# EMPLOYMENT TRIBUNALS

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| **Claimant:** | **Ms M Siviter** | |
| **Respondent:** | **North Somerset Council** | |
| **Heard at:** | **Pontypridd and Cardiff** | **On: 19, 20, 21, 22, 27, 28, 29 September 2017 and 19, 20, 21, 23 December 2017** |
| **Before:** | **Employment Judge P Davies**<br>**Members:**<br>**Mr P H Bradney**<br>**Mr H C Hamilton** | |

**Representation:**
Claimant: Mr Andrew Bousfield (Counsel)
Respondent: Mr Thomas Kibling (Counsel)

# RESERVED JUDGMENT

# JUDGMENT

The unanimous Judgment of the Tribunal is that:

(1) The claims of detriment pursuant to s.47B of the Employment Rights Act 1996 are dismissed.

# REASONS

1. By a claim received on 14 April 2016 the Claimant Ms Maggie Siviter claimed detriment and automatically unfair dismissal pursuant to section 103A of the Employment Rights Act 1996 for having a protected disclosure. The claim of automatically unfair dismissal was later withdrawn and dismissed. Paragraph 23 of the Statement of Case contained 11 alleged detriments.

2. In the Response it was denied that the Claimant was a worker and could pursue a claim for detriment for having a protected disclosure. It was not accepted that the Claimant had made protected disclosures. The Response contends that the contract was terminated for reasons unrelated to any disclosures the Claimant may have made.

3. There was a Case Management Hearing on 16 June 2016 when the Tribunal ordered the Claimant to provide further particulars of the protected disclosures and gave the Respondent leave to present an Amended Response in connection with the claim and to comment on any application to amend to add further detriments. Further Case Management directions were also given.

4. On 16 August 2016 there was another Case Management. The Claimant was noted as soon going to either amend her claim or present a new claim alleging a further act of detriment relating to the provision of negative references. A further Case Management was fixed which would allow the amended/new claim to be presented and the Respondent time to re-amend his Response or present a Response to the new claim. Additional Case Management directions were also given by the Tribunal.

5. There were orders made regarding anonymisation and restricted reporting in December 2016 and January 2017. A hearing on 25 January 2017 resulted in the revoking of the order of anonymity in respect of an ex-employee of the Respondents a Mr David Jellings. Also there was revoked anonymity and restrictive reporting order that had been granted to Mr Peter Bryant a Councillor of the Respondents.

6. By order of the Regional Employment Judge on 13 March 2017 the hearing of the case was not to be listed before any panel member who is himself or herself a member of the Freemasons. The Tribunal said “in accordance with the Tribunals overriding objective to deal with the case fairly and justly, it is important to avoid any conflict of interest; since it appears that any member of the Tribunal panel who was also a Freemason would be likely to need to recuse himself from the hearing because of the danger of bias or apparent bias, it is good case

management to forestall such a situation arising. Accordingly enquiries are being made of each panel member allocated to ensure that this was the case before the hearing proceeded".

7. On 27 March 2017 the Tribunal sitting in Bristol unanimously came to the view that Employment Judge Pirani and Mr H J Launder should recuse themselves from any further substantive involvement in the case. It is noted in paragraph 7 of the Reasons that Mr Bousfield clarified that the case the Claimant was running was that Mr Brain (Head of Legal Services for the Respondent) was involved in the decision to terminate and not to renew the Claimant's engagement with the Respondent. This was described as the central detriment in reality as the heart of the Claimant's case. Accordingly Mr Brain's credibility and propriety was put in issue by the Claimant.

8. On the same date 27 March 2017 the Regional Employment Judge transferred the Final Hearing on liability to be listed for 10 days at Cardiff Employment Tribunal. It is noted that the Regional Employment Judge had taken over Case Management of and re-listing the liability hearing following the postponement of the hearing upon the recusal of Employment Judge Pirani and Mr H Launder. It was noted by the Regional Employment Judge in paragraph 3 of the order that the parties were finally able to agree their list of issues for the liability hearing. It was also noted in paragraph 4 the Claimant was considering applying for a witness order in respect of Mr Brain.

9. The Tribunal heard evidence from a number of witnesses. A witness summons had been issued in respect of witnesses Mr Julian Feltwell and Ms Caroline Wigmore. The Tribunal heard evidence from the Claimant, Mr Julian Feltwell (Trading Standards Manager of the Respondents), Mr David McCallum part time member of police staff in the employment of Avon and Somerset Constabulary, Senior Responsible Officer; West of England Child Sexual Exploitation Victim Identification and Support Service. The Respondents called a number of witnesses Mr Gerald Patrick Hunt (Head of Commissioning for People and Communities); Mr Anthony Oliver, Independent Safeguarding Children and Board Chair of North Somerset; Miss Mandy Bishop, Assistant Director (Operations); Mr Robert Paul Long, Information Security Officer employed by Bath and North East Somerset part of a partnership between Bath and North East Somerset and the Respondents called "Audit West"; Mr David Eifion Price, Assistant Director of Children's Services; Miss Louise Malik, Head of Education Transformation; Ms Caroline Wigmore, ex-agency worker of the Respondents; Miss Sheila Smith, Director for People and Communities; and Miss Susan Turner, Human Resources Manager.

10. As already mentioned there is an Agreed List of Issues of some 9 paragraphs and 2 appendices. The following concessions are made namely

- It is common ground between the parties that the Claimant was a worker and not an employee and as a consequence if her claim is successful there is no uplift in respect of any failure to comply with the ACAS code.
- That the first detriment identified in Appendix 2 is admitted (that is the Claimant's contract was terminated and not renewed).

- That the 2, 3, 5 and 17 public interest disclosures identified in Appendix 1 are admitted (that is that the Claimant informed Mr Price of Council Scrutiny Officer X's inappropriate sexual comments to apparently very young children on Facebook. Mr Price informed the Claimant that Council Scrutiny Officer X worked on Boards with responsibility for Children's Services for the Council, including children the subject of a child protection plan and children in care. The Claimant informed Mr Brain, as the Senior Director for Council Scrutiny Officer X of Council Scrutiny Officer X inappropriate sexual comments to apparently very young children on Facebook, outlining the risk to children and the potential impact on the Council; a strategy meeting convened under section 47 of The Children Act 1989 to share information regarding the potential serious risk posed by Council Scrutiny Officer X to children. The Claimant provided Liz Manbridge (HR) and Fiona Robertson (Council Scrutiny Officer X's Line Manager) with details of Council Scrutiny Officer X's conduct, including his comments to young girls. The Claimant subsequently found that the police had not investigated the matter and that the Council was planning to make Council Scrutiny Officer X redundant at the end of October. Liz Manbridge (HR) informed the Claimant this meant responsibility for taking disciplinary action no longer rested with the Council. The Claimant subsequently disclosed this to Ofsted on 20th as a potential risk to children and not being satisfactorily dealt with due to the delay in the police investigation and the Council making the officer redundant; and in a private meeting the Claimant further disclosed Mr Eifion Price's conduct in disclosing the confidential information relating to Councillor Y in

attempting to undermine the investigation into child sexual exploitation. Mr Hunt said he thought Mr Price's actions would "take some explaining".

- If the Claimant is found to have a reasonable belief that the information she had disclosed showed that a criminal offence has been committed (a) has been committed or is likely to be committed, of that a person has failed or is failing or is likely to fail to comply with any legal obligation, then that disclosure was made in the public interest.

- That Ofsted are a prescribed person by order of the Secretary of State as provided for under section 43F.

11. The list of issues included whether the qualifying disclosures were made and whether disclosure was made in accordance with the provisions of section 43. In paragraph 3 of the List of Issues it is said "did the Claimant make the disclosures in Appendix 1 and if so were any of the disclosures made protected disclosures?." In paragraph 4 "if so has the Claimant shown on the balance of probabilities it will be for the Respondent to show the reason why any act or deliberate failure to act was done." And in paragraph 5 "if the Respondent discharges this burden has the Claimant shown on the balance of probabilities that she suffered a detriment and that the Respondent has subjected her to that detriment?". In paragraph 6 "if so was the detrimental treatment materially influenced by the Claimant making a protected disclosure? It will be for the Respondent to show that the making of a protected disclosure played no part whatsoever in the detrimental treatment." And in paragraph 6 "the detriments relied on are those set out in the claim form and no others and are set out in Appendix 2." Paragraph 8 were issues about whether the claim was presented in time.

12. To assist the parties and the Tribunal there has been prepared a Scott Schedule setting out the alleged protected disclosures including the Respondents Response.

13. At the commencement of the hearing the Claimant provided the Tribunal with a written opening note. That opening note contained a summary of the Claimant's case and the relevant law applicable to whistle blowing. In paragraph 4 it said the Claimant will show that she made several protected qualifying disclosures set out in a witness statement under 5 broad headings. Firstly in relation to a Council Scrutiny Officer Mr David Jellings. Secondly the issue of the Respondents failing to complete risk assessments for child sexual exploitation. Thirdly the chairing of a section 47 strategy meeting on 13

October 2015 which purpose was to gather information intelligence and because of the sensitivity of the processing information the Claimant "locked down" the meeting by imposing a confidentiality requirement on all participants. The Claimant whistle blew about 2 issues the breach of confidentiality in the sensitive investigative process thereby compromising the investigation, and the links with Councillor Peter Bryant who had been known for a long time and had simply not been the subject of any investigation or action. Fourthly the Claimant's disclosures to Ofsted. Fifthly disclosure dealing with the safeguarding incident at a local school.

14. The Respondents also provided the Tribunal with opening written information which summarised the law in relation to statutory duties related to the safeguarding and promoting the welfare of children. These written submissions also dealt with alleged disclosures and determination of the fixed term contract and the detriments alleged. There was also a summary of the law regarding qualifying protected disclosures.

15. The Tribunals findings of fact are as follows:-

**Appointment of the Claimant**

16. The Claimant has worked in child protection for over 30 years. Among the work undertaken by the Claimant was as an Independent Reviewing Officer and Child Protection Conference Chairperson for Bristol City Council in 2008. That involved conducting multi-agency safeguarding meetings in respect of children in care and at risk. In 2013 the Claimant undertook a strategic management level post at Birmingham City Council which involved managing Independent Reviewing Officers and other senior child care professionals in the most appropriate means of safeguarding children from sexual abuse. The Claimant says that she escalated concerns about how referrals were managed within the Authority as well as devising policies particularly in respect of Independent Reviewing Officers. The Claimant has involvement with charities as well as being a trustee of the National Association of Independent Reviewing Officers.

17. Before May 2015 Mr Mike Reay was a Service Leader in Safeguarding and Quality Assurance Service with the Respondents. He was retiring in May 2015. The Respondents wanted to recruit to fill the post for an interim period which was expected to be 6 months. The Claimant was interested in applying for this job.

18. The job description which was supplied to the Claimant says under role purpose "responsible for ensuring National and local strategies for children's social care are planned and delivered to meet the needs of

service users through the management of multi-professional teams, including in an integrated service. This role is primarily focused on setting standards and procedures for others, developing business plans and future service direction within a multi-agency framework, particularly with safeguarding and quality assuring for children's social care service". Under the heading of typical activities there is included "establishing and maintaining appropriate links between service users and other professionals to provide a clear understanding of each others priorities and ways of working and maintaining a service user focus to the service. To communicate effectively with multi-agency partners, colleagues and service users both verbally and in writing through the appropriate use of case notes and other record keeping within information sharing protocols and record keeping policies". Under performance measures these include "line management assessment, 360 feedback from staff and colleagues, and performance of the team."

19. The role also included working closely with the Safeguarding Children Board which brings together representatives of each of the main agencies which would include Police, Health, Education, Social Services, Voluntary Agencies and Licensing.

20. The Claimant was successful in securing the job and started on the 26 May 2015.

21. Upon commencing work the Claimant was given a brief induction by Mr Reay. The Claimant said that Mr Reay hinted that Mr Eifion Price could be very difficult to work with. We accept that that was said in this briefing.

22. The Claimant says that shortly after she commenced work that some of the IRO Officers in her team mentioned concerns about bullying in a team managed by a third party. We accept that this was the spur to the Claimant to look at the IRO Handbook and to draft a system to record challenge and resolution which was similar to a system that she had used in another Authority. The Claimant in her oral evidence said that within 2 days of starting that concerns were expressed that Mr Price said that the IRO must be mindful of resource issues and whose logo was at the top of the pay slips. Mr Price says that this did not happen within that timescale and that what happened was that they initially got on very well and it was not until the IRO Dispute Resolution Process formulated by the Claimant in about July time that there became issues with the Claimant's suggestions regarding IRO. Mr Price said that the Independent Reviewing Officers should be mindful in relation to the formulation of care plans that they may involve significant large expenditure particularly if the spending was on one child because there is a responsibility to all children and the public purse and that just

because they are independent they should be mindful of the work undertaken by the Respondents and what it says on the pay check, that is, the name on the pay check. We accept the evidence of Mr Price that he made the statements that he did at the time that he was concerned in July about the impact of the new procedures that the Claimant was promoting. The Claimant says that she met with strong resistance from Mr Eifion Price regarding these matters and it is clear that Mr Price had considerable reservations about what was proposed.

23. Miss Sheila Smith, Director for People and Communities, has over 37 years experience as a Social Worker, Manager, Inspector and Senior Manager in the field of children's social work and specifically safeguarding. Miss Smith had no direct involvement in the Claimant's appointment because the Claimant was appointed by Mr Reay and Louise Malik. However Miss Smith managed the Claimant in relation to professional matters because neither Mr Hunt nor Miss Malik have a social work qualification. This had been the case with Mr Reay as well. Miss Smith says that when the Claimant began working with the Council she told her that she thought the practices around Child Sexual Exploitation were dangerous. Miss Smith was concerned and asked the Claimant to outline issues and recommend solutions to be taken to the Chief Executive and Corporate Management Team. Miss Smith considered that there was nothing negative about the Claimant doing her work but became aware from about early September 2015 that Mr Price thought the Claimant had an abrasive style which was having a negative impact on managers. Miss Smith also said that she discussed her concerns with Mr Oliver and Mr Oliver said that he had asked the Claimant to deliver on a number of tasks which had not been done. It was at this stage that Miss Smith says that she did not consider that the contract would be renewed at the end of November 2015.

24. Mr Oliver said that he was impressed by the Claimant's energy and willingness to get involved and that in addition to meeting at the board and executive group meetings they would meet regularly one to one and speak on the phone frequently. Mr Oliver said that on 31 July 2015 after a board executive meeting he discussed with the Claimant the progress of the annual report and the business plan. When he returned from leave on 24 August 2015 he had a further meeting with the Claimant but was concerned that very little progress had been made with either document. He spoke to Mr Price about this matter. There was a further meeting then arranged for 15 September 2015 with the Claimant. Mr Oliver mentioned his concerns to Miss Smith on 1 September 2015 and again at a one to one meeting on 10 September 2015. By late September the documents were still not forthcoming and the report was finally published on 4 December 2015 instead of early October 2015.

25. We accept the evidence of Miss Smith and Mr Oliver that there were genuine concerns about the Claimant doing the work on the annual report and business plan.

