



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Keenan  
**Respondent:** Department for Work and Pensions

## AT A HEARING

**Heard at:** Leeds                      **On:** 29<sup>th</sup> November 2019  
**Before:** Employment Judge Lancaster

### Representation

**Claimant:** In person  
**Respondent:** Mr S Lewis, counsel

## JUDGMENT

1. The application that the Employment Judge recuse himself is refused.
2. The claim for breach of contract is dismissed.

## REASONS

1. The Claimant alleges that there is a conflict of interest in my hearing this case. That is because he says that he has previously put in a complaint against me. Whilst it is right that Mr Keenan has appeared before me as a representative, acting for a former work colleague of his in a claim which I struck out (Mr J Malcolm v Delta Academies Trust 1805522/2018), I have absolutely no recollection of ever having been made aware of any subsequent complaint about my conduct of that case.
2. In the circumstances , and since this preliminary hearing involves a pure question of law there is no reason for me not to hear it.
3. The breach of contract claim relates to the provision of a reference or references which were in terms outside the format specified in an agreement, which was entered into in October 2015 following the Claimant's dismissal by this Respondent in September 2014.
4. As that agreement, even if it was "a contract connected with employment" , had not been entered into at the date of dismissal and the alleged breaches were even later, this claim did not arise, nor was it outstanding on the termination of the employees' employment: **article 3 (c) Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994**. The Respondent referred to **Miller Bros and FP Butler Ltd v Johnston [2002] IRLR 386** which is clear authority in support of this conclusion.

Case: 1804312/2019

5. The tribunal therefor has no jurisdiction to hear the breach of contract claim: it is dismissed and only the post-employment victimisation claim founded on the same facts will proceed.

EMPLOYMENT JUDGE LANCASTER

DATE 29<sup>th</sup> November 2019

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