banner and that it had been two weeks since he had been promised a response to that request. Mrs Versi responded by email the same day, sending C the advertising rates.

23. According to C's statement, he sent an email on 17 June 2023 stating "*I want to purchase an advert in the next edition of the paper, size 80x30 for 330 pounds per your pricing sheet. I kindly request what design requirements you have, or template you have for me to fill out. I can also just copy the same structure as Muslim Hands, to simplify matters.*" C says he then sent a Whatsapp message saying he had sent an email and then made a phone call in which Mr Versi hung up on him after he had reiterated his wish to purchase advertising. C then sent an email to D's complaints section making a formal complaint against Mr Versi for refusing to sell him advertising, not responding to emails, and hanging up on him 15 minutes after Mr Versi had emailed him to stop texting, calling or writing the paper.

24. However, that is not a complete, or accurate, account of what happened. According to Mr Versi's statement, he and Mr C had spoken again before 17 June 2022. During that call, Mr Versi had said that the murder of Sir David Amess had already been covered by TMN, and they had no reason to be against the idea of him being made a saint by the Catholic church, but by advertising the Initiative in TMN he might not necessarily get the response he was seeking from the Muslim community. He says that he gave this advice because C did not appear to be a seasoned advertiser and might not have unlimited funds. He wanted him to make an informed decision about how to spend his budget. He did not want him to be disappointed if the response did not meet his expectations and to criticise Mr Versi. C did not take that advice well, but became angry and aggressive, which Mr Versi found difficult to deal with.

25. After that, C sent D an email on 17 June 2022 at 2.22 pm in which he said *“This is email is to document calling you to follow up after a week on the previous email regarding the [Initiative] being covered by your paper. You answered your cell phone and asked who it was, then stated you were in a meeting and hung up on me. I will not abate and your paper will cover this story one way or another, be in an article, or in an advertisement. I will call you back”* (emphasis added).
26. 11 minutes later, at 2.33 pm, C sent the email referred to in his statement, but his statement has quoted selectively from it. In it, C not only stated his wish to purchase advertising, quoted at paragraph 23 above, he also said: *“It’s quite apparent you will not cover the story and I tire of giving you opportunities to do the right thing by your paper, your readers, your country etc.”* and *“If I am not sold an advert in your paper voluntarily, I will seek court action a week from this email and you won’t be able to avoid the issue then. You want to avoid repeating important Muslim news, now you’re at the brink of becoming Muslim news”* (emphasis added).
27. It therefore appears from those emails that, contrary to the impression given by Mr Annabi’s witness statement (see paragraph 23 above), the phone call in which Mr Versi had hung up on C happened before, not after, the emails, and that Mr Versi did not simply hang up the call but explained that he was in a meeting at the time. Furthermore, the email from Mr Versi asking C not to contact D again did not follow directly from a mere request to purchase advertising space and enquiry about C’s requirements, but from the two emails C sent at 2.22 pm and 2.33 pm.
28. As I have said, C’s statement quoted only part of the email timed at 2.33 pm. It did not refer expressly to the email timed at 2.22 pm. The only allusion he made in his witness statement to the first email and the passages he had not quoted from the second email is a statement that *“[Mr Versi] claims that his decision to not sell advertising is a result of my “conduct”. I wrote Mr. Versi a few remarks after the fact explaining that I was intent on pursuing legal remedies if necessary, and the consequences of going down this path, which were written constructively, hoping*

*it would lead Mr. Versi to do the right thing and stop discriminating. However, barring a defiant and frustrated tone expected of a customer given the run around, hung up on and discriminated against, I have never said or written anything untoward to Mr. Versi or his staff that would warrant refusal of service.”*

29. C did not exhibit the emails timed at 2.22 pm and 2.33 pm to his witness statement and it appears that it was D who produced them as part of its evidence. In C’s Exhibit 1, his email attaching the news story and chasing up a price for the banner ad is followed immediately by the email from Mr Versi asking C not to send any more emails, ring or text him. This gives the incomplete and wholly misleading impression that Mr Versi responded to C’s email which forwarded a further copy of the article and followed up on a price for advertising, by asking C to stop contacting him, instead of that being his response to the emails timed at 2.22 pm and 2.33 pm. Those emails are mentioned in C’s Revised Particulars of Claim dated 1 March 2026, but those Revised Particulars of Claim post-dated Mr Versi’s witness statement by almost two years. C’s description of their contents in the Revised Particulars of Claim is also incomplete and misleading (he pleads only that he sent them “*requesting to purchase an 80mm x 50mm advertisement at a cost of £330.*”)

30. According to Mr Versi’s statement, he found the emails timed at 2.22 pm and 2.33 pm aggressive and threatening. He had not previously encountered such behaviour in 35 years of working on TMN and was fed up with dealing with C. He thought C clearly had a narcissistic streak in that he wanted to be the centre of attention, wanted to nominate himself for an award for excellence and wanted Mr Versi to feature him and his projects in an article. When that did not succeed he had turned to advertising but had become aggressive, not wanting to listen to Mr Versi’s advice, but twisting his words to suggest Mr Versi was refusing to sell him advertising. C had called numerous times, not accepting that Mr Versi was often busy and unable to speak to him, and then resorted to threatening him. He considered that he was under no obligation to deal with C and did not want to have

any further interaction with him. He therefore emailed him at 4.32 pm on 17 June 2022, stating *“Please do not send me any more emails, nor ring me nor text me.”*

31. Later that day, C sent the email to D’s complaints section referred to at paragraph 23 above, asking D to open a formal complaint against Mr Versi for *“being discriminatory in”* refusing to sell him advertising, lying, refusing to take meetings and not responding to emails *“also for discriminatory reasons”*. He did not receive a reply.

32. On 8 August 2022, C sent an email to Mr Versi informing him that he had taken legal advice regarding D’s continued refusal to sell him advertising and providing a copy of that advice.