**David Jellings Issues**

26. Miss Susan Turner is a Human Resources Manager. On 30 July 2015 Fiona Robertson, Deputy Head of Legal and Democratic Services, came to see her and showed her some printed Facebook pages of one of the Respondents employees, David Jellings, Scrutiny Officer. Those pages contained inappropriate comments to young girls which appeared to be made by Mr Jellings. The pages had been shared with Mrs Robertson by an anonymous colleague. Miss Turner recommended that there should be a strategy meeting. Mrs Robertson spoke on the same day to Linda Bunting, who was covering the Local Authority Designated Officer (LADO) role. There was agreement Mr Jellings would not be suspended because of the need for a strategy meeting. The matter was reported to the police.

27. On 3 August 2015 the Claimant received the LADO referral. The action taken by the Claimant on 3 August 2015 was to first call a call handler at the Safeguarding Children's Unit Bridgwater Police Station to say that she had received an allegation of online grooming in relation to Mr Jellings evidenced from his Facebook account. Also the Claimant informed Mr Price and Mr Nick Brain, Legal Services Director about this matter. The Respondents admit that the Claimant did contact them in the way alleged and that these were protected disclosures. It is not admitted in relation to the Claimant's contact with the call handler. We find that the Claimant also contacted the call handler on that day. We accept the evidence of the Claimant that she followed up these disclosures by speaking to Sergeant Rob Moore of Avon and Somerset Police.

28. The Claimant said that initially she used her personal Facebook account to obtain evidence of Mr Jellings' conduct before requesting access to Facebook through Council systems. This was because in the Claimant's view she had a duty to child protection generally which overrode any Data Protection Act concerns. This action is consistent with later actions taken by the Claimant.

29. There was a strategy meeting about this matter on 6 August 2015. Present at that meeting was the Claimant, Miss Liz Mansbridge (HR), Fiona Robertson, Line Manager of David Jellings, and Robert Moore. The minutes taken at that meeting are on pages 126 to 132 of the Bundle. It is recorded that Fiona (Robertson) made a referral to the Duty Local Authority Designated Officer, Linda Bunting who raised it

with the Claimant Maggie Siviter. The police officer asked if the inappropriate behaviour would impact on Jellings' current role but Fiona Robertson stated that his current role is a Committee Administrator and does not have access to children's data base or any other data base containing sensitive information about children. It was noted that HR would not want to compromise the investigation by the police by intervening if the police wanted to prosecute Mr Jellings for a crime and until that point HR would follow procedures as an organisation in terms of safeguarding. However it was noted that as the risk within the organisation is already contained Liz Mansbridge is unsure what form this would take. The Claimant stated that Mr Jellings was in a position in the Council and could potentially pose a risk to children because of his close association with Councillors. The actions agreed were that the Respondents would wait for the police to investigate before they acted, and that no information could be given to Mr Jellings. The police would keep the Claimant updated with the progress and outcome of the investigation and, once that is received and subject to the outcome of the investigations, the Claimant would reconvene the LADO strategy meeting.

30. The Claimant says that the Respondent did not chase up the police as it was their duty which left Mr Jellings able to continue to conduct himself in this manner for some time. However it is clear from the minutes that it was the Claimant herself that would be liaising with the police and was to reconvene the LADO meeting at an appropriate time. It is difficult to see how criticism can be made of other employees of the Respondents for this lack of action, if there was lack of action.

31. Before the matter of Mr Jellings' Facebook had come to the attention of the Respondents, there was in place a redundancy exercise which had commenced in 2014. In July 2015 Mr Jellings had been accepted for voluntary redundancy and notified about the position. This preceded the knowledge regarding the Facebook situation. Notice to terminate the contract of employment of Mr Jellings should have been given at the start of August 2015 but was delayed because of the Facebook police investigation. Miss Turner said that her colleague Miss Mansfield chased the Claimant for the outcome of the police investigation and was told the police would be coming to arrest Mr Jellings in work but that never happened. On the 12 October 2015 Miss Mansfield emailed the Claimant to ask if she had heard back from the police and received an email from the Claimant saying, "no nothing as yet as soon as I hear anything I'll let you know". Miss Turner says the police were chased one final time before Mr Jellings was given notice and he then left the employment of the Respondents.

32. We accept the evidence of Miss Turner that the redundancy process had led to the acceptance of Mr Jellings being made redundant prior to the discovery of his Facebook and that matters were delayed for the reasons Miss Turner said. Mr Jellings was given a notice to end his employment on 31 October 2015. He had garden leave for the first month and payment in lieu of notice for the remaining two months.

33. The Claimant alleges this was a failure by the Respondents to discharge their duty and referred to this matter when she complained to Ofsted on 20 October 2015 and 23 November 2015. As far as the involvement of Mr Price was concerned Mr Price left the matters, including police involvement, to the Claimant as LADO. Mr Price was aware about the conclusions of the strategy meeting of 6 August 2015. Although periodically he made informal enquiries to see whether police advice had changed and it had not. Mr Price took no part in these matters at all. There was no role for himself or his staff to carry out an investigation as they would only get involved in relation to child victims. We accept that evidence of Mr Price. We find that these protected disclosures made by the Claimant were properly dealt with by the Respondents who awaited the outcome of police investigations. In the absence of any action by the police, the Respondents took reasonable steps to end the employment of Mr Jellings.

**CSE Strategies**

34. The Claimant had responsibility for strategic matters in relation to CSE (Child Sexual Exploitation). The Claimant attended her first CSE multi-agency risk assessment conference (MARAC) on 13 July 2015. It was agreed there should be a further strategy meeting to be held on 5 August 2015 which was to be chaired by the Claimant.

35. On 12 June 2015 an operational group meeting which the Claimant attended was convened by Mr McCallum. Mr McCallum says that the Claimant had ideas about practice development and he saw her focus on CSE in North Somerset as positive and constructive. Mr McCallum attended the meeting on 5 August 2015 as it was a multi-agency strategy meeting convened in relation to concerns that a number of children might be at risk of or suffering significant harm through exposure to sexual exploitation perpetrated by several named suspects in North Somerset. Mr McCallum says that his role was to observe from the practice prospective of shared learning and examples of good practice across the area covered by his project and beyond. Mr McCallum says he was impressed at the CSE focus and leadership that he perceived the Claimant to be exerting.

36. The minutes of the strategy meeting are contained on pages 125A of the Bundle. In the heading “Purpose of the Meeting” it is said that it is a sexual exploitation strategy discussion to establish children or young people that are potentially being sexually exploited as well as engaging in harmful behaviour. Discussions will take place in the meeting to determine the adults who these young people associate with, the areas and hot spots this activity is said to take place and an action plan will be put in place to protect the children and young people or to intervene in activity they are undertaking which is potentially harmful.

37. There were minuted discussions about a number of individual children and adults and also premises. There was identified the need for possible risk assessments. Mr McCallum suggested a narrative needed to be drawn up and agreed to explain to the young people the possible risks and why a risk assessment was being carried out. The Claimant agreed to do this and there was appended to the minutes a narrative for use with children who were having risk assessments completed associated with the strategy meeting.

38. A review enhanced CSE strategy meeting was held on 2 September 2015 which was chaired by the Claimant. There were further discussions in relation to individuals who had previously been discussed and the position was updated. It was minuted that a risk assessment would be attached to the notes so that risk assessments can be carried out before the next meeting and once this has been completed that goes to the police via social care. The Claimant explained that the single collation points for notes needs to be set up that can be accessed by all agencies to enable information sharing. The new CSE meetings would potentially replace the CSE MARAC. The Claimant asked colleagues to ask people who were working closely with the individuals to bring information to the next meeting and that if the professionals that attended today could they please alert the relevant people to the fact that their children had been discussed today and let the conference clerks know who to send the minutes to. The Claimant stated she did not feel that things had progressed very much since the last meeting was held in terms of being able to intervene. It was noted that risk assessments would be completed in a month. There was also to be further enquiries regarding a particular premises and who the proprietor of the premises was and who was facilitating girls to work there.

39. The following day the Claimant attended Mr Eifion Price’s senior management team meeting to request that risk assessments be prioritised. Mr Price says there was not a senior management meeting on 3 September but there was a support and safeguarding team meeting and there was no reference to these matters being discussed.

We prefer the evidence of Mr Price that there was not raised at a meeting on 3 September these matters of risk assessments by the Claimant.

40. Ms Caroline Wigmore met the Claimant when she worked in Birmingham in 2013. She kept in contact with the Claimant since working with her. Ms Wigmore was approached by the Claimant after the Claimant started working in May 2015 to see if she was interested in working as a LADO as an agency worker but Ms Wigmore declined. Then a second contact was made where the Claimant asked if she would be interested in a joint role undertaking CSE work as a lead practitioner and as an independent reviewing officer. Ms Wigmore agreed and started with the Respondent in late September 2015. Ms Smith referred to the fact that the recommendations of the Claimant about Ms Wigmore's post were agreed, and the necessary funding agreed by the Respondents to allow this additional recruitment.

**Councillor Bryant Issues**

41. As a result of discussion of a particular premises at the CSE strategy meetings, the Claimant made enquiries about who she should discuss in the Respondents organization about the licence for the premises. Mr Richard Blows directed the Claimant to talk to Mr Julian Feltwell. Mr Julian Feltwell was the Assistant Manager Community and Consumer Services for the Respondents but also worked in the same role for Bath and North East Somerset Council across a shared management arrangement between the two councils. He had worked in Trading Standards for over 30 years. He was approached by his Directorate Safeguarding Lead, Mandy Bishop, to speak to the Claimant about concerns Children's Services had in relation to a number of commercial premises in Weston-super-Mare which Miss Bishop recognised as Trading Standards having an interest in.

42. Although the Claimant says in her Witness Statement that the conversation with Mr Feltwell was on 4 September 2015, there was an email of 3 September 2015 sent by the Claimant to Miss Smith with the subject "Please Call me" (page 139 of the Bundle) which involved discussion of what had been said to the Claimant by Mr Feltwell. Also in the Schedule of protected disclosures it is alleged it was 3 September 2015 that disclosures were made resulting from the conversation with Mr Feltwell. It is clearly a mistake in the Witness Statement regarding the date of the discussion which we find to be 3 September 2015. The contact that Mr Feltwell had with the Claimant on 3 September 2015 led him to believe that the Claimant had an incomplete picture of the relevant commercial landscape in which some of the persons of interest (nominals) were operating and a limited understanding of how intelligence is gathered and collated in the

enforcement community. The Claimant invited Mr Feltwell to attend a child protection meeting on 13 October 2015.

43. The Claimant had on 3 September 2015 a telephone conversation with Miss Sheila Smith and told Miss Smith that a colleague from Trading Standards had expressed concern about a local Councillor, Councillor Bryant, who had links with a local businessman where there was a range of concerns. The Claimant said she needed more information but was concerned there might be a CSE network. Miss Smith agreed that more information was needed before a conclusion that a network was in existence could be made. Miss Smith was aware that the businessman had links via charitable work with other Councillors. It was agreed that they needed to gather more information and that the Claimant would keep Miss Smith informed.

44. In late summer 2015, and we accept the evidence of the Claimant that it was around 11 September 2015 she had a telephone conversation with Mr McCallum in which his recollection, as Mr McCallum did not make a note, was that the Claimant was concerned that the management of CSE issues within North Somerset Council and that individuals with positions of responsibility within the Council might be involved with obstructing effective responses. Mr McCallum said that he was not in an operational role and that the Claimant should escalate concerns to a senior level which the Claimant agreed that she would do that. We accept the evidence of Mr McCallum that what the Claimant was actually complaining about was the attitude of Council Officials regarding obstructing effective responses. This is in line with the Claimant's opinion regarding the attitude of Mr Price in particular at this time.

45. In addition to that conversation, at a one to one regular meeting with the Claimant on 12 October 2015 the Claimant discussed the meeting she had planned for the following day the 13 October. Miss Smith understood this to be a planned strategy meeting which gave an opportunity to review information, check thresholds and decide whether action needed to be taken in relation to any young person. Miss Smith says at no stage did the Claimant say she suspected that Councillor Bryant was linked to CSE. She only referred to individuals he would know and the context of his role as a Councillor and local businessman. Miss Smith says if the Claimant had linked Councillor Bryant to CSE then she would have notified the Chief Executive immediately and consider what needed to be done about that and who needed to be at the meeting on 13 October. The Claimant told Miss Smith that the focus was on one suspected perpetrator of whom the Respondents were aware. The Claimant did not link Councillor Bryant with Mr David Jellings in any way.

46. There is a conflict between what the Claimant said on 12 October which is that Councillor Bryant would be discussed as a potential suspect meaning perpetrator linked to child sexual exploitation, and Miss Smith's recollection that the Claimant did not say that Councillor Bryant was a potential perpetrator or suspect. We prefer and accept the evidence of Miss Smith on this matter because had it been said in those clear terms by the Claimant we accept the evidence of Miss Smith that she would have escalated this matter to the Leader of the Council and Chief Executive. Miss Smith had escalated in 2013/2014 a previous allegation of another Councillor being a possible perpetrator in connection with child sexual offences. Miss Smith also referred to her notes that were taken of the meeting in which there is reference to connections between businessmen and premises and no note of Councillor Bryant at all. In addition it was clarified in the course of the Tribunal proceedings that the Claimant's case as clarified at case management, and as indicated in paragraph 18 of the Claimant's opening note, is that at no point has the Claimant alleged that Councillor Bryant is himself involved in child sexual exploitation but rather that he has clear links to individuals suspected of running networks. That is inconsistent with the Claimant alleging in cross examination of Miss Smith that she had made it clear that there was an investigation of Councillor Bryant being a perpetrator of child sexual abuse which was going to be discussed on 13 October 2015. We have no hesitation in rejecting the Claimant's evidence or submission that this was a matter that was discussed in those terms with Miss Smith on 12 October 2015. We do not accept that the Claimant said at 12 October meeting with Miss Smith that Councillor Bryant and David Jellings might know each other and that there were emerging concerns about an indication of a cultural and attitude problem towards children within the council. Had that been said we have no doubt that Miss Smith would have taken this allegation seriously and would have followed up and challenged the Claimant as to what exactly she was saying. It was recorded in Miss Smith's notes the Claimant complained that Eifion Price was broadsiding her and treating her in a hostile manner. That was the complaint made by the Claimant at the meeting of 12 October 2015. We accept the evidence of Miss Smith on this matter.

47. Before the meeting on 13 October 2015 Mr Feltwell met with the Claimant and had a discussion with her for about 10 or 15 minutes. Mr Feltwell told the Claimant that a businessman linked to a licensed premises had been arrested for the supply and distribution of counterfeit tobacco and that businessman was linked to the presence of two girls under the age of 16 who turned up at his licensed premises. This individual was subsequently convicted in 2016 for the counterfeit tobacco offence and given a 16 week custodial sentence. Mr Feltwell,

together with the police, were aware that Councillor Bryant had previously provided a character reference for the same individual who was involved in a criminal prosecution in 2010. That character reference is on page 69 of the Bundle and says "I have known Mr…. since his family opened the …… restaurant in Weston-super-Mare and my wife and I became regular customers. I have always known him to be a warm, friendly and charming individual and copies of letters sent to ….. illustrate his generosity to local charities. I wish him well" Mr Feltwell also said that after the conviction of the individual in 2010 Councillor Bryant spoke to him in passing and told him that this individual was not so bad and it was his brother who was the wrong one to which Mr Feltwell replied I don't agree.

