



EMPLOYMENT TRIBUNALS

Claimant

Ms. J. Whynn

Respondent

- v Saints Personnel Limited (1)
Saints Staffing Solutions Limited (2)
Mr. F. Higgs (3)

Heard at: London South Croydon

On: 8-10 March 2017

Before: Employment Judge Sage

Members: Mr M. Walton
Ms. C. Bonner

Appearances

For the Claimant: Mr. A. Allen of Counsel

For the Respondent: Mr. M. Walsh Solicitor

REASONS

Requested by the Respondent

1. By a claim form presented on the 10 June 2016 the Claimant claimed whistleblowing (detriment and dismissal), breach of contract, unauthorised deduction from wages and disability discrimination (associative).
2. The Respondent denied that the claims raised a qualifying and protected disclosure and made no admissions about disability. They defended all claims.
3. The Claimant's representative produced a list of issues and chronology and the Respondent's representative agreed that these were agreed to be the issues in the case (see below).

The Issues

4. **Disability Discrimination** – the Claimant claims associative discrimination. The Claimant's list of issues at paragraph 3(a) was whether the Claimant's daughter (who has cerebral palsy and epilepsy) was disabled at the relevant time. This was conceded at the

commencement of the Hearing. The acts relied upon by the Claimant are as follows:

- a. Did Mr Higgs tell the Claimant on the 2 February 2016 that her daughter was 'too much baggage' and if so was this associative disability discrimination related harassment
- b. Was the Claimant dismissed (wholly or partly) because of her daughter's disability or was it due to the protected disclosure?
- c. Did Mr Higgs tell the Claimant on the 2 February 2016 that her notice would not be paid in full because she would not be working out her notice because she would be attending to her sick daughter?
- d. Did Mr Higgs tell the Claimant on the 2 February 2016 that she would only be paid her full notice pay (or any notice pay) if she returned to work on the 5 February 2016 the day after her daughter's operation?

Automatic Unfair Dismissal under Section 103A- At the date of termination, who was the employer R1 or R2?

5. On the 22 January 2016 did Mr Cocks, Mr Anderson and Mr Higgs in the hearing of the Claimant discuss covering up the Respondent's action in placing non-complaint nurses into roles without having made health checks, forging health checks and/or making a payment to a client Healthier Business to prevent them from making the information public?
6. Did the Claimant make a protected disclosure on the 2 February 2016 by telling Mr Higgs the matters summarized in the chronology provided and as set out in paragraph 37 of the Claimant's statement?
7. Did Mr Higgs tell the Claimant on the 2 February 2016 that he had thought about what she had told him earlier that day and had decided that it was none of her business and she was going to be dismissed for "**putting her nose into things that do not concern her**"?
8. Was the reason or principal reason for the Claimant's dismissal that she had made a protected disclosure? The Respondent states that the reason for dismissal was that the Claimant sought to undermine Mr Higgs position and to disrupt the effective working relationships and unity of senior members of the team.
9. Was the Claimant summarily dismissed and if so when?
10. If the Claimant was summarily dismissed, was the reason or principal reason for the summary dismissal without notice because she had made a disclosure?

Notice Pay – what was the Claimant's contractual notice period?

11. On the 3 February 2016 did the Claimant during a telephone call with Mr Anderson attempt to blackmail and extort money from the Respondent's

business by telling him that unless the business agreed to pay her the sum of £40,000 she was going to pass to customers the information which Mr Anderson had recently published internally which she asserted would be damaging to the business (or words to that effect)?

12. Was the Respondent entitled to dismiss the Claimant summarily on the 3 February 2016?
13. Did the Respondent summarily dismiss the Claimant (and if so when)?
14. What if any payment is due to the Claimant for her notice pay – it was agreed that this would be decided at remedy stage. It was conceded prior to submissions that the Claimant was entitled to receive notice pay and the sole issue for the Tribunal was whether she was entitled to one or two months' notice.

Commission/Bonus – was the Claimant entitled to commission or bonus on the work done?

15. If so what payments (if any) should be made to the Claimant for the period of employment and/or after her employment ended? It was conceded that the Claimant was entitled to commission.
16. What if any payments are outstanding?

Preliminary Matters

17. The Respondent made no admissions about the issue of disability discrimination and this remained an issue for the Tribunal. The Respondent accepted at the commencement of the hearing (see above paragraph 4) that the daughter's medical condition amounted to a disability. He also accepted that if the Tribunal found that the evidence supported the Claimant's claim that she had made a disclosure on the 2 February 2016 to Mr Higgs, they would not challenge that this amounted to a qualifying and protected disclosure.
18. An issue arose out of cross examination of the Claimant where she accepted that she had made notes in her diary of various conversations as an aide memoire, the Respondent asked for these to be disclosed. An order was made by the Tribunal that these be disclosed on the second day of the hearing the 9 March 2017.
19. On the morning of the second day of the hearing, the Respondent sought leave to admit a new document which was an email written by Ms. Silwimba to rebut the Claimant's evidence given on the previous day that she had enjoyed a cordial relationship with her. The Claimant objected to the application. It was concluded that the only way this document could be fairly considered (as it had been disclosed after the close of the Claimant's evidence) was if the Claimant was similarly allowed to admit evidence of text messages and emails between her and Ms. Silwimba at the relevant time. The Tribunal also considered that Mr Higgs should be called to give evidence as to how this statement came to be in existence

and the nature of the communications between the Respondents and Ms Silwimba. The Respondent withdrew the application.

The Witnesses

The Witnesses before the Tribunal were as follows:

The Claimant

For the Respondent, we heard from Mr Higgs (the Third Respondent) and Mr Cocks.