33. On 18 August 2022, C sent D a pre-action letter by email, with the title *“Associative Discrimination on the Grounds of Religion, Race and Victimisation”*. In that email, he said he would rely on all email communications between them as well as a witness statement of conversations over the phone, such as Mr Versi saying *“We do not believe in Saints.”*

34. C did not receive a response to his letters dated 8 and 18 August 2022.

35. On 16 November 2022, C sent D an unsolicited email which said that he had been interviewed by a reporter for another publication and stated *“Something you should have done a long time ago, instead of now opening yourself up to an upcoming landmark discrimination case. I do not think it will play in your favour at court that a Muslim reporter chose to list the story. And this is only the start.”* He included a link to the article and then said, *“If you want to settle this matter, I’d be happy to find a mutually agreeable solution because I believe we can achieve more by working together.”*

36. On 12 June 2023, C sent an email containing a further request to purchase advertising space, in which he said, *“If I do not hear from you within two weeks of this email, I will take it that you mean to refuse to sell me and my fundraiser*

*advertising.*” D did not respond to that request for advertising. According to Mr Versi, this was for the same reasons as his refusal to respond to C’s earlier correspondence after the exchange of emails on 17 June 2022.

37. On 1 July 2023, C sent a second pre-action letter.

38. On 9 August 2023, C issued these proceedings.

39. At paragraph 18 of his Revised Particulars of Claim, C states that he relies upon the following discriminatory acts:

- a. Mr Versi told C that the Initiative was not suitable for coverage because “*we [Muslims] do not believe in saints*”. This amounted to less favourable treatment because of C’s association with Christianity and the Catholic faith.
- b. Mr Versi refused to sell C front page bottom strip advertising, claiming that it was booked long-term. C contends that the refusal was motivated, at least in part, by the religious nature of the Initiative.
- c. Mr Versi instructed C to cease all contact with him and TMN, effectively terminating C’s ability to purchase advertising. This was a refusal to provide a service contrary to s.29 of the Act. C had made a specific, reasonable request to purchase advertising at D’s published rate.
- d. C sent further emails seeking to resolve the matter and purchase advertising in August 2022. D did not respond, maintaining the bar on C accessing its service.
- e. C made a further written request for advertising space on 12 June 2023. D failed to respond, confirming the continuing refusal to provide C with advertising space.
- f. D failed to follow its procedure to respond to a formal complaint submitted by C following his ban from purchasing advertising.

40. As set out above, C alleges that these acts were a continuing course of conduct falling within s.118(6)(a) of the Act.

41. In her opening skeleton argument, Ms Tharoo objected to C relying on the allegations set out at subparagraphs 18 a. and f. of his Revised Particulars of Claim as acts of discrimination. In relation to sub-paragraph a., she submitted that C had not alleged in his witness statement that the alleged comment referred to in sub-paragraph a. was a separate act of discrimination, but C's evidence was that the comment had been made in the context of Mr Versi's declining to publish an article about the Initiative. That was not the provision of a service and did not fall within s.29 in any event. As to sub-paragraph f., C had also referred to this in his witness statement without alleging that it was a separate act of discrimination, but the alleged failure to follow the complaints procedure also did not fall within s.29 of the Act. In discussions at the beginning of the trial, C clarified that he relied on sub-paragraphs a. and f. as evidence of D's discriminatory motive, rather than as separate acts of discrimination.

42. D's case is that neither D nor Mr Versi had any personal objections to the Initiative and D did not refuse to sell advertising to C. D produced evidence that it had previously allowed other organisations to place adverts for literature (a DVD) or events that had a Christian or non-Muslim focus. Rather, Mr Versi's editorial judgment was that the article that C wished D to publish would not be of interest to TMN's readers. When C then said that he wanted to place advertising instead, Mr Versi sought to advise him as to the best way of advertising his initiative on TMN, and sent him the advertising rates. However, C did not respond well to Mr Versi's advice, and became angry, aggressive and threatening, culminating in the exchange of emails on 17 June 2022. It was C's aggressive and threatening behaviour, not any discriminatory motive, that caused Mr Versi to instruct C not to contact him further.

43. As set out above, C also alleges victimisation contrary to s.27 of the Act. The basis for that allegation is not made clear in either his witness statement or the Revised Particulars of Claim. In his Closing Submissions, he asserts that, correctly interpreted, his email dated 17 June 2022, referring to seeking "court action", his

complaint email later that day alleging discrimination, and his letter before action dated 8 August 2022 were all protected acts. D's continued failure to engage with him after 8 August 2022, including its failure to respond to that letter before action, to sell him advertising after his further request on 12 June 2023, or to respond to his letter before action dated 1 July 2023, were all detriments falling within s.27 of the Act and therefore victimisation.

### The Law

44. By s.10 of the Act, religion or belief (including a lack of religion or lack of belief) are protected characteristics. As it is common ground for the purposes of this case that the religious nature of the Initiative and its association with Christianity and the Roman Catholic Church are protected characteristics, I need not set out s. 10 in any more detail.

45. S.13 (1) of the Act provides:

“A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.”

46. S.24 (1) of the Act has the effect that, for the purpose of establishing discrimination under s.13(1), it is irrelevant whether A has the protected characteristic. The fact that D is a specialist periodical catering to Muslim readers is therefore irrelevant in considering whether it treated C less favourably than it treated or would have treated others because of C's protected characteristic of religious belief.

47. The relevant parts of S.27 of the Act provide:

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

- (a) B does a protected act, or
- (b) A believes that B has done, or may do, a protected act.

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

- (a) bringing proceedings under this Act;
- (b) giving evidence or information in connection with proceedings under this Act;
- (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.”

48. The relevant parts of s.29 of the Act for the purpose of these proceedings provide:

“(1) a person (a “*service-provider*”) concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service.”

Subsection (4) contains a similar provision prohibiting victimisation by not providing the service. Refusing to provide a service may therefore be a detrimental act for the purpose of establishing victimisation under s.27.

