Case Numbers: 1801878/2017

1806271/2017

EMPLOYMENT TRIBUNALS

Claimant:	**(1) Mr P Critchlow** **(2) Mr R Cookson**		
Respondent:	**Thornhill Heat Exchangers Ltd**		
Heard at:	**Sheffield**	**On:**	**19, 20, 22, 23 March** **30 April and 1 May 2018** **2 May 2018 (in chambers)**
Before:	**Employment Judge Brain**		
Members:	**Dr P C Langman** **Mr D W Fields**		

Representation

Claimant:	Mr I Steel, Solicitor
Respondent:	Mr D Finlay, Counsel

RESERVED JUDGMENT

The Judgment of the Employment Tribunal is that:-

1. Mr Critchlow and Mr Cookson made protected disclosures to the respondent.
2. Mr Critchlow was not subjected to any detriment in employment upon the ground that he had made a protected disclosure.
3. Mr Critchlow and Mr Cookson were each dismissed from their employment by the respondent.
4. The reason for their dismissal was redundancy.
5. Their contentions that the principal reason for their dismissal was that they had made public interest disclosures fail and stand dismissed.

REASONS

1. The Tribunal heard evidence in Mr Critchlow's case on 19, 20, 22 and 23 March 2018 and on 30 April 2018. We heard the evidence in Mr Cookson's case on 30 April and 1 May 2018. We deliberated in chambers on 2 May 2018. While there is some cross-over between them, we shall structure these reasons by dealing with Mr Critchlow's case first followed by Mr Cookson's case.

2. Mr Critchlow's case benefited from a private preliminary hearing that came before Employment Judge Rostant on 24 November 2017. There it was recorded that by a claim form presented on 3 October 2017, Mr Critchlow *"brought complaints of unfair dismissal and public interest disclosure automatic unfair dismissal."* The respondent conceded that Mr Critchlow was dismissed. The same concession was made about Mr Cookson (as we shall see). The respondent's case is that the dismissal of Mr Critchlow was for a reason permitted by the Employment Rights Act 1996 (namely redundancy) and that the respondent acted reasonably in treating redundancy as a sufficient reason for dismissing him.

3. Mr Critchlow's case is that he was unfairly dismissed because the reason for his dismissal (or the principal reason for it) was that he had made a number of protected disclosures. He also says that the making of those protected disclosures led to detrimental treatment in employment.

4. Employment Judge Rostant, in his minute following the case management discussion of 24 November 2017, recorded the matters that Mr Critchlow said were the disclosures qualifying for protection and which led to his detrimental treatment and which were the principal reason for his dismissal. These were:-

    4.1. That he told Gareth Wilkinson that he had found an employee asleep at the wheel of a forklift truck. In the interests of protecting the identity of the employee in question we shall refer to him throughout as X. Mr Wilkinson was X's line manager. At this time X worked as an operative in the despatch section of the respondent's operation. At the material time, Mr Critchlow was despatch supervisor (having been promoted from the position of press operator in 2016). Mr Critchlow says that he informed Mr Wilkinson that he had found X asleep under the influence of drugs. Mr Critchlow says that this report was made in January 2017.

    4.2. That the claimant and Mr Cookson (who was employed in the capacity of continuous improvement manager) told Robert Holman, commercial manager, that they believed that X needed help because of his drug habit. Mr Critchlow says that this report was made about three to four weeks after the first disclosure.

    4.3. That Mr Critchlow advised David Haywood, assistant manufacturing, that in his view X posed a health and safety risk and should either be helped

or dismissed. Mr Critchlow says that this disclosure was made to Mr Haywood in early March 2017.

5. Mr Critchlow says that because of making the protected disclosures he was subjected to detriment in that:-

    5.1.1. He was threatened with dismissal if he did not accept voluntary redundancy.

    5.1.2. He was threatened that his redundancy payment would not be paid.

    5.1.3. He was told not to appeal following his dismissal by reason of redundancy.

6. The Tribunal heard evidence from Mr Critchlow. He called Mr Cookson to give evidence on his behalf. In Mr Critchlow's case, upon behalf of the respondent we heard evidence from Mark Ingram, general manager and Mr Holman. On 30 April 2018 we heard from Catherine Thornhill. She attended to give evidence as a witness for the Tribunal and gave evidence relevant to both cases. She is a 50% shareholder of the Respondent and was a director until 17 April 2018.

7. According to paragraph 3 of the respondent's grounds of resistance in Mr Critchlow's case, the respondent "is a SME with offices and manufacturing facilities in Grimethorpe South Yorkshire (and associated plants and offices in the Midlands and the North East). The company manufactures gaskets and after market plate heat exchanger units and spares for the UK and worldwide market." At paragraph 4 of the same document we are told that Michael Thornhill was the founder and is the chairman of the respondent. X is Mr Thornhill's stepson by a second marriage. The respondent's managing director is David Lilly. He was appointed on 1 February 2016.

8. Mr Critchlow was employed by the respondent between 2002 and 2007. After a break, he was re-employed as a press operator. As we say, he was then promoted to the position of despatch supervisor in 2016. Mr Ingram says in paragraph 6 of his witness statement that Mr Critchlow, "was a very popular individual within company and was highly respected by the management team, the admin and especially the shop floor … I've never had a cross word with [Mr Critchlow] and can't recall anyone else doing so." In evidence before the Tribunal Mr Ingram spoke highly of Mr Critchlow. Mr Ingram said that Mr Critchlow was, "a fantastic employee, a good worker, a character, a funny guy and a top employee".

9. By way of an undated letter which (it was agreed) was issued on 16 June 2017, Mr Lilly wrote to all employees. The letter is at page 35 of the bundle. The letter was headed 'Company Review and Consultation'. Mr Ingram tells us, in paragraph 2 of his statement, that prior to the issue of this letter, "In May/early June 2017 during a management meeting, myself and some of the other managers within the respondent company were told that we needed to make cost savings throughout the business. We were tasked with reviewing our workforce and assessing which roles we could potentially cope without and/or reallocate duties to other employees." He goes on in paragraph 3 to say that, "In June 2017, Mr Lilly issued a letter to every employee of the respondent, including myself, informing us that the respondent was inviting volunteers for

redundancy as a means of avoiding compulsory redundancies." The letter to which Mr Ingram refers is that at page 35.

10. Mr Ingram says at paragraph 4 of his witness statement that, "myself and Rob Holman are the most senior managers at the respondent's site at Grimethorpe and we were asked by David Lilly, the group managing director, to review the workforce at that site and produce a spreadsheet of potential roles at risk. Mr Holman produced the first version of the spreadsheet and this is contained at page 161 of the bundle. You will see from pages 160 to 218 of the bundle that the spreadsheet was updated several times during the course of the month."

11. Mr Critchlow says, at paragraph 8 of his witness statement, that he does not accept there was a redundancy situation. He goes on to say that, "I do accept that the respondent offered staff voluntary redundancy in June 2017. I think the respondent did this because of something to do with saving costs to finance the building of a new factory unit. In the circumstances they offered voluntary redundancy with the intention of paying any redundancy period at the end of the notice period. I think the people that were made compulsory redundant, such as myself were people the respondent wanted to specifically target to get rid of." Notwithstanding Mr Critchlow's assertion in his witness statement that there was not a redundancy situation, the respondent's witnesses were not challenged upon this issue. That said, Mr Steel took issue with the respondent's case that there was a redundancy in his closing submissions.

12. About the need for redundancies, Mr Holman said at paragraph 5 of his witness statement that, "In June 2017, the respondent's group managing director [Mr Lilly] undertook a review of the business and directed that we had to reduce salary costs by £150,000 per annum. I was involved in creating and maintaining a spreadsheet of roles that we could potentially do without in the business. Copies of the emails between myself, Mark Ingram (general manager) and Mr Lilly can be found at pages 161 to 218 of the bundle."

13. The documentation to which Mr Ingram and Mr Holman refer between pages 161 and 218 of the bundle was unsatisfactorily presented. Emails had been produced out of order and, equally importantly, the copies of the spreadsheets worked upon by Mr Holman and Mr Ingram had been so heavily redacted as to be meaningless. This was a product of the unsatisfactory way that disclosure had been dealt with by both parties. Firstly, disclosure had not taken place in accordance with the Tribunal's directions. Disclosure had occurred only on 8 March 2018 leaving the parties insufficient time to properly consider the documents that had been disclosed. Not all of the relevant versions of the spreadsheets were emailed to Mr Steel by the respondent's solicitors. Mr Steel had not reverted to the respondent's solicitors to ask for the missing versions of the spreadsheet. The Tribunal therefore was presented with an incomplete picture. This lead to an adjournment of the proceedings on the afternoon of the second day of the hearing and the vacating of the case from the lists on Wednesday 21 March 2018 in order to enable proper disclosure to take place. This had to be supplemented by a second witness statement in Mr Critchlow's case from Mark Ingram.

14. The Tribunal's difficulties in understanding the spreadsheets were compounded by the failure of the respondent to date all of the different versions of the

spreadsheets. What appeared to be a comprehensive list set out upon the second page of Mr Ingram's second witness statement illustrates this difficulty. The first document, called *'Pathway 2017 Confidential'* had been created by Mr Lilly but was undated. This was then worked upon by Mr Ingram and Mr Holman. Mr Ingram took the initiative of adding dates embedded within the title of the document hence the date appearing in some of the versions of the spreadsheet. Mr Ingram confirmed that it was the same document passing between him, Mr Holman and Mr Lilly. Mr Holman confirmed that Mr Lilly and Mr Ingram were the decision makers within the redundancy exercise and that Mr Holman was simply assisting and administering as he holds a HR role alongside that of his substantive role of commercial manager.

15. As we said at the outset, Mr Critchlow sought to link what was, on his case, his dismissal through redundancy with the three protected disclosures recorded by Employment Judge Rostant all of which concerned X. It is necessary therefore to make findings of fact about events during the period between January and June 2017 and prior to the issue by Mr Lilly of the undated letter at page 35 of the bundle that was presented to the staff on 16 June 2017.

16. We shall start with the first alleged disclosure of January 2017. This is dealt with at paragraphs 27 and 28 of Mr Critchlow's witness statement. He says:-

(27) "In January 2017 I found X asleep in the driving seat of a forklift truck. I woke X and asked what he was playing at. X said he was suffering from the effects of being on cocaine.

(28) I reported my concerns about finding X asleep due to the influence of drugs whilst in control of a forklift truck to his manager, Gareth Wilkinson at approximately 9am. Mr Wilkinson assured me that he would inform Mark Ingram (general manager). At 9.45am Richard Cookson and Beverley Ruth came into the extension to conduct a 5s audit. At this point I explained to Richard what I had seen regards Nathan being asleep. This time Nathan was sat on the stairs leading to the blast room roof with his head in his hand. Beverley went over to him whilst I discussed the situation with Richard. He asked me if I had reported my concerns about X to any of my seniors, I said yes to Gareth Wilkinson. However, to my knowledge no action was taken and X continued to drive forklift trucks or fall asleep whilst at work."

17. Mr Ingram says the following in his witness statement:-

(9) "I remember X's line manager Gareth Wilkinson informing me in January 2017 that he had conducted a disciplinary hearing with X about his absence and that he had issued him with a final written warning. Mr Wilkinson did not report to me that [Mr Critchlow] had alleged that X was on drugs and therefore a risk to health and safety.

(10) I was aware that X was suffering health issues that occasionally impacted on his performance, time keeping and attendance and that this was being managed by the respondent. X's line manager, Gareth Wilkinson, was the primary person managing X's employment issues, however, I sat in several meetings with X. X was told that he needed to improve his attendance, time keeping and performance otherwise he would face dismissal. A copy of the notes from one such meeting that I chaired can be found at page 31 of the bundle.

(11) On more than one occasion I invited X into my office to discuss any issues that he may have. After speaking with X it was obvious that he had some kind of mental difficulties. I sat and spoke with X about an RTA that I had back in 2012 and due to the accident and its effects on myself, was referred to CBT (cognitive behavioural therapy). I opened up to X and explained in detail how difficult it was for me and my family for nearly four years. Towards the end of the chat X was relieved to hear that it isn't just himself that has suffered from such problems. I hoped I had given X the confidence to be able to approach me at any time to discuss these kinds of things and we agreed that I would mention this to Michael Thornhill (company owner and step-father) and that CBT may be the first point of call. I discussed all of this with Michael Thornhill within 24 hours of speaking with X and he agreed to seek professional help along with the help we were already receiving from work life health. At pages 248 and 249 of the bundle there is a copy of an email exchange that I had with the respondent's occupational health support provider which shows that we were aware of X's health issues and were keen to support him."