Findings of Fact

The Tribunal find the facts in this case to be as follows:

20. The Claimant applied for the post of Managing Director of the Your Venture Group. On the 28 October 2015, she was interviewed by Mr Higgs (CEO and Shareholding Director of both the First and Second Respondent), Mr Cocks (Accountant and Director of the First Respondent) and Mr Anderson. The Claimant disclosed during the interview that her daughter was disabled and was severely ill and was likely to need surgery in early 2016.
21. The Respondent called the Claimant to a second interview on the 2 November 2015 and was asked to bring documentary evidence of the daughter's medical condition, this she did. At the interview, the Claimant was asked a few questions about how her daughters disability impacted on her career (see paragraph 10) and she explained the procedures she had in place to care for her child. The Claimant was open with the Respondent that she would need time off when the operation was to take place and on that basis, she was offered the role.
22. It was noted by the Tribunal that the Respondent did not concede the issue of disability until the morning of this Hearing. In cross examination Mr Higgs still stated that he was "not aware" that the Claimant's daughter was disabled. This was unsustainable both on the facts before the Tribunal and in the light of the concession made at the start of the Hearing.
23. The terms and conditions of employment were agreed and a salary of £130,000 (structured as salary of £100,000 and £30,000 from a different payment channel). The Claimant commenced employment on the 16 November 2015. The service agreements appeared in the bundle at pages 42a-e providing for notice period of 2 months (paragraph 2.1), this document was not signed by the Claimant at the commencement of employment. The Claimant was employed by Second Respondent.
24. The Claimant told the Tribunal paragraph 16 of the statement that during the first week of December she attended a review meeting with Mr Higgs and Mr Anderson; during this meeting she was praised for the work that she had done; this was not challenged in cross examination. In this meeting, they discussed the new role they were offering the Claimant

which was to be Group Business Director which would eventually lead to a seat on the board of Venture Group and a small shareholding. The offer was followed up by an email seen in the bundle at pages 65 to 70. The Tribunal finds as a fact that this document was the original document setting out the terms agreed between the parties. The document stated that she would canvas for “and on behalf of Saints Personnel” and she would be using her skills to the benefit of the First Respondent. Although the Respondent had produced a similar document attached to a later contract signed by the Claimant at pages 59 to 60, the Tribunal conclude that this latter document was factually inconsistent with the contemporaneously produced document and we conclude that the original document referred to in the Claimant’s witness statement is the one that is factually correct and accurately reflected the terms of agreement reached between the parties. It was also noted that neither of the Respondent’s witnesses specifically took the Tribunal pages 59 to 60 of the bundle, even though it was the Respondents’ contention that they were the terms and conditions that applied to the Claimant at the date of dismissal.

25. Mr Cocks confirmed in cross examination that from 8 December, the Claimant’s work for the Second Respondent took a back seat and her work from that date was for the First Respondent to use her natural skill set to develop this business. The Tribunal also noted that the contracts of employment that appeared in the bundle at pages 42E paragraph 2.3 and page 46, both gave the Respondents a right to transfer an employee to an Associated Employer at any time. Although the Respondents’ witnesses were taken to this clause they both were unable to assist the Tribunal with what this meant, professing not understand the meaning of this clause, the Tribunal found this evidence to lack any credibility. Mr Cocks was an Accountant and Director of many companies and Mr Higgs headed up a large complex structure of different companies under the holding company called Your Venture, of which he was CEO and majority shareholder. These were sophisticated business people and their evidence that they had no understanding of terms of their own standard contracts was simply unbelievable. The Tribunal therefore find as a fact preferring the consistent evidence of that the Claimant transferred from the Second Respondent to the First Respondent on 8 December, as provided for in her contract of employment, by agreement as set out in the email of the same date. The Claimant was employed by the First Respondent at the date of termination.

26. At the 8 December 2015, there was no evidence that the Respondent had concerns about the Claimant’s performance or conduct. Although the Respondent referred to the document at page 64 of the bundle regarding a conversation that took place on the 27 November with the Claimant and Ms. Silwimba (First Option Healthcare), the Tribunal finds as a fact, this was a meeting called to discuss the working arrangements of these two employees in relation to customers that were caught by a restrictive covenant that forbade Ms. Silwimba’s from approaching her previous employer’s customers; she was concerned that the Claimant would take those customers which she had hoped to pick up after the

end of the covenant period in May 2016. The Claimant's evidence on this point was that they were on good terms and the meeting was called to discuss how to deal customers. Mr Higgs evidence about this meeting with the paragraphs 14-17 of his statement where he refers to what he described as "**needing to control**" the Claimant's behaviour, however the email he sent out contemporaneously with calling this meeting did not corroborate this. In fact, he stated that he did not feel that the Claimant would have "**done anything to upset the apple cart on purpose**". Mr Higgs provided no evidence that the Claimant's behaviour was at the root of the problem and there was no evidence of any action taken after this meeting in November to correct her behaviour or to have to speak with her further. This was the only evidence in the bundle of the need for management intervention into the Claimant's working practices; there were no other examples of any concerns about the Claimant's capability or conduct and no evidence was provided in either of the Respondent's witness statements to substantiate this allegation.

- 27.. The Claimant's new role from 8 December 2015 required her to target and arrange meeting with NHS Trusts and Private Hospitals with a view to supplying compliant nurses. To place nurses the company found it easier if they were on the Health Trust Europe Framework "HTE". The First Respondent was on this framework, which is why the Claimant had been transferred to this company. Compliance was dependent upon all nurses placed having the correct documentation in place, which included full medical checks. If nurses were provided without the necessary documentation, they were not compliant.
28. It came to light on 21 January 2016 that the First Respondent was placing non-compliant nurses with either forged health checks or without having had the necessary health checks; this evidence was given by the Claimant at paragraph 25 of her statement. Mr Anderson confirmed in an email seen at page 72 bundle dated 21 January 2016, that a member of staff had been suspended for forging immunisation certificates to an occupational health provider. The Claimant in her witness statement referred to a previous conversation she had with Mr Anderson on 18 January, where this concern was raised but she felt he had brushed this off.
29. The Claimant was due to attend the meeting with Mr Anderson the following day, the 22 January. Whilst they were travelling by car to the appointment, he received an incoming telephone call on his car telephone and on the conference call was Mr Cocks and Mr Higgs, this call took place between 11 and 11:30am. The Claimant provided details of this conversation in her witness statement at paragraph 27-29. The Claimant heard they were discussing paying Healthier Business, an Occupational Health Care Provider a substantial amount of money because if nurses had to be removed from the NHS Trust, (which was predominantly the Nottingham Trust), they would lose a considerable amount of money. During this telephone conversation, the three people discussed how to deal with the situation and it was agreed that they

needed to avoid this matter going public. They concluded that they would pay Healthier Business up to £40,000 which was what they were asking for to keep this information from going public, and to allow the nurses to continue in their jobs even though they were not compliant (see paragraph 28 of the Claimant's statement). Mr. Anderson stated that he would deal with the negotiation and he was convinced that would "get the sum down" to £20,000.