49. The relevant subsections of s.118 provide:

“(1) ... proceedings on a claim within section 114 may not be brought after the end of -

- (a) the period of 6 months starting with the date of the act to which the claim relates, or
  - (b) such other period as the county court ... thinks just and equitable.
- (6) For the purposes of this section –
- (a) conduct extending over a period is to be treated as done at the end of the period;
  - (b) failure to do something is to be treated as occurring when the person in question decided on it.”

50. The relevant parts of s.136 provide:

“(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.”

When these provisions apply, their effect is to place the burden on the alleged discriminator to prove that the discrimination did not take place.

51. S.13 requires a comparison to be made between the way C was treated and the way D treated or would have treated others who do not share his protected characteristic. C does not rely on any actual comparator (he refers in his Closing Submissions to other publications as comparators, contrasting their actions with those of D, but that is not what s.13 requires). It can be inferred, and Mr Versi’s evidence suggested, that in general terms, D would for commercial reasons accept orders for advertising. The hypothetical comparator is a person who did not have C’s protected characteristic but otherwise communicated with D in the same manner as C, leading to the request for advertising. Would D have treated that hypothetical comparator differently in the same circumstances?

52. In Anya v University of Oxford [2001] ICR 847 (a race discrimination case), the Court of Appeal (following earlier authorities) recognised that it is unusual for there to be direct evidence of unlawful discrimination. Those who discriminate unlawfully do not usually admit that they are doing so and may even do so unconsciously. Unlawful discrimination will therefore usually be a matter of inference from the primary facts found by the court or tribunal and the background history and circumstances, including not only the acts which form the subject matter of the complaint, but also other acts alleged by the claimant to provide evidence of a discriminatory motive. The court should therefore consider all the facts when deciding whether unlawful discrimination should be inferred.

53. S.136 has the effect, where it applies, of casting the burden on the defendant to prove that it did not treat the claimant unfavourably because of the claimant’s

protected characteristic. However, a claimant must prove more than a difference in status and a difference in treatment. He must prove facts from which a reasonable tribunal could conclude, in the absence of explanation, that the defendant has committed an unlawful act of discrimination. The absence of an adequate explanation is not relevant to whether the claimant has established a prima facie case of discrimination; indeed, it is assumed for the purposes (only) of deciding whether the burden of proof has shifted to the defendant that there is no explanation. (Hewage v Grampian Health Board (Scotland) [2012] UKSC 37; Madarassy v Nomura [2007] EWCA Civ 33; Igen v Wong [2005] ICR 931). However, although s.136 envisages a two-stage approach (first deciding whether the claimant has established a prima facie case and second considering whether the defendant has proved that it did not act unlawfully), the court or tribunal does not deal with the shifting of the burden of proof as a formal preliminary issue, but hears all the evidence before making its decision. It is not strictly necessary for the court to go through both stages separately. In some cases, particularly where the comparator is hypothetical (as in this case), it may be appropriate for the court to proceed on the assumption that the claimant has established a prima facie case and consider the defendant's explanation. The most convenient and appropriate way to tackle the issues arising in any discrimination claim must depend on the nature of the issues and all the circumstances of the case (Madarassy at paragraphs 80 to 84).

54. In Barclays Bank Plc v Kapur [1991] 2 A.C. 355, the House of Lords considered the limitation provisions for discrimination claims under the Race Relations Act 1976. The case concerned applicants of Asian origin who had transferred from employment in banks in East Africa to employment with the respondent under contracts which excluded their previous service in East Africa from computation of their pension entitlement under the defendant's pension scheme. The applicants claimed that this amounted to unlawful discrimination under the 1976 Act. The respondent asserted that the claims were time-barred because the decision to exclude of their previous service was a "deliberate omission" from which time ran. The House of Lords found that the unfavourable treatment was

not a deliberate omission within the meaning of the 1976 Act but extended over the period of their employment with the respondent, so that time began to run when their employment ended.

55. Ms Tharoo cited that authority as support for a distinction between a continuing act and a “one off” act that is not a continuing act even if it has continuing consequences. That proposition appears to be derived from, and illustrated by, two decisions of the Employment Appeal Tribunal that were approved by the Court of Appeal and the House of Lords in Barclays v Kapur. In the first, Amies v Inner London Education Authority [1977] ICR 308, the EAT held that the appointment of a male candidate instead of the (female) applicant to a post was an act that started time running even though it had continuing consequences. On the other hand, in Calder v James Finlay Corporation Ltd. (Note) [1989] I.C.R. 157, a scheme under which only male employees could apply to the employer for a mortgage subsidy was a state of discrimination against the (female) applicant which continued throughout her employment; time therefore started to run when she left her employment, not the earlier date when her application was refused.

56. C and D each suggest that the distinction between a continuing act and a one-off act with continuing consequences supports their case. In my view, the key basis for the distinctions made in the above authorities is that, in Barclays v Kapur and Calder v James Finlay Corporation Ltd., the alleged discrimination arose out the unfavourable terms of the applicants’ employment contracts as compared with the relevant comparators, and therefore continued throughout the parties’ contractual relationship, so that time began to run when the contract of employment ended. In Amies v Inner London Education Authority, on the other hand, the unfavourable treatment was the appointment of the male candidate to the post in question, which was a one-off decision rather than a contractual provision enduring throughout the parties’ relationship.

57. Although a refusal to provide a service has the effect that, unless the supplier changes their mind, the service continues to be unavailable from that particular

supplier to the putative customer after the date of that refusal, it would be artificial and inconsistent with the intention of s.118 to regard that as giving rise to continuing discrimination or a continuing detriment under ss.29 and 27 respectively for the purposes of limitation. If such a refusal were treated as continuing discrimination for those purposes, then it would continue indefinitely and have the effect of negating the limitation periods in s.118 altogether, unlike the employment cases discussed above where limitation begins to run from the termination of the employment. In my judgment, a refusal to provide a service is a one-off act and time begins to run when that refusal is communicated to the putative customer. This appears to be consistent with s.118(6)(b) (“*failure to do something is to be treated as occurring when the person in question decided on it*”): an omission to do something could also be considered to give rise to continuing discrimination, but time begins to run at the point when the person in question decides not to do it.