48. In addition at this informal meeting with the Claimant Mr Feltwell also mentioned another businessman the owner of a premises who was a potential person of interest in the illicit tobacco investigation. The businessman had been the subject of a number of conversations between Mr Feltwell and Councillor Bryant and more recently Councillor Bryant had tried to insist that they investigate him for matters outside their jurisdiction. Mr Feltwell said that it was for the HMRC to investigate and that department would pass information to HMRC.

49. The Tribunal also notes that in Mr Feltwell's email of 11 February 2016 to David Turner and Mandy Bishop on page 550C of the Bundle that Mr Feltwell refers to a discussion pre 13 October 2015 meeting with the Claimant in which he shared the information regarding licensing and says this "she (the Claimant) speculated on possible analogies with CSE investigations conducted in other parts of the country, in terms of ethnicity and political protection, which seemed rather a significant extrapolation from my prospective but something which I conceded would need a good deal of supporting evidence". Mr David Turner was then the Director of Development and Environment and Mandy Bishop was an Assistant Director (Operations) and the point of contact and Directorate Management Lead in respect of safeguarding enquiries/matters. Ms Mandy Bishop also refers to a telephone conversation on 10 February 2016 with Mr Feltwell who advised her that whilst he thought Councillor Bryant was a little naïve concerning his friendship he did not think that Councillor Bryant was involved in criminality and again reiterated it would be a big leap in that just because he was friends with a local businessman and other local business owners.

**Meeting on 13 October 2015**

50. On 13 October 2015 the Claimant chaired a child sexual exploitation meeting held in Weston-super-Mare. Miss Brianne Ackland was the

minute taker. A large number of people attended including Mr Feltwell, Mr Oliver, Ms Wigmore, and Detective Inspector Liz Hughes of the Protection Unit of Avon and Somerset Police. There are four versions of the minutes. At the commencement of the meeting the Claimant informed all that it was a closed meeting and no information was to be discussed outside of the meeting room without her express permission. The Claimant emphasised the need for the information to be confidential. The Claimant said that if anyone had issues regarding who they can share the information with in particular North Somerset employees then they can contact the Claimant or Caroline Wigmore.

51. It is recorded the meeting had been convened due to significant concerns around CSE and the purpose was to share information and discuss a safety plan. The purpose of the meeting is to look at perpetrators and try and disrupt the networks and to make it more difficult for them to sexually exploit young people in North Somerset.

52. There was then a list of people who were going to be discussed. There was a reference to social workers having been asked in August to complete risk assessments but that has not occurred. Mr Feltwell provided information regarding his licensing service work and referred to restaurants and links to premises and individuals. Caroline Wigmore would send a copy of risk assessment forms to those present to be completed as a matter of urgency and within 10 working days. There were concerns expressed that several local businesses were a front for CSE, human trafficking, modern day slavery and organised crime. There was to be a further meeting on 25 November 2015.

53. An investigation by Mr Robert Long, Information Security Officer of the Respondents, analysed the amendments to the minutes which were first produced by Brianne Ackland. On page 310 is a document contained in his report which is headed “Versions of minutes assessment” in which he says that four are the same as previous versions giving two versions with changes made from the previous. There were significant changes to the minutes from the version drafted by the minute taker and the latest version provided by the Chair after reporting the incident to himself. Mr Long says that the minute taker when interviewed said she felt very uncomfortable recording the minutes and felt the information discussed was more like gossip as opposed to substantiated evidence. The minute taker also said her minutes were likely to be mess due to the conversations that were occurring and the lack of structure to the meeting. This is a reference to the notetaker not disclosing during the meeting that she had a personal link to a relative whose business was being discussed. The Claimant expected to know of this conflict of interest from the notetaker at the beginning of the meeting and considered that Miss Ackland had

breached confidentiality in not saying anything until after the meeting. As there had been an agenda with premises named, the Claimant considered that Miss Ackland could have asked to have a word with her before taking the minutes. The Claimant said the notetaker took much less detail. The Claimant added in underlined entries in the document commencing page 169A her own amendments to the minutes. Caroline Wigmore also had gone through the minutes with the Claimant before the minutes were sent to Mr Rob Long. The Claimant made a number of substantial changes and added in Councillor Bryant's name and was insistent that it was added in. The reference to Councillor Bryant is in relation to "involved with this network".

54. Mr Oliver was present at the meeting on 13 October 2015 and says that the Claimant mentioned Councillor Bryant's name for the first time at the strategy meeting and suggested there had been inappropriate involvement and influence over certain individuals. Mr Oliver's view was that that was totally inappropriate because it could be viewed as defamatory. Mr Oliver was content that the police were to make further enquiries but he talked to the Claimant after the meeting to challenge her about a suggestion of any cover up and the basis of the allegations and asked the Claimant whether her claims were based on rumour and speculation to which Mr Oliver says the Claimant said I suppose so. The Claimant denies that it was Mr Oliver that said that to her, rather it was Mr Price and she denies that she replied I suppose so. We accept the evidence of Mr Oliver that he did challenge the Claimant and did have a conversation as he says and that the Claimant did at that stage agree that it was rumour and speculation because it is clear that there was going to be further investigations before any conclusions could be drawn about the nature of the connections and the links between individuals as it related to child sexual exploitation.

55. In the email in February 2016 Mr Feltwell took issue with the minutes indicating that Councillor Bryant had hindered them from pursuing concerns. Mr Feltwell said that in fact Councillor Bryant wished that concerns should be pursued beyond the remit and that was what he had said. In relation to Councillor Bryant giving a personal character reference and this would raise questions, Mr Feltwell commented that he would not have in any way linked Councillor Bryant to an individual identified in the minutes. Mr Feltwell said Councillor Bryant had always been clear about his testimony for one of the persons discussed and that persons historic restaurant business following firearms charges. In addition Mr Feltwell says that he remarked to colleagues post meeting that he had gone to a rather strange safeguarding meeting and was concerned by the apparent quality of business support given to the meeting and that additionally there was something of an unstructured basis to the meeting. As these remarks were made at a time when

matters would have been more fresh in the mind of Mr Feltwell we accept the evidence of Mr Feltwell which illustrates the difficulties of fully understanding what was discussed and how it was discussed at the meeting.

56. Mr Eifion Price was not present at the strategy meeting and says that he was not aware at the time that meeting had been planned. It is Mr Eifion Price's view that the statutory meeting was operational and that he was surprised it happened without his knowledge because it is not a meeting that someone in the Claimant's role would automatically do and if she did it would be with his knowledge. After seeing the minutes of the meeting Mr Price considered that the Claimant should have come directly to him and say she had concerns. In fact Mr Price received the minutes the same day from Justine Davies (Service Leader) who was concerned about the content of those minutes and felt that he should see them. Miss Davies had received the minutes from Brianne Ackland. The minutes that Mr Price saw were the minutes which are on page 163 to 169 of the Bundle. In that version there is reference to Councillor Bryant being involved with this network. When Mr Price saw the minutes he says he had lots of concerns about the meeting and there appeared to be a lot of speculation and hearsay minuted. The individuals who participated were junior members of staff and he was unaware a Councillor's name was going to be mentioned in the context of serious allegations with no record of any proper evidence which he felt was dangerous. The way it was minuted did not contain any convincing evidence of the nature of the concerns. Mr Price's view was that had the Claimant raised concerns with him about Councillor Bryant then those matters would have been referred to Sheila Smith and she would have involved the Respondents Chief Executive.

**Events after 13 October 2015**

57. On 14 October 2015 Mr Price forwarded the minutes to Miss Sheila Smith and told her to read them. Miss Smith did and was shocked by the lack of structure, focus and rigour. Miss Smith says there were elements of gossip and speculation which went unevidenced and unchallenged.

58. On 15 October 2015 the Claimant asked Mr Eifion Price if she could attend a senior management meeting, the support and safeguarding team meeting. Caroline Wigmore also attended this meeting. The Claimant's purpose in wanting to attend was to go through risk assessments and ask service leaders to chase up their staff. The agenda and papers for the SAST meeting were on a screen. Mr Price says the screen cannot be seen by anybody outside the room and that he put the minutes of 13 October 2015 on the screen and went to the

page with the children's names on so the staff knew who to undertake risk assessments for. The Claimant complained about the way the minutes had been displayed at a later date. At the meeting Mr Price asked the Claimant why Councillor Bryant had been mentioned at the strategy meeting. The Claimant questioned why Mr Price had the strategy meeting minutes. Mr Price explained that he had them in his capacity as Assistant Director but the Claimant questioned his right to have the minutes. In her oral evidence the Claimant said that if Mr Price had asked her for the notes there would be no reason for him not having the minutes if he had had a conversation with her. Mr Price was of the opinion that he had a right to have the minutes and found it offensive that he should not have them because he believed there was an implication that he was involved or might be involved in covering something up. Mr Price's view of the meeting is that the Claimant could not take any disagreement about matters from him and that she would not accept authority.

59. The Claimant asked how Eifion Price had the minutes and Mr Price informed her that he had been passed them by Justine Davies Service Leader by email. This was after the Claimant had left the meeting and then spoke privately to Mr Price. The Claimant told Mr Price that he had compromised a police investigation. Mr Price considered that the Claimant was speaking to him as if the Claimant was his manager. He ended the meeting abruptly. Mr Price says this was the start of things going downhill between himself and the Claimant. The Claimant started not to use her desk which had been 10 yards from his.

60. It is clear that Mr Price and the Claimant had very different views of their areas of responsibility and the way in which meetings regarding potential child sexual exploitation should be conducted. There is common ground between them that Mr Price considered that senior managers should have been present and that he should have been informed of the meeting. He was unimpressed with the way the meeting had been structured and what information or intelligence had been presented and what conclusions there would have been. The Claimant was not prepared to accept that Mr Price should have access to the minutes as of right. The Claimant's point of view either before or after the meeting of 13 October 2015 that Miss Smith and Eifion Price were colluding to protect Councillor Bryant and his associates and, according to her evidence, she based that upon the risk assessments that remained outstanding, a chronic failure to follow procedures to confront CSE, and that they were trying to blame the Claimant for these failures to shift the blame from themselves.

61. Mr Price informed the Claimant that Brianne Ackland notetaker for the meeting was related to the owner of one of the business premises. The

Claimant says in an email of 16 October (page 190) that it was Tracy Twentyman informed Justine Davies of the personal connection between Brianne and the subjects they had discussed and that this information was passed on to Mr Price. There is no criticism by the Claimant of Mr Price telling her about the personal connection that the notetaker had. Indeed it is not consistent with Mr Price colluding with others to suppress material regarding connections with Councillor Bryant for him to tell the Claimant directly about the connection. It is difficult to reconcile this with the case put forward by the Claimant regarding Mr Price's collusion.

62. The Claimant says that on 15 October she telephoned Mr Oliver to tell him about the notetaker's breaches of disclosure/confidentiality. Mr Oliver said that he could not remember the telephone call but he was not saying it did not happen. He would speak to the Claimant frequently and he believed at the time of any conversation that he was driving and had a conversation regarding the notetaker not disclosing a relative of hers being the subject of discussion. However said he could not say if this was at that phone call. All that he could recall is a conversation regarding that subject matter at some time. He could not remember names and whether Justine Davies who he did not think was part of the conversation or Mr Price given the minutes. He could not remember being told by Mr Feltwell having his own motivations or the Claimant's concerns being dismissed as gossip and speculation. Mr Oliver had already spoken to Mr Price and also the Claimant after the 13 October meeting. We find that the Claimant did make that telephone conversation on 15 October to Mr Oliver as she was so concerned about the position regarding the notetaker and the fact that minutes had been shown to Mr Price.

63. The Claimant says that on 15 October she also telephoned Mr McCallum to inform him of the matters which concerned her being the notetaker and Mr Price having the minutes. Mr McCallum could not recall this conversation at all. He said that his role was not operational and that any information he would have would go to a senior police officer since he would refer any matters as appropriate. We accept the evidence of the Claimant that she did contact Mr McCallum in the way that she alleges because her belief at that time that there was a network regarding child sexual exploitation and she regarded the Respondents officers as being obstructive to her efforts to investigate. It is therefore likely on the balance of probability that the Claimant did contact the two individuals who were outside of the immediate employment of the Respondents with responsibilities for child sexual exploitation with whom she had had contact since undertaking her role.

64. Also on the 15 October 2015 the Claimant together with Caroline Wigmore attended the Police Headquarters in Bridgwater and saw Mark Edgington and Phil Jones. According to Ms Wigmore the police officers were told that there had been a breach of information by the Respondent and that the Council could not be trusted to look after information and that police should take over the handling of the enhanced strategy meeting. The Claimant made notes which are on page 181 of the meeting. There is reference to the strategy group and confidentiality and also data protection. There is a discussion of laundering money and several Councillors with connections with a restaurant. These notes do not support the Claimant's recollection that she did discuss the notetaker's breach, Mr Price seeing the minutes, and Councillor Bryant specifically. There were clear concerns on the Claimant's part about breach of confidentiality and what she saw was the leaking of information which could and was detrimental to any investigation in the Claimant's mind. We do not find that Councillor Bryant's name was specifically mentioned or the precise circumstances of the breach of data. We accept the evidence of Ms Wigmore who said her notes of that meeting were very specific and she had not mis-remembered it because she has a memory of aspects of the meeting. Ms Wigmore's recollection is consistent with the notes made by the Claimant herself.

65. On 16 October 2015 the Claimant sent an email to Emily Reed, of Agilisys, the agency which employed the notetaker, to complain of a confidential data breach namely Brianne Ackland's failure to disclose at the meeting her connections and also by Brianne Ackland sharing by email the minutes with Tracey Twentyman without the Claimant's clear consent which resulted in cascading to Mr Price. The Claimant says that both Tracey's and Brianne's position are untenable and that it justifies a disciplinary investigation with immediate suspension. The Claimant also says she wants to know where the information may have been saved or transmitted and would like to be reassured that the notes have not been printed off within the Council network. It is noteworthy that the Claimant's concern about the transmission outside of Council networks of data was not something that deterred the Claimant from sending data at a later date to her own personal computer.

66. The email that the Claimant sent on 16 October to Emily Reed was copied to Mr Gerald Hunt. On 16 October 2015 Miss Sheila Smith spoke to Mr Hunt because she was trying to get information about the various things she was hearing. Mr Hunt said that the Claimant had spoken to him to complain about a breach of confidentiality in relation to minutes taken on 13 October and also Mr Price's conduct at an SAS team meeting on 15 October 2015. Miss Smith contacted DCI Hughes late on 16 October to invite her to a meeting on 19 October and asked

about the police investigation that the Claimant was referring to. DCI Hughes confirmed that there was not an investigation.