30. The Claimant stated that Mr Cocks agreed to devise a document that Healthcare Business would sign before they would transfer any money to them. Mr Higgs was reported as saying to Mr Anderson that he "**wanted him to make this go away**" and Mr Anderson confirmed to the Claimant when he was off the telephone that to remove 50 nurses from the Nottingham NHS trust would cost them a lot of money. Mr Cocks said in cross examination that they would draft the document and he signed it but the Tribunal noted that the document at page 88A was not signed by him. Mr Cocks when asked about this conversation in cross examination could not recall any details.
31. The Claimant confirmed that Mr Bhatt (who was responsible for supplying non-complaint nurses) was dismissed by telephone; she was present when the call was made to him and this is dealt with in her witness statement and paragraph 30. The Claimant stated that she heard Mr Anderson say to him "**we got away with it last year. This year we can't**" that they were paying Healthier Business to keep quiet about the forged documents. The Claimant also alleged that Mr Anderson assisted Mr Bhatt secure a job elsewhere.
32. The evidence given by Mr Higgs was that he could not remember the telephone conversation, if it did happen and "**what she says she heard I didn't say**". He denied paying off Healthier Business and said that he did not "**have a bottomless pit of money, it is a complete change of words to suit the Claimant's case**". He confirmed he did not tell the NHS trusts affected of the non-compliance issue.
33. The Tribunal find as a fact that the evidence of the Claimant about this telephone call is credible and entirely consistent and is supported by the documentation seen in the bundle at pages 88 to 91, which was an invoice raised on the day of the telephone call. The Tribunal saw the invoice from Healthier Business for the sum of £20,000, the invoice date and the payment due date were both stated to be the 22 January 2016. The invoice was stated to be for an "audit deposit". The Claimant alleged that this document was not genuine, the address was incorrect and the Tribunal noted that it was not signed by the Respondent.
34. The audit produced by a Dr. Phillips for the cost £20,000 was at page 89 to 91 of bundle and was brief and extremely vague as to the work was carried out and when. It did not state what raw data was accessed or who was interviewed, the report was three pages long. It did not seem to correspond to the brief given (page 88A) that there should be a "robust audit of all live candidates.." The Tribunal was also concerned that very

little or no evidence was given by either of the Respondent's witnesses about when this audit was carried out, who conducted it or what use was made of this document when it was produced.

35. The Tribunal having no details of the nature and purpose of this invoice, we prefer the evidence of Claimant that this document was produced to pay Healthier Business as a result of the agreement reached by Mr Anderson, Mr Higgs and Mr Cocks. The Tribunal have found as a fact that Mr Anderson had undertaken to negotiate with Healthier Business and had hoped to get the sum down to £20,000 to prevent the matter going public, this was exactly the sum referred to on the invoice. The Tribunal conclude therefore on the balance of probabilities and taking into account the consistency of the Claimant's evidence that this invoice was devised by Mr Cocks on the day the solution was discussed and the terms were consistent with the Claimant's recollection of what was agreed during this telephone call. The Tribunal also had doubts as to whether a basic three page document could have cost the Respondent £20,000 to produce in the light of our concerns referred to above.
36. The Claimant was concerned by what she heard that day and decided to call the company called Neuen, who is responsible for providing compliance audits in the Healthcare Sector. The Claimant made the decision to call them on 1 February, after she became aware of another incident of nurses being placed in hospitals with no references, this was dealt with at paragraph 33 of her statement. The Claimant also saw an email dated the 26 January 2016 which referred to another breach of compliance, which Mr Anderson appeared to condone. When the Claimant raised this matter with Neuen, they told her to raise this matter with her Senior manager.
37. The Claimant therefore telephoned Mr Higgs on the morning of the 2 February and this is dealt with in her statement at paragraph 37. In her statement, she told the Tribunal that she went through with Mr Higgs what she had overheard on the 22 January 2016 and that she felt that she **"had to report this"** and she could not work under those conditions or have them on her conscience. She stated that Mr Higgs told her that she had misheard the conversation and as he was a **"church going person and runs a charity so would not do anything illegal"**. She stated that he asked her not to discuss this with anyone in the office. She stated that she reiterated that what she believed was going on was that uncompliant nurses were being sent out and this was **"dangerous and wrong and it was worrying me"**. She stated that she warned him that unless he took immediate action she intended to report the situation. She also stated that **"following advice from Neuen, all non-compliant nurses should be withdrawn and made compliant"**. She commented that during this conversation his tone changed and she detected that he was angry. The Claimant told the Tribunal that this was especially pertinent to her as her daughter was booked to go in for her pre-assessment check for her major operation 3 February. She stated that Mr Higgs assured her that a full investigation would take place. The Claimant was also due to have booked leave to attend the hospital with

her daughter the following day and she was also permitted to work from home for up to six weeks afterwards to care for her daughter.

38. The Tribunal find as a fact that although it was put to the Claimant in cross examination that she delayed in raising her whistle blowing complaint, it is concluded on all the evidence that the incidents that led to her raising her concerns occurred after the 22 January and were corroboration that these were serious on going breaches that were continuing. The Claimant therefore had not sat on her hands and done nothing for 12 days, she had uncovered other relevant information that caused her to pursue this via a whistle blowing complaint. It was also considered by the Tribunal that during this period the Claimant was preparing to work for home to care for her daughter therefore this matters may not have been in the forefront of the Claimant's mind.
39. Mr Higgs statement dealt with his telephone call with the Claimant at paragraph 24 of his statement, where he stated that the call was to deal with the Claimant's complaints about Mr Anderson and about day to day operations. No details were provided about what was discussed. He stated that this enhanced his resolve to dismiss the Claimant. As we have referred to above, this was an example of Mr Higgs failing to provide any consistent or credible evidence in respect of this telephone call, he provided no evidence as to what was discussed and did not respond to the Claimant's evidence that was set out in the ET1 (page 15 of the bundle) as to what she alleged that she told him during this telephone call.
40. The Claimant then commenced work on the morning of the 2 February (after the telephone call to Mr Higgs); she stated that she felt under pressure due to this being her last day at work before her daughter's operation on the 4 February. She noticed that Mr Cocks printed out a contract for her to sign and he stated that he had done this because she was due to be "**off for some time with your daughter**". It was put to him in cross examination that he had agreed to post the signed copies to the Claimant and he replied that it had to be sent to the solicitors to be stamped, however there was no evidence that this was a requirement or that this was done.
41. Following this document being handed to her she received an email from Mr Higgs at page 77 of the bundle dated the 2 February timed at 13.05 where he stated that "**we still do not have your signed contracts. Unfortunately unless we have your signed contract by tomorrow then we would not be able to pay you for any time off that you are needing to take regarding your daughters op**". The Tribunal find as a fact that this was a threat used by Mr Higgs to place undue influence on the Claimant to sign this contract. He accepted in evidence given to the Tribunal that the only reason this contract was produced was because he was intending to dismiss the Claimant that day and wished to impose on her post termination restrictions. It was put to both the Respondent's witnesses that the document signed under duress had no post termination covenants. The Respondent then produced a document