58. S.118(1)(b) allows the court to extend the limitation period to such period as it thinks just and equitable. The burden is on a claimant to establish that it is just and equitable to extend time (Robertson v Bexley Community Centre [2003] IRLR 434). In Abertawe Bro Morgannwg University Local Health Board v Morgan [2018] ICR 1194, the Court of Appeal held that the equivalent provision in s.123(1) of the Act gave the employment tribunal the widest possible discretion and pointed out that, unlike s.33 of the Limitation Act 1980, it does not specify any list of factors to take into account. However, factors that are almost always relevant to consider when deciding whether to extend time are (a) the length of and reasons for the delay and (b) whether the delay has prejudiced the respondent (for example, by preventing or inhibiting it from investigating the claim while matters were fresh). Prejudice to a respondent includes both the prejudice of having to meet a claim that it would not otherwise have to defend and the “forensic prejudice ... caused by such things as fading memories, loss of documents, and losing touch with witnesses” (Miller and ors v Ministry of Justice and ors UKEAT 0003/ 15).

59. I shall return to these matters in my analysis below. Before doing so, I shall address my impressions of the evidence.

### The Oral Evidence

60. I heard oral evidence from C and from Mr Versi.

61. In evaluating their evidence, I bear in mind that the events leading up to Mr Versi's email asking C not to contact him again happened between February 2022 and June 2022, which was upwards of nearly 4 years ago by the time they gave their oral evidence, albeit their witness statements were prepared much closer to those events, in February and April 2024. I also bear in mind that the parties' positions are polarised and claims of this kind are inherently likely to arouse strong feelings in each party. Their recollections are likely to have been affected by the passage of time and distorted by the process of reconstruction and the strong feelings associated with their respective positions. For those reasons, the contemporaneous messages and emails between C and Mr Versi are the most reliable guide to what happened (see Gestmin SGPS S.A. v Credit Suisse UK) Ltd [2013] EWHC 3560 (Comm) at paragraphs 15 to 23).

62. So far as C is concerned, it is obvious that he is deeply committed to the Initiative and the causes it seeks to pursue. As such, he is convinced of its intrinsic merit and, I consider, genuinely believes that the only reason why Mr Versi asked him to stop contacting him (thereby effectively refusing to place advertising) was because he objected to the religious aspects of the Initiative and its association with Christianity. However, it is concerning that C did not fully quote the emails timed at 2.22 pm and 2.33 pm on 17 June 2022 in his witness statement, or exhibit them to that statement, despite their obvious significance as the communications which directly preceded Mr Versi's email asking C not to contact him further. His description of the contents of those emails in his witness statement (see paragraph 28 above) tended to minimise their effect. I consider that a reasonable reader of those emails could have found their tone and content insistent,

intemperate, aggressive and bullying. That is not to say that every reasonable reader would have done so, but that reaction was a reasonable, and predictable response to their contents. C's failure to recognise that, and his minimisation of the emails, demonstrates a lack of insight into the impact of his behaviour on others. As I have set out above, C presented a misleading and incomplete account of the correspondence in his witness statement. In my view, the inference is either that this was deliberate, because he appreciated that his own emails undermined his account, or, at best, that he has such a blinkered view of the rightness of his cause that he did not appreciate the potential impact that the tone and contents of those emails had on what happened and, therefore, their relevance. Whichever is correct, it undermines the reliability of his evidence.

63. Having heard C give oral evidence, and read his lengthy written submissions, my impression is that he is so convinced of the merits of the initiative and the rightness of his position that he is unable to accept that others, including Mr Versi, may quite reasonably have a different view: put shortly, his evidence lacks objectivity. Furthermore, as stated above, he is unable to appreciate the effect of his actions on Mr Versi.

64. For example, in his oral evidence, he accepted that Mr Versi was entitled to exercise editorial judgement about whether or not to publish a story about the Initiative, and such editorial judgement was not a matter for the court. But he insisted in his evidence on impugning Mr Versi's editorial judgement, suggesting that his unwillingness to publish a story was attributable to, and evidence of, religious discrimination rather than for proper editorial reasons. His Closing Submissions contain lengthy passages arguing that the Initiative's merit has been recognised by other publications and by officials in the Roman Catholic Church, that it has been supported by a UAE Fatwa, and that D has published articles on other subjects which suggest that D should have regarded the Initiative as newsworthy and worthy of publication. He goes so far as to suggest that D's refusal to publish a story about the Initiative was "*not the normal commercial reaction*". He also criticises the content of D's publication of stories about the

Gaza conflict, suggesting that this supports the view that Mr Versi's editorial and commercial decisions are driven by "*strong personal viewpoint discriminatory objections*", rather than neutral (editorial) principles.

65. I consider Mr Versi's explanations in due course. However, whilst I recognise that, as set out in Anya, the court must consider all the facts when deciding whether unlawful discrimination has occurred, I do not find the above submissions helpful or persuasive in shedding light on Mr Versi's likely motivation. It appears from some of the contents of the nomination written by Alex Sullivan (see paragraph 17 above) that C's assertion that D's response was "*not the normal commercial reaction*", and the general tenor of his submissions implying that Mr Versi could not genuinely have failed to recognise the merit of the Initiative in the light of the other publications and organisations that supported it, are not accurate. That nomination contains a lengthy passage setting out the difficulties that C has apparently encountered in trying to persuade other organisations to participate in or support the Initiative, alleging that he encountered discrimination and hypocrisy from them and had to persist against resistance and opposition. It may well be that the adversity that is there described has made C disproportionately sensitive to any perceived opposition to the Initiative. However, insofar as his submissions amount, in effect, to suggesting that no reasonable editor could have failed to recognise the merits of publishing a story about the Initiative, I reject that suggestion. Nor do I consider that its merits, newsworthiness, or appeal to a particular readership make it inherently probable that the only reason why D refused to publish a story or run an advert about was that it (unlawfully) objected to its religious nature and association with Christianity. In my judgment, however newsworthy or meritorious the Initiative was, it was open to Mr Versi to refuse to publish a story about it for any number of reasons falling within his editorial judgment about what stories D should cover at any particular time. That is the case notwithstanding that he accepted in his own evidence that there were newsworthy aspects to the Initiative. In my view, C's best (and only explicit) evidence that there was a discriminatory motive for Mr Versi's actions is the disputed comment, which C said was made in their first telephone call, "*We don't*

*believe in Saints.*” I will consider that disputed comment further in due course, as well as Mr Versi’s stated reasons for his actions.