67. Mr Price had spoken to Miss Smith after the SAS team meeting. The Claimant says that there was a private meeting with Miss Smith on 16 October 2015. Miss Smith says that was a Friday and she had trouble remembering it. Miss Smith said that the Claimant did complain about Mr Price seeing the minutes and about the minute taker and that was in the context of a breach of confidentiality. Miss Smith was clear that Mr Price had a right to see the minutes but it concerned and bothered Miss Smith because the Claimant was also saying she felt because Mr Price had seen the minutes that the police had no confidence in the Respondents and that had interfered with the police investigation. There is a lack of clarity in what the Claimant was saying and the worry and fear about the impact on the working relationships. Miss Smith could not recall the Claimant raising risk assessments on 16 October. Miss Smith said that what she was working towards was a meeting on the Monday with the Claimant, DCI Liz Hughes, Mr Hunt and Mr Penska to decide what to do.

68. We accept the evidence of the Claimant that there was a meeting with Miss Smith on 16 October and that concerns were expressed about Mr Price and his attitude to the Claimant and the Claimant's feelings of the impact of disclosure of minutes and confidential data breaches on police investigations and how the investigation was going forward. Miss Smith had been copied into the Claimant's email of 16 October at 4.53pm and had read, amongst the comments made by the Claimant, the fact that the Claimant says "I am now in the unfortunate position of having a very significant breach of confidentiality about a sensitive matter with massive legal implications, including the potential to compromise a police investigation". We accept the evidence of Miss Smith that she did contact DCI Hughes in order to invite her to a meeting on Monday 19 October. Miss Smith was unsure about the fact that it was 16 October that she spoke to the Claimant but it appears likely this happened after Miss Smith had read the email from Mr Hunt. The Claimant describes how Miss Smith was very angry and stormed from the room saying that she needed to inform the Chief Executive because of a need to implement "reputational management". We accept that as a probability there was a meeting on 16 October between the Claimant and Miss Smith and that, because of Miss Smith's opinions about what had gone on, and in particular her opinion that there was no reason why Mr Price should not have seen the minutes, indeed he should have seen the minutes, that Miss Smith was as she said bothered and concerned about it and expressed agitation towards the Claimant on that occasion. The Claimant perceived this as being Miss Smith being very angry. We do not accept that Miss Smith

said that she had to see the Chief Executive because of the need to implement reputational management. At this stage Miss Smith was trying to find out and establish exactly what the position was particularly as far as the police were concerned hence the arranging the meeting of 19 October 2015.

69. The meeting took place on 19 October 2015 and present at the meeting was the Claimant, Mr Gerald Hunt, Mr Rob Long and by telephone DCI Hughes. DCI Hughes confirmed that it was not true what the Claimant was saying about the police having a poor view of the Respondents and would not want to work with them. There was a need to establish that the hypotheses discussed on 13 October should be tested and what information there was. Miss Smith said the Claimant kept saying that the minutes were only draft but Miss Smith's point was the minutes were suggesting that things in the meeting had been said and it seemed to be taking on a life of its own and needed a framework.

70. There was extensive revision of the minutes by the Claimant after the meeting. The note of the meeting by Miss Smith is on pages 224 to 225 of the Bundle. Among the attendees was Mr Richard Penska, Head of Support Services. The notes continue to page 226 where it is noted that there was a

"need to consider framework for future meetings to achieve clarity, re: factual information, police intelligence, other intelligence, unsubstantiated information needs to be kept to a minimum, need to be clear about re: conjecture. Need to also consider who attends. Miss Smith reiterated her and Mr Price's responsibilities and so therefore should have full access. Need for IG Audit to complete their investigation.Miss Smith would discuss the matter with HR regarding council staff."

The Claimant says that she was challenged about her authority to convene the meeting and that the discussion amounted to gossip and speculation. Miss Smith agrees that the minutes of 13 October were full of gossip and speculation and they needed to establish the facts. The Claimant says she believes that Miss Smith and Mr Price were colluding to protect Councillor Bryant and his associates. That remains the belief of the Claimant.

**Respondents whistle blowing policy**

71. On page 1 of the policy bundle is the Respondents whistle blowing policy. In paragraph 4 of the policy it is said that staff are encouraged to come forward with any concerns at an early stage before problems with a chance become serious. In paragraph 6 under the heading of how to take a concern further it is said that the policies intended to provide employees with an avenue to raise concerns within the Council to a satisfactory conclusion. Where all internal avenues have been

exhausted (or are inappropriate) however an employee may wish to make such a disclosure outside the Council and in these circumstances the following are possible points of contact -

- Council Members
- District Auditor
- Relevant Professional Bodies or Regulatory Organisations
- A Solicitor
- The Police
- Public Concern at Work (the leading Authority on Public Interest Whistle Blowing).

This policy was updated in July 2015 but the relevant sections already remained the same.

72. The Respondents also have information protection policy which is contained in the policy bundle.

**First Disclosure to Ofsted 20 October 2015**

73. On 20 October 2015 the Claimant was driving her car when she telephoned Ofsted anonymously to make complaints. At page 227 to 230 there are the notes made by Ofsted of that telephone conversation. The Claimant said that she was concerned about being identified and was concerned that Ofsted may tell the Respondents who made the disclosure.

74. The Claimant did not tell the Respondents that she had complained to Ofsted. The Claimant agreed that this disclosure was made before Mr Rob Long concluded his investigation. Amongst the notes taken by Ofsted is the following “currently working on a child sexual exploitation situation rapidly evolving, which has implicated in the involvement elected members of the Council, for an elected member of the Council there, have been some confidential decisions in respect of a group of children and young people who are at risk and the minutes of those confidential meetings have been accessed within the Council where they have gone is currently the subject of an internal investigation so that matter has been escalated. It is also noted the caller advised that “their concern is that they don’t know where or who else is involved who else knows what, the caller advised they are talking about very senior managers they are very concerned about what is emerging”. The Claimant referred to the putting of notes on a screen but did not identify individuals. It is noted that the caller advised that they don’t know what the relationship is with the Councillor and they don’t know where their individual loyalties lie or where their motivation is for wanting to do what they did. There is reference to the QA service. It is noted that the caller advised that their main concern is potential for this child sexual exploitation cover up. Then later in the telephone call the

name Eifion is mentioned as being the senior manager who had put the information on the screen. The Claimant ended by saying basically they are looking at a network of children/young people with strong connections into local businesses, there is a particular central business man with connections to the Council who they also know is involved in some criminal activities such as people trafficking, implicated in child sexual exploitation in relation to the children that they know of, multiple occupancy, trafficking of people in. The Claimant then named a particular Councillor who was close enough to give a character reference about someone they were quite concerned about. The Claimant mentioned Councillor Bryant's name during this conversation.

75. The Claimant confirmed that she was aware that the Respondents had a whistle blowing policy. The policy is set out in the policy document bundle at page 8. The Claimant did not formally invoke this policy. Paragraph 4 of the policy under the heading "Reporting a Concern" it says that they should speak to the manager in the first instance and if it is not appropriate to discuss it with a more senior manager/director or a member of corporate human resources.

76. On 30 October 2015 Ofsted wrote to Miss Smith about information received through Ofsted's whistle blowing hotline that raised safeguarding concerns in relation to the Local Authority in North Somerset. There is then set out a number of bullet points (see page 267 to 268 in the Bundle). Amongst the matters are that managers turn a blind eye to the involvement and movement of Councillors within child sexual exploitation case handling. There is a reference to the complainant stating that these concerns are already known to the Local Authority and the police. It concludes saying "I am sure that you will wish to investigate these allegations as a matter of urgency. I would be grateful if you would inform me of the outcome of your enquiries. It would also be helpful to have an indication of when to expect your response".

77. Miss Smith confirmed that she received this document by email. Miss Smith said she was not angry but she was hugely concerned at the allegations which ranged across a number of areas and which are not true. She was shocked and was worried because the allegations went to the core of her job and she did not recognise the allegations as being true. Miss Smith wanted someone independent to come in and to say OK or find that things were as alleged. We accept the evidence of Miss Smith that was her reaction to looking at the email. Also Miss Smith said that as far as who had whistle blown that it could have been Ms Wigmore or a Child Protection Chair or an Independent Reviewing Officer or an outside agency or the Claimant. However on 2 November Miss Smith went to see Mr Oliver about the Ofsted disclosure and

discussed with him the disclosure to Ofsted. Both Mr Oliver and Miss Smith thought it could well be the Claimant who had raised these issues. Mr Oliver described Miss Smith as being extremely upset because of her reputation personally and to the organisation. It was not Mr Oliver's role to take this matter forward at that time and he did not. It was appropriate for Miss Smith to discuss the matter with Mr Oliver in his role as Chair of the Safeguarding Board.

78. Miss Smith next saw the Claimant on 3 November 2015 at a Directed Leadership team meeting. There was a difference of view between Mr Price and the Claimant regarding Dispute Resolution Process. Later the Claimant had a one to one supervision session with Miss Smith. Miss Smith made notes of that meeting which touched upon the CSE meeting and concerns that Miss Smith had about the confidentiality clause and hampering workers relationships with their Line Managers. There was discussion about risk assessments and the interaction between the Claimant and Mr Price in which the Claimant described the emails as being hostile from Mr Price. When asked by Miss Smith about how the Claimant felt about working with Mr Price in the future, the Claimant said she owns her feelings and would continue to be professional. The issue of the Ofsted disclosure was mentioned by Miss Smith who did not ask the Claimant whether it was her but referred to the fact that there would be an investigation through the local government organisation and that the Claimant would likely be involved with that.

79. According to Ms Wigmore with whom she had shared the information about going to Ofsted the Claimant believed that Miss Smith did not at that stage believe that the Claimant was a whistle blower. Ms Wigmore said that after the one to one session she had a conversation with the Claimant about what she had discussed. Ms Wigmore said that she was aware after 13 October of the Claimant's beliefs regarding the "Rotherham" style cover up in North Somerset and was reporting that to Ofsted.

80. The Claimant was described by Mr Oliver in these terms at or after the 13 October meeting. The Claimant spoke about concerns of organised child sexual exploitation in spite of the fact there was no obvious organised child sexual exploitation in North Somerset and that Barnardo's previously had identified locations but not organised. Mr Oliver said that he thought that the Claimant's enthusiasm was a strong point but by then she wanted to discover Rotherham type style events. That was clearly her belief because the Claimant herself says that she believed that Miss Smith and Eifion Price were colluding to protect Councillor Bryant and his associates. The evidence of Mr Oliver and his assessment of the mindset of the Claimant at this time is something

we accept as being accurate. The Claimant did believe that there was a Rotherham style cover up in the Respondents organisation.

**Report of Mr Rob Long Information Security Officer 9 November 2015.**

81. The final report of Mr Rob Long was sent to Miss Smith, Mr Penska and Mr Brain on 9 November 2015 pages 302 to 310 of the Bundle. However before it had been sent in its final form draft reports had been sent by Mr Long to Mr Brain and Mr Penska on 23 October 2015. Mr Long had also sent a draft to Mr Simon Farnsworth asking him to review his report. The issues which were identified by Mr Long were that the notetaker was related to the owner of one of the two organisations mentioned at the strategy meeting but did not declare a conflict of interest at the time; the minutes were circulated to officers without the approval of the Chair; and minutes were disclosed on a projector in an unsecure environment. Mr Long also reviewed the way that the strategy meeting had been conducted and made various recommendations about that. Mr Long referred to concerns regarding data sharing and the terms of reference for meeting of the group. Mr Long describes the objective in paragraph 3 of the final report as to review the versions of the drafted minutes, ascertain the cause of the breach, and make recommendations to reduce the potential impact and risk of similar incidents occurring.

82. Mr Penska made two comments firstly that the notetaking did not need to be taken in house because the minute taker was experienced in the role and had transferred from the Respondent to Agilisys. Secondly he did not think there was a need for a disciplinary investigation and it could be addressed through training. Mr Long agreed with those comments. Mr Brain concurred with Mr Penska's views. Miss Smith had a comment to pick up on the visibility of children's names at the meeting on 16 October 2015. Miss Smith directly commented to Mr Long in an email of 5 November 2015. In that email there was the context in which Mr Price had shown the slides. Miss Smith asks that Mr Long considers Mr Price's perspective on this matter.

83. Mr Long did verify the position of the screen in the room and was content with that explanation.

84. Mr Long in Appendix A under the red section (which means high risk non compliance with legislation and financial consequences) identified lack of structure to the meeting where many issues are discussed on children adults and organisations which may fall under CSE. In particular Mr Long says a data sharing agreement appears not to be in place and there is a current breach of the Data Protection Act which could have significant ramifications if left unresolved. Discussions captured in meetings appear to be a blend of alleged committed and

unsubstantiated criminal activity which if recorded could place the Council at risk should they be challenged. In relation to excessive sensitive information Mr Long says this appeared to be shared where there may not be appropriate grounds to do so examples being lists of children at risk of CSE being shared with the Trading Standards Officer and the midwife at Weston Area Health Trust and that there is a risk that there is a breach of the Data Protection Act which could have significant ramifications if left unresolved.

85. Mr Long accepted that the initial concerns he was investigating were the Claimant's concerns about the circulation of the minutes and the conflict of interest with the notetaker. He accepted his report goes further about the governance and structure of the meeting because amongst other things he was aware that there should have been a Data Protection agreement in place for the meeting in order to comply with the Data Protection Act. Mr Long said it was his business to understand data has a lawful basis for discussion and is proportionate and necessary. The objective was to look at what and how was data shared and he criticised the way the minutes had been written without a Data Protection Agreement underpinning it. Mr Long works with a colleague Amy Le-Milliere-Tinney with whom he discussed the matter. Mr Long thought that Amy may have told the Claimant about the lack of an agreement. Mr Long liaised with his colleague Amy about data sharing as part of his investigation. He relied on his colleagues advice in relation to data sharing needing to be in place. The fact that this was something that concerned Mr Long can be seen in an email he sent on 13 October (page 161) to Lynne Trigg who is the Housing Advice Team Manager regarding a need for a Data Sharing Agreement to be in place. This email was copied to the Claimant at the time. The Claimant responded on 13 October 2015 to say that they were meeting on 26 October to discuss data storage management and sharing across agencies in relation in particular to CSE. The Claimant says she will forward the calendar invitations so that Mr Long can see the terms of reference to the group and his advice and guidance would be most welcome. At this point the Claimant did not challenge Mr Long's views regarding the need for a Data Sharing Agreement or compliance with the Data Protection Act.

86. In these circumstances it would not have come as a surprise to the Claimant to have read Mr Long's report and his criticism about the lack of a Data Sharing Agreement for the CSE/MARAC meeting. We accept the evidence of Mr Long that as part of his investigation he was concerned about the lawful basis for the discussion and with the lack of a Data Sharing Agreement. Although with hindsight he should have asked the Claimant about this matter since it figured highly in his final report. However, he had the response of the Claimant to his concerns

on Data Sharing Agreement in the email referred to from the Claimant. Although Mr Long accepted that he had had some child protection training he had no law enforcement background and his emphasis was on information security management. We accept that Mr Long discussed the Data Protection matter with his colleagues and not specific child protection advice. Mr Long accepted that as an oversight that the information that his colleague Amy told him about speaking to the Claimant and the need for Data Sharing Agreement could have been in the report.

87. Mr Long said he had not spoken to Mr Eifion Price. He had comments from Miss Smith as referred in the email. What he had written was his opinion and had not been influenced by Miss Smith, Mr Price or Mr Brain or anyone else in order to engineer the dismissal of the Claimant. We accept that evidence on the part of Mr Long that he did not think that his report was going to be used as the basis of dismissal of the Claimant. Having been alerted to the lack of a Data Sharing Agreement it would have been extremely surprising if Mr Long had not commented upon that and made recommendations in relation to this matter.