which was a Shareholder Agreement, which was also not signed by the Claimant and which did not relate to the First Respondent. The Tribunal conclude that as this was not signed by the Claimant and the terms had not been agreed between the parties, that its terms could not bind the Claimant.

42. The evidence of Mr Higgs was not credible and was not supported by his own documentary evidence. We also find as a fact that as undue influence was placed on the Claimant and threats were made because of her daughter's disability this is an act of less favourable treatment because of disability, Mr Higgs was threatening the Claimant that unless she signed a document that day without giving her time to consider or to seek legal advice and without pointing out the changes to the terms and conditions, she would not be paid for the agreed time off to care for her disabled daughter. This is not only an act of direct associative discrimination; this goes to enforceability of the contractual term. We conclude that the Respondents used undue influence to coerce the Claimant into signing and therefore no agreement was reached. We conclude on the facts therefore that the Claimant was entitled to receive two months' notice on termination of employment and not one month's notice.
43. Mr Higgs stated in paragraph 12 that he had decided to dismiss the Claimant "**by late January 2016**" however this was not supported by any consistent evidence. The Tribunal conclude that the Claimant had on the morning of the 2 February raised a qualifying and protected disclosure to Mr Higgs. The Tribunal considered the paucity of evidence produced by him as to what was discussed as compared to the Claimant detailed and consistent evidence as to what she referred to in this conversation and in relation to his response. The Respondent does not challenge the Claimant's case that the disclosure was capable of amounting to a protected disclosure.
44. During the day, an email was sent out by Mr Anderson at page 78 of the bundle informing everyone that they had been contacted by Neuyen who told them that they had been contacted by a Whistle blower. This adds further credibility to the Claimant's evidence.
45. The Claimant left the office at the end of the day and was called by Mr Higgs who sacked her (paragraph 44); he informed her that he had spoken with Mr Cocks and Mr Anderson and they all agreed that she should be dismissed. She asked him about her notice pay and stated that she was due to be off with her daughter for the next six weeks and he replied "**you can't expect me to pay you if you are not working**". He informed her that she would receive two weeks' notice and she should be thankful for that.
46. The Claimant went on to state in paragraph 45 of her statement that she was told that she had to be in work the day after her daughter's operation (5 February) "**if she wanted to be paid and if you wanted to receive any notice**". Mr Higgs also stated that he told her in this telephone call

“you don’t expect me to pay you for not working” and he also confirmed that this was his view in answers to cross examination.

47. The Claimant told the Tribunal that Mr Higgs told her that **“your daughter is too much baggage anyway, how can you expect me to pay you when you are not putting the business first”**. Mr Higgs in cross examination denied he said this but on the balance of probabilities we conclude that this was said. The Claimant’s recollection of the words used during this call were found as a fact to be accurate. The Tribunal reach this conclusion because we have found the Claimant’s evidence to be consistent and credible as compared to Mr Higgs evidence which we have concluded is inconsistent and at times lacking credibility. The Tribunal also noted that some of the conversation during this call (for example the issue of not paying her) were confirmed by Mr Higgs to be accurate. Mr. Higgs confirmed that it was a commercial business decision to dismiss her and therefore his comment was completely in line with the view he had taken, that she should have put the business first. The Tribunal conclude that as Mr Higgs had confirmed that part of the Claimant’s evidence was reliable, we conclude that her recollection of the entire call was an accurate account of the conversation. The Tribunal find as a fact that this was an act of direct associative discrimination. The Claimant was being treated less favourably because of her need to be absent from work to daughter, an absence that had been previously agreed. The offensive words used about the daughter and the instruction for her to attend the office straight after her daughter’s operation was less favourable treatment because of disability.
48. The Claimant also alleged that during this call he stated that **“he had more money than me so I should be careful”**, the Tribunal note that these exact words were used in a subsequent email which therefore leads the Tribunal to conclude that the Claimant’s version of the words used are entirely correct; we again prefer the Claimant’s evidence of Mr Higgs on this point also.
49. Mr Higgs statement was again devoid of any detail around what he maintained that he said to her, the reason for dismissal and what terms he suggested were proposed for the termination of the contract (see paragraph 28 of his statement) however it was noted at paragraph 29 of his statement that he referred to the Claimant “again” complaining about the **“way the business operated”**, although no details were provided. In cross examination, it was put to him that he stated that the Claimant referred to the email at page 72 about forged documents which he agreed with. Then it was put to Mr Higgs that this was wrong because he had just stated in cross examination that she mentioned nothing to him about forged documents and he replied that they did not talk about the forged documents but she **“may”** have talked about Mr Bhatt. It was put to Mr Higgs that he was making his evidence up, which he denied. The Tribunal conclude that this was a further instance of the inconsistency and wholly unbelievable evidence provided by Mr Higgs. Mr Higgs also stated in paragraph 51 of his statement that the Claimant did not raise to the Boards attention the matters raised in Mr Andersons email, these two paragraphs appear to be inconsistent, she either did or didn’t raise

concerns about the way the “business operated” and in paragraph 29-30 it was clear that she had raised concerns a couple of times about the operation of the business.