18. Mr Holman has this to say in his witness statement:-

" (2) On occasions I have had to advise the department manager (Gareth Wilkinson) of the fact that X has had a number of short term absences, which have led to X attending disciplinary meetings. I was never approached by the claimant requiring X's alleged use of drugs. In November 2016, I was requested by X to arrange a self referral meeting with the occupational nurse – Ruth Milner. I was not aware, at that time, of the reasons for X's self referral.

(3) Following this initial meeting with the nurse I arranged another review with the nurse for X at the next available opportunity. Following this I received the report dated 8 March 2017 from the occupational nurse Ruth Milner which stated the symptoms that X was presenting and a copy of her report is at page 34 of the bundle."

19. It is recorded in the minute of the preliminary hearing conducted by Employment Judge Rostant that the respondent accepts that Mr Critchlow told Mr Wilkinson that he had found X asleep at the wheel of the fork lift truck. The respondent did not accept that Mr Wilkinson was informed that Mr Critchlow believed that this was because of the use of illegal drugs by X.

20. Page 34 of the bundle (to which Mr Holman referred) showed that X saw Ruth Milner on 8 March 2017 and recommended a course of CBT. The references made by Mr Ingram (at pages 248 and 249) do refer to a consultation between Ruth Milner and X prior to 27 January 2017: we refer in particular to the email of that date at page 249 in which Mr Ingram refers to an earlier meeting or session with X.

21. There is nothing in the medical materials about X that are within the bundle (at pages 248 to 256) confirmatory of an appointment between Ruth Milner and X in November 2016. That said, we found Mr Ingram to be a credible witness and accept that his reference in the emails of 27 January 2017 to an earlier meeting or session was a reference to one that took place in November 2016. It is perhaps unfortunate that the medical materials relating to X within the bundle (and which were produced with his consent) were not comprehensive. The Tribunal did find difficulties with piecing the sequence of events together.

22. It is also plain from the contemporaneous documentation that the respondent was having difficulties managing X. We refer to the employee report sheets at pages 31 and 33. The former is dated 22 January 2016 and concerned X's absence record between August 2015 and January 2016. This records that Mr Wilkinson and Mr Ingram reminded X of the importance of notifying his manager should he require time off or have a particular issue. The latter was prepared just five days later on 27 January 2017. Only Mr Wilkinson and X were present at this meeting. Again, there was a discussion about time keeping and attendance. It is recorded at page 33 that he had received a written warning with regards to attendance on 2 September 2016. That written warning is in the bundle at page 32. Mr Wilkinson was concerned about a lack of improvement and X was issued with a written warning.

23. The Tribunal did not have the benefit of hearing from Mr Wilkinson. The contemporaneous evidence (in the form of the discussions with X to which we referred at paragraph 22 and the referral by Mr Ingram of X back to Ruth Milner) are entirely consistent with Mr Critchlow's case that X's performance at work was a matter of concern. It is therefore credible that Mr Critchlow did see X asleep upon the fork lift truck in January 2017. We would have made a finding to that effect even in the absence of the respondent's admission of that fact. We shall set out later in these reasons our finding upon Mr Critchlow's contention that he informed Mr Wilkinson that X was upon that occasion operating under the influence of drugs.

24. Mr Critchlow's evidence that there was a meeting several weeks after the January 2017 incident between him, Mr Cookson and X followed by a meeting between him (Mr Critchlow), Mr Cookson, Mr Holman and Mr Ingram was more controversial. About this, Mr Critchlow gave the following evidence in his witness statement:-

    (29) "Approximately three to four weeks later *[that is to say after the fork lift truck incident]* X approached me and asked me if he could talk to me in private in regards to some personal issues. He also asked if Mr Cookson could be present. I agreed and went to get Richard and all three of us went into the training room. X then talked about his drug addiction. He told us he was taking ecstasy and cocaine and that this was the reason he was always tired at work. Richard asked X why he was taking drugs and X replied because he was having problems at home. We both then advised X to speak with his GP. We also advised X that the company had a duty of care and therefore could arrange a meeting with the occupational health nurse. X agreed. For several days after I asked X if he had made an appointment with his GP but X was evasive. In the circumstances, I told X that if he gave me the telephone number of his GP I would take X to the GP to get help because of his drug addiction. However, despite repeated requests whether X had a GP appointment about the drug addiction and the offer of my help, it was clear that X was not going to accept help.

    (30) Shortly after speaking to X myself and Richard Cookson went to see Robert Holman and advised Robert what was disclosed in the meeting with X. We told Robert that we had suggested that X make an appointment with his GP in an attempt to get help with his drug use. We also asked Robert to make an appointment with the company's occupational health nurse which he did. I also

said to Robert that he should also raise the concern about X's drug use to Michael Thornhill, X's step-dad. Robert shouted Mark Ingram over and explained what we suggested. Both Robert and Mark Ingram replied that they were not prepared to do so as they were not having Mick snare and snare at them."

25. Mr Cookson gave evidence corroborative of the case presented to Mr Critchlow. He said this:-

(5) "The claimant in this case *[Mr Critchlow]* has raised details of a conversation during which myself and Peter Critchlow raised our concerns about X in early February 2017. The conversation is referred to in paragraph 29 of Peter Critchlow's statement and I confirm that I was present when Peter Critchlow informed Mr Holman of our concerns about X, in particular he needed help because he was on drugs. Mr Holman responded by saying that Peter Critchlow and I should go and tell X's father direct because he was not prepared to risk his job by telling Michael Thornhill that X posed a risk to the company."

26. Mr Holman and Mr Ingram dispute that a meeting took place in the early part of February 2017 as alleged by Mr Critchlow and Mr Cookson. We shall comment upon the evidence that they each gave under cross-examination upon this issue shortly.

27. The third alleged protected disclosure raised by Mr Critchlow was information that he provided to Mr Haywood that in his view X posed a health and safety risk and should either be helped or dismissed. About this, Mr Critchlow says the following:-

(31) "In early March 2017 I decided I had had enough. X was posing a health and safety hazard because he was under the influence of drugs whilst at work. In the circumstances I approached David Haywood. I went to see him in his office when the shop floor staff were on their break. I explained that I would not continue to tolerate X's conduct and either he needs to get help or he should be dismissed. I also explained that other staff were also concerned about X and also didn't feel comfortable working in close proximity with him, in particular Duncan Barnes and James Saunders. David Haywood readily agreed with my views.

(32) Mr Haywood later advised me that he had been to speak to Mark Ingram (general manager) who agreed that either X accepted treatment or should be dismissed."

28. Again, Mr Ingram and Mr Holman do not accept Mr Critchlow's version of events. Upon the issue of the disclosure made by Mr Critchlow to Mr Haywood (from whom the Tribunal did not hear evidence) the respondent pleaded that, "it was aware of the claimant *(sic)* being sleepy – but not aware of the claimant *(sic)* being on drugs … the respondent in fact had no admission from the claimant *(sic)* of drug use *[we interpose here to observe that the reference here appears to be mistaken and are meant to be a reference to X]* and no medical report to that effect, and whilst X may have 'played up' or gave an impression of being tired through drink/drugs the respondent avers it does not follow that that was in fact the true position. What the claimant will not have been aware of however are the reports and information the respondent had and the steps the

respondent was taking to make reasonable adjustments for X and with regard to his welfare." Earlier in the grounds of resistance at paragraph 6 the respondent had said that it was aware "of gossip to the effect that workers suspected X of being a drug user [but] the respondent does not have any actual knowledge of drug use and denies any constructive knowledge of the same … or that it was common knowledge within the work place that X was actually a drug user."

29. The respondent then went on to say (also at paragraph 6) that X has suffered illness including anxiety and depression including insomnia and sleep deprivation and had made arrangements to support his mental health within the work place by referring to its occupational health providers.

30. Upon the issue of the alleged protected disclosures made by Mr Critchlow the following emerged from the cross-examination of the witnesses. We shall start with the cross-examination of Mr Critchlow. The following evidence emerged about X under Mr Critchlow's cross-examination:-

    30.1. That he considered himself to be friendly with X.

    30.2. Mr Critchlow referred in paragraph 25 of his witness statement to X having posted pictures on Facebook of his drug taking. Under cross-examination he conceded that he had not seen any such Facebook postings himself and was relaying what others had told him was on Facebook. However, Mr Critchlow said that he had seen video footage of X taking drugs upon a video on his mobile telephone. Mr Critchlow said that X had displayed this to him inadvertently when he had in fact intended to show Mr Critchlow some footage from a holiday video involving football.

    30.3. Mr Critchlow denied that X had confided to him that he (X) had a mental health issue. However, Mr Critchlow said that he thought that X was "not quite right". He said that he had not been entirely surprised by the video footage that he had seen as there were rumours upon the factory floor.

    30.4. Upon being asked of his perception of X, Mr Critchlow said that, "sometimes he is dead right. Other times his mood changes and his eyes look different." Mr Critchlow conceded the possibility that X may be playing up in order to mask his anxiety condition. Mr Critchlow pointed out that drug use itself can lead to anxiety and depression.

    30.5. Mr Critchlow was unaware that the respondent had referred X to its occupational health services in November 2016. Mr Critchlow conceded it to be a possibility that X's evasiveness was because he did not wish to divulge to Mr Critchlow his mental health issues. (Here, we mean to refer to the evasiveness referred to in paragraph 29 of Mr Critchlow's witness statement which we have cited above). About paragraph 30 (also cited above) Mr Critchlow maintained that X raised no objection to the proposal advanced by him (Mr Critchlow) and Mr Cookson that they air their concerns with Mr Holman.

    30.6. Although Mr Critchlow accepted that X had been formally moved to an easier and less demanding role in the packing section he said that X

would still appear in despatch to undertake work (including upon the fork lift trucks).

30.7. Mr Critchlow was in no position to refute the contention put to him by Mr Finlay that the respondent's CCTV footage contained no evidence of X being asleep at the wheel of the fork lift truck upon any occasion.

30.8. It was suggested to Mr Critchlow that his actions as described in paragraph 31 of his witness statement (cited above) were not consistent with his account of him being friendly with X. It was suggested that effectively demanding X's dismissal was hardly the conduct of a friend. Mr Critchlow defended his position upon the basis of customer demands and that X had become a *"loose cog"* from his point of view.

30.9. Mr Critchlow denied that he had ever asked for X to be the subject of a drug test and he was not aware of anyone else who had made such a request.

31. The following emerged upon these issues from the cross-examination of Mr Cookson:-

31.1. Mr Cookson confirmed that at the meeting he and Mr Critchlow had with X in early February 2017, the latter had not mentioned the respondent's referral of him the previous November to occupational health.

31.2. Mr Cookson confirmed that X did not mention any mental health issues to them. That said, he found it difficult (unlike Mr Critchlow) to countenance the possibility that X was masking mental health issues with bravado about drug taking. Mr Cookson said that he found that "difficult to believe".

31.3. Mr Cookson, like Mr Critchlow, maintained that X did not object to them speaking to Mr Holman about the issue.

31.4. Mr Cookson maintained that Mr Ingram was present at some point during the discussion that he and Mr Critchlow had with Mr Holman. Mr Cookson said that Mr Holman beckoned Mr Ingram over to join the meeting. There was no mention of Mr Ingram's presence in paragraph 5 of Mr Cookson's witness statement cited above. (In contrast, Mr Critchlow did mention that Mr Ingram was invited to join the meeting by Mr Holman).

31.5. It was suggested to Mr Cookson that he and Mr Critchlow had not mentioned a suspicion or a belief in X's drug use to Mr Holman and Mr Ingram. Mr Cookson maintained that he had done so (as indeed does Mr Critchlow). Mr Cookson went further and said that he had suggested to Mr Ingram and Mr Holman that X was a danger to himself and to other employees. The latter suggestion was not in paragraph 5 of Mr Cookson's witness statement.

32. Arising from the cross-examination of Mr Ingram, the following emerged:-

32.1. Mr Ingram fairly accepted that Mr Critchlow had reported concerns about finding X asleep whilst in control of a fork lift truck to Mr Wilkinson. However, he denied that Mr Critchlow had made reference to suspected drug use. Mr Ingram said that there were unfounded rumours going

around the factory about X at the time. *"There is a rumour mill,"* was how it was put by Mr Ingram. Mr Ingram was aware that X appeared tired and was conscious that he had been subjected to disciplinary action about his time keeping.

32.2. Mr Ingram said that he had never been made aware of any Facebook postings to do with alleged drug use by X. The respondent introduced copies of X's Facebook account during the course of the hearing. These consist of a number of innocuous postings. Certainly, nothing of any significance was drawn to the Tribunal's attention.