66. In addition to the above, my impression is that C has a propensity to assume the worst about other people’s motives and reasons for their conduct, even if that is not supported by objective evidence, and to overstate what actually happened. For example, other than the disputed comment about not believing in saints, there is no evidence to support the comment in C’s email dated 27 May 2022 that Mr Versi had personal objections to his work. Whilst C stated in his witness statement that Mr Versi had refused to sell C advertising before the email in which he asked C not to contact him further, in his oral evidence he had to accept that C had not explicitly refused to sell him advertising in the telephone conversations that preceded that email. Therefore, his witness statement had overstated or misstated the position. He said that (after the discussion about advertising on the front page and then the second page of the newspaper) he had asked C to let him advertise on any other page and “*we left it at that; C had said he had to go*”. When it was put to him that this was different from his witness statement, he said that C did not say “yes” but he did not say “no”. There wasn’t a follow through when C said “*any other page*”. He had got the impression that Mr Versi refused. When it was put to him that D would not have sent him the advertising rates on 10 June 2022 if Mr Versi had already refused to sell him advertising by that date, he said it was a formality because Mr Versi thought C would not follow through. Again, he did not provide any objective evidence to support this, which appears to have been another assumption on his part. It also appears that he leapt to the assumption that the delay in sending him the advertising rates was due to Mr Versi’s discriminatory motives, without considering the fact that Mr Versi edits TMN in a voluntary capacity and the alternative, innocuous, explanation that he simply did not get around to it (bearing in mind the overall context that C first approached him in early February 2022 but did not first propose advertising in TMN until over 3 months later on 24 May, so there was no obvious urgency to his request).

67. In his witness statement and Revised Particulars of Claim, C did not explain his reasons for the delay in bringing his claims in respect of the incidents in 2022 despite being aware of the limitation period of six months. In his letter dated 12 June 2023, he said he had not brought a claim then to give D extra time to comply with the law. In his oral evidence, he said he was hoping that Mr Versi would change his mind and that “*cool heads would prevail*”. In his Closing Submissions, he submitted that he chose not to file a claim to give D extra time to comply with the law: this was a deliberate act of restraint and goodwill, consistent with his broader pattern of prioritising resolution over confrontation; hence he had also sent Mr Versi the legal advice he had received. He submitted that hoping a discriminator would change his mind and comply with the law is not cynicism but the kind of pre-litigation conduct that the courts and pre-action protocol encourage. However, C sent Mr Versi the advice he had received with his email dated 8 August 2022. Beyond sending him a letter before action on 18 August 2022, his email dated 16 November 2022 referring to an article in another publication in which he stated that he was open to settlement, he took no further steps before 12 June 2023 to pursue a resolution and he did not issue proceedings, despite notifying the Equality and Human Rights Commission of his intention to do so. In my judgment, his explanation for his inaction was obvious *ex post facto* rationalisation for his failure to bring proceedings in time, and I agree with Ms Tharoo’s evidence that his explanation that he was waiting in hope that Mr Versi would change his mind is incredible: it must have been abundantly clear that Mr Versi had no intention of engaging further with him.

68. In short, whilst I consider that C genuinely believes in his case against D, I do not find him a reliable witness. I find his perception is distorted by his commitment to his cause and his inability to consider other, reasonable explanations for what happened, leading him to make assumptions and statements that are not objectively supported, or that are capable of alternative explanations.

69. In his Closing Submissions, C states that the timing of the trial on 9 March 2026 meant that he did not have sufficient time to cross-examine Mr Versi fully.

However, he did not raise that on the day of the trial or ask for the trial to be adjourned to another date to allow him more time for cross-examination.

70. Mr Versi struck me as an unassuming person, consistent with his description of himself as somebody who does not like conflict. I found his evidence to be generally plausible. He engaged openly with C's questions, making appropriate concessions. Contrary to what C's Closing Submissions suggest, I did not find him evasive, that he deflected questions or that his oral evidence was significantly inconsistent with his written evidence.

71. C's Closing Submissions set out an elaborate, detailed forensic analysis of aspects of Mr Versi's evidence seeking to persuade me that he was an untruthful witness (he even heads one section of his Submissions with reference to an Arabic aphorism "*Follow the liar to his doorstep*" and suggests that Mr Versi's explanations have been demonstrated to be pretexts). However, I do not accept those submissions, which I find overly forensic, argumentative (in the forensic sense) and, in some cases, unrealistic.

72. An example of the latter is his submission that Mr Versi "*by-passed the Advertising Manager*" (Mrs Versi), who should have been the person who handled C's advertising enquiry and that D's process demonstrates what happens when "*an Editor with a personal objection to the content ensures that the advertising department never gets the chance to do its job.*" In my view it is not reasonable to treat D, a small organisation staffed by volunteers, as a larger organisation with a separate "Advertising Department", and to invite the Court to draw inferences as a result about Mr Versi's motivation ("*The question the Court must ask is simple: why did the Editor personally handle, and ultimately block – an advertising transaction that should have been managed by the Advertising Manager?*"). The facts that D is a small organisation staffed by volunteers, and that Mr Versi was the one who had been dealing with C by telephone and in correspondence, are a perfectly reasonable explanation for Mr Versi handling C's enquiry when he moved

from seeking to publish a story to seeking advertising and this does not, in my view, undermine Mr Versi's account.