88. On the 19 November Miss Smith asked Mr Long if she could forward a copy of his report to the Claimant prior to a meeting that Miss Smith was going to have on 20 November 2015. Mr Long confirmed on 19 November he was happy for that report to be sent to the Claimant.

89. Miss Smith says that after she received Mr Long's report and read it, that it raised real concerns with the Claimant's responsibility as the person who had called and chaired the meeting and who was responsible for deciding who attended and what was discussed. Miss Smith says she therefore met Mr Brain and Mr Jackson the week beginning 9 November 2015 to discuss how to respond. Miss Smith says they concluded not to retain the Claimant's services after her assignment was due to end on 30 November 2015.

90. We accept the evidence of Miss Smith that that report of Mr Long coupled with the continued undermining of Mr Price's position led Mr Brain, Mr Jackson and Miss Smith to conclude that they would not retain the Claimant's services. The Claimant was recruited on an interim basis and it would be expected for the Respondents to have assessed whether they should extend an assignment, particularly in the circumstances of recruitment of a permanent post. They did take into account as an important factor the report of Mr Long. We reject the suggestion that it was the whistle blowing of the Claimant either before the Ofsted disclosure or the Ofsted disclosure itself that was the reason why the Respondents acted as they did.

**Appointment of Mr Bunyan – Investigating Officer**

91. Miss Smith had the agreement of the Respondents to appoint Mr Andrew Bunyan, who was recommended by the Local Government Association, and is an ex-Director of Childrens' Services, to carry out the investigation in the matters referred to by Ofsted. We accept that Mr Bunyan did not know Mr Price or had any personal connections which would have made him unsuitable to have carried out this investigation. Mr Bunyan was appointed on 18 November 2015.

92. The Claimant alleges that Mr Oliver attended a meeting on 19 November with the Chief Executive Mr Mike Jackson and Miss Sheila Smith and he was informed that they were now certain the whistle blower was the Claimant. Mr Oliver agrees that he did attend that meeting but said that he was not aware that the Claimant was the whistle blower until the afternoon of 23 November when Miss Smith called him to inform him about the events earlier that day. It is the case that Mr Oliver and Miss Smith had discussed this matter previously and were not sure but had strong suspicions that the whistle blower was the Claimant. On balance we prefer the evidence of Mr Oliver that he did not know for certain until the conversation with Miss Smith on 23 November 2015.

93. There was a communication on 19 November 2015 between the Claimant and Mr Oliver concerning a LADO matter (Local Authority Designated Officer). The Claimant had been asked by Mr Oliver to look into a child protection matter arising from a meeting he had held on 17 November 2015 at a school. Mr Oliver asked the Claimant to examine the issue to report back which she did in an email of 19 November 2015. The Claimant said there was no record of the investigation and no final conclusion reached. This caused Mr Oliver some concern. The Claimant followed up the email with a second email on 19 November to Mr Oliver which was copied as the first one had been to Miss Smith. The Claimant had concerns about the records and advice provided by LADO.

94. Subsequently it transpired that the Claimant had not looked for or had available records which indicated that action had been properly taken. It was Miss Smith who had discovered that the information given by the Claimant was incorrect. There had been changes of LADO personnel and certain files were not accessed by the Claimant when the Claimant informed Mr Oliver of the fact that there had not been any action. This incorrect view which Miss Smith had discovered was felt by Miss Smith to be a serious omission in that the Claimant had not properly investigated before given a view. It was an opinion after Miss Smith had formed a view about not deciding not to extend the Claimant's contract and was not the reason for not extending the contract.

**Non-extension of Claimant's contract 20 November 2015**

95. On 20 November 2015 Miss Smith met the Claimant to inform her the contract would not be extended or renewed following its termination on 30 November 2015. Miss Smith explained there were three reasons for not extending the contract. Firstly Miss Smith made reference to the investigation carried out by Mr Long and his conclusions regarding the meeting that the Claimant chaired. Secondly Miss Smith said that the Claimant had given incorrect information to Mr Oliver in respect of the school incident. The Claimant says in her view that is a reference to her making a protected disclosure to Mr Oliver about the shortcomings in the LADO service. Thirdly the poor relationship between the Claimant and Mr Price.

96. The Claimant agrees those matters were the three reasons given to her by Miss Smith. However the Claimant believes that she was dismissed because she was a whistle blower. At the conclusion of the meeting on 20 November the Claimant asked about a reference and was told by Miss Smith that a reference would be supplied but it was not the one that she would be wishing for or was probably going to like it. We accept the evidence of Miss Smith that this was said in the circumstances in which Miss Smith believed that the Claimant had acted in an inappropriate way in respect of the three matters referred to as the reason for not extending the contract. For the avoidance of any doubt we reject the suggestion made by the Claimant that this was a culmination of a witch hunt to dismiss her because of her whistle blowing and that Rob Long's investigation was a gathering of evidence to try to justify her dismissal.

**Upload of information by the Claimant 21 to 22 November 2015**

97. On the weekend of 22 November the Claimant decided to prepare a further disclosure to Ofsted supported by evidence which she uploaded to a personal drive. The Claimant did this to prevent any evidence from being destroyed or tampered with. The Claimant discussed with Ms Wigmore on the Sunday what she was doing namely uploading information from the Respondents onto the Cloud such as strategy meeting minutes and documents pertaining to CSE in case she needed them at a later date. Ms Wigmore was concerned to hear what the Claimant was doing.

98. On the Monday 23 November the Claimant confirmed to Ms Wigmore that she had uploaded documents. The Claimant also showed the report from Rob Long but Miss Wigmore says she did not read the contents as it was marked confidential but Ms Wigmore says that she thought it was better to tell the Claimant that she had read it and also that she agreed that Brianne Ackland should be sacked. However Ms

Wigmore had decided because of the Claimant uploading numerous confidential documents which contained names of at risk children and that this was not a safe thing to do, that she would speak to Miss Smith about what had happened. This is what Ms Wigmore did. Miss Smith was extremely concerned in view of what Ms Wigmore had to say and told Ms Wigmore that although she would not disclose to the Claimant from whom she had received the information, the Claimant was likely to know that it had come from Ms Wigmore. Ms Wigmore accepted that.

99. Miss Smith took action via the IT Officer and closed down the Claimant's IT account to prevent further downloading of documents. Miss Smith also talked to Susan Turner the Corporate HR Manager and they jointly agreed that they had to terminate the Claimant's contract immediately if what Ms Wigmore said was correct.

**Dismissal of the Claimant – 23 November 2015**

100. At 1.36pm the Claimant met with Miss Smith and Miss Sue Turner. The Claimant recorded this meeting secretly and there has been produced and played to the Tribunal a recording. The typed notes of the recording are set out on page 340 to 341. There is a dispute between what the Claimant says was said at that meeting, which she says is accurately set out in the recording, and what Miss Smith says was said in particular Miss Smith says the question was asked "have you taken North Somerset information in breach of the DPA?" to which the Claimant said "yes, and I'm the whistle blower". Miss Smith notes say "can I confirm that you are aware that you have breached the DPA?" and the Claimant says "yes", and notes say "you'll be hearing from our solicitors".

101. The tape recording says that Miss Smith said that this was not going to be a long conversation because she has been given some information earlier which leads her to think you may be thinking about taking information from North Somerset Council downloading it onto the Cloud and then using it subsequently. Then it is recorded "can I ask you have you actually taken anything from North Somerset like anything from North Somerset like information that could be confidential?" to which the Claimant says "yes I have but I would also like to say is that your whistle blower is me. I'm the one that contacted Ofsted". It is Miss Smith who says "in the light of you saying that now you have essentially committed a breach of the Data Protection Act and will be hearing from our solicitors".

102. We accept the recording as being a more accurate record of what was said. It was clearly in the mind of Miss Smith that there had been a breach of the Data Protection Act. But what the Claimant was accepting was that she had taken information that could be confidential

and that she was a whistle blower. Although the Claimant said in her written evidence that she was accused of breaching the Data Protection Act which she denies, those words of denial were not recorded by the Claimant on 23 November 2015.

103. The Claimant admits that she downloaded four versions of the strategy meeting minutes of 13 October 2015. The Respondents say they have never been able to ascertain what information particularly was taken by the Claimant in full. It is the case that information relating to Ms Wigmore's expenses and other matters were later disclosed by the Claimant to third parties who have investigatory roles. But it has never been confirmed by the Claimant precisely what in total had been loaded by her onto her personal computer.

104. The Tribunal has no doubt that it was the actions of the Claimant over the weekend of 21 and 22 November 2015 in removing confidential information from the Respondents files to her personal computer that triggered the termination of the contract that the Claimant had with the Respondents.

105. On the evening of 23 November the Claimant telephoned David McCallum with whom she was due to attend a meeting of North Somerset Safeguarding Children Board sub group on 24 November 2015. The Claimant told Mr McCallum that she had been summarily dismissed from her role and that she may have been dismissed because of suspicions that she had been expressing about CSE in North Somerset including the potential involvement of Councillors and high profile local businessmen. Mr McCallum took the Claimant's concerns seriously and arranged to meet her at Bridgwater Police Centre on 24 November 2015. Mr McCallum wanted to obtain the basic details of the Claimant's concerns and ensure they were directed to the right individual within the police to take effective action.

106. On 24 November 2015 together with a colleague Androulla Nicolaou, Mr McCallum met with the Claimant. At the meeting the Claimant said what had happened at the October meeting with concerns about who was present and had access to shared information and the behaviour of a named local Councillor and alleged links to local businessmen who the local businessman was suspected of being involved in CSE and of sexual offending and the management of premises which could provide opportunities for those who would sexually exploit children. There was a discussion about the management of serious allegation from a child about CSE related crimes. Mr McCallum's view was that the Claimant had genuine passion in what she was saying and had a commitment to try to improve the responses regarding these matters. Mr McCallum's role was not operational but he was going to pass on to a

senior leader the matters expressed to himself which he did. On 26 November 2015 Mr McCallum sent an email to Detective Chief Inspector Elizabeth Hughes (page 371(b) and(c)).

107. Miss Smith contacted Mr McCallum on 25 November because she understood that Mr McCallum had a meeting with the Claimant. Miss Smith queried why Mr McCallum had met with the Claimant knowing her contract had been ended. Mr McCallum said he wanted to ensure there was an appropriate handover of the issues that she had been due to take back to the CSE sub group and went through those issues with Miss Smith. Mr McCallum said that the Claimant had raised concerns that she believed the children were being targeted for CSE in an organised way they had not been appropriately responded to and that he would be passing that intelligence to the police. Mr McCallum notes that Miss Smith said that the Claimant had raised some issues that were subject to investigation but had not been substantiated. A Councillor went to a particular restaurant and no other links could be established.

108. On the same day 26 November 2015 DCI Hughes responded to the email. DCI Hughes said that she is aware of all the content in this email between progressing the activity through research and one strategy meeting held a few weeks ago. DCI Hughes says extensive work has been done to explore this network and the facts are not playing out as Maggie (the Claimant) has described, this has been confirmed by Caroline Wigmore who has been assessing the received information. DCI Hughes says that she had concerns around the strategy meeting convened Julian Feltwell had been particularly concerning as his views were expressed without evidence so she intervened and asked whether it was appropriate to raise concerns with an elected member in the forum. DCI Hughes asked whether this information had been escalated for action to those able to deal with the allegations before they speculated in a multi-agency setting and he went a bit quiet. DCI Hughes says that she hugely valued the Claimant's drive and energy around the CSE work but feels much has been linked together without a huge amount of substance. She says that she has put numerous resources into the work and engaged others too but this time they are not seeing the same thing. She has challenged herself to ensure she is not missing anything but she doesn't think she is. They will continue to keep an open mind and continue to be proactive through neighbourhood resources to gain intelligence.

109. This email which expressed DCI Hughes' views is very much in line with the conclusions that have been reached by individuals such as Mr Oliver, Miss Smith, Mr Price, Mr Long, and latterly by Ms Wigmore. Namely, the conclusions reached by the Claimant which are not

substantiated by facts. Ms Wigmore in an email 23 November to the Claimant sets out her conclusions as follows "I have now done a complete review of all the children's files discussed at the CSE strategy on 13 October 2015 and whilst there are some concerns there is not enough to say that we have an emerging picture of CSE and can clearly identify the perpetrators. My proposal at this time is that we need to approach the police to have a discussion around a named person and the level of concerns regarding him and the other potential perpetrators and concerns over individuals will be an emerging picture that intelligence needs to be built over time. As such my proposal at this time is that we write to all professionals at the meeting on 13 October and advice that actually whilst there are concerns these are being dealt with as part of safeguarding etc. and we are building an intelligence picture but the meeting on 16 December should not go ahead at this time as there is not enough information to require this type of strategy meeting to continue. However if partner agencies do not agree they can place this information in writing for consideration by a senior manager at Children and Young Person's Services. Can you let me know your thoughts please?".

**Second disclosure to Ofsted 23 November 2015**

110. Just after 4pm the Claimant telephoned Ofsted to make a second complaint. There was reference to the activities of Mr Jellings. And also reference to a Councillor who was in the thick of a lot of illegal activities such as drugs, tobacco and alcohol. The Claimant said if somebody would like to meet her to discuss more in full detail she would be happy to do so.

111. On 24 November 2015 Susan Turner wrote to Mr Rob Long about an alleged data breach by the Claimant. Mr Long raised calls with ICT to ask them to preserve the Claimant's mailbox and storage in a secure place and arrange for Mr Long to have access and extract the Claimant's internet history for the past 6 months extract her email gateway report which showed all sent emails the subject headings and the time and date they were sent. Mr Long looked at the Claimant's private email address and her mailbox and lots of emails had been sent to a yahoo account and lots of emails had been deleted. He also reviewed the report from the email gateway and a report on internet activity and there had been a huge amount of activity on Google Docs the weekend of 21 to 22 November 2015. In effect the Claimant had been uploading documents and from a Council laptop.

112. Mr Long wrote to the Claimant on 26 November 2015 to ask what data had been taken the volume and where the data was transferred. The Claimant said she was taking legal advice on the data issue. There was no further contact from the Claimant after this date.

113. Mr Long continued to investigate and found that emails which included staff names and matters relating to illness including mental health had been forwarded. It looked like a deliberate data breach. Mr Long discussed this with Mr Brain and Miss Smith. Mr Long reported the matter online to the Information Commissioner's Office (ICO) and the police and the Police Data Protection Officer was notified.