50. The Claimant was then told to deal with Mr Anderson and he was seen to offer her one month’s notice (see page 82 dated the 3 February 2016 15.08) in return for her doing a handover. Although Mr Anderson referred to one month’s notice this was not correct as we have found as a fact that she was entitled to two months’ notice. Mr Higgs then emailed the Claimant at 18.03 (page 81-2) and he accused her of being “**irrational, erratic and delusional**” which the Tribunal note was a highly offensive way to open an email. He went on to accuse her of trying to drive a wedge between him and Mr Anderson and accused her of trying to blackmail “**Mr Anderson and our business with alleged information you have or have heard is not only unethical and unprofessional it is gross misconduct charge and a criminal offence**”, he also said he had two witnesses. Although the Tribunal noted the reference to two witnesses they were not produced during the Tribunal hearing.
51. Mr Higgs then made a very serious threat that “**any conversation you decide to have with any of our clients would result in prosecution which would not only destroy your name in the industry but will also cripple you financially even more so than you are at present**”. This was put to him in cross examination and he accepted that he did this to protect the business and was not aware of his own whistle blowing policy. He then went on in the email to question her honesty and integrity and further stated “**we all wish your daughter well and with a full recovery but please do you and your family a favour and leave amicably otherwise you are going to bring more anxiety on to yourself which is completely unnecessary with little gain for either of us**”. He went on to explain that leaving “amicably” was her accepting one month’s notice and to sign a disclaimer against slander and blackmail; he stated that unless she did this, they would “**have no option but to issue gross misconduct, inform the police and warn our clients**”. He also stated that he was not sure if HTE “**would listen to her**” and this strongly suggested to the Tribunal that he was aware that the Claimant had made a protected disclosure in the telephone call on the morning of the 2 February and that he was aware that the Claimant was threatening to report him and this was the reason he was dismissing her.
52. Mr Higgs asked for a return of all the Respondent’s property with immediate effect even though he had not summarily dismissed her (only threatened to). The threats and intimidation used in this email reflected the position adopted by Mr Higgs that wholly corroborated the Claimant’s evidence of the words spoken during the dismissal telephone call.
53. The Claimant replied to the Mr Higgs’ email with a measured response which was seen at page 80 of the bundle dated the 3 February at 19.24. She stated that she was had been requested to sign a contract at 16.00 only to be sacked at 17.30, which confirmed Mr Higgs evidence that he

wanted the contract signed so he could dismiss her. She stated that she had done nothing wrong and had no warnings and she concluded that she had been dismissed for **“expressing my opinions with things I was not happy with yesterday”**. She stated that she had a right to do this.

54. The Claimant went on to state that **“I was also not trying to blackmail Jan or your business which I think you really know. My conversation with Jan is not a criminal offence not gross misconduct. I just told him that to pay a business off so that he could keep his nurses out working was wrong. This could of (sic) caused patient safety. I was in the car with him while he had the whole conversation with you, Stuart and Healthier Business. If you look at all the emails and dates of information coming in on all of those nurses it is much later than when they commenced working, in fact it’s months after. We can go through them if you like and I’m sure in a court of law they would also believe me coming forward on this is the correct thing to do. You have put patients and hospitals at risk. So that is not threatening anyone that is just showing concern or do you want me to turn a blind eye to this. If something dangerous happens with a nurse and patient, I have a conscience”**. The Claimant also responded to the threat in Mr Higg’s email about his financial resources’ saying **“I may not have your money but I have a conscience”**. If the Third Respondent had any doubt that the Claimant had raised a protected disclosure or what it referred to, she made it very clear in this email. This extract made it very clear to Mr Higgs the information that had been provided in her protected disclosure and that it was her reasonable view that it was a breach of a legal obligation.
55. In reply Mr Higgs (page 79 dated the 3 February at 21.56) stated that he had a “hunch” that the Claimant could be vindictive and that is why he required her to sign the contract he also referred to her as being **“manipulative and two faced”**. He stated that the Company had not been involved in any illegal practices and that he had sacked the gentleman concerned and they were carrying out an investigation. It was put to Mr Higgs in cross examination that he did not inform the NHS Trusts affected by the fraud and he accepted that he did not, he told the Tribunal that he was dealing with it internally and did not need to protect the NHS trusts. He also told the Tribunal that he was trying to protect his name.
56. The email went on to state that **“I do not want to give you a misconduct charge but I have spoken to my lawyer regarding today’s events and he has assured me that I do have a gross misconduct case. I don’t want to use it and you not have any money at all”**, this the Tribunal felt was another veiled threat and confirmed that there was no evidence of gross misconduct against the Claimant at any stage during her employment and they had not summarily dismissed. Had there been so he would have alluded to the evidence which supported his contention, he had consistently failed to do so in these

Tribunal proceedings. He ended the email informing her that he would “**continue to pray for your daughter and her full recovery**”, this sentence appeared hollow and hypocritical in the light of the offensive threats and false accusations made against the Claimant in the body of the email.

57. The Tribunal find as a fact that the Claimant was dismissed but not summarily (which was conceded prior to closing submissions). Prior to dismissal no process was followed as Mr Higgs felt there was no need to do so. The Respondent has shown no evidence to support their claim that they were entitled to dismiss for gross misconduct.
58. The Tribunal therefore conclude from the consistent evidence before the Tribunal that the Claimant was dismissed for raising a protected disclosure. Although the Respondent alleged that the Claimant tried to blackmail the Respondent for the sum of £40,000, there was no credible evidence before the Tribunal to support this and the specific allegation was not put to the Claimant in cross examination. Mr Higgs stated at paragraphs 54 and 58 of his statement that the Claimant had demanded this money to “keep quiet” but this was not supported by the contemporaneous evidence in the emails where no mention is made of any demand for money. We conclude that there was no evidence to support this serious allegation and it was a further example of the inconsistent and incredible unsubstantiated accusations made against the Claimant because she decided to pursue this case. The Tribunal concluded that had the Claimant attempted to blackmail anyone, Mr Higgs would have reported her to the police as he had threatened to do. The Tribunal conclude that if this had happened as alleged, he would have wasted no time in doing so. Again, Mr Higg’s evidence was again found to be lacking in any credibility.

Closing Submissions of the Respondent

59. It was stated that the conversation on the 2 February 2016 did not happen, the conversation dealt with non-material operations. When the Third Respondent was made aware of the decision to dismiss it could not have been because the Claimant made a protected disclosure because it didn’t happen. You have heard the evidence of Mr Higgs, who has taken the Tribunal to page 80 of the bundle, it was put to the Claimant that it shows a dichotomy of discussions that they had on the 2 and 3 February 2016. As the witness said they were purely operational, it was the discussion with Jan Anderson “Jan” that led to gross misconduct.
60. The 3 February email from Jan was an innocuous email, there was no reference to any discussions it just gives one month’s notice and refers to homeworking. The email timed at 18.03 which sets out the Third Respondent’s reasons for dismissing. We have put to the Claimant that we dispute her version of what was said on the 2 February, the Claimant says she did discuss and the Third Respondent said they did not. They are directly opposite. Our position is that the email evidence shows that the protected disclosure was not discussed. In the emails following the dismissal, the first time the Claimant emails, she did not do that because

it didn't happen that way therefore in respect of whistle blowing she hasn't met the burden of proof.