73. In his Closing Submissions, C submits that D's account has shifted and developed over the course of the original defence, the amended defence, Mr Versi's witness statement and the oral evidence, amounting to "*progressive fabrication*": however, this ignores the fact that C's case has itself developed from the original Particulars of Claim, to his witness statement (which he filed to comply with my order requiring him to particularise his claim) to the Revised Particulars of Claim, so that D was responding to a "*moving target*". He submits that Mr Versi's oral evidence, in which he explained that Sufi Muslims believe in holy people who have saintly status (or something similar), was "*deflection*" which Mr Versi must have known did not present an accurate picture of Sufi theology, intended to divert attention from the question whether he made the disputed comment "*We don't believe in saints.*" In the absence of expert evidence, I am unable to make any findings about whether Mr Versi's evidence accurately reflected Sufi theology, but in my view that is beside the point. Mr Versi was not intending to give a complete or accurate account of this aspect of Sufi theology but simply seeking to explain that the Muslim position is more nuanced than would be expressed by the simple statement "*We don't believe in saints.*" He was thereby seeking to add colour to his denial that he made that comment by explaining that the position amongst Sufi Muslims (who he said make up the majority of Muslims in the UK) may be more sophisticated than that comment would imply, making it unlikely that he said it. I do not accept C's submissions that he was trying to deflect attention from the question. I shall address the disputed comment ("*We don't believe in Saints*") further in due course.

74. Another example is C's submission that Mr Versi had attempted, in his witness statement, to conflate the story about Sir David Amess's murder with the Initiative, and that undermined his evidence because they were two separate matters, separated by subject matter, time and significance. I do not accept that Mr Versi deliberately conflated the two issues in an attempt to give misleading evidence

about his motivation. It is clear from the context in paragraph 12 of his witness statement that Mr Versi was responding to C's allegations that he had told C that D would not report on the Initiative because "*We do not believe in saints*" and that "*TMN has already covered the Sir David Amess story.*" He denies making those statements and sets out what he says he actually said, which was that the murder of Sir David had been covered by TMN, that TMN had no reason to be against the idea of him being made a saint by the Catholic church, but that he might not necessarily get the response he wanted by advertising the Initiative in TMN. As Mr Versi says he was motivated by his perception that C was not a seasoned advertiser, whereas advertising was raised relatively late in their dealings, I consider that that paragraph of his witness statement (which, as mentioned at paragraphs 16 and 24 above appears in a different chronological sequence to that given by C) is likely to contain reconstruction and conflation of statements made at different times, and that Mr Versi may therefore have confused statements that he made during different conversations with C. However, if that is the case, I consider that the likely explanation is ordinary errors in recollection of telephone conversations that had taken place nearly two years earlier, rather than any deliberate attempt to mislead.

75. On occasions, C's Closing Submissions appear to mischaracterise or misrecollect Mr Versi's evidence. C submits that there is an inconsistency between Mr Versi's evidence, on the one hand, that he felt that C was looking for self-publicity and had a "narcissistic streak" and, on the other hand, that fundraising was not an appropriate purpose for publishing an article. C submits that these reasons cannot co-exist, implying therefore that they are not genuine. I do not accept that: in my view, this is a false dichotomy. It is not mutually inconsistent for Mr Versi's perception to have been both that C was trying to generate publicity about himself and that the proposed article had a fundraising element to it. So far as fundraising is concerned, C submitted that Mr Versi contradicted himself in cross-examination because, after a number of questions to which Mr Versi said he would not cover the story if it had a fundraising component, he eventually said that he would cover the story if C had discovered

a cure for cancer even if it had a fundraising component. However, C's recollection of that evidence appears to be incorrect: my note of what Mr Versi said is "*We would report the news, not the fundraising. We report fundraising in advertorial*" (my emphasis).

76. As I have said, I find C's analysis of Mr Versi's evidence to be overly elaborate and forensic. Standing back and considering his evidence in the light of the contemporaneous correspondence, I consider that he was a truthful witness doing his best to assist the Court and that his evidence is broadly consistent with what the contemporaneous correspondence shows. It does not follow that everything he said was accurate: I have already mentioned the likelihood that he has confused different conversations that took place at different times. However, I consider that inaccuracies of that kind are due to errors in recalling different telephone conversations that took place over a period of three months or so approximately two years before Mr Versi made his witness statement. I am satisfied that he was doing his best to give honest evidence and that he gave truthful evidence about his impressions of his dealings with C and his own motivations which, in my view, are consistent with the inherent probabilities in the light of the contemporaneous messages and emails.

### Findings and Analysis

77. It is clear from the contemporaneous emails referred to above that the first substantive contact between C and Mr Versi was C's email proposing an exclusive story about the Initiative and a social enterprise startup. Although C had earlier telephoned and been invited to send an email, that contact was in substance an unsolicited proposal for an article. As C accepted, it was a matter of editorial judgment whether or not Mr Versi decided to publish an article about either the Initiative, the social enterprise startup or more generally. They then spoke by telephone later that day. On the balance of probabilities, I accept Mr Versi's account of his impression of the call, that C spent most of the time talking about

himself, including how he could be nominated for an award by D. That is consistent with the contents of C's email, with the fact that Mr Sullivan first sent his nomination to D's dedicated awards email address on 18 March 2022 (consistent with Mr Versi having explained the process for making such a nomination), and with the contents of the nomination itself.

78. C's email dated 4 May 2022 shows that there had been a Whatsapp call between the parties before that email. It is clear from the contents that their conversation had been about the nomination, which it appears Mr Versi may not have seen despite Mr Sullivan having sent it (because C attached a further copy); alternatively, C might have sent it directly because he was trying to press Mr Versi to take an interest in it. In any event, it is clear that, at that stage, C's enquiry was about D covering the story, not about advertising. It appears that either Mr Versi had not communicated a final decision not to publish the story or, as the tenor of Mr Versi's evidence is that he found C pushy, that he had indicated that D would not publish such a story but in terms that C considered left the door open, so that he felt able to continue to push Mr Versi to publish it.