32.3. Mr Ingram denied that Mr Wilkinson had told him that Mr Critchlow had reported X's alleged drug use. Mr Ingram said that Mr Wilkinson had reported problems to him of X falling asleep and X's work ethic and attitude.

32.4. Mr Ingram said that X's move from despatch to part assembly came about as a direct consequence of the Mr Critchlow's report of X being found asleep. Mr Ingram was unable to confirm that X was in fact asleep following a review by Mr Ingram of CCTV footage. However, Mr Ingram said he took Mr Critchlow's word for it but because there was no proof decided the best thing was simply to place X elsewhere within the organisation.

32.5. Mr Ingram fairly accepted that the contact with occupational health at the end of January 2017 (to which we have made mention and which is referenced at pages 248 and 249) came about as a direct result of the claimant's report.

33. The following emerged from the cross-examination of Mr Holman upon these issues:-

33.1. He was unaware of rumours about X's alleged drug taking until he reviewed the Employment Tribunal bundle. Mr Holman maintained this position notwithstanding Mr Ingram's evidence that he (Mr Ingram) was aware of the rumours. When giving evidence in Mr Cookson's case on 30 April 2018, Mr Holman suggested that he had thought (when being asked about such rumours by Mr Steel earlier in the hearing) that Mr Steel had been asking about Mr Holman's knowledge in January or February 2017. The Tribunal accepts Mr Steel's contention that his questioning of Mr Holman around this issue in connection with Mr Critchlow's case in March 2018 was not qualified by reference to any particular point in time. Further, Cathy Thornhill gave evidence that the rumours about X were known to her (after 10 June 2017) and Mr Thornhill (for a significant time before then). Given the evidence of Mr Ingram and Mrs Thornhill, coupled with Mr Holman's unconvincing attempt to backtrack upon his earlier evidence (which in fact demonstrates that even on his own account he knew of the rumours after March 2017 anyway) we do not find Mr Holman's account of ignorance of rumours around X's drug taking to be credible.

33.2. Mr Holman also maintained that he was unaware that the claimant had found X asleep in January 2017. Mr Holman thought that this incident occurred in August 2017 leading to Mr Ingram issuing the warning dated

16 August 2017 at page 33A of the bundle. This warning expressly referred to "the issue of X falling asleep at work" which was "seen as a health and safety risk". By reason of the credibility issue referred to in paragraph 33.1, we cannot accept Mr Holman's account. (We interpose here to observe that this disciplinary record was prepared by Mr Ingram upon an employee report sheet headed *'Thornhill Service (UK) Limited.'* This is a different legal entity to the respondent. It was suggested to Mr Ingram by Mr Steel that this was an obsolete pro-forma document upon which had been written the purported warning by Mr Ingram on 19 March 2018 and introduced by him upon the third day of the hearing on 22 March. This Mr Ingram strenuously denied. He maintained he had stock of old forms and he simply utilised one of those for the purposes of recording the discussion with X of 16 August 2017 at the time. We are satisfied as to the authenticity of the warning at page 33A at least in part upon the basis of evidence given by Mrs Thornhill that she had raised concerns about X's performance at a board meeting held on 3 August 2017. It thus fits chronologically that the warning was dated 16 August 2016. When taken to page 33A Mrs Thornhill was satisfied as to its authenticity).

33.3. Mr Holman denied that Mr Cookson and Mr Critchlow brought to his attention concerns about X allegedly taking drugs. However Mr Holman did not deny the fact of a discussion taking place about X with the claimants.

34. From all of the evidence heard in Mr Critchlow's case upon the subject of X the Tribunal reaches the following conclusions:-

34.1. At the end of January 2017, Mr Critchlow did report concerns to Mr Wilkinson about discovering X asleep at the wheel of a fork lift truck.

34.2. Mr Critchlow and Mr Cookson did discuss issues around X's mental health with him (X) and then in turn relayed their concerns to Mr Holman and Mr Ingram.

34.3. Mr Ingram was already aware that there were concerns around X's mental health. Those concerns had given rise to an occupational health referral in November 2016.

34.4. There were rumours upon the factory floor about X's alleged drug taking. These were known to Mr Ingram, Mr Holman and Mrs Thornhill. We find it inherently probable that Mr Critchlow and Mr Cookson linked their concerns about X's performance on the one hand with those rumours upon the other and relayed those concerns to Mr Ingram and Mr Holman.

34.5. Mr Critchlow and Mr Cookson were not aware, and cannot reasonably have been expected to have been aware, that the respondent had already referred X to occupational health. They also could not reasonably have been expected to know that X may have been seeking to mask his mental health problems behind bravado concerning drug taking.

34.6. The respondent was sufficiently concerned about X's performance to move him to a less intellectually demanding role. That move was undertaken following Mr Critchlow's disclosure to Mr Wilkinson.

34.7. The Tribunal accepts Mr Critchlow's account that he made a third disclosure to Mr Haywood. The terms of that disclosure are consistent with the first two disclosures which we find have a sound factual basis. There is thus no reason to disbelieve Mr Critchlow particularly as the respondent did not call Mr Haywood to give evidence (notwithstanding that he remains employed by the respondent and thus still available to give evidence and assist the Tribunal).

34.8. Mr Cookson and Mr Critchlow had no basis to believe that the issue of X's performance was related to mental health matters. Correctly, the respondent had not divulged to either of them the occupational health referral that had been made the previous November. That said, the fact therefore remains that Mr Ingram and Mr Cookson had been looking for an explanation for X's behaviour and found a basis for it in the rumours circulating in the factory about X having taken illicit drugs. We therefore find that Mr Cookson and Mr Critchlow had a reasonable basis for that belief as that was a reasonable inference to draw from their observations of X's behaviour coupled with the rumours that were circulating and Mr Critchlow's observation of the video upon X's mobile telephone.

35. We now turn to the events leading ultimately to Mr Critchlow's dismissal. Mr Critchlow takes up the narrative about this at paragraph 33 of his witness statement. He says that in May 2017 X told him that the respondent was going to make redundancies and that he himself "had been put on the list by Mark Ingram". X went on to say that Mr Lilly had told Mr Ingram to remove X's name from the list of staff to be made redundant. Mr Critchlow says that X told him the names of those who were to be made redundant. Mr Critchlow sent an email to his own personal email account of those upon the list. This was done on 22 June 2017 (page 158). This email was thus sent about a month after X's discussion with Mr Critchlow. Mr Critchlow said, when asked about this by Mr Finlay that he had taken this step "because of what was happening in the company". However, Mr Critchlow did not make a contemporaneous record in this way of all of the events which, on his case, gave rise to serious concerns on his part.

36. We made reference earlier to the spreadsheets prepared by Mr Ingram, Mr Lilly and Mr Holman. The first version of the spreadsheet (sent by Mr Lilly to Mr Ingram on 7 June 2017 and appended to Mr Ingram's second witness statement) names six individuals who were listed on Mr Critchlow's email produced around a month later. The email appears to omit reference only to three of the individuals named in the spreadsheet. Upon this basis, we find credible Mr Critchlow's account as to what he was told by X in May 2017 to the effect that a spreadsheet had been prepared. X's information was credible. Mrs Thornhill told us that she had not been privy to the spreadsheets and had not seen them until she saw the Tribunal's bundle. She was not even aware of their existence until 10 June 2017. She told us that on 10 June 2017 she received a telephone call from a third party (whom she was not prepared to identify) to the effect that there had been a list of those identified for redundancy and that Mr

Cookson was upon the list. She identified for us several others who featured upon it. Mr Critchlow was not amongst those listed. She said that the third party's informant about the existence of the list and those named upon it was Mr Critchlow. She said that 10 June was a memorable date for her as it is her father's birthday. It is credible therefore that she would be able to recall the precise day upon which she had taken a call from the unidentified third party.

37. After the discussion between Mr Critchlow and X referred to in paragraph 35, Mr Wilkinson, according to Mr Critchlow, approached him on either 31 May or 1 June 2017. Mr Wilkinson raised a concern about Mr Critchlow having allegedly borrowed money from X. It appears from paragraphs 13 and 15 of the respondent's grounds of resistance that X's mother raised concerns that X had loaned the sum of £300 to Mr Critchlow. This had led to X being left with no money. It transpired that in fact X alleged that he had lent only around £30 to Mr Critchlow (which Mr Critchlow in any event denied). No action was taken by the respondent against Mr Critchlow about this. The respondent accepts in the grounds of resistance that Mr Thornhill was concerned that X (his stepson) had allegedly loaned money to Mr Critchlow and that Mr Wilkinson had spoken to Mr Critchlow about this. Mrs Thornhill had something to say about this issue. She produced copies of texts between her and her sister of 12 June 2017 where she informed her sister that X *"was doing coke on a weekend & blew £700.00 told his mum that he'd lent it to one of the guys at work. Mick* [Thornhill] *came in and told Mark* [Ingram] *to sack the guy-which hasn't happened."* She said that she had also learned of this from the phone call that she took on 10 June (from the anonymous caller who had received his information from Mr Critchlow) and that *'the guy at work'* concerned with this matter was Mr Critchlow himself. She said that Mr Wilkinson had investigated the matter and that it transpired that Mr Critchlow had not borrowed any money from X. It appears therefore that X had invented the story of lending out money to account for his impecuniosity.

38. We referred earlier to the letter at page 35 of the bundle. Although undated it is common ground that this letter was circulated to members of staff on 16 June 2017. When taken to this letter, Mr Ingram said that the reason for redundancy (being the need for fewer employees to carry out work of a particular kind) arose not simply from the respondent's investment in new IT systems and software packages referred to in the letter but also because of an amalgamation of the respondent's three sites at Grimethorpe, Blaydon and Atherstone. Mr Steel was correct to point out that the issue of amalgamation did not feature in the letter at page 35. Mr Ingram defended the wording of the letter and relied upon the reference to "a company wide review of our infrastructure" as a reference to the amalgamation. Mr Ingram did not accept that it was reasonable for employees to read into the letter that the only reason for redundancy was improvement in the respondent's IT and software systems. Mr Ingram did fairly accept the proposition advanced upon behalf of Mr Critchlow that he (Mr Critchlow) had seen little change in IT technology in connection with his role. Mr Ingram accepted that Mr Critchlow would have "seen very little difference to day to day activity".

39. The letter at page 35 invited employees to make suggestions "as to efficiencies and clarity of working practices." Mr Lilly said in the letter that the respondent

was "genuinely looking for efficiencies, savings and a more proactive way of engaging with our clients and customers." Mr Lilly then said that the respondent recognised "that an employee may wish to use this review process as an opportunity to ask for voluntary redundancy and the company is happy to consider those applications on their merits." He went on to say that, "it goes without saying that the company has the final say and that if, operationally, the needs of the business mean that that role is considered essential to the company's future, the application will be refused. However, applications would not be refused arbitrarily and will, as I have said, be given careful consideration".

40. The letter did not explain to employees the procedure to be used by the respondent in the event that compulsory redundancy was required. It was accepted by Mr Ingram that in a previous redundancy exercise carried out around 2011 a selection procedure had been used. The Tribunal was not furnished with any details about this but it was accepted by Mr Ingram that it involved the scoring of employees against certain criteria.

41. We have already referred to the spreadsheet of 7 June 2017. From this, we can see that certain employees had been identified for redundancy prior to the respondent issuing the invitation for volunteers. We can see that in the several versions of the spreadsheet prior to 16 June 2017 Mr Critchlow was not included.

42. Mr Critchlow first appears amongst the list of volunteers in the spreadsheet attached to Mr Holman's email to Mr Lilly of 19 June 2017. The relevant entry says, "Peter Critchlow would like to be put forward for redundancy but cannot volunteer as this would affect his benefit payments/housing association payments."

43. Mr Critchlow makes no reference to this in his witness statement. This is unsurprising as the spreadsheet was only disclosed by the respondent following the adjournment of the second day of the hearing on 20 March 2018. Mr Critchlow refers to an email of 23 June 2017 at page 36 of the bundle. This is from Mr Holman to Mr Ingram. It sets out the list of volunteers at Grimethorpe including Mr Critchlow with the same remark about impact upon benefit payments. (The same email in fact also appears at page 208 of the bundle. Mr Steel sought to cross-examine Mr Ingram to the effect that the difference in layout between the two emails was because the documents had been altered in some way. Mr Ingram, credibly, said that the difference in layout in the two documents was probably by a reason of systems processing upon different individual's email accounts).