61. There are emails that show that on the afternoon of the 2 February Jan sent an email to the Claimant and others telling everyone that someone had contacted Neuen, we say we didn't know who it was. In cross examination, the Claimant couldn't show she was the person, she doesn't make the allegation at all. In the circumstances where a Director sends an email to the Claimant that a whistle blower has called Neuen, it is not credible to suggest that Jan and Mr Higgs knew, otherwise he wouldn't have sent the email.
62. With regard to credibility, the Claimant's evidence shows there was 12 days delay, where she was very concerned about the issue, but she delayed 12 days and disclosed on the same day that she was dismissed.
63. There is a major credibility issue where she says Jan was a "self-confessed criminal" and why she continued working there and she signed the contract on the 2 February. The Claimant's position was that she blew the whistle on the 2 February but we say that was not credible, the two events do not sit together.
64. In respect of the contract, yes there is a dispute over the drafts and you have been taken only to one contract which shows the notice period of one month. The first opportunity the Claimant has for responding she refers to one month's notice. This is all I have to say.
65. With regard to the discrimination claim of harassment, Mr Higgs denied saying it, it was put to the Claimant he did not say it. We got the email evidence to say he has 12 churches praying for the Claimant's daughter and he has charities. It would be out of character; comments can be made but he is not the sort of person who would say these sort of things.
66. The Claimant accepted that all requests for reasonable adjustments were made to enable her to look after her daughter i.e. to take two weeks after surgery and six weeks working from home, the Claimant was offered the job after this. The Third Respondent was not the type of person who would discriminate, he would not offer her employment, I do not think that allegation is credible.
67. The issues around dismissal and unfavourable treatment, there is a dispute on both sides, about what was said. It is not entirely clear. The dismissal intervened and the letter said 1 months' notice and work from home. The position has been preserved and there is no unfavourable treatment.

The Claimant's submissions are as follows:

68. This is not a legally complicated case but there are key factual disputes in respect of what the Claimant heard on the 22 January, what was said to her on the 2 February and what was said by Mr Higgs on the evening of the 2 February, also in respect of what Mr Cocks said to the Claimant when he got her to sign the contract on the 2 February in the afternoon.

69. Dealing first with the issue of credibility, the Claimant's evidence was given calmly, it was consistent internally and with the documents and with her statement. I would ask you to accept the Claimant's evidence when compared to that of Mr Higgs who was evasive (about transferring people to a different company). He was defensive and uncomfortable under cross examination. He was inconsistent and his statement at paragraphs 29 and 51 whether the Claimant did or did not mention the email about the nurses. He was inconsistent with his statement and his oral evidence, at paragraph 29 he said he did refer to the email which was diametrically opposed to Mr Higgs oral evidence, it was also inconsistent with paragraph 45 which was inconsistent with what he said in his email on the 3 February, in relation to whether the Claimant raised a whistle blowing complaint until she instructed lawyers but it was clear on the 3 February she had raised a protected disclosure.
70. At times Mr Higg's evidence was unbelievable about what was going on in the business, what was in the contract and what was being brought in, his evidence was unbelievable and incredible about why he felt the need to dismiss the Claimant on the 2 February. It was agreed that she wasn't going to be in the business for two weeks and then for 4-6 weeks, why dismiss for this disruptive behaviour about which there was little evidence, save for page 67 of the bundle, it was a storm in a teacup?
71. You should also take into account his own admitted behaviour, it was reprehensible, refusing to concede the disability. In his reaction to the protected disclosure in his email at page 82 he attempts to try and stop her telling anyone by threatening prosecution and to cripple her financially. This is not a court of morals but this type of behaviour is consistent with the Claimant's evidence of how he spoke to her on the 2 February. Mr Higgs is a churchgoing man, that points to hypocrisy, on his own admitted behaviour. It does not absolve him of any actions and it doesn't point to the behaviour being unlikely.
72. It was put to Mr Higgs that he dismissed the Claimant with no warning, no process and no appeal; he said he was entitled to do this as the Claimant had no remedy.
73. In relation to Mr Cocks, one has to ask whether he gave false evidence. Paragraph 6 of his statement he said he knew the Claimant was difficult but he said in oral evidence he had a good relationship with her. There was no evidence from Mr Cocks or from Mr Higgs about the Claimant's disruptive behaviour. Mr Cocks struggled with the evidence about when the Claimant signed the contract. At paragraph 3 of his statement he said only one contract was signed by her then he said two contracts were signed but it had to be sent to the lawyers to be sealed, but they were not. It was pointed out to him that in the contract there were no post termination clauses and he then said they must be in the Shareholders Agreement, this document was provided today and it was not signed by the Claimant and at paragraph 6 it only refers to the Company she held shares in, which was the Second Respondent it therefore gave no protection to the Respondent. The Second Respondent had no

customers and was doing no business. The Respondent was trying to protect the customers of the First Respondent. It does not contain a clause saying it protects all the companies in the group. It suggests that this is not the second document that she signed. I ask you to prefer the Claimant's evidence and conclude that Mr Cocks did not go through the contract with the Claimant or tell her about the notice period.