114. Mr Long said that further whistle blowing concerns were raised by Ofsted and Mr Price emailed to say that he and Miss Smith would deal with the allegations. Mr Long was aware at the time he carried out the second investigation that the Claimant had reported a whistle blowing matter. This was to Ofsted. In his view information could be sent via Council email to Ofsted as a secure way of getting information to Ofsted. He did not check if Ofsted had a secure means of transfer. Mr Long had information that the Claimant had transferred data to her personal Cloud and Ofsted and he wanted clarification. Mr Long sent an email to Julie Dennis of Avon and Somerset Police who was the Police Data Protection Officer. This email is on page 432 of the Bundle in which he says that the Claimant openly admitted to breaching the Data Protection Act and admitted a whistle blowing account to Ofsted for the issues with child sexual exploitation matters. Mr Long said he did not clear this text with Miss Smith and Miss Smith did not ask him to send it but he got the information from Miss Smith via Sue Turner. If there were police data said the police need to know about this matter they did not know for sure if it was police data. The primary reason for this reporting by Mr Long was not for them to take action against the Claimant but to check their own data breach. We accept the evidence of Mr Long that he did this to inform the police about a possible breach which could affect their data. Mr Long said in an email to Aled Jones of Avon and Somerset Police what they are after is clarification of what data sensitivity and volume has been transferred and for it to be returned and depending on the outcome of this it may result in action against the Claimant by the ICO/Police etc. Aled Jones is in the Cyber Police Unit.

115. The email exchanges between Mr Long and ICO refer to confidentiality breaches and Data Protection Act breaches and also the fact the Claimant was a whistle blower which they understood to be a reference to a complaint received by Ofsted. Mr Long says it was the ICO who took it upon themselves to process this as a section 55 matter because all Mr Long did was to report it as a general breach.

116. On 1 March 2016 the ICO Criminal Investigation Officer informed Mr Long that they determined there was insufficient evidence to substantiate the allegation that an offence contrary to section 55 of the

Data Protection Act had been committed in this instance. They have liaised closely with Ofsted during the investigation and "it is clear that they considered there was a public interest value to the disclosure and that Ms Siviter's actions conformed fully to the Public Interest Disclosure Act. Ms Siviter was acting in a whistle blowing capacity which is covered by relevant legislation. There will be no further action taken against the Claimant and the case will be closed."

**Report of Mr Bunyan – January 2016 (page 449 to 464).**

117. The Claimant declined to meet with Mr Bunyan. Mr Bunyan sets out under a heading "Context" the allegations made by the Claimant. The Claimant had written on 2 December 2015 an email to Ofsted setting out a brief statement of incidents. Mr Bunyan considers the allegations of bullying for example and concludes there is no evidence of any bullying or evidence of a culture of resistance to question decision making. He mentions that there appeared to be the Claimant not understanding how to work in a complex multi-layered organisation and the need to consult with colleagues in an appropriate and timely manner. He says the Claimant was rightly told to ensure the minutes of the strategy meeting were factual and any non-factual information was highlighted as such for further investigation or removed. There is no evidence to suggest the involvement of members of the Council in any of the issues relating to the strategy meeting and no evidence of managers turning a blind eye to the movement of Councilor's within CSE case handling. Mr Bunyan says significantly there are no professionals who are prepared to support the Claimant's position in relating to claiming the existence of widespread poor practices across North Somerset. Mr Bunyan says that it is evident from the broad range of similar comments that the Claimant struggled to operate in a balanced and proportionate manner and struggled to accept advice that was at variance with her own views.

118. On the basis of the consistent information received via the structured interview processes the evidence received does not support the views expressed by the whistle blower in her complaint to Ofsted. Mr Bunyan says that there is room for improvement given that CSE practice in North Somerset is still developing and is a relatively new practice area. Recommendations were made to improve the multi-agency response to CSE in North Somerset.

**References for the Claimant**

119. In relation to references we accept the evidence of Miss Smith that the first request for a reference came from a recruitment agency on 7 April 2016. Miss Smith asked the agency for authorisation for her to answer this and, after the Claimant gave authorization, Miss Smith explained that she would give a reference that would include concerns

she had shared with the Claimant on 23 November 2015. The Claimant said that she needed the reference and asked for it to be balanced and fair. Miss Smith gave the reference and answered a number of questions which included the question "are you completely satisfied the candidate is suitable to work with children/young people?" to which she answered "no." Miss Smith says that on re-reading the template she realised she answered that incorrectly and so on 25 April emailed the agency with an amended reference and the answer should have been "yes". We accept the evidence of Miss Smith that this was a genuine mistake because it is clear that if the answer to the third question is "no" then particulars should be given as to why the answer is "no". No such particulars were provided. Furthermore the questions 1 and 2 were answered "no" by Miss Smith and the error of the sort that Miss Smith says is a typing error is probable.

120. There were other requests for reference but Miss Smith stood by the reference she had given and considered that honest and fair. To give dates of employment only would be in breach of the duty given concerns that the Council had had about the Claimant. It was reasonable for Miss Smith to adopt the stance that she did regarding the provision of a reference not to be constrained by just providing dates of employment.

**Other events post-dismissal of the Claimant**

121. On the day that the Claimant was dismissed the Claimant sent two texts to Caroline Wigmore about her walking off the premises. Ms Wigmore did not reply to either message. Two days after this the Claimant reported Ms Wigmore to the Health and Care Professions Council (HCPC) in relation to time sheets and time keeping. Ms Wigmore was asked about time sheets particularly from 5 October to 2 November (page 311 of the Bundle) and having sick leave. Ms Wigmore was asked whether she had claimed for days when she was sick and being an agency worker there would have been no entitlement. Ms Wigmore explained that additional hours could be taken as time in lieu and that it was in order for her to make the claims. Ms Wigmore believes that the Claimant supplied the HCPC with additional information. It was decided there was no case to answer.

122. On 26 November 2015 Ms Wigmore sent an email to various individuals in the Respondents employment cancelling a CSE strategy meeting which was due to be held on 16 December 2015. In that email Ms Wigmore says that after reviewing all of the information including the police information it would appear at this time that whilst there are clear concerns around some of the adults identified there are concerns for the children and young people discussed there is not sufficient

evidence at this time to suggest that a CSE network has been identified. The Local Authority were a continuous part of safeguarding children and working together continued to focus its attention on safeguarding the children that would already appear to be occurring and the police would continue to coordinate and gather any relevant evidence in relation to potential perpetrators as part of intelligence gathering and or partner agencies including children and social care would continue to feed into that intelligence gathering and should the situation change then appropriate action would be taken by the relevant agency. Ms Wigmore goes on to say that after speaking to several of the partner agencies who were at the meeting they were all of the shared view there was no need to reconvene the full strategy meeting as there is minimal evidence of a CSE network. If any of the partner agencies disagree with this course of action they should contact Ms Wigmore.

123. Miss Smith and Mr Price agreed that the meeting should not proceed. Ms Wigmore said it would have been a further fishing expedition and social workers are concerned about evidence. Ms Wigmore's view was that the Claimant was on a one woman crusade. Ms Wigmore considered the Respondents as having probably one of the most supportive senior structures.

124. We accept the evidence of Ms Wigmore that it was her professional view that there was no point in convening a full strategy meeting for the reasons that she gave. This was a view that Ms Wigmore had come to and was a view generally shared by Miss Smith and Mr Price.

125. Of all the individuals that the Claimant considers to have had reasons to cover up or not pursue matters, Ms Wigmore is the least likely person to fall in that category as she was someone brought into the Authority by the Claimant and with whom the Claimant had a close friendship and had shared her opinions and views with on many occasions. There would be no reason for Ms Wigmore to be part of any cover up or not support the Claimant if Ms Wigmore considered the circumstances to be such that she should give support to the Claimant. The Tribunal found Ms Wigmore to be an honest and straightforward witness regarding her involvement in this case. We have no hesitation in accepting her evidence.

**Submissions**

126. The Tribunal were provided with written closing submissions by both parties representatives. In addition there were oral submissions. At the conclusion of the oral submissions the Tribunal directed that there should be supplied supplementary written submissions regarding the sections of the Employment Rights Act 1996 under which it is said that

the disclosures were made and became protected disclosures. This was to clarify those sections which were relied upon by the Claimant. It is not the intention of the Tribunal to set out in detail all the submissions that were made.

**Claimant's submissions**

127. The Claimant referred to the fact that whistle blowing cases are always difficult and consequences can be severe. It was submitted that the test for public interest disclosure claims can be divided into six stages namely was information provided; did the Claimant have a reasonable belief; did it tend to show a relevant failure; was there public interest; protected disclosure; and causation. In respect of the first stage in particular with reference to criminal offences must be read in the light that expecting employees on the factory floor or in shops and offices to have a detailed knowledge of the criminal law sufficient to enable them to determine whether or not particular facts which they reasonably believe to be true are capable as a matter of law of constituting a particular criminal offence seems to be unrealistic and would work against the policy of the statute. Similarly in relation to breach of legal obligation the Tribunal should not engage in an overly legalistic analysis of legal obligations. Tribunals should direct itself on the basis that the starting point is the Claimant's understanding of the facts that lead her to conclude and information tends to show that a person has failed is failing or is likely to fail to comply with any legal obligation to which he is subject. It does not have to be any actual breach of legal obligation it can simply be likely. Moreover the focus is on the Claimant's reasonable belief as to legal obligation. Reference was made to Lord Justice Wall's Judgment in the ***Babulla -v- Waltham Forest [2007] IRLR 346*** in which Lord Justice Wall said "provided his belief (which is inevitably subjective) is held by the Tribunal to be objectively reasonable, neither (1) the fact that the belief turns out to be wrong – nor (2) the fact that the information which the Claimant believed to be true (and may indeed be true) does not in law amount to a criminal offence – is in my Judgment sufficient, of itself, to render the belief unreasonable and thus deprive the whistle blower of protection afforded by the statute".

128. It was stressed that is for the Respondent to prove that the belief of a Claimant is unreasonably held.

129. In relation to the protected issue the Claimant's case is set out in a Scott Schedule spread sheet of 28 November 2016. The Claimant relies on the sections of the Employment Rights Act set out in red. In relation to 43C of the Employment Rights Act 1996 with particular emphasis on section 43C(b)(i) namely reasonably believes the relevant failure relates to the conduct of a person or his employer, reference

was made to two cases that of ***Ross -v- Eddie Stobart [UK EAT/10]*** and ***Premier Mortgage -v- Miller [UK EAT/0113/07/JOJ]*** as examples given of disclosures to persons who were not employers such as a person who complains of a contractor breaking the law. In relation to section 43C(b)(ii) reasonably believes the relevant failure relates to any other matter for which a person other than an employer has legal responsibility it is said that the Employment Tribunal is not required to conduct a public enquiry into complicated cross cutting statutory legal responsibilities. All the Tribunal need to do is assess whether the Claimant's reasonable belief as to legal responsibility meets the civil evidential burden. The question is one of "reasonable belief" as to legal responsibility.

130. In relation to section 43C(ii) namely a worker who, in accordance with the procedure whose use by him is authorised by his employer, makes a qualifying disclosure to a person who is other than his employer is to be treated for the purposes of this part as making the qualifying disclosure to his employer, this allowed the Claimant under the employers whistle blowing policy to authorise the employee to go to the regulator. Therefore the Claimant could go to Ofsted since this was permitted with the Respondents whistle blowing policy. The importance of this is that there is a lower threshold for protection and under section 43F.

131. There were submissions in relation to section 43F, G and H. Reference was made in relation to the reasonable belief in the context of a reasonable professional in the position and personal circumstances of the relevant person at the time. There were further written submissions in relation to each of the protected disclosures relied upon in relation to the evidence in the case.

132. In relation to the sixth stage, causation, it is said the definition of a detriment is plain and straightforward namely by reason of the act or acts complained of a reasonable worker would or might take the view that he had thereby been disadvantaged in the circumstances immediate thereafter to work. References can be found to be pleaded as detriments. The test for detriment requires the Tribunal to look at the reason why but the Claimant need only make out "material influence" – the case of ***Daly -v- Northumberland*** **[UK EAT/0109/16/JOJ]**. The case of ***Feccitt -v- NHS Manchester*** **[2002] ICR 372** it is said that the better view is that section 47B will be infringed if the protected disclosure materially influences (in the sense of being more than a trivial influence) the employers treatment of the whistle blower. Reference is also made to the case of ***Dr Beatt -v- Croydon NHST*** **[2017] EWCA Civ 401** and the case of ***Jhuti -v- Royal Mail*** **[2017] EWCA Civ 1632**.

133. It was submitted on behalf of the Claimant that there was no contemporaneous evidence that the Claimant was a poor performer and issues regarding the Claimant were never raised at the time. In relation to the report of Rob Long there was a degree of unfairness in that. There is the issue regarding what Miss Smith said about the tape and her notes of that is not the same as that which was recorded.

134. There was submitted three CD's of the recording of the Tribunal for the Tribunal to listen to in its deliberations.

135. Criticisms regarding failure to complete an annual report show that they are all ex post facto criticisms because two years later there was still a failure. The key witness was that of Miss Smith who was angry in her demeanour at Tribunal and this is as described by the Claimant Miss Smith's reaction at meetings. The Tribunal can and should conclude Miss Smith would have behaved differently if there had not been protected disclosures. No responsibility had been taken by Miss Smith.

**Respondents submissions**

136. The Respondents referred to five broad headings of the Claimant's case, David Jellings; risk assessments; 13 October 2015 breach of confidentiality; disclosures to Ofsted; and safeguarding incident at a local school. The Employment Tribunal has been asked to consider the 20 alleged disclosures in respect of each whether they are protected and if so determine whether the Claimant suffered the various detriments said to have been materially influenced by those 20 disclosures. The real issue is one of causation and whether there is a causative link between the making of disclosures and the alleged detrimental treatment. There was no evidence as the Claimant suggested of another Rotherham type complex child sexual exploitation ring. The Claimant has repeatedly made a connection between Councilor Bryant and the alleged child sexual exploitation ring. There is a lack of any evidential basis for the assertion and the Claimant's lack of professional integrity was clear to those involved other than the Claimant. The Claimant adopted an aggressive response to criticism raised. The Claimant never engaged specifically in the Respondents whistle blowing policy.

137. The Claimant's fixed term contract was terminated one week short of the sixth month expiry date being 30 November 2015. Miss Smith had determined herself that she would not extend the Claimant's fixed term in the week commencing 9 November 2015. The Claimant admitted to downloading the Respondents confidential data and sending it electronically to her home PC which the Respondents allege

was in breach of the statutory Data Protection Act 1998 and her contractual obligations being the personal information security policy of the Respondents. Personal data did not concern alleged child sexual exploitation and when the Claimant made her second complaint to Ofsted this personal information was not sent. The Respondents policies make it clear that such conduct is considered to be potentially gross misconduct. This was the reason why the fixed term contract was terminated with immediate effect a week before the expiry of the sixth month fixed term.

138. Reference was made to a number of statutory provisions aimed at protecting safeguarding and promoting the welfare of children such as the Children Act 2004. The Claimant did not have responsibility for ensuring that allegations of child abuse were investigated or to have hands on personal involvement in cases. The Claimant was primarily focused on setting standards and procedures for others from a developing business plans and future service direction within a multi agency framework, particularly with safeguarding and quality assuring the childrens social care service. There is an important demarcation in terms of child care responsibilities as between the operational team and the strategic and quality assurance team. The Respondents analysed the various disclosures and the context of the evidence they considered to be relevant. Points are made for example about David McCallum not being the prescribed person for the purposes of making a disclosure.

139. The Respondents analysed the various allegations that the Claimant was bullied and humiliated by Eifion Price, intimidated by Sheila Smith, being subjected to unwarranted legal letters, had her capability and conduct questioned without a basis, repeated requests for a reference being ignored and deliberately withholding information following a subject access request being denied. The Respondents say that these alleged treatments were not materially influenced by the making of any disclosure.