44. Upon the issue of the reference in this documentation to "benefit payments" Mr Critchlow says this in paragraph 38 of his witness statement:-

> *"The respondent has produced an email dated 23 June 2017 in which it is suggested that I would like to be put forward for redundancy but I cannot volunteer as this would affect my benefit payments and housing association (page 36). I have no idea what this means. One of the reasons for not applying for redundancy was because my wife and I were hoping to move house and if I was made redundant I would have been unable to show that I had a regular income to pay the rent and therefore I*

would have been unable to move house. In the circumstances, being made redundant would have resulted and did result in me not moving my family to the new larger property. My wife and I were gutted when I was made redundant because our hopes of moving to a larger property were destroyed. I think the alleged email of 23 June 2017 is an attempt by the respondent to try and conceal their unfair dismissal of me by making an allegation based on a conversation they must have overheard about my circumstances in July 2017 after I no longer worked in the business and try and twist this to their advantage. We received no housing benefit prior to September 2017. However we had applied for a council house in about February 2017. We bid on a property and in early July 2017 we were asked to go and see the property. A council housing officer then said that if we wanted to take that property the council needed to know that day. However, my private landlord was entitled to a month's notice and the council wanted one month's rent upfront. Given that we would end up paying two lots of housing rent out at once and my future was uncertain, I said to my wife that we simply cannot take the risk of financially extending ourselves when I was facing redundancy. In the circumstances we did not accept the council's offer for a new property. My wife and I were gutted because we have three children and needed a bigger house. It is a complete nonsense to suggest that I would somehow be worse off by volunteering for redundancy. Being made redundant placed my financial situation at risk and jeopardised my wife and my hopes of a larger property for us and our children."

Mr Critchlow then went on to say (at paragraph 39 of his witness statement) that:-

"The respondent's dishonesty is in my opinion fairly typical of the respondent's conduct so it does not surprise me. I think the email produced by the respondent dated 23 June 2017 has been fabricated by the respondent for these proceedings. I have no connection and never have with a housing association. My partner and I do get family tax credit but that is awarded for six months regardless of change of income."

45. Mr Holman's account is that on 19 June 2017 Mr Critchlow told him that he was not happy about the way in which the respondent was being run under Mr Lilly and Mr Critchlow asked Mr Holman to calculate how much he would be paid if he was made redundant. Mr Holman says that he notified Mr Critchlow of his entitlements. Mr Holman says at paragraph 8 of his witness statement that, "I asked the claimant if he wanted me to put his name on the list of volunteers and he said that he wanted to be made redundant, but he didn't want to volunteer as this would affect the benefits he was/would get." Mr Holman then emailed Mr Ingram to this effect (page 206). He said, "Peter Critchlow would like to volunteer. However this will affect any benefits he receives so would like to know if he can be made redundant rather than volunteer". In response Mr Ingram forwarded the list of volunteers notified to him by Mr Holman on to Mr Lilly (page 207A). About Mr Critchlow, Mr Ingram expected some resistance to agreeing to let him go.

46. Mr Holman says at paragraph 11 of his witness statement that, "Had the claimant not spoken to me on 19 June 2017 I do not think that he would have been at risk of redundancy, however, once he had done so, Mr Ingram and I assessed whether we could do without his role and he was selected on the basis that the respondent could cope without him and he wanted to go." Mr Holman told the Tribunal, under questioning from Dr Langman, that Mr Critchlow has in fact not been replaced and his duties have been divided amongst others.

47. Mr Holman's account is that on several occasions after 19 June 2017 Mr Critchlow confirmed that he wished to be considered for redundancy. Mr Ingram says that he spoke to Mr Critchlow to hear from him what his intentions were.

48. Mr Ingram says that the claimant in fact changed his mind about volunteering for redundancy. He (Mr Ingram) emailed Mr Lilly on 22 June 2017 (page 246) to say that he would like to keep Mr Critchlow who was a key contact between the respondent and one of its customers, Flexseal. Mr Ingram's evidence is that Mr Lilly would not remove Mr Critchlow from the list to be made redundant without the sanction of Mr Thornhill. This Mr Ingram achieved on 23 June 2017.

49. Unfortunately, according to Mr Ingram, Mr Critchlow then changed his mind again and asked to go back on the list but again not as a volunteer. This led to Mr Ingram having to speak to Mr Thornhill again to now have Mr Critchlow added back to the list.

50. It was suggested to Mr Critchlow that as he was looking to move house in the summer of 2017, a sum of money from a redundancy payment would fall at the right time. This Mr Critchlow denied. He said that suggestion did not fit with the respondent's practice of placing those who were being made redundant (compulsory or voluntarily) upon garden leave, paying them their normal monthly salary and then the redundancy sum and other entitlements at the expiry of the notice period. Mr Critchlow said that that method of proceeding still left him in the position that he would not have been able to afford to pay, effectively, two months rent in one month (that is to say, his normal regular monthly payment to his private landlord and then one month's rent up front to Barnsley council).

51. Mr Finlay suggested that the possibility of a significant lump sum being paid to him was the reason why the claimant was vacillating between remaining or volunteering to be made redundant and the reason behind the changes of mind expressed to Mark Ingram. The claimant said that, "that never happened".

52. When asked to explain the reference to benefit payments and housing association in the email of 23 June 2017, Mr Critchlow said, "I didn't want to live a life on benefits. People were ringing me." (It is difficult to understand Mr Critchlow's reference in paragraph 38 of his witness statement to employees having overhead about his circumstances in July 2017 when he was not in fact in work and on the premises after 30 June 2017).

53. Mr Critchlow said, at paragraph 40 of his witness statement that he did not apply for voluntary redundancy. He goes on to say that, "….. on Tuesday 27 June 2017 I was approached by Mark Ingram and asked if I had a minute.

Mark Ingram informed me "I hear you've volunteered for redundancy". I said that "I hadn't, why would I?"

MI (Mark Ingram) "Because of what happened with X".

PC (Peter Critchlow) "What are you going on about?"

MI "I would think long and hard about and leave with something rather than nothing", and walked off".

54. Mr Critchlow goes on to say in paragraph 41 that he considered what he had been told by Mark Ingram to be a threat and that he felt as though he was going to be dismissed. Mr Critchlow says that it was at that point that he decided to go and speak to Mr Holman to ask how much he would be paid if made redundant. Mr Critchlow says that it was at this stage that Mr Holman carried out the calculation and worked out his entitlement to be in the region of £3,300 and then asked whether Mr Critchlow wanted to be "put in for voluntary redundancy." To this, Mr Critchlow says that he responded to Mr Holman, "no, what type of life is being on benefits?"

55. Mr Critchlow's evidence is that on 29 June 2017 all staff who had volunteered for redundancy had been advised that their application for voluntary redundancy had been accepted. He received no such letter.

56. Mr Critchlow then gives an account as to what transpired on 30 June 2017. He says that he was approached by Mr Ingram at approximately 8.15 am and was told that he would be leaving the respondent that day. Mr Critchlow queried what he had been told by Mr Ingram. Mr Critchlow says (at paragraph 44 of his witness statement) that Mr Ingram then said to him, "You will be leaving the company today and I do not want you to appeal against the decision or do anything to bring the company a bad name. If you do you won't get any money, it will be a dismissal." Mr Ingram then walked off".

57. Mr Critchlow says that he was then brought into a meeting at 10.25 that morning. He was accompanied by Mr Wilkinson to act as his witness. He was handed a letter in which he was promised a lump sum payment. The letter is at page 37. We can see a handwritten annotation recording that the payment of £3,312 was to be made to him in September 2017. Mr Critchlow says that this was inserted at his requested because he did not trust the respondent.

58. In evidence given under cross-examination, Mr Ingram told us that two letters were circulated by the respondent at around this time. The first version was addressed to those who had volunteered for redundancy. We appear not to have a copy of that letter. The second version was in the form handed to the claimant at page 37. This records that, "we have been unable to meet the needs of the business through means other than redundancy. I therefore regret to inform you that you have been selected for redundancy and unfortunately we are unable to offer any suitable alternative employment." The letter records that Mr Critchlow was entitled to nine weeks' notice pay which would be "paid as a monthly salary". He was also given a right of appeal.

59. When asked about this letter under cross-examination Mr Ingram denied that the letter at page 37 had been specifically created for the benefit of Mr Critchlow. Mr Ingram said it was a template handed to those who had been made redundant and who had not volunteered. Mr Ingram said that the

volunteers had been handed their letter on 29 June. Mr Ingram continued to maintain that Mr Critchlow had volunteered for redundancy but had been handed the non-volunteers template (at page 37) at his request. As Mr Ingram put it, "Mr Critchlow chose this path."

60. Around the events of June 2017, the following emerged from the cross-examination of Mr Critchlow:-

60.1. It was suggested that he did not feature on any of the spreadsheets until 19 June 2017 which fitted with the respondent's chronology of events. Mr Critchlow asked rhetorically, "how do I know I'm not on the sheets from 7 or 8 June 2017?" We can see from the sheets attached to Mark Ingram's second witness statement that Mr Critchlow does not appear on the sheets until 19 June 2017.

60.2. Mr Critchlow believed that the earlier spreadsheets upon which his name appeared had been concealed by the respondent.

60.3. Mr Critchlow believed that he was dismissed on 30 June 2017 and that the reason for that was because he was raising concerns about X. At paragraph 49 of his witness statement Mr Critchlow says that he had no doubt that he was dismissed because of raising those concerns. The concerns to which he refers in this passage are around the drug abuse and the health and safety issues associated with X driving fork lift trucks and being intoxicated whilst at work. In his grounds of complaint, he also makes reference (at paragraph 15) to the issue of having borrowed money from X. Although the latter issue is not referred to in his witness statement it seems tolerably plain from the grounds of complaint presented on behalf of Mr Critchlow that he considered he had been dismissed for both of those issues which involved X.

60.4. Mr Critchlow accepted that after the perceived threat issued to him by Mark Ingram of 27 June 2017 he had not sought to ascertain to what Mr Ingram was referring. It was suggested that this was surprising given Mr Critchlow's willingness to go to see Mr Holman and Mr Ingram (along with Mr Cookson) about X earlier in the year. Mr Critchlow considered that had he complained he would have got "nowhere". It was also suggested to him by Mr Finlay that it was surprising that he did not mention Mr Ingram's threat to him to his wife. There is no mention of him having done so at paragraph 42 of his witness statement where he refers to having explained to his wife why, on his case, he had rejected voluntary redundancy. Mr Critchlow's account then became increasingly confused under cross examiantionas he said that he regarded Mr Ingram's threat as "an idle one". That account does not sit easily with paragraph 41 of his witness statement and his decision to ask Mr Holman for a calculation of his entitlements following the threat issued to him by Mr Ingram on 27 June.

60.5. It was also suggested by Mr Finlay that the reaction of Mr Critchlow to Mr Ingram's threat was inconsistent with his conduct after having been told by X of those on the redundancy list. We have referred already to Mr Critchlow's email to himself at page 158. It was suggested to Mr

Finlay that he sent no such email to himself about the alleged threat because no such threat was issued to him by Mr Ingram.

60.6. It was also suggested to Mr Critchlow by Mr Finlay that he could have complained about Mr Ingram's threat to withhold money from him should he choose to appeal the decision to dismiss him. Mr Critchlow said that he had made a note of what was said to him when he got home that day. However, that note was not before the Tribunal.

60.7. Mr Critchlow was also challenged upon the basis that he had not signed the letter at page 37 to indicate that it was being signed under protest at his treatment.

60.8. It was also suggested to him by Mr Finlay that it was unrealistic for the respondent to seek to dismiss him for no good reason and with no payment or compensation. Mr Critchlow said that the respondent had form and has acted in this way in the past. Mr Finlay put it to him that the respondent had nothing upon Mr Critchlow and that accordingly the threat to dismiss him with nothing would be baseless and therefore Mr Critchlow's version of events was simply not credible.

60.9. It was also suggested to Mr Critchlow that the reason that he did not appeal was because he knew full well that he had volunteered for redundancy and therefore had no basis for appeal. Mr Critchlow said that this was not the case and that he had been targeted.

61. Mr Cookson was cross-examined about his involvement in some of the events that occurred on 19 June 2017. Upon that day, Mr Cookson was invited to a meeting by Mr Holman. This concerned an email that Mr Cookson had sent to all on 16 June at pages 35A and 35B (that being the date upon which the letter at page 35 had been issued to members of staff).