79. As set out above, C's first request to purchase advertising was made in a telephone call, presumed to be to Mrs Versi, on 24 May 2022, followed up by an email dated 27 May 2022 requesting to purchase the strip at the bottom of the front page. As something must have prompted those requests, it is likely that there were further telephone calls between C and Mr Versi between 4 May 2022 and 24 May 2022 during which Mr Versi communicated that D would not publish the story and C would have to publish advertising or an advertorial. However, the fact that C sent the nomination to Mr Versi again on 10 June 2022 suggests that he still thought that he might be able to persuade Mr Versi to publish it.

80. There is no reference in the exactly contemporaneous emails and Whatsapp messages to the disputed comment "*We don't believe in Saints.*" However, it was referred to in the letter before action dated 18 August 2022. The statement in C's email dated 27 May 2022 that he believed Mr Versi had personal objections to his

work provides further support for his case about the disputed comment, because it is not clear what else, specifically, was the foundation for that belief, other than a general impression that Mr Versi was hostile to publishing the story. In my judgment, it is more likely than not that Mr Versi said words to that effect during one of their conversations. However, I do not think he was being untruthful when he denied having said that. Given the context in which the comment was made, it is likely that Mr Versi did not think it was significant at the time, and may have forgotten it, because it was not the bald statement of refusal to publish C's proposed article that C alleges. This comment, and the comment about D having covered the story of Sir David's murder, were comments made in the course of exploratory conversations about whether D would publish a story about the Initiative. They were appropriate expressions of editorial enquiry into whether the story would be of interest to D's readers. I am satisfied on the balance of probabilities that Mr Versi had no discriminatory intent. C has misinterpreted them as such because of his unfortunate tendency to assume the worst about others' motives.

81. In my judgment, a reasonable reader of Mr Sullivan's nomination could have formed the impression that it was all about C, rather than the Initiative. That is not surprising since its purpose was to persuade D that C merited an award. Given that C forwarded the nomination to Mr Versi on both 4 May and 10 June 2022, I agree with Ms Tharoo's submission it was reasonable for Mr Versi to conclude that C was essentially seeking self-promotion and, given the references in the nomination to donations, funding for his projects. C's email dated 10 June 2023 referred expressly to his "*fundraiser*", which is consistent with Mr Versi's evidence C had referred to fundraising during their earlier conversations. In his Closing Submissions, C submits that Ms Tharoo had mischaracterised the nomination when she submitted that it did not set out any detail about the Initiative, which is not even named in the nomination. He submitted that the nomination contains over 1900 words about the Initiative. That may be true, but a reasonable reading of those 1900 words shows that they are mostly about C's efforts to persuade other organisations and people to take an interest in his work (it does not mention the

Initiative by name), accusing them of double standards, hypocrisy, lying, systematic exclusion and discrimination whilst praising C's perseverance and vision. The substance is about C, not the work of Initiative itself.

82. It is common ground that Mr Versi informed C during a telephone call that he could not purchase the front page banner advertisement because it had been booked indefinitely by another charity. C assumed that it was untrue that another organisation could have a contract for advertising on the front page without an end date, and therefore interpreted this as meaning that Mr Versi was using a pretext to refuse to sell him that advertisement and the real reason must be discriminatory. When I pointed out to him in oral evidence that the advert could have been placed under a "rolling contract", which continues until one party terminates it, he said he doubted that was true. He had no basis for saying that, as he has no knowledge of the contractual arrangements involved. In my view, the placing of such advertising by a charity on a long-term basis is just the kind of situation in which a rolling-contract is likely to be used. I accept Mr Versi's evidence that the front page banner was already booked on a long-term basis. Therefore, although it is correct that D did not sell C advertising on the front page, I accept that that was for a good commercial reason, not for discriminatory reasons.

83. I accept Mr Versi's evidence that, when he tried to advise C as to the most appropriate way of placing advertising, C was unreceptive to that advice. In his oral evidence, Mr Versi said that C was insisting that he wanted the front page. In his Closing Submissions, C submitted that it was unlikely that he, an educated native English speaker would have used the words Mr Versi attributed to him. However, having read the insistent tone of C's emails dated 27 May 2022 and 17 June 2022, I find it is likely that C did insist that he wanted an advertisement on the front page, even if he did not use the exact words Mr Versi attributed to him, and he responded to Mr Versi's advice about not placing a similar advert on the second page by accusing Mr Versi of refusing to let him purchase advertising at all. I do not

accept C's submission that Mr Versi's explanation about the advice he gave and the reasons for doing so were an *ex post facto* invention to explain his conduct.

84. However, it is clear from the chronology that Mr Versi did not in fact refuse to sell C any advertising at all before C's emails at 2.22 pm and 2.33 pm, and C does not plead such a refusal in his Revised Particulars of Claim. The effect of Mr Versi's email dated 17 June 2022 asking C not to contact him again, and his failure to respond to C's communications after that, including the renewed request for advertising on 12 June 2023, was to deny C the service of advertising in D. But I accept Mr Versi's explanation that the reason he sent the email dated 17 June 2022, and did not respond to C after that, was not because he objected to the religious content or association of the Initiative but because he found C difficult to deal with, egotistical, insistent and unwilling to listen, found C's email dated 27 May 2022 offensive, and found the emails at 2.22 pm and 2.33 pm exceptionally aggressive and threatening. In that context, he ceased contact with C for the simple reason that he did not want to deal with him. Other editors might have acted differently but, in my judgment, it was not unreasonable in the circumstances for Mr Versi to have responded in that way. I am satisfied that he would have responded in the same way to the hypothetical comparator.

85. Those findings are sufficient to dispose of C's allegations of discrimination without the need to consider formally whether C's evidence was sufficient to shift the burden of proof before considering D's explanation. However, I agree with Ms Tharoo's submissions that C's evidence amounted to little more than establishing that he had a protected characteristic and was treated unfavourably. The only evidence of any express statement that could be interpreted as discriminatory, or evidence of a discriminatory motive, is the comment "*We don't believe in Saints.*" As I have explained above, I am satisfied that, in its context, that was not a discriminatory statement. None of the other conduct of Mr Versi was sufficient without more to establish a *prima facie* case of discrimination in the absence of explanation. However, this case does not turn on the burden of proof, because I

am in any event satisfied that D has shown a good explanation for Mr Versi cutting off communication with C.