140. The Respondents say that the Scott Schedule which should be used is the document responded to by the Respondents on 15 December 2016 after the Claimant had produced the 28 November 2016 Schedule. The Respondents submit that the analysis of the scheme of the protected disclosure as set out in the Employment Rights Act 1996 was summarised in the case of ***Premier Mortgage Connections Limited -v- Miller*** **[UK EAT/0113/07]**. It submitted that in respect of Mr Jellings, it cannot be said that the safeguarding board and the West of England CSE victim support and identification service have legal responsibility for David Jellings. They did not. Legal responsibility, connotes a specific duty imposed on a party to care and provide for

others such as the parents duty to their child. It is not clear how it can be said that the police had legal responsibility. There is an important distinction between responsibility and accountability. The former protected, the latter not. The police fall within the latter. The Claimant has to establish that the police, the safeguarding board, the West of England CSE victim support and identification service had legal responsibility and the matter was reported to them. If the Respondent is wrong about the reach of section 43C(2)(b)(ii) of the Employment Rights Act the factual issue is whether the adverse treatment (which the Claimant said she was subjected to) was materially influenced by the conveying of information to the police, safeguarding board, the West of England CSE victim support and identification service.

141. In relation to section 43F the issue is whether the Claimant had a reasonable belief that the information disclosed was "substantially true". The additional ingredient of being "substantially true" requires the Claimant to have certainty in the disclosure being a criminal offence, i.e. online grooming contrary to the Serious Crime Act 2015, misconduct in a public office and Sexual Offences Act 2003. Absent evidencing these alleged offences, it cannot be said that they are substantially true. Substantially true goes beyond a reasonable belief and substantially true must mean it is materially true. It is submitted for example that reliance on section 67 of the Serious Crime Act 2015 only came into effect on 3 April 2017 and does not apply retrospectively. It cannot be said that this allegation was substantially true.

142. In relation to section 43G amongst the requirements of the section is that the Claimant reasonably believed that she would be subjected to a detriment or evidence would be concealed or destroyed while the Claimant had previously made a disclosure of substantially the same information to the Respondent or in accordance with section 43F of the Act. There is no evidence produced by the Claimant at the time of disclosure she had a reasonable belief that she would be subjected to a detriment or that she had previously made a disclosure of substantially the same information to the Respondent or a prescribed person for example in relation to disclosure five.

143. In relation to section 43H these concern disclosures of exceptionally serious failure. These are fact sensitive matters for the Employment Tribunal to determine. Reference was made to the EAT Judgment which had been overturned by the Court of Appeal in the case of ***Parnell Group Limited -v- Jhuti*** **[2017] EWCA Civ 1632**. This case concerned knowledge or involvement by a Dismissing Officer regarding whistle blowing.

144. In oral submissions it was submitted that the legal framework means that this is not a law heavy case as such. The Tribunal was invited to consider the accuracy of alleged evidence set out in the Claimant's submissions on the facts. If the Employment Tribunal determined that any claim was out of time that claim is to be dismissed as the Claimant has not adduced any evidence that time should be extended.

145. In conclusion it is submitted that regrettably the Claimant who was clearly committed to safeguarding children believed she was uncovering a "CSE" network in Weston-super-Mare and embarked on a reckless strategy as highlighted by 13 October 2015 meeting and subsequently met concerns raised by her senior leaders by aggressive and vindictive conduct.

**The Law**

146. Part IVA headed Protected Disclosures in the Employment Rights Act 1996 sets out the definitions and the scheme of what are protected disclosures. Section 43A defines protected disclosure as a qualifying disclosure as defined by section 43B which is made by a worker in accordance with any of the sections 43C to 43H. Section 43B says that a qualifying disclosure means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following –

(1) That a criminal offence has been committed, is being committed or is likely to be committed
(2) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
(3) That a miscarriage of justice has occurred, is occurring or is likely to occur
(4) That the health or safety of any individual has been, is being or is likely to be endangered
(5) That the environment has been, is being or is likely to be damaged or
(6) That information tending to show any matter falling within any of the preceding paragraphs has been or is likely to be deliberately concealed.

147. Section 43C headed Disclosure to Employer or Other Responsible Person says

(1) qualifying disclosures made in accordance with this section if the worker makes the disclosure

(1) To his employer or
(2) Where the worker reasonably believes that the relevant failure relates solely or mainly to
    (i) The conduct of a person other than his employer or

(ii) Any other matter for which a person other than his employer has legal responsibility to that other person

(2) A worker who, in accordance with the procedure whose use by him is authorised by his employer, makes a qualifying disclosure to a person other than his employer, is to be treated for the purposes of this part as making the disqualifying disclosure to his employer.

148. Section 43F headed Disclosure to a Prescribed Person says

(1) A qualifying disclosure is made in accordance with this section if the worker –

(1) Makes the disclosure ….. to a person prescribed by an order made by the Secretary of State for the purposes of this section and

(2) Reasonably believes –

(i) That the relevant failure falls within any description or matters in respect of which that person is so prescribed and

(ii)That the information disclosed and any allegation contained in it is substantially true

(2) An order prescribing persons for the purposes of this section may specify persons or descriptions of persons, and shall specify the descriptions of matters in respect of which each person, or persons of each description, is or are prescribed.

149. Section 43G headed Disclosure in Other Cases

(1) A qualifying disclosure is made in accordance with this section if….

(b)the worker reasonably believes that the information disclosed and any allegation contained in it are substantially true

(c) It does not make the disclosure for the purposes of personal gain

(d) Any of the conditions of sub section (2) is met and

(e) In all the circumstances of the case it is reasonable for him to make the disclosure

(2)The conditions referred to in sub section (1)(d) are

(1) That at the time he makes the disclosure, the worker reasonably believes that he will be subjected to a detriment by his employer if he makes a disclosure to his employer or in accordance with section 43F

(2) That in a case where no person is prescribed for the purposes of section 43F in relation to the relevant failure the worker reasonably believes that it is likely that evidence relating to the relevant failure will be concealed or destroyed if he makes a disclosure to his employer or

(3) The worker has previously made disclosure of substantially the same information and

(i) To his employer or

(ii) In accordance with section 43F

(3) In determining for the purposes of sub section (1)(e) whether it is reasonable for the worker to make the disclosure, regard shall be had, in particular to

(a) The identity of the person to whom the disclosure is made
(b) The seriousness of the relevant failure
(c) Whether the relevant failure is continuing or is likely to occur in the future
(d)Whether disclosure is made in breach of a duty of confidentiality owed by the employer to any other person
(e) In a case falling within sub section (2)(c)(i) or (ii) any action which the employer or the person to whom the previous disclosure in accordance with section 43F was made has taken or might reasonably be expected to have taken as a result of the previous disclosures and
(f) In a case falling within sub section (2)(c)(i) whether in making a disclosure to the employer the worker complied with any procedure that was used by him as authorised by the employer

(4) The purpose of this section is subsequent disclosure may be regarded as a disclosure of substantially the same information as that disclosed by a previous disclosure as mentioned in sub section (2)(c) even though the subsequent disclosure extends to information about action taken or not taken by any person as a result of the previous disclosure.

150. Section 43H headed Disclosure of Exceptionally Serious Failure and says

(1) A qualifying disclosure is made in accordance with this section if
(b) The worker reasonably believes the information disclosed and any allegation contained in it to be substantially true and
(c)He does not make the disclosure for purposes of personal gain
(d) The relevant failure is of an exceptionally serious nature
(e) In all the circumstances of the case, it is reasonable for him to make the disclosure

(2) In determining for the purposes of sub section (1)(e) whether it is reasonable for the worker to make the disclosure, regard shall be had, in particular, to the identity of the person to whom the disclosure is made.

151. As previously mentioned the case of ***Premier Mortgage*** has an analysis by the Employment Appeal Tribunal of the key statutory provisions.

152. Section 47B of the Act with the heading Protected Disclosures says

(1) The worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.

153. The Tribunal was referred to a number of reported decisions concerning the application of the statutory scheme. One of the more recent decisions is that of ***Miss L Parsons -v- Air Plus International Limited*** **[UK EAT/0111/17/JOJ]**. This decision of Her Honour Judge Eady QC sets out the statutory framework and case law from paragraphs 22 onwards. In paragraph 23 Judge Eady QC says "as to whether or not a disclosure is a protected disclosure, the following points can be made

    (1) this is a matter to be determined objectively (see paragraph 18 ***Beatt -v- Croydon Health Services NHS Trust***
    (2) More than one communication might need to be considered together to answer the question whether a protected disclosure has been made – ***Norbrook Laboratories (GB) Limited -v- Shaw***
    (3) The disclosure has to be information, not simply the making of an accusation or statement of opinion (see ***Cavendish Munro Professional Risk Management -v- Geduld***). An accusation or statement of opinion may include or may be alongside a disclosure of information; the answer will be fact sensitive but the question for the Employment Tribunal is clear – has there been a disclosure of information? ***Kilraine -v- London Borough of Wandsworth***

154. In paragraph 27 of the Judgment the learned Judge says in relation to a dismissal because of an alleged automatically unfair reason in section 103A of the Employment Rights Act, which is not the relevant section in this case, but is relevant for the discussion about the enquiry about what facts or beliefs caused the decision maker to decide to dismiss. This may require an Employment Tribunal to do more than simply consider what was the reason for dismissal by reference to any particular protected disclosure in isolation; it might be necessary to consider that question against a history of disclosures and to ask whether, taken together that history, the prohibited reason was the reason or principal reason for dismissal.

155. In paragraph 28 Judge Eady QC says a further issue that may arise when determining what was the reason for dismissal is sometimes referred to as the question of separability: The Employment Tribunal may need to resolve whether the real reason or principal reason for the dismissal was the protected act itself or the manner in which that disclosure was made. There was then extensive reference to the case of ***Panayiotou -v- Chief Constable of Hampshire Police*** **[2014] IRLR page 500** and the guidance given by the Employment Appeal Tribunal. In that decision it was said that Authorities demonstrate that in certain circumstances it will be permissible to separate out factors or consequences following the making of protected disclosure from the

making of protected disclosure itself. The Employment Tribunal will however need to ensure the factors relied upon are genuinely separable and the fact of making the protected disclosure are in fact the reasons why the employer acted as it did. In the context of protected disclosures the question is whether the factors relied upon by the employer can properly be treated as separable from the making of protected disclosures and if so whether those factors were in fact the reasons why the employer acted as he did. When considering that question the Tribunal will bear in mind the importance of ensuring the factors relied upon are genuinely separable and the observations in paragraph 22 of the decision in ***Martin -v- Devonshire Solicitors*** **[2011] ICR 5352** that

> "of course such a line of argument is capable of abuse. Employees who bring complaints often do in ways that are viewed objectively unreasonable. It would certainly be contrary to the policy of the anti-victimisation provisions if employers were able to take steps against employees simply because they are making a complaint they had say used intemperate language or maybe an inaccurate statement. An employer who purports to object to "ordinary" unreasonable behaviour as to that ground should be treated as objecting to the complaint itself, and we would expect Tribunals to be slow to recognise a distinction between the complaint and the way it is made save in clear cases. But the fact the distinction may be illegitimately made in some cases does not mean that it is wrong in principle"

156. There is then further reference by Judge Eady QC in paragraph 29 to the case of ***Beatt*** (paragraph 94 of that Judgment) where the following appears

> "it is all too easy for an employer to allow its view of a whistle blower as a difficult colleague or an awkward personality (as whistle blowers sometimes are) to cloud its judgment about whether disclosures in question do in fact have a reasonable basis or are made (under the old law) in good faith or (under the new law) in the public interest. Those questions will ultimately be judged by a Tribunal, and if the employer proceeds to dismiss it takes the risk that the Tribunal will take a different view about them. I appreciate that this state of affairs might be thought to place a heavy burden on employers; but Parliament has quite deliberately, and for understandable policy reasons, conferred a high degree of protection on whistle blowers. If there is a moral from this very sad story which has turned out so badly for the Trust as well as the Appellant, it is for the employer to proceed to the dismissal of a whistle blower only where they are confident as they reasonably can be that the disclosures in question are not protected (or in the case where ***Panayiotou -v- Chief Constable of Hampshire***

***Police*** is in play, that a distinction can clearly be made between the fact of the disclosures and the manner in which they are made)".

157. Judge Eady QC in paragraph 45 of the Judgment says that the Employment Tribunal's finding on reason, it is apparent that it appreciated the difficulty identified in ***Beatt***: A whistle blower may well be perceived (sometimes with justification), as a difficult colleague which they may well raise matters that others (even if not seeking to hide anything) would prefer not to have to deal with. It can be all too easy to think it is the manner of blowing the whistle that is the issue, when really it is simply the whistle blowing itself. In this case however the Employment Tribunal – looking at the question of whether the third protected disclosure was the real reason for the dismissal – was clear: The Respondent was not concerned by the fact that the Claimant had drawn that information to its attention; it was not the disclosure of information that was the issue. The Respondent was rather concerned with what the Claimant did after she had made her disclosure; with her unresearched assumptions and demands; her conduct at meetings and failure to give rational cogent reasons for her beliefs; her irrational fixation on her personal liability; and her inability to listen or take on board what her colleagues had to say. Of course all of this was in the context of the Claimant's role in compliance, but the Employment Tribunal was clear, it was not what the Claimant was raising in that respect but the way in which she was raising it and then thereafter conducting herself.

**Conclusions**

158. The Tribunal will consider each of the alleged protected disclosures contained on the Schedule with the Claimant's identification of the relevant section of the Employment Act relied upon and the Respondents responses to the Claimant's Schedule. The Claimant's Schedule was referred to in the second statement of the Claimant dated 18 September 2017.

159. Since a number of disclosures were made to individuals who were not the employers of the Claimant, consideration is required as to the interpretation of section 43C(1)(b)(ii) of the Employment Rights Act. Reference has already been made in the submissions to the view of the Claimant's reasonable belief is reasonable belief in the fact that someone has a legal obligation. The Respondents take the view that there must be established legal responsibility as opposed to for example accountability. There is little guidance on this matter but the Tribunal considers that the rationale behind the provision is consistent with other interpretations of sections which indicate that an overly

legalistic approach should not be adopted if the purpose is to protect whistle blowers who have reasonable beliefs in matters that may be the subject of protected disclosures. The focus would be in relation to third parties who are thought to be responsible by the worker for the relevant failure about which the disclosure is made although whether that belief was correct or not because for example there was no legal obligation should not mean that protection is not given by the section. The emphasis in the section is on reasonable belief and thereby there would be excluded bodies that could not be said to have any interest or dealings with the subject matter at all. In short the Tribunal prefers the interpretation of what the section means as put forward on behalf of the Claimant.