62. In his grounds of claim, Mr Cookson refers to the sending of the email of 16 June (at paragraph 16). There, he says that he sent an email to Mr Ingram about the proposed voluntary redundancy scheme and was critical of the respondent's failure to carry out any consultation process during the redundancy programme. Mr Cookson's case (pleaded at paragraph 16 of his grounds of claim) is that, "Prior to the meeting [of 19 June 2017 Mr Cookson] was warned by Rob Holman to think very carefully about what he said during the meeting. During the meeting [Mr Cookson] indicated that he felt he had done nothing wrong, the respondent had invited responses to the proposal for voluntary redundancies and he had submitted his response. [Mr Cookson] was asked to retract his criticism. [Mr Cookson] apologised for sending the email to everybody but did not intend to retract the allegations, however it was made clear to [Mr Cookson] that his job was at risk if he failed to do so. In the circumstances [Mr Cookson] felt that he had no choice but to retract his criticisms of the respondent's redundancy process." The pleading goes on to say that Mr Cookson was then told by Mr Holman that the matter would be passed to Mr Lilly who would decide whether or not Mr Cookson would be dismissed. In the event, we can see that on 16 June 2017 Mr Cookson applied for redundancy (upon his case upon an involuntary basis to which issue we shall return later when we deal with his case) and appeared for the first time

upon a spreadsheet dated 19 June 2017 (that being the same spreadsheet upon which Mr Critchlow first appears).

63. It was suggested to Mr Critchlow that a motivation for him volunteering for redundancy was that Mr Cookson, a good friend of his, had also volunteered. This Mr Critchlow denied although he was aware that Mr Cookson had applied for voluntary redundancy by 19 June. For his part, Mr Cookson denied that he had told Mr Critchlow that he had volunteered for redundancy. The Tribunal does not find that evidence credible in the light of Mr Critchlow's evidence that he was aware of Mr Cookson's intentions. Mr Critchlow and Mr Cookson appear to be good friends and worked closely together. They also together entered into delicate discussions with X in February 2017 and took the matter together to Mr Holman and Mr Ingram. In those circumstances it does not seem plausible that Mr Cookson would not have mentioned to Mr Critchlow his intentions with regards to volunteering for redundancy.

64. Mr Cookson signed a statement rescinding the email of 16 June 2017 and conceding that it was inappropriate of him to include the comments that he made and to have emailed that to all of the staff. Mr Cookson accepted under cross-examination that he had not told the truth at the meeting of 19 June 2017 when he said that he had chosen the wrong reply button. He accepted that he had in fact intended to send the email to all.

65. Mr Cookson maintained that he believed that unless he accepted the voluntary redundancy package he would be dismissed for gross misconduct for criticising the respondent about the failure to follow a consultation process. Mr Holman denies having said that the matter would be passed on to Mr Lilly for a decision as to whether or not Mr Cookson should be dismissed.

66. Upon Mr Critchlow's case, the Tribunal makes the following findings:-

    66.1. Mr Critchlow was highly thought of by the respondent. He had an impeccable record. He had been taken back into the respondent's employment and promoted in 2016.

    66.2. Mr Critchlow was an important conduit between the respondent and Flexseal.

    66.3. Mr Ingram anticipated resistance to Mr Critchlow's departure. His positive views of Mr Critchlow's attributes may be contrasted with the somewhat disparaging opinions that he appears to have formed about some of those working at Grimethorpe. We refer to pages 246 and 257.

    66.4. There is no credible evidence that Mr Critchlow appeared upon the spreadsheet until 19 June 2017. The spreadsheet contained lists of those who had volunteered and those who the respondent wished to dismiss. It is credible that Mr Critchlow's name does not appear on either list until 19 June 2017 in circumstances where the respondent did not wish to see the back of him. In fact, to the contrary, the respondent was keen to keep him.

    66.5. It would be a profound finding indeed for the Tribunal to find that the respondent has altered copies of the spreadsheets or withheld them from the Tribunal in order to conceal the fact that Mr Critchlow appeared upon the spreadsheet prior to 19 June. There is simply no credible evidence

that this was the case. Further, Mrs Thornhill's evidence is that she received information from a third party on 10 June 2017 (emanating from Mr Critchlow himself) about those earmarked to leave and that Mr Critchlow had not said to Mrs Thornhill (through the informant) that he was any list as of that date.

66.6. That Mr Thornhill was prepared to allow the claimant's name to be removed from the list is consistent with Mr Ingram's view of the value of Mr Critchlow to the respondent's business. Indeed, Mr Critchlow was upon the list of those employees who had been "reprieved". That list is dated 28 June 2017 (page 513). The case advanced by Mr Steel on behalf of Mr Critchlow to the effect that this was the first occasion upon which Mr Critchlow's name had appeared upon a spreadsheet was illogical. If Mr Critchlow is there noted as having been reprieved the reason for that reprieve must logically be that he had appeared on it (either as a volunteer or an employee to be dismissed by a reason of redundancy) prior to then. Otherwise there would be nothing from which he was to be reprieved. That he appears on 28 June 2017 on a list of those reprieved is consistent with Mr Ingram's account of persuading Mr Thornhill to allow Mr Critchlow to stay.

66.7. The contention that the emails recording Mr Critchlow as going on to the list of volunteers around 19 June 2017 had been manufactured is a very serious allegation to make against the respondent and is tantamount to an allegation of criminal conduct upon the part of some at the respondent. Such would entail the Tribunal determining that the four emails of 19 June at pages 206 to 207A of the bundle have been fabricated and that so too have been the spreadsheets of that date. Absent any compelling and credible evidence, the Tribunal is unable to make such a finding.

66.8. That the claimant was contemplating moving house at around the material time lends credibility to the respondent's case that the claimant was giving the matter serious consideration. The respondent must have ascertained from somewhere that Mr Critchlow was contemplating moving to a council house and the reference in the document at pages 36 and 208 to a housing association although factually incorrect is thus credible (as that was indeed what Mr Critchlow was contemplating). Indeed, Mr Critchlow was looking at moving. The Tribunal accepts Mr Critchlow's account that a move, in the event, turned out not to be financially viable. However, Mr Critchlow deciding not to move house and volunteering for redundancy are not mutually exclusive.

66.9. That Mr Critchlow did not appear on any of the spreadsheets prior to 19 June 2017 has a further significance. Had the respondent been intent upon dismissing him for raising concerns about X then a redundancy exercise presented an ideal opportunity so to do. In addition, no action had been taken against the claimant at any point arising out of the discussions that he had had with management about X or arising out of the fact that he had borrowed money (on the respondent's case) from X. Although it is difficult to see how a credible case could be raised against Mr Critchlow arising out of either of these factors, an employer intent

upon dismissing him may have been expected to seek to construct some kind of case (perhaps for raising unfounded rumours about a fellow employee or borrowing money from him). The respondent did not do so.

67. For all of these reasons, we find that the disclosures made by Mr Critchlow at various times about X had no bearing upon the events in June 2017. We also find more credible the respondent's case that Mr Critchlow did volunteer for redundancy on 19 June 2017. The contemporaneous documentary evidence fits the chronology of events advanced by the respondent (in particular through the evidence of Cathy Thornhill and Mark Ingram). The possibility of a house move gives a motivation for Mr Critchlow to at least contemplate redundancy in order to secure a lump sum. That Mr Critchlow was disillusioned with the respondent may also have played a part. Of perhaps greater significance is the fact that if Mr Critchlow really had been dismissed against his will then he could have but did not protest at the actions of Mr Holman and Mr Ingram and the fact of his dismissal for redundancy. That he did not protest or appeal is again consistent with the respondent's case that Mr Critchlow in reality volunteered. He also did not see fit to record his concerns in contrast with his actions around what he had been told in May 2017 by X (leading to the email at page 158).

68. We now need to make findings of fact about several other employees whose circumstances were relied on by Mr Cookson and Mr Critchlow in aid of their cases against the respondent. Within the bundle are copies of Employment Tribunal proceedings in a case brought by Sean Wilson against the respondent. We refer to pages 125 to 143. There is also the witness statement of Mr Wilson (pages 145 to 150) and the statement given by Mr Ingram in the same case at pages 151 to 154. Also included was Mr Holman's statement in that case at pages 155 to 157.

69. It appears from the grounds of resistance that Mr Wilson was dismissed by the respondent for having exhibited aggressive abusive and intimidating behaviour towards a fellow employee. Mr Critchlow was a witness to the incident (which appears to have centred upon a refusal to take an order for sandwiches from Mr Wilson). Mr Critchlow contends that Mr Ingram asked him to "beef up" his evidence against Mr Wilson. He also gives an account of a similar request being made of another employee.

70. Mr Critchlow then goes on to say that notwithstanding that Mr Ingram was charged with the investigation of Mr Wilson's conduct he had also made the decision to dismiss Mr Wilson. He made that decision notwithstanding that Mr Holman had conducted the disciplinary hearing. To compound matters, Mr Critchlow says that Mr Ingram conducted the appeal.

71. In short, Mr Critchlow was seeking to impugn the respondent's conduct of employee relations by reference to the way in which it had handled Mr Wilson's dismissal. Mr Ingram fairly acknowledges, at paragraph 24 of his witness statement, that he had not handled the dismissal of Mr Wilson fairly. He said that lessons had been learnt by him and by the respondent as to the future conduct of disciplinary matters.

72. At paragraphs 12 to 17, Mr Critchlow refers to several other employees dismissed by reason of redundancy in the exercise carried out in June 2017. Mr Ingram accepted that the respondent had not undertaken any proper

process of consultation with the employees in question all of whom appeared to have complained that they were unfairly dismissed by reason of redundancy.

73. We now turn to Mr Cookson's case. His claim arises out of the same redundancy exercise of June 2017.

74. Mr Cookson's case benefited from a private preliminary hearing which came before Employment Judge Lancaster on 9 June 2017. There it was identified that Mr Cookson brought a complaint of unfair dismissal, including automatically unfair dismissal for having allegedly made a protected qualifying disclosure. Unlike like Mr Critchlow, it was recorded by Employment Judge Lancaster that Mr Cookson brought no complaint of detriment in employment for having made a protected disclosure.

75. Mr Cookson's case was pleaded as one of express dismissal or in the alternative constructive dismissal. The Tribunal does not need to be concerned with that issue given the concession to which we referred in paragraph 2 of these reasons: the Respondent's case is that Mr Cookson (like Mr Critchlow) volunteered for redundancy and thus in law was dismissed.

76. The matters which Mr Cookson say were the disclosures qualifying for protection and which were the principal reasons for his dismissal are these:

    76.1. That on or around February 2017 Mr Cookson orally raised health and safety issues with Mr Lilly, those being concerns about the lack of ventilation on press number 9 at the Respondent's manufacturing facilities in Grimethorpe.

    76.2. That in or around March 2017 Mr Cookson raised concerns about health and safety and breaches of legal procedures with Mr Lilly which were about the Respondent's practice of asking dispatch staff to carry out building work on a building site without being trained to do such work and without the necessary legal permits to work on a building site.

    76.3. That in February/March 2017 Mr Cookson told Mr Holman and Mr Ingram of health and safety concerns about allowing X, a known drug user of cocaine and ecstasy to work at the Respondent's premises.

    76.4. That in June 2016 Mr Cookson raised concerns about a breach of a legal obligation when he told Mr Holman that he objected to the way in which Robert Rothman had been dismissed and in particular that Mr Rothman had been dismissed with no proper procedure having been followed.

    76.5. That on 16 June 2017 Mr Cookson raised concerns about breaches of legal procedures when he sent an email to Mr Holman indicating that the Respondent had failed to follow the legal requirement to have a consultation process during the redundancy procedure.

77. We need not concern ourselves with the fourth alleged protected disclosure. The Tribunal heard no evidence from Mr Cookson about the issues concerning Mr Rothman. Accordingly, any contention on the part of Mr Cookson that he made a qualifying disclosure to the Respondent by furnishing them with information about Mr Rothman's treatment must fail for lack of evidence.

78. Mr Cookson gives evidence in paragraph 4 of his printed witness statement about the first disclosure concerning issues around the lack of ventilation on

press number 9. In this paragraph Mr Cookson sets the scene for the alleged disclosure. He says that in February 2017 he attended a regular health and safety meeting. Mr Cookson observes that the minutes of the health and safety meeting held in February 2017 have not been made available. He also said that Mr Holman would have made notes in a blue book which he took to such meetings. That too has not been made available for the benefit of the Tribunal.

79. The Tribunal notes that the hearing bundle index refers to health and safety minutes between 23 February 2015 and 15 April 2016 (between pages 268 and 290). Plainly, therefore, Mr Cookson is correct to observe that we do not have the benefit of a copy of the minutes of any health and safety meeting held after April 2016 (and in particular in February 2017).

80. That said, the minutes the Respondent have produced are of some value. In particular, at a meeting held on 10 March 2015 (page 270) item number 154 makes reference to poor ventilation on the shop floor especially after 5pm. A similar observation is made at page 274 (being minutes dated 10 July 2015). The ventilation issue crops up again on 15 October 2015 (page 279). The issue was raised yet again on 15 January 2016 (page 284). At a committee meeting held on 16 January 2017 (page 286) there was reference to the shop floor being very warm during the summer months and that ventilation needed to be improved.