86. I therefore find that D did not discriminate against C by any of the specific acts pleaded at Paragraph 18 of the Particulars of Claim.

87. For the same reasons, I reject C's case that D victimised him. Ms Tharoo and C disagree in their closing submissions about whether C made sufficiently clear in his email at 2.33 pm on 17 June 2022 that he intended to bring proceedings based on discrimination rather than some other cause of action, amounting to a protected act for the purposes of s.27. That disagreement only affects whether the effective denial of service on 17 June 2022 (which was a detriment) was victimisation. C did expressly allege discrimination in his complaint later on 17 June 2022 and in his email dated 8 August 2022, so any detriment D subjected him to after that (including the failure to respond to his further request for advertising in June 2023) could potentially amount to victimisation under s.27. However, it is not necessary for me to resolve this disagreement because, for the same reasons as set out above, I am satisfied that the reason for any detriment was not that C had done a protected act under s.27 but because Mr Versi did not wish to deal with him further. I therefore reject C's claim for victimisation.

88. It is not strictly necessary for me to decide the limitation issue raised by D. However, as I have explained above, I do not consider that a denial of service can properly be regarded as a continuing act for the purpose of s.118 (6)(b) or, given the passage of time between 17 June 2022 and the further request for advertising on 12 June 2023, that the failure to respond to that further request can be regarded as extending the earlier conduct. I have not accepted C's explanation that he did not bring proceedings earlier because he was hoping that D would change its mind or hoped to achieve a resolution without the need for proceedings. Furthermore, in general, attempts at settlement do not suspend limitation periods and, in other contexts, it is common for parties to enter into "standstill" agreements or for claimants to issue protective proceedings to preserve the position pending

negotiations. There is no reason why C could not have done that in relation to the 2022 allegations.

89. If I had not found against C's claims, I would not have extended the limitation period in respect of the earlier allegations, for the following reasons. The very short limitation period of 6 months (by comparison with, for example, the primary period of 6 years in contract and tort or 3 years for personal injury) reflects deliberate legislative policy of ensuring that, unless it is just and equitable to extend the limitation period, disputes of this kind are litigated promptly and not permitted to become stale. C was aware of the limitation period and has not shown any good reason for failing to issue these proceedings in time. The delay between expiry of the limitation period and issuing the claim was eight months, which is longer than the original limitation period and significant for that reason. In his Closing Submissions, C submits that there is prejudice to him in not extending the limitation period, because he thereby loses the ability to pursue meritorious claims, but D has to defend claims that it would have had to defend in any event. I do not accept that submission, which is erroneous because, on the hypothesis that C's claims were meritorious, the loss of the ability to pursue such a claim was simply the natural consequence of failing to issue within the limitation period and D was entitled to assume that it would not have to defend the claims; especially as C had previously announced his intention to issue proceedings so that, when he did not do so in time or during the months thereafter, D could properly assume that he had decided not to pursue them. As Ms Tharoo submitted, D would be prejudiced for that reason by having to meet the claims if the limitation period were extended. I also accept that there is forensic prejudice to D due to the loss and reduction in quality of the evidence as a result of C's failure to issue within the limitation period. C did not produce copies of all of the communications between the parties with his witness statement and I accept (contrary to C's submissions) that, whilst D has produced the crucial emails, Mr Versi was unable to produce all of the Whatsapp messages between them because he had changed his mobile phone, and had to try to recall the contents of the crucial telephone calls that had taken place nearly two years before his first witness statement. In

those circumstances, I do not consider that it would have been just and equitable to extend the limitation period.

### Conclusion and Disposal

90. For the reasons set out above, I dismiss C's claims.

91. Ms Tharoo has invited me to order that C pays D's costs and pays the advocate's fee to the Access to Justice Foundation (as she acted pro bono), in each case by reference to the fixed costs specified by the current CPR 45.

92. There is no reason why the general rule that costs follow the event (CPR 44.2(2)(a)) should not apply in this case. However, it appears to me that as these proceedings were issued before 1 October 2023, the costs are governed by the previous version of the rule, now reproduced in the White Book as CPR 45x.

93. C's Claim Form did not specify an amount or maximum amount claimed but claimed damages "as the Court deems fit and proper" and stated that he expected to recover more than £1000. In my view, this is to be interpreted as falling under CPR 45x.38(3)(b)(iii), with the effect that the fixed fee for advocacy at the trial is £1,650. Pursuant to CPR 46.7, I shall direct that C pay that sum to the Access to Justice Foundation.

94. Other than the advocacy fee for trial, the costs of these proceedings are not fixed by CPR 45 but D may recover its costs, assessed in accordance with CPR 46.5, either at the rate of £24 per hour or any specific financial loss it can prove it lost for time reasonably spent on doing the work, subject to the overall cap of two thirds of the sum that would have been allowed if it had been represented.

95. However, this requires the costs to be assessed. I shall therefore order that C pay D's costs (save for the fixed advocacy fee to be paid to the Access to Justice Foundation) to be summarily assessed on the standard basis, with directions that

D provide a Schedule of Costs breaking down the time spent dealing with the litigation and/ or any specific financial loss it claims to have suffered (with evidence of the latter), within 14 days of my order, and then a short hearing before me by CVP for the summary assessment of those costs.

96. For the reasons set out above, I make the following order:

- a. The Claim is dismissed;
- b. C shall pay the following sums in respect of costs:
  - i. D's costs of the proceedings to be summarily assessed on the standard basis if not agreed;
  - ii. The advocacy fee fixed by CPR 45x.38 in the sum of £1,650 to the Access to Justice Foundation.
- c. D shall serve a Schedule of Costs and evidence in support of any financial losses it claims by 4pm on 7 July 2026.
- d. The summary assessment shall be listed before me by CVP on the first available date after 14 July 2026, time estimate 30 minutes. That hearing may be vacated if the parties agree D's costs and notify the Court of the agreed sum.

HHJ DUDDRIDGE

23 June 2026