74. Mr Anderson did not appear as a witness, his evidence was important to the case, why was he not called? I wish to address the issue in relation to the Claimant's evidence, it seems to be in respect of her email on the 3 February in response to the email from Mr Higgs referring to her criminal behaviour, she does not repeat the protected disclosure she made the day before. I ask the Tribunal to take the document as a whole and the conduct in relation to Mr Anderson. In this document, the Claimant refers to one month's notice and I ask the Tribunal to consider whether it is likely that she would have consulted her paperwork to find out what her notice period was, when she was responding to Mr Anderson saying she had one month's notice.
75. On the issue of timing, the point is made that the Claimant is not credible because she did not approach Mr Higgs for twelve days; the Claimant explains why at paragraphs 33-34 of her statement. It is not easy to be a whistle blower, it is clear from the Claimant's evidence that she did not do this lightly.
76. The self-confessed criminal point, the Claimant had made the disclosure to Mr Higgs on the 2 February in the morning, she is not some form of avenging angel and she does not have to show that she is one.
77. On a general point from the Respondent's oral evidence, Mr Higgs does not understand that not removing nurses who are non-compliant is wrongdoing, it is certainly negligent and it may be a breach of contract (see paragraph 16(e) of the closing submissions).
78. They did not understand that a protected disclosure under Section 43L(3) Employment Rights Act, doesn't have to be new information, it need not be news to the recipient. Mr Higgs doesn't understand his own whistle blowing policy, in any event the Claimant was imparting new information, what she had told Neuvan and the fact that she would report him unless he withdrew the non-compliant nurses. It is not whether or not she spoke to Neuvan that made her a whistle blower, it is what she said to Mr Higgs. As the Claimant had less than 2 years employment it is for the Claimant to provide, on the balance of probabilities that the reason for the dismissal was for an automatically unfair reason and the Claimant relies on her evidence, the proximity in time between the disclosures and the dismissal (they occurred on the same day); the correspondence between the parties following the dismissal and the lack of cogent evidence of an alternative reason for dismissal (see paragraph 19 of the closing submissions).
79. A general point, even though not all the points had been pleaded, it doesn't stop the Claimant from putting them in her statement; the

Respondent has been represented from the beginning and they could have asked for further particulars and they did not do so.

80. Counsel then turned to the issues and stated that the Respondent had admitted disability late. Regarding issue at paragraph 6 above there is a conflict of evidence and the Tribunal is asked to prefer the evidence of the Claimant on this point. On issue 7 above the Tribunal is asked to find that the primary reason for dismissal was the whistle blowing however the Tribunal must determine if any part was the disability. The Tribunal are asked to analyse Mr Higgs' behaviour, he used her personal situation to force her into some sort of disclaimer to tell her that her notice would not be paid and she would have to work and on the 3 February, she was told that she would only get notice if she signed a disclaimer, this would not have arisen had the daughter not been disabled.
81. What contract did the Claimant sign? The Claimant only knows of two documents, Mr Cocks told her that one was for the First Respondent and one was for the Second Respondent. From the 8 December onwards, the Claimant regarded herself as employed by the First Respondent. At page 65 it is suggested that the work she did beyond that was for the First Respondent and the contract allowed the Respondent to move employees from one company to another in the group.
82. Turning to the protected disclosures referred to above at paragraph 11 and 12 there is a conflict of evidence.
83. The Tribunal does not need to answer the question about summary dismissal as this matter has been conceded therefore point 16 above falls away. In respect of notice, the Claimant contends that she is entitled to two months' notice (see page 42(a) and (e)). It has been accepted that the Claimant was not dismissed for gross misconduct but the Tribunal needs to decide for the purposes of remedy, all the Respondent relies on is what Mr Anderson said. The Claimant was cross examined but it was not put to her that she demanded £40,000 (it was put to her that she demanded money).
84. The Respondent has conceded 19-23 above and quantum is to be decided at the remedy hearing. The Tribunal will have to look at the two different versions of the 8 December email, one the Claimant is said to have signed (page 48 clause 7) is not the same. The Tribunal need to determine if it is the real email or the one that attaches to the contract that applies.
85. You are asked to accept the Respondent's evidence that they genuinely got an audit done which was at pages 88-91 of the bundle. The Tribunal may find that they do not need to consider this but I refer to the odd features about the date and the issue and payment are both dated the 22 January, that is the date the Claimant overheard the conversation about paying off Healthier Business. The Claimant said the address on this document is incorrect. Healthcare Business is the only Company referred to on page 89, this is not an audit of all the Companies, only one of them.

The Claimant says that no audit took place but that is a matter for the Tribunal. It was not unreasonable for the Claimant to conclude that there was a cover up. To pay someone £20,000 for a tiny report dated the 6 March looks odd.

The Law

Section 43B(1) Employment Rights Act 1996 “In this Part a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following –(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject; (d) that the health or safety of any individual has been, is being or is likely to be endangered or (f) that the information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.

Section 43C(1)(a) A qualifying disclosure is made in accordance with this section if the worker makes the disclosure to his employer.

Section 103A “ An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one the principal reason) for the dismissal is that the employee made a protected disclosure.

Section 13 Equality Act 2010 “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”

Section 26 Equality Act 2010 “A person (A) harasses another (B) if A engages in unwanted conduct related to a relevant protected characteristic, and (b) the conduct has the purpose or effect of (i) violating B’s dignity, or (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B”

Section 26(4) “In deciding whether the conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account (a) the perception of B; (b) the other circumstances of the case; (c) whether it is reasonable for the conduct to have that effect”.

Cases Referred to – by the Claimant

Blackbay Ventures Ltd v Gahir [2014] ICR 747 paragraph 98
Cavendish Munro Professional Risks Management Ltd v Geduld [2010] ICR 325
Kilraine v Wandsworth LBC [2016] IRLR 422

Decision

The unanimous decision of the Tribunal is as follows:

86. The Tribunal first need to deal with the issue of credibility; we found the Claimant's evidence given in Tribunal was entirely consistent, in the answers given in cross examination and in her witness statement. Although it was put to the Claimant in cross examination many times that her evidence was not credible because evidence appeared in her witness statement that was not mentioned in the claim form, the Tribunal find as a fact that this did not suggest a lack of credibility. It was noted that the evidence put to the Claimant in these questions referred to extraneous background evidence and context, and some evidence (in relation to what she had been told by Mr Anderson about his past), although not directly relevant the issues in the case gave some background as to the Claimant's view of the honesty and integrity of those around her. Although the Respondent has submitted to us that references to Mr Anderson's background placed them at a disadvantage in the hearing, the Tribunal conclude that this was not the case. The Tribunal noted that the Respondents were in the possession of the Claimant's witness statement by 8 February 2017 and after that date, there was a preliminary hearing to discuss the issue of disclosure of documents. Had there been an issue about this evidence, the Respondents could have called Mr Anderson to rebut this evidence, but they chose not to do so.
87. The Claimant's clear and cogent evidence can be contrasted to the vague inconsistent, misleading and often unbelievable evidence given by the Respondent's witnesses. The Tribunal heard from Mr Cocks and Mr. Higgs, who is also the Third Respondent. The statements provided by the Respondent's witnesses were brief and contained little more than mere assertions. No details were provided to support their version of the facts and where Mr Higgs or Mr Cocks referred to the Claimant's conduct, they made mere allegations, unsupported by any credible facts. There were no examples of poor conduct. Apart from one incident in November 2015, Mr. Cocks accepted when asked in cross examination about the Claimant's conduct that he had a good working relationship with her.
88. Mr Higgs made damaging allegations against the Claimant in his statement saying she was "extremely disruptive" (paragraph 13), she was divisive (paragraph 19), that he had concerns over the Claimant's "ability to act with integrity and honesty" (paragraph 20). He also told the Tribunal he had received "negative feedback" from others about her behaviour (paragraph 21). None of these allegations were supported by any evidence and no specific examples were given; also, none of these allegations were put to the Claimant in cross examination. Although Mr Higgs told the Tribunal in cross examination that they discussed her behaviour in Board Meetings, no corroborative evidence was produced of these discussions; the Tribunal found this to be surprising as both the Respondent's witnesses sat on the Board, even if notes had not been taken they could have provided details of their discussions.
89. The Tribunal also noted that neither of the Respondent's witness statements mentioned the telephone call of 22 January, which was

central to the issues in this case; the Tribunal referred to paragraph 4B of the claim form, even though both Respondents' witnesses were a party to that conversation. We refer the evidence in our findings of fact above at paragraph 29-32. In cross examination, neither of the Respondents' witnesses could quite recall what was said during this telephone call, the extent of Mr Higgs' evidence on the telephone call appeared at paragraph 32 above which was he couldn't recall the telephone but if it did happen he didn't say what the Claimant alleged she heard. This reflected the attitude of the Third Respondent throughout the hearing.

90. Mr Higgs' approach to the evidence was less than helpful. He told the Tribunal he did not read any of his own contracts and Mr Cocks did not appear to understand the meaning of some of the phrases used in the employment contract that was provided to the Claimant to sign. Mr Higgs was at times hostile in his demeanor and used cross examination to complain that the Tribunal would not allow him to admit evidence to respond to the Claimant's evidence given in cross examination. Mr Higgs' statement was brief and gave no further detail than that contained in the response form. The bundle contained very few documents that were of assistance to the Tribunal and it became evident during the course of the hearing that full disclosure had not been given.
91. Mr Higgs statement was internally inconsistent as it was noted that paragraphs 29 and paragraph 51, gave conflicting evidence as to whether the Claimant mentioned in the email her concern about the nurses. Paragraph 45 was also inconsistent with what he said in his email on 3 February in relation to the whistleblowing. Due to the evasive and inconsistent nature of the evidence provided by the Respondent where there is a conflict in evidence, the Claimant's evidence will be preferred.
92. It was noted that Mr Anderson was not called to give evidence even though his testimony was central to many of the factual issues in this case. No explanation was given as to why this was. It was also noted with concern that during a preliminary hearing on 23 February, attended by the Claimant and the solicitor for the Respondent Mr Walsh, the Claimant was given the impression that Mr Anderson would be called to give evidence and the Claimant would be able to cross-examine him about the payments given to Healthier Business and we refer to page 36B of the bundle. If the Respondent had not intended to call Mr Anderson as a witness, this was not made clear to the Claimant.
93. The Tribunal have found as a fact above at paragraph 25 above, that the proper Respondent at the date of termination was the First Respondent.
94. The Tribunal conclude from our findings of fact above at paragraphs 42 and 47 that the Claimant has suffered direct associative discrimination because of her daughter's disability. We concluded that the comment about the daughter being "too much baggage" and the instruction to return to the office directly after the operation was less favourable treatment. We also conclude that being told that she had to sign a new contract otherwise she would not be paid because of the daughter's

disability was also less favourable treatment because of disability. The burden of proof therefore moves to the Respondent and we conclude that they have failed to discharge the burden of proof to show that their treatment was in no sense whatsoever on that ground. We did not conclude that the dismissal was direct discrimination.

95. The Tribunal conclude on the balance of probabilities from the facts above at paragraphs 37, 38, 39, 43, 51, 54 and 58 that the Claimant was dismissed for raising a qualifying and protected disclosure. We concluded on all the evidence that the Claimant raised a protected disclosure to the Third Respondent and on the same day she was dismissed. The facts were consistent that on the morning the disclosure was made, steps were taken to dismiss her (see above at paragraph 41) and there was no other credible evidence to suggest that the decision to dismiss was for any other reason. We conclude therefore that the Claimant's claim under Section 103A is well founded, her dismissal is therefore automatically unfair.
96. The Tribunal has concluded on the balance of probabilities that the Claimant was dismissed in breach of contract as we have found as a fact above at paragraph 42 above, we conclude that she was entitled to receive two months' notice (the Respondent having conceded that the Claimant was entitled to receive notice pay) The Respondent is ordered to pay to the Claimant two months' contractual notice
97. The Respondent has conceded that they owe the Claimant holiday pay, bonuses and commission but the sums due have yet to be agreed.
98. After the decision was read out to the parties, they were given time to see if some of the sums owed to the Claimant could be agreed. When they returned to the hearing, the following were agreed:
 - a. That the Respondent will pay to the Claimant the sum of £15,000 injury to feelings together with interest of £1325 which makes a total sum of £16,325.
 - b. That the Respondent will pay to the Claimant a payment towards commission earned in 2015 which was due in January 2016 of £1,000 (this represents a gross figure).
 - c. That the Respondent is ordered to pay to the Claimant the sum of £16,666 in respect of two months' notice pay as compensation for her basic pay due and owing but unpaid at the date of dismissal. However, the parties have yet to agree the appropriate sum for commission, car allowance and health insurance.
 - d. The Respondent is ordered to pay to the Claimant the issue fee of £250.A judgment was issued for the above sums.
99. The matters outstanding were payments due for commission, bonuses and compensation, the car allowance, health care and holiday pay (which was agreed to be calculated using 1/260 but the precise number of days accrued had yet to be agreed). Future losses were yet to be agreed.

100. It was conceded by the Respondent that they would not be taking any point on mitigation.
101. Orders and directions were made for the remedy hearing listed for the **9 June 2017** for 1 day.

Employment Judge Sage

4 May 2017