81. Against that background, Mr Cookson says in paragraph 7 of his witness statement that:-

"*For several years staff have been complaining about heat, humidity and fumes within the workshop and this was an issue discussed during the meeting in February 2017. The problem was made worse during the summer months. Historically, the Respondent, in particular Rob Holman would tell staff that the problem was going to be resolved but when winter approached the problem seemed to be forgotten. Staff would say jokingly at the end of the summer words to the effect that – well that's another year over until we are told again that the problem is being resolved. Beverley Ruth would go round the shop floor taking temperature readings because of the problem and the complaints. I had once suggested that we keep the bay door open to try to keep the temperature down."*

82. At paragraphs 9 to 14, Mr Cookson gives his account of problems around press number 9. Mr Cookson said that press number 9 gave off fumes and that there was poor ventilation in the absence of an extractor. Mr Cookson says that investigations had been undertaken and that he understood that it would cost around £50,000 to obtain an air conditioning unit to deal with the issue of heat and fumes. Mr Cookson says that Mr Lilly was present at the meeting in February 2017. Mr Cookson says that Mr Lilley said "the company was not going to spend £50,000 for an air conditioning unit in a department that makes no money, it would be better to simply close the department". Mr Cookson says that he pointed out that there were three departments within the building and he therefore considered that the acquisition of an air conditioning unit would be affordable if purchased upon a five year lease. Mr Cookson says that at this point, "David Lilly grabbed my arm which was an indication to me that I should stop what I was saying. David Lilly then said 'let me just warn you don't ever put words in my mouth'".

83. Mr Cookson goes on to say that the discussion at the same health and safety meeting then returned to the issue of the shop floor environment. Concerns around press number 9 were raised once again. In paragraph 13, Mr Cookson says that Mr Lilly agreed with his (Mr Cookson's) observation that this may become an issue if there was a visit by the health and safety executive. Mr Lilly therefore suggested that the issue needed to be "bottomed out".

84. Mr Cookson said that following this meeting Mr Lilly "stopped talking to me and I was no longer invited to health and safety meetings. David Lilly did see me. He would stare at me. The hostility was so obvious I used to deliberately make a point of saying good morning to David Lilly because I knew it would annoy him". Mr Cookson says that he does not consider that he was dismissed solely upon this issue but that it, coupled with the other matters raised, "culminated in the respondent concluding that I was a problem and either I was going to be dismissed or I had to resign".

85. Mr Cookson takes up the story about the second alleged protected disclosure raised in March 2017 in paragraph 15 of his witness statement. He says that he attended a meeting along with Mr Lilly, Mr Ingram, Mr Holman and others. The purpose of this meeting was to discuss holidays and sickness absence. Mr Cookson says at paragraph 16 of his witness statement, "David Lilly talked about the new factory being built over the road and in a quite aggressive manner he told Mark Ingram that by the end of April everything needs to be ready to go because the company had orders to fulfil and everything needs to be ready by April. I did say that 'if this new build was critical, why are we penny pinching?' to which David Lilly responded, 'what do you mean?'". Mr Cookson says in paragraph 17 of his printed statement that he raised the question as to why, if there were time constraints upon getting the new build ready, the respondent had engaged "shop floor lads" to dig footings and carry out building work. According to Mr Cookson (at paragraph 18 of his witness statement) Mr Lilly replied, "That is the typical response I would expect from this company from the time that I've been here. I have had nothing but resistance since day one and you have only asked that question to cause trouble." Mr Cookson says (at paragraph 19) that he had not asked the question with a view to causing trouble but was concerned about the prospect of health and safety visits and that there was a need to ensure that it was safe for factory workers to work upon the building site. Mr Cookson said, "as far as I am aware anyone on a building site has to have a CSCS card and if they don't they should not be working there".

86. According to Mr Cookson, Mr Lilly departed the meeting in acrimonious circumstances. He asked whether Mr Cookson was acting as "the company shop steward" before slamming his book shut and declaring the meeting closed. His concluding remark, according to Mr Cookson was that "all four of you *[those present at the meeting]* need to go downstairs, sit at your desks and have a good long hard think where your future lies". Mr Cookson says that he sought to defend his actions to Mark Ingram shortly after the meeting. Mr Cookson said that it was part of his role to question management.

87. Mr Cookson's evidence in chief about the third protected disclosure (of advising Mr Holman and Mr Ingram of health and safety concerns around X) is set out at paragraphs 25 to 36 of his witness statement. He gives a similar account about

this to Mr Critchow. Mr Cookson says that he invited Mr Critchlow to join him in a meeting with X which had been called at X's instigation. Mr Cookson says that X said that he had had a drug problem for quite some time. Mr Cookson says that he suggested that X go to see his GP and said that the respondent owed him and others a duty of care and offered to speak to the respondent's human resources department to arrange for X to see the respondent's occupational health advisor. Mr Cookson says that X agreed with this course of action.

88. Mr Cookson says that, "after this meeting I did speak to Peter Critchlow because I was a bit concerned that we were being fed a sob story by X to try to explain and justify his absences and poor performance. Whether it was I don't know but it seemed genuine to me at the time."

89. Mr Cookson returned to his desk after the discussion between him, Mr Critchlow and X. He sat near to Mr Holman and whispered to Mr Holman that there was a problem with X. Mr Holman called Mr Ingram over. Mr Holman explained to Mr Ingram what had just been said to him by Mr Cookson and suggested that the respondent's occupational health advisors be involved. Mr Holman also raised the issue of X being a danger to himself or others. Mr Cookson says that there was reluctance upon the part of Mr Ingram and Mr Holman to approach Mr Thornhill about the issue. Mr Cookson also expressed reluctance.

90. The fifth protected disclosure contended for by Mr Cookson was that on 16 June 2017 he raised concerns in an email sent to Mr Holman. The concerns were about the redundancy exercise being carried out by the respondent. We have touched upon this already (at paragraph 61).

91. About this issue Mr Cookson's evidence is that he said to Mr Holman, upon receipt of the email to which we have already referred at page 35 of the bundle, that "I knew something was happening, there were rumours going around with various names including mine and Peter Critchlow's." Mr Cookson goes on to say at paragraph 39 of his witness statement that he said to Mr Holman, "I feel like throwing this desk across the room, people have worked for this company for years and are being treated very badly." He goes on to say that Mr Holman, responded "don't do anything silly, don't let them get rid of you for nothing. If you are going to go, go with a package". Mr Cookson said that Mr Holman tried to calm him down. Mr Cookson says that there had been rumours about a forthcoming redundancy exercise and that names (including his name) had been placed upon a list of those to be selected.

92. At paragraph 40 of his witness statement Mr Cookson says, "The way the company works, once you have crossed the line, you will be dismissed. I had clashed with David Lilly on several occasions, including the issue relating to press number 9, my criticism of using staff from the shop floor on the building site, the fact that I had raised issues relating to X which Robert Holman and Mark Ingram who did not want to pursue with Michael Thornhill. I had no doubt that I was going to be dismissed. The dismissal of Sean Wilson is an example of how easily the respondent gets rid of people. Basically Mark Ingram did not like Sean Wilson and used the fact he was exasperated that someone did not order him a sandwich to dismiss him after 16 years service. In reality he was dismissed because Mark Ingram wanted rid of Sean Wilson".

93. Mr Cookson then intimated an intention (conveyed to Mr Holman) to reply to the letter at page 35 which he had received by email. Mr Holman urged caution. Mr Cookson says that Mr Holman told him to, "make it look good, do not give them an option to turn you down." Mr Cookson says that this prompted him to type out the application for voluntary redundancy that we see at page 35C. He told Mr Holman that he had no confidence in the respondent (paragraph 41 of his witness statement).

94. Mr Cookson says that he applied for voluntary redundancy after sending the email at 15.43 on 16 June 2017 (which appears at pages 35A and 35B). We have in fact referred to this email already at paragraphs 61 and 62. It is however worth setting this out in full here:-

"Having read the above statement [being a reference to page 35] *I would like to make my suggestions and input clear. About 18 months ago this company was operating quite healthily and with a very happy and productive workforce. Since the purchase of UHT and the introduction of the new managing director and several other experts who were brought in to move the company forward and secure the future of all or most of our employees, we have seen in my opinion many fundamental errors that have in fact counteracted that belief. Firstly there was and never has been an introduction and explanation of the vision moving forward. Secondly decisions have been made without the consultation of both senior and shop floor staff who have many years experience in the business and its processes. Lack of communication not only brings resentment but also creates fear and panic. In the period that this new adventure has been in place we have seen moral in all levels of the company fall to an all time low, staff turnaround has been at its highest in memory and all the procedures and symptoms that had been and were continued to be developed have been almost thrown out of the window. Could we start by reviewing what the new venture has so far contributed or indeed cost the company so far. Can we look at the cost of company cars, hotel bills, wages, travel allowances, expenses etc etc. I would also question what the actual order books at UHT and Bells are actually like now compared to 18 months ago. Have we made the desired projected progress. Many people in this company feel that their hands are tied at the minute and have difficulty doing the job they are paid to do. We are also increasing the lack of reputation amongst many of our suppliers and contractors due to lack of or non payment. With regard to the actual wording of the statement, it appears to say that the company needs to make cost cutting measures but does not know where or how so once the staff suggest where this should be made. This appears very amateurish to say the least."*

95. We can see from page 35A that the email was sent to around 60 recipients. Mr Cookson says at paragraph 47 of his witness statement that, "I clicked reply to all rather than simply reply to Robert Holman".

96. Mr Cookson says that he was then summoned to a meeting by Mr Holman on 19 June 2017. Mr Holman had in fact already told him on 16 June 2017 that his application for voluntary redundancy had been accepted.

97. Mr Cookson then gives evidence at paragraph 49 corroborative of the pleaded case to which we refer at paragraph 62. Mr Cookson gave evidence that as they were entering the training room where the meeting was to be held Mr Holman said to him, "before we go in be very careful what you say". Mr

Cookson responded "Is it the difference between keeping a job or getting sacked? Robert Holman shrugged and said 'like I say be very careful' and then went on to say 'look I'm just warning you because when I get in there I have to do my job'. I understood [from] Robert Holman that David Lilly wanted me sacked for raising concerns about the email".

98. Mr Cookson's account of the meeting is that Mr Holman asked him to explain why he had sent the email to all and asked him whether he considered it to have been wrong so to do. Mr Cookson said, "I responded that I had not intended to send it to everyone. I simply clicked reply and then clicked reply all by mistake. Robert Holman said 'I'm glad that is your answer'. Mr Holman then told Mr Cookson that Mr Lilly wanted Mr Cookson to retract the email. Mr Cookson said, "Everyone has seen it so there is not much point in retracting it now but if it makes you happy I will". Mr Holman then wrote out a letter of retraction which was signed by Mr Cookson. This document is at page 259. It says "I, Richard Cookson, rescind the statement that I made on 16 June 2017 in reply to the Company Review and Consultation Letter and emailed to staff. As a senior manager it was inappropriate of me to include the comments I made and to email them to all Thornhill staff for which I apologise."

99. Mr Cookson says that he then asked Mr Holman for a copy of the minutes of the meeting (being those at page 258). Mr Cookson says that Mr Holman told him that there was no difficulty with this as there was a copy in the file. Mr Cookson said he wanted to be issued with a copy there and then as he "did not trust what was going to be placed in my file and I wanted a copy of what I was being told would be put in my file".

100. Mr Cookson concludes that had he not volunteered for redundancy he would have been managed out.

101. Mr Holman and Mr Ingram were both called by the respondent to give evidence in relation to Mr Cookson's case. Mr Holman says at paragraph 4 of his witness statement that Mr Cookson was employed as the continuous improvement manager. This role entails suggesting and implementing improvements to the site at Grimethorpe. Mr Holman says that, "It was part of his role to challenge management to strive for improvement". The Tribunal notes that Mr Cookson was appointed to the continuous improvement manager role in 2013.

102. Mr Holman takes issue with Mr Cookson's suggestion that he raised issues about press number 9 at a health and safety meeting in February 2017. Mr Holman refers to a health and safety meeting having taken place on 16 January 2017. He makes reference to page 278 of the bundle. (This appears to be a mistaken reference as page 278 is in fact the third page of health and safety meeting minutes dated 5 August 2015. We think he means to refer to page 286 which is a minute of a committee meeting held on 16 January 2017). Mr Holman says that there is no mention of press number 9 in the minutes of the meeting but "we have had issues with the press number 9 on and off since 2015".

103. Mr Holman takes issue with Mr Cookson's assertion that the meeting which concerns were expressed by Mr Cookson concerning the building work took place in March 2017. Mr Holman says that he thinks it took place on 23 February 2017. At all events, Mr Holman says that "Mr Cookson, very

abruptly, remarked that we should not be using our own staff to carry out work on the construction site as they were not trained to do so and they did not hold the construction cards. I was quite shocked by the tone that Mr Cookson had taken towards David Lilly. Potentially, Mr Cookson's conduct at the meeting could have been considered to be rude and insubordinate towards Mr Lilly but the matter was not taken further. Mr Cookson was not even invited to an investigatory meeting, let alone a disciplinary hearing."

104. About issues concerning X, Mr Holman says this in paragraph 10 of his witness statement:-

"Mr Cookson alleges that he spoke to the general manager, Mark Ingram, and myself about his concerns about another employee, X, in February/March 2017. There were concerns about X's attendance and work performance and I was aware of ongoing mental health issues that X was having, but there was no mention of drug usage [this is not true/please provide a response to this point please Rob]. [*Sic*. It appears that the respondent's solicitors were anticipating Mr Holman saying rather more in connection with the February/March 2017 meeting concerning X than was set out in Mr Holman's witness statement]. *"*

105. With reference to the email of 16 June 2017 at page 35A (and the issues around it), Mr Holman describes Mr Cookson's email as a "rant". Mr Holman denies that Mr Cookson intimated that he or anyone else had sought to coerce Mr Cookson into volunteering for redundancy. In support of that contention Mr Holman points out that Mr Cookson's name does not feature upon the lists of those to be made redundant until 19 June 2017.

106. About the meeting of that date, Mr Holman agrees that he met with Mr Cookson in Mr Holman's HR capacity in order to speak to him about the contents of the email and the inappropriateness of sending it to so many people. He says that Mr Cookson was prepared to retract the statement. Mr Holman forwarded the retraction to Mr Ingram and Mr Lilly. Mr Holman denies telling Mr Cookson that Mr Lilly would then decide whether or not to dismiss him. Mr Holman says that it would not make sense for Mr Lilly so to do as Mr Cookson had retracted his statement and apologised. Mr Holman denied telling Mr Cookson to think carefully about his position and to go for voluntary redundancy rather than risk dismissal and leave with nothing. About this Mr Holman says, "I'd like to add that Mr Cookson volunteered on the day that the announcement came out from Mr Lilly; it was not after a week of discussions with me and after contemplating his position, although I did speak to him about it as a friend to make sure that he was doing the right thing for himself and his family".

107. Mr Holman says that he issued Mr Cookson with a letter dated 29 June 2017 acknowledging that he had volunteered for redundancy. He says that Mr Cookson made no response to the letter.

108. Mr Ingram's printed witness statement essentially adopts that of Mr Holman. Mr Ingram accepts that at the meeting of 23 February 2017 Mr Cookson raised concerns regarding employees working on the new site that was under construction. Mr Ingram fairly accepts that Mr Cookson raised a valid concern. Mr Ingram says that he followed it up straightaway with the respondent's health and safety advisor Phillip Bailey. The email to which Mr Ingram refers is at page 31A of the bundle. It is dated 23 February 2017. He says, "Just a quick

question that has arisen in Thornhill today. We have a couple of our employees on and off the build site throughout the day. Do our guys need CS cards to be able to do this? Our guys are simply moving around materials and washing down trucks etc, then cleaning up at the end of the day. Tele-handler trained employees for your information". Mr Bailey opined that it was not necessary for CS cards to be issued to the employees given the types of tasks being asked of them.

109. About press number 9, Mr Ingram acknowledged that the respondent had been looking at ways of "fitting local/lip extraction to help draw away the fumes" but that "it has proven difficult to come up with a solution." Mr Cookson in fact made reference to a video demonstrating the machine in operation. This was not shared with the Tribunal. Mr Ingram's view was that the manufacture or processing of the product the subject of Mr Cookson's video was not something undertaken very often.

110. With reference to issues around X, Mr Ingram said that he was aware that there were concerns around X's attendance and performance at work. He said that he could not "recall at any time during this conversation, anyone mentioning drug use." (This was a reference to the conversation that Mr Cookson had with Mr Holman and Mr Ingram following Mr Critchlow and Mr Cookson's discussions with X the same day). Mr Ingram goes on to say that, "Back in November 2016, X had already requested a self referral to the occupational nurse. This was information that we couldn't disclose to both Mr Cookson or Mr Critchlow due to it being private and confidential. Basically, at this particular moment in time (February/March 2017) we were already addressing the issues of X".

111. When she gave evidence on 30 April 2018, Mrs Thornhill (in addition to the evidence that we have already commented upon from her) provided some additional evidence pertaining to the issues in Mr Cookson's case. It will be recalled that Mr Holman's account was that the redundancy exercise was prompted by a need to save salary costs of around £150,000 per annum (paragraph 12 of our reasons above). That there were cash flow issues and a need to save money was corroborated by Mrs Thornhill's account of having been told on 9 June 2017 that the respondent had been sued by an unpaid building contractor who had walked off site.

112. The following emerged from the cross-examination of Mr Cookson:-

112.1. Mr Cookson said that the building work being undertaken by some of the factory staff included the restoration of footings that had collapsed. He also said that Mr Wilkinson was tele-handler trained and was working upon the site moving bricks.

112.2. That at no point between 16 June and 29 June 2017 had Mr Cookson sought to retract the voluntary redundancy request and that he had applied for voluntary redundancy very soon after he had circulated his email of 16 June 2017.

112.3. That he had intended to send the email to all. Thus, the statement that he made on 19 June 2017 (recorded in the minutes at page 258) that he had "chosen the wrong reply button" was untrue.

112.4. Mr Cookson remained unapologetic for the tone of the email. He took the view that the respondent had asked for feedback and that is what he had provided them with.

112.5. There was no reference in any of the contemporaneous correspondence from Mr Cookson to the effect that he felt compelled or coerced into volunteering with redundancy.

112.6. He maintained that Mr Holman was lying when he (Mr Holman) denied having told Mr Cookson that he was liable to dismissal around 16 June 2017. That said, Mr Cookson fairly accepted that Mr Holman's advice for him to be careful (both in the email of 16 June and the meeting of 19 June 2017) was sound.

112.7. Mr Cookson accepted that while Mr Holman may have seen nothing wrong with the email at page 35A Mr Ingram legitimately took a different view and instructed Mr Holman to meet with Mr Cookson on 19 June. Mr Cookson maintained that this was in the nature of disciplinary action notwithstanding the absence of a formal invite letter.

112.8. It was suggested that Mr Holman was trying to de-escalate matters at the meeting and that on reflection Mr Cookson had agreed that he (Mr Cookson) had gone too far by sending the email to all. Mr Cookson denied that he had fanned the flames by sending his email and said that members of staff were supportive of him and that he had not received so many handshakes *"even on my wedding day".* Mr Cookson said that when he had mentioned at the meeting that he had mistakenly pressed 'send to all' Mr Holman indicated that he had been pleased to hear that. The inference appears to be that Mr Holman was encouraging Mr Cookson to tell an untruth about which 'send button' he had meant to press. This was difficult evidence to understand and it is hard to see how, even on Mr Cookson's case, an inference can be drawn that Mr Holman was encouraging him to tell an untruth.

112.9. Mr Cookson denied that he made the reference to press number 9 at the committee meeting of 16 January 2017 (at page 286). Mr Cookson said that this was not the correct meeting as there is no record of Mr Lilly being present at that meeting.

112.10. Mr Cookson fairly accepted that the issue of press number 9 was a regular feature at health and safety meetings. He also acknowledged that, even on his case, Mr Lilly had said that he would "bottom it out" (that is to say, sort out the issues around press number 9) and that it was part of Mr Cookson's remit to raise health and safety issues.

112.11. Mr Cookson denied that he was putting words into Mr Lilly's mouth around the issue of whether or not to acquire an air conditioning unit to alleviate the problems with press number 9. The respondent's case upon this was that Mr Lilly had said words to the effect that he was reluctant to spend £50,000 upon a ventilator in a loss making department. Mr Cookson had extrapolated this by extension to a suggestion on Mr Lilly's part that Mr Lilly was looking at closing the department down.

112.12. It was suggested that in any event even on Mr Cookson's case he was not being singled out by Mr Lilly as he (Mr Lilly) was (on Mr Cookson's account at paragraph 21) displeased with all of those in attendance when the issue of the building work was discussed.

112.13. It was suggested to Mr Cookson that he had never been disciplined and there was no history of Mr Lilly, following him joining the respondent, dismissing those willing to stand up to him. Mr Cookson said that he had been disciplined for a time keeping issue but this dated back to 2007.

112.14. It was suggested to Mr Cookson by Mr Finlay that Mr Cookson had never appeared upon a list of those to be selected for redundancy prior to him volunteering. Mr Cookson placed reliance upon what had been said by Mr Critchlow in his email at page 158 and by Cathy Thornhill before the Tribunal on 30 April 2018. It was suggested that X was an unreliable witness and that Cathy Thornhill's information had come from Mr Critchlow via a third party but which in turn had originated with X.

112.15. It was suggested to Mr Cookson that Mr Lilly had got upset with him regarding the issue of the building work because Mr Cookson had been incorrect to suggest that it was illegal for the factory workers to be upon the construction site. It was also suggested that Mr Cookson had been rude in the way in which he had tackled the matter at the meeting. This Mr Cookson denied. He said that Mr Lilly had got up and left abruptly because he did not like the question (as opposed to the tone of the question).

112.16. It was suggested to Mr Cookson by Mr Finlay that he himself was sceptical about X's claim to be a drug user. Mr Cookson had said that he had asked Mr Critchlow whether he and Mr Critchlow were being fed a "sob story". We refer to paragraph 30 of Mr Cookson's witness statement. The respondent's case of course is that X was himself putting around a story about being on drugs as an act of bravado to mask mental health difficulties which he (X) (rightly or wrongly) perceived to be more 'street credible' than confessing to mental health issues.

112.17. It was suggested to Mr Cookson that it was difficult to understand why the respondent would target Mr Cookson and Mr Critchlow in circumstances where the respondent already had in hand efforts to assist X by virtue of the referral to occupational health towards the end of 2016.

113. The following emerged from the cross-examination of Mr Holman:-

113.1. It was suggested to him by Mr Steel that he had changed his account about being aware of rumours concerning X's drug taking after January or February 2017. We have already referred to this issue at paragraph 33.1 and shall not repeat it here.

113.2. Mr Holman maintained that he had never seen any evidence that X was taking drugs.

113.3. Mr Holman accepted that prior to June 2017 Mr Cookson had raised with him concerns about X's performance. He accepted the plausibility of Mr Cookson's account at paragraphs 26 to 37 of Mr Cookson's witness statement (as to how he and Mr Critchlow came to discuss matters with X and then how they came to discuss the issue with him and Mr Ingram). However, he denied that Mr Cookson had mentioned that X had a drugs problem.

113.4. Mr Holman accepted that the claimant had raised health and safety issues around press number 9. He denied taking his blue notebook with him to the meeting of 16 January 2017 upon the basis that it was not him who had called that meeting. Mr Holman accepted that press number 9 was the one giving off the worst ventilation problem albeit he qualified that concession with the remark that this was only evident when "running the mat" which only occurs seven or eight times a year.

113.5. Mr Holman accepted that Mr Lilly had expressed a reluctance to spend £50,000 on a ventilation or air conditioning unit which in reality was only going to be required several times a year.

113.6. Mr Holman said that he had seen Mr Cookson's video showing the fumes coming off the production press number 9. Mr Holman fairly accepted this to be the case.

113.7. With reference to the building work, Mr Holman again fairly accepted that this point had been raised by Mr Cookson. He suggested that he had raised his concerns with Mr Lilley in an abrupt manner and that Mr Lilly had been taken aback by Mr Cookson's tone causing Mr Lilly to stand up and leave.

113.8. Like Mr Ingram, Mr Holman took the view that those working in the factory could go over to the building site to help out with menial tasks and that there was *"no law against"* the digging of footings.

113.9. Turning to the issue of the email of 16 June 2017, Mr Holman accepted that Mr Cookson was angry about having received the email announcing the redundancies. Mr Holman denied that Mr Cookson was upon any list of those to be chosen for redundancy.

114. Mr Holman says that he obtained the retraction at page 259 in order "to prove that he (Mr Cookson) was truly apologetic". Mr Holman denied that Mr Lilly wanted to dismiss the claimant on account of the sending of the email.

115. The following evidence emerged from the further cross-examination of Mr Ingram upon Mr Cookson's case:-

115.1. Upon the issue of press number 9, Mr Ingram denied that Mr Lilly had forcibly grabbed Mr Cookson's arm when telling him not to put words into his mouth. (We should observe that Mr Cookson had fairly accepted that Mr Lilly had placed his hand upon his arm but had not done so in an aggressive manner).

115.2. Mr Ingram denied that there was a cash flow issue causing contractors to walk off site. He denied that that was the reason why shop floor staff were going over to help with the building work. Mr Ingram accepted that

shop floor staff were doing so (including Mr Wilkinson who is tele-handler trained). Mr Ingram maintained that the majority of the staff were undertaking menial tasks such as keeping the site tidy and topping up fuel cans for the benefit of the security staff. Mr Ingram said that he himself had assisted with these tasks.

115.3. Like Mr Holman, Mr Ingram maintained that Mr Lilly had taken umbrage not at Mr Cookson raising the issue of the legitimacy of the factory workers working upon the building site but rather at the manner in which this had been raised and the suggestion that Mr Lilly was "penny pinching".

115.4. Mr Ingram denied that Mr Cookson had featured upon any of the redundancy spreadsheets prior to 19 June 2017.

115.5. With reference to press number 9, Mr Ingram accepted that Mr Cookson had raised legitimate concerns. He himself had ascertained the cost of the ventilation unit. He accepted that the issue had been "parked" by Mr Lilly given the limited use to which the respondent put press number 9. Mr Ingram denied that Mr Lilly had told the claimant not to put words into his mouth when the issue of costings was discussed.

115.6. Mr Ingram accepted that he had sought a retraction from Mr Cookson of the email of 16 June 2017. He said that he had done this to try to help Mr Cookson to mitigate what he (Mr Ingram) perceived to be the insult to Mr Lilly contained within Mr Cookson's email. While accepting that Mr Lilly's letter at page 35 had invited feedback, Mr Ingram said that this was not an invitation for insult and to broadcast grievances to all.

116. From all of the evidence about Mr Cookson's case the Tribunal reaches the following conclusions:-

116.1. Mr Cookson did raise concerns in or around February 2017 about press number 9. These were legitimate concerns regarding ventilation by reason of the output of fumes from press number 9 and the temperature upon the shop floor around it (and the other presses).

116.2. Mr Cookson raised concerns about the legitimacy of factory floor workers working upon the building site that was operating during the course of the construction of the extension to the respondent's factory premises.

116.3. Mr Cookson did seek to put words into Mr Lilly's mouth by extrapolating that Mr Lilly was inferring a possible closure of the department rather than spending the money upon the air conditioning unit. However, that was a reasonable extrapolation upon the part of Mr Cookson as it logically followed from what Mr Lilly had said. The Tribunal did not have the benefit of hearing from Mr Lilly but, from the cross-examination of Mr Cookson upon this issue, it appears to be accepted by the respondent that Mr Lilly did say words to the effect that he was reluctant to spend such a significant sum upon a loss making department.

116.4. We accept that Mr Cookson did speak abruptly regarding the issue of the building works. Even upon his own case, he accused Mr Lilly of (or at any rate suggested to him that he was) "penny pinching". Such is hardly the most diplomatic way of expressing such concerns.

116.5. In his capacity as continuous improvement manager, it was within Mr Cookson's remit to question the respondent upon health and safety issues. We accept that Mr Lilly was a difficult individual to deal with upon the basis of Mr Cookson's unchallenged evidence at paragraph 21 of his witness statement to the effect that he expressed displeasure to all of those present at the meeting which had developed into a discussion about the building works. The respondent however is correct to suggest that Mr Lilly, by expressing such displeasure, had not singled out Mr Cookson. He had directed his ire at all present. Further, no action was taken by the respondent against Mr Cookson arising out of his conduct at either of the meetings at which press number 9 and the building works were discussed. There may have been some scope for, at the very least, words of advice particularly around the *"penny pinching"* comment. That tells against the respondent seeking Mr Cookson's departure from the business. Mr Cookson also fairly accepted that Mr Lilly had not behaved aggressively towards him when he grabbed his arm after he had made the comment about press number 9.

116.6. We find that Mr Cookson had a reasonable belief that X was taking illicit drugs. We make those findings upon the same basis as pertains in Mr Critchlow's case (with reference to paragraph 34). We find, in a similar vein, that Mr Cookson and Mr Critchlow did discuss issues around X's mental health with X and then in turn relayed their concerns to Mr Holman and Mr Ingram and made mention of their belief that X was taking drugs.

116.7. We find that Mr Cookson deliberately sent the email of 16 June 2017 to all employees. He did so when angry and upset at having received the letter at page 35. We agree with Mr Holman's characterisation of the email of 16 June 2017 as a *"rant".* The tone did nothing to assist what must have been an already heightened atmosphere within the work-place that day.

116.8. We find that Mr Ingram did encourage Mr Holman to seek to mitigate Mr Cookson's position by procuring a retraction from him. Mr Cookson had not paid heed to Mr Holman's prudent advice for him to be careful about what he said in the email of 16 June 2017. Had the respondent been so minded, Mr Cookson could not have complained had disciplinary action been taken against him arising out of the sending to all of an inappropriately worded email. Again this tells against a determination on the part of the respondent to see the back of Mr Cookson.

116.9. We find there to be no credible evidence that Mr Cookson was upon a list of those selected for redundancy any earlier than the date upon which he volunteered to be made redundant. The Tribunal has to balance the evidence emanating from the respondent upon this issue against that emanating from Mr Critchlow and Mr Cookson. In truth, Mr Cookson's evidence relies upon information relayed to Mr Critchlow by X about the existence of a list of those to be selected and the names of those upon the list. Mr Finlay made a compelling submission that X cannot be said to be the most reliable of witnesses. This is a factor

which must be acknowledged by the claimants given, as we find, that they had a reasonable belief that he was taking illegal drugs. However, it is not the case that the claimants' account lacks credibility. X's account to Mr Critchlow of the existence of a list was credible. As we have already observed, firstly, he identified accurately several of those upon the list. Secondly, it is not denied in any case by the respondent that there was one. That evidence however has to be set against that emanating from the respondent. As we have already said, it would be a profound step to find that the respondent had committed several criminal offences by concocting false spreadsheets omitting Mr Critchlow and Mr Cookson's names from those that existed prior to 19 June 2017. Not only would this involve the procuring of a false instrument (in the nature of falsified spreadsheets) but also the falsification of the email trails for that time.

117. We now turn to our conclusions. We shall start with Mr Critchlow's case.

118. We are satisfied that Mr Critchlow provided information to his employer which in his reasonable belief showed that X had been found asleep at the wheel of a fork lift truck, that X had a drug habit and that X posed a health and safety risk within the work place. We find that Mr Critchlow provided that information to Gareth Wilkinson, Robert Holman and David Haywood as contended for (those being the protected disclosures recorded by Employment Judge Rostant on 24 November 2017 and referred to by us at paragraph 4). We find that Mr Critchlow could reasonably believe that the information which he was providing to the respondent showed that: a criminal offence had been committed, was being committed or was likely to be committed; that X had failed, was failing or was likely to fail to comply with any legal obligation to which he was subject (being the duty of care owed to his fellow employees); and that the health or safety of individual(s) had been, was being or was likely to be endangered (by reason of X not being in a fit state to undertake his duties). Those disclosures were made by Mr Critchlow to his employer. In our judgment they qualify for protection. It is plainly in the public interest that employees do not attend a workplace such as a factory under the influence of drugs. We find that Mr Critchlow reasonably believed that he was acting in the public interest for that reason.

119. We determine that Mr Critchlow was not subjected to a detriment by reason of the making of the protected disclosures (or any one of them). We find on the facts that Mr Critchlow was not threatened with dismissal if he did not accept voluntary redundancy, that he was not threatened that his redundancy payment would not be paid and that he was told not to appeal following his dismissal by reason of redundancy. We refer to the findings of fact as set out above. The complaint of detriment in employment therefore fails upon the facts.

120. We are satisfied that Mr Critchlow was dismissed. We find that the respondent has established there to have been a redundancy situation at the material time. Although its evidence was not entirely satisfactory, in our judgment the respondent has done enough to show that there was a need to make savings and the fewer employees of any particular kind would be required following the amalgamation of roles at the three sites. We find that Mr Critchlow volunteered for redundancy having been invited so to do. In law therefore he was

dismissed. We have determined that he was not dismissed by reason of having raised the protected disclosures and refer to our earlier findings of fact.

121. Mr Critchlow and Mr Cookson were right to raise reservations about the procedure being followed: in particular, there was an absence of consultation with the employees upon the issue of selection. The difficulty for Mr Cookson and Mr Critchlow however is that the respondent invited volunteers and they accepted that invitation. In so far as they were concerned therefore, in our judgment the respondent followed a fair procedure. The Tribunal's view would have been different had the claimants not been dismissed having volunteered and had there been some kind of selection procedure upon which basis the claimants and the other employees had not been consulted.

122. In Mr Cookson's case we find that he did make protected disclosures in that he provided information to the respondent with concerns about the operation of press number 9 and the deployment of factory workers upon a building site. In our judgment, that was the provision of information by Mr Cookson to his employer and which in his reasonable belief tended to show that: the respondent had failed, was failing or was likely to fail to comply with any legal obligation to which it was subject (being the provision to its employees of a safe system of work); that the environment had been, was being or was likely to be damaged (by reference to the production of excessive fumes from press number 9). For the same reasons as in Mr Critchlow's case we find that Mr Cookson did make a protected disclosure concerning the issues around X.

123. We find that Mr Cookson had a reasonable belief that those three protected disclosures were in the public interest. It can reasonably be considered to be a matter of public interest that factory operatives and the wider environment are kept safe and secure from noxious fumes, that employees are not deployed to work upon dangerous building sites for which they may not be suitably qualified and that employees do not operate potentially dangerous machinery while under the influence of illegal drugs. Therefore, we find that Mr Cookson did make protected disclosures upon these three issues.

124. It matters not that Mr Cookson may have been incorrect in his belief about the legitimacy of the deployment of the factory workers to the building site. What matters is the reasonableness of his belief. There was no suggestion from the respondent that Mr Cookson's concerns were anything other than legitimate.

125. We find that Mr Cookson did raise reasonable concerns and provided information to the respondent about the fairness of the redundancy procedure announced on 16 June 2017. In our judgment, Mr Cookson provided information to the respondent which tended to show that the respondent had failed, was failing or was likely to fail to comply with a legal obligation to which it was subject, namely the obligation to carry out a fair and reasonable procedure.

126. The difficulty for Mr Cookson upon this allegation arises from the question as to whether or not that which he was raising was in the public interest. In our judgment, it was not. In our judgment, this was a matter which was plainly of profound interest to the employees of the respondent. It is difficult to see however that their interest in a fair and reasonable procedure being carried out extends beyond the affected group of employees to the wider public.

127. We have determined that Mr Cookson's case must fail, as has Mr Critchlow's, upon the issue of causation. We find that the disclosures made by Mr Cookson at various times upon the issues of X, press number 9 and the building works had no bearing upon the events in June 2017. We find more credible the respondent's case that Mr Cookson volunteered for redundancy on 16 June 2017. Had the respondent wished to dismiss Mr Cookson, it had grounds to at least contemplate a case against him arising out of the email issue that arose on 16 June 2017, the press number 9 and building site issues as we have already said. In addition, as with Mr Critchlow, the redundancy exercise presented an opportunity for the respondent to be rid of Mr Cookson if the respondent was so minded. That is not to say that such a course of action would have been legitimate and indeed Mr Cookson may have succeeded upon an unfair dismissal complaint had he been selected for redundancy without fair and procedures been followed. Thus it is significant that he did not appear on any spreadsheet or redundancy list until after he had volunteered.

128. The Tribunal derives little if any benefit from the claimants' case that Mr Ingram's handling of Mr Wilson's complaint shows a predilection for unfairness and targeting of individuals. This Tribunal did not of course hear Mr Wilson's unfair dismissal complaint. We are not privy to all of the facts. Whatever adverse inferences may be drawn against the respondent by reason of Mr Ingram's conduct in relation to Mr Wilson do not outweigh the evidence we heard in this case suggestive of the fact that Mr Critchlow and Mr Cookson both volunteered for redundancy. We therefore find that their dismissals were fair as they were dismissed for a potentially fair reason and a procedure applied to them of inviting them to volunteer and them accepting that invitation was a fair and reasonable one. The complaints therefore stand dismissed.

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Employment Judge Brain

12/07/2018

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