**Disclosure 1**

160. In relation to this disclosure the Tribunal accepts the evidence of the Claimant that she did make that telephone call to Bridgwater Police Station and that the Claimant disclosed the information about Facebook entries which she believed constituted online grooming which was in the Claimant's belief a criminal offence. The Claimant had a reasonable belief in the fact that there was a criminal offence committed the Claimant had evidence to found her reasonable belief namely the Facebook entries. As already indicated in the Agreed List of Issues public interest is accepted. The Tribunal is satisfied that it was a protected disclosure within the meaning of section 43C(1)(b)(ii). The alternate submissions regard whether it is also section 43C(2) namely the police are identified as a body that disclosures can be made in the Respondents whistle blowing policy. We accept the Claimant's submissions that it is also a protected disclosure within that section. In relation to section 43H the Tribunal finds that it also came within the ambit of section 43H since as LADO with responsibility for investigating allegations where a professional working with children might pose a risk, the Claimant informed the police and also subsequently Mr Price and Mr Brain, which are disclosures 2 and 3 on the Schedule which are admitted to be protected disclosures.

**Disclosure 2 and 3**

161. These disclosures are admitted to be protected disclosures and nothing more need be said by the Tribunal.

**Disclosure 4**

162. The Claimant's evidence is that on 4 August she contacted Robert Moore of the police and told him of the inappropriate comments on Facebook. We have accepted the evidence of the Claimant and for the reasons given under disclosure 1 we find that this was a protected disclosure.

**Disclosure 5**

163. Disclosure 5 is admitted to be a protected disclosure and there is no issue in relation to this disclosure.

**Disclosure 6**

164. We have accepted the evidence of the Claimant that there was a conversation with Mr Oliver on approximately 3 September 2015 about the Claimant's belief that Councillor Bryan was connected to adults being discussed in a series of multi-agency child exploitation strategy meetings. As the Chair of the Independent Safeguarding Children Board Mr Oliver was perceived by the Claimant as having legal responsibility to children within the area who may be subject to child sexual exploitation and for overseeing the execution of the duty and commissioning reviews. We accept that the Claimant had a reasonable belief that Mr Oliver had this overarching responsibility. The information relayed to Mr Oliver was a mixture of information and speculation, principally derived from Mr Feltwell. The information concerned a connection that Councillor Bryant had with individuals who were being investigated regarding illegal commercial activities and whether there was involvement by Councillor Bryant in these activities because of his knowledge of these individuals. The Claimant had reasonable belief in relation to the possible commission of offences relating to non-sexual offence matters. However as far as admission of any sexual offences are concerned there is no basis at that stage for reasonable belief in Councillor Bryant having committed such offences. The most that could be said was there was a suspicion. To this extent we find there was a protected disclosure relating to non-sexual offence matters within the meaning of section 43C(1)(b)(ii). The Claimant also in the alternative relies upon section 43G(2)(a) which would involve the Claimant reasonably believing she would be subject to a detriment. The Tribunal will deal further with this matter when it comes to detriments later in this Judgment. In short we do not accept that the Claimant reasonably believed that she would be subject to a detriment. The Claimant continued to make what she considered disclosures to the Respondents. The third ground is that of section 43H. We accept that the Claimant's submission is that this was a very serious matter and it was reasonable for the Claimant to seek to disclose this to Mr Oliver given the background and his role in child protection.

**Disclosure 7**

165. We have accepted the evidence of Miss Smith as to the discussion that took place on 3 September 2015 by telephone with the Claimant. There was a mixture of information and accusation or statement of opinion made by the Claimant. There was information that Councillor Bryant had links with a local businessman where there was a range of concerns. As the Claimant herself says in the schedule of protected

disclosures at this stage it was unclear how closely connected Councillor Bryant was to individuals or whether he was involved in actual offences but his proximity meant the risks needed to be investigated and there was a potential to use his position to access information. We find that the Claimant said she needed more information but was concerned there might be a CSE network. In the Tribunals view what the Claimant was saying amounted to an accusation or statement of opinion and was not a disclosure of information applying the guidance given in the case of ***Miss L Parsons -v- Air Plus International Ltd***. The information given was not such that brought the matter within the definition of a protected disclosure within s.43(c) as contended for by the Claimant. The Tribunal finds that the Claimant did not make a protected disclosure at this time.

**Disclosure 8**

166. The Claimant relies upon disclosure in a similar way that has been referred to above in disclosure 6. In particular that Councillor Bryant was strongly connected to adults being discussed as posing a risk of sexual exploiting children. We find that there was no basis at that stage for reasonable belief in Councillor Bryant having committed such offences within any of the sections relied upon by the Claimant. In relation to non-sexual offence matters we reiterate that there was a protected disclosure relating to these matters in the sections identified under disclosure 6.

**Disclosure 9**

167. As set out in our findings of fact we accept the evidence of Miss Smith about the context in which Councillor Bryant's name was mentioned and reject the Claimant's account of this meeting. In these circumstances we find there was no protected disclosure as alleged by the Claimant on this day to Miss Smith.

**Disclosure 10**

168. We have found that the Claimant did telephone Mr McCallum to inform him of matters which concerned her being the notetaker's conflict of interest with taking the minutes and also with the fact that Mr Price had the minutes. However in relation to whether what she disclosed to Mr McCallum was a protected disclosure we find that her opinion regarding breach of confidentiality with Mr Price was that namely an opinion and not information. As already found Mr Price was a senior manager and would not be in breach of any obligations or duties in having received the minutes from another senior manager. We reject the suggestion that there was any reasonable belief by the Claimant that there was breach of confidentiality even though it may have been her belief. It was not a reasonable belief given her experience and her understanding of Local Authority social work

structure. However in relation to the allegation concerning the notetaker the failure of the notetaker at the time to disclose a conflict of interest was information and fact that was based upon the obligation of the notetaker, contractually or otherwise, to disclose any conflict of interest at the time. We find that there was a disclosure of information regarding the notetaker and that the Claimant had a reasonable belief in the breach of duty or obligation on the part of the notetaker. To this extent we find that there was a protected disclosure made to Mr McCallum. This protected disclosure was in the context where the Claimant had already indicated that there was a potential for information relating to be passed back Councillor Bryant who may in turn pass it to associates discussed at the meeting.

**Disclosure 11**

169. Relating to this disclosure we have found that the Claimant did make disclosures as in disclosure 10 to Mr Oliver. To the extent that we have found that there was a protected disclosure regarding the notetaker we make the same finding in relation to protected disclosures alleged by the Claimant in paragraph 11. That is the extent to which we accept there was a protected disclosure made by the Claimant i.e. that it related only to the notetaker's breach of duties.

**Disclosure 12**

170. In relation to the email making complaint regarding breach of the notetaker's obligation, we find as set out above that the Claimant had a reasonable belief that such a legal obligation had been breached by the Respondent in the context of the notetaker. We find that this was a protected disclosure.

**Disclosure 13**

171. We have accepted the evidence of Ms Wigmore regarding what was said by the Claimant at this meeting. There was reference to confidentiality and data protection but not specifically a notetaker's breach or Mr Price seeing the minutes or Councillor Bryant's name being mentioned specifically. We find that there was reference to breach of confidentiality but not in any specific context and therefore to the limited extent there was a protected disclosure made to police of breach of obligation we accept that there was a protected disclosure. We do not accept it was a protected disclosure in the wider context which is put forward by the Claimant.

**Disclosure 14**

172. We accept that the Claimant did mention concerns regarding the notetaker that this would be a protected disclosure regarding breach of confidentiality for the reasons set out above. We do not accept that other aspects mentioned by the Claimant did constitute protected

disclosures. We do not accept the totality of what the Claimant alleges to have been said to Miss Smith and preferred the evidence of Miss Smith who had some recollection of this meeting. It is again significant that the Claimant was elevating her concerns into speculation regarding whether information might be passed back to potential perpetrators. This was not information but statements of opinion or speculation on the part of the Claimant. These would not and did not constitute information for the purposes of protected disclosures.

**Disclosure 15**

173. As already referred to above regarding disclosure of information regarding breach of confidentiality by the notetaker, this matter was a protected disclosure mentioned by the Claimant at this meeting. Other than that there was nothing else in the way of information disclosed by the Claimant that could constitute a protected disclosure. The Claimant herself records the meeting as being discussing the structure of the meeting rather than the broader content of the meeting.

**Disclosure 16**

174. The content and context of the disclosure made to Ofsted on 20 October 2015 has been found as set out above by the Tribunal. It is an agreed fact that Ofsted are a prescribed person by order of the Secretary of State. We accept the submission that the Claimant had at this time a genuine belief in the matters which she complained to Ofsted about. We do not accept the allegation of the potential involvement of an elected member and the conduct of the Council (save in respect of the notetaker) was information or that there was a reasonable belief in relation to these matters. As to the other aspects of the alleged disclosure specified in the schedule such as manager cutting and pasting children's records into other children's files in breach of Data Protection Act; children's records being stored outside the required electronic files; the preparation of sanitised files for inspection; the child sexual exploitation risk assessments were not completed despite there being extremely high risk; these were not matters which have either been recorded by Ofsted in the note of the telephone conversation nor contained in the letter written by Ofsted to the Respondents on 30 October 2015. We reject the evidence of the Claimant that she did mention these matters during this telephone conversation. If the Claimant had mentioned the matters specifically they would have been recorded by Ofsted and referred to in the letter sent by Ofsted. They were not. In relation to concerns about quality assurance the Claimant is recorded as having said is that there were issues such as the robustness and the ability of people like the QA Service to function within it and the Claimant saying the QA Service is trying to but is effectively bullied when it is trying to challenge. The QA Service is struggling to make its voice heard on behalf of children and

young people in care. We accept that the Claimant did mention the bullying of the QA Service and it was trying to challenge but that is different from the way that the matter is put in the disclosure schedule although it was the belief of the Claimant that the QA Service was not as effective as it should be. There was a difference of opinion between the Claimant and Mr Price in particular about the organisation and functioning of the QA and Independent Reviewing Officer Service. We find that it was the opinion of the Claimant regarding the effect of challenging and of struggling to get her voice heard. This is not the same as a disclosure of information for the purposes of protected disclosure. There was a difference of opinion about how the department should be run. We do not accept that this aspect fell within the definition of protected disclosure.

**Disclosure 17**

175. The Claimant alleges there was a meeting in early November with Mr Hunt where she disclosed Mr Price's conduct disclosing confidential information attempting to undermine the investigation. The Respondents admit that the Claimant had this conversation with Mr Hunt and in the context of only hearing the Claimant's version of events. However in the evidence of Mr Hunt he said that the meeting was not in November it was on 16 October 2015. Mr Hunt's recollection of the meeting in early November was to do with the extension of the contract of the Claimant. Having heard the evidence of Mr Hunt we accept the evidence of Mr Hunt notwithstanding the admission by the Respondents in the Schedule the meeting took place in October 2015. This date is consistent with the Claimant seeking to discuss in October 2015 with various officials the belief that she had come to. We do not accept that this was a protected disclosure for the reasons set out above.

**Disclosure 18**

176. In early November 2015 as the Claimant alleges the Council failed to act in accordance with its legal requirement of the LADO system. On 19 November 2015 an email was sent as already referred to by the Claimant regarding an enquiry made by Mr Oliver about a LADO school referral. The Claimant looked at the Z-Drive where such information was contained and held by the Respondents but could find no reference to an investigation. We find that at the time that the Claimant informed Mr Oliver that there had not been an investigation she had a genuine and reasonable belief in the breach of the obligations upon the Authority to undertake appropriate investigations on these referrals. It subsequently transpired that the successor had problems accessing the Z-Drive where LADO records had been kept and set up his own system of record keeping. There should have been a communication or a record given on the Respondents record keeping system to that

effect but it was not. We accept that this was a protected disclosure made by the Claimant based upon the breach of the Respondents obligations.

**Disclosure 19**

177. The Claimant said that she referred to previous disclosures that she had been dismissed by the Council as a whistle blower. The notes made by Ofsted are on page 352 to 344 and they indicate that the Claimant was recorded as a former employee leaving on 23 November 2015 but does not include the allegation that the Claimant has been dismissed as a whistle blower, although there is a reference that a colleague of the Claimant's has said that people who tried to raise concerns previously have ended up losing their job. The Claimant also says that she disclosed she believed she was dismissed to prevent further investigation to the allegations regarding Councillor Bryant and to conceal that Council's Senior Officers attempts to cover up child protection failings. This is not recorded on the document produced by Ofsted. There is recorded the concerns that the Claimant had and the fact that she has spoken to the Chief Executive Head of the Safeguarding Board but does not know what action has been taken. The recording by Ofsted is not consistent with the allegations the Claimant has made in her Schedule and we do not accept that the Claimant did say what she says in the Schedule. In relation to the disclosure in respect of the LADO school matter, we note that the Claimant was not dismissed until the meeting in the afternoon at 1.36pm. The email from the successor LADO, Mr Peter Kerry, to the Claimant on page 318(a) says that the investigation had been done and explained about the LADO records are no longer being kept in the Z-Drive. This email was sent at 9.28am to the Claimant. There is no record that Ofsted has of this allegation being mentioned on 23 November 2015. It may not be surprising that the Claimant did not mention it because she would have been aware by having access to her emails in the morning before telephoning Ofsted at 16.01pm that the investigation had taken place. We find as a fact that the Claimant did not mention the LADO school incident to Ofsted when she telephoned on 23 November 2015. Save in respect of the reference to the notetaker who worked within the service recorded in the Ofsted records of 23 November 2015, this is the only protected disclosure we find was made at this time by the Claimant. The rest of the alleged disclosures in her Schedule are not accepted by the Tribunal as having been made or were protected disclosures.

**Disclosure 20**

178. We have found that on 23 November the Claimant telephoned Mr McCallum and told him she may have been dismissed because of suspicions she had been expressing about CSE in North Somerset.

We have also found that on 24 November 2015 the Claimant reiterated the discussion that had taken place at the October meeting. Insofar as it concerns the notetaker there was a protected disclosure but otherwise we do not consider that this was a protected disclosure for the reasons set out above. In relation to the opinion about the reason for her dismissal that is not information but an opinion on the part of the Claimant and was not a protected disclosure.

**Alleged Detriment**

179. There are ten alleged detriments which are set out in a schedule form and also on page 17(a) of the bundle. It is for the Respondent to show the ground on which any act, or deliberate failure to act, was done – s.48(2) of the Act.

180. The first and significant alleged detriment, detriment (i) was that the Claimant's contract was terminated and not reviewed. We have found that in September 2015 Miss Smith did not consider the contract would be renewed at the end of November 2015 with the Claimant. We accept that the evidence of Miss Smith and Mr Oliver there were genuine concerns about the Claimant doing the work on the annual report and business plan and also the fact that the Claimant had an abrasive style which was having a negative impact on managers. That was certainly the view of Mr Price who passed on that information to Miss Smith. It was against that background that Miss Smith had determined that the contract would not be renewed. This had nothing to do with any protected disclosures which would have been made up to this point. We bear in mind the need to scrutinize very carefully the situation where a colleague is regarded as being abrasive or difficult to work with which may be reflective of the protected disclosures having been made by the individual. However we find that the decision by Miss Smith not to renew the contract had nothing to do with the alleged protected disclosures. In relation to the early termination of the contract we have found that it was the actions of the Claimant over the weekend of 21 and 22 November 2015 in removing confidential information from the Respondents files to her personal computer that triggered the termination of the contract the Claimant had with the Respondents. The Respondents believed there had been a breach of the Data Protection Act and even if that view was wrong the causative reason was the sending of confidential information to personal files which was in breach of the policies of the Respondents and contrary to the safeguarding of confidential information.

181. It should be noted that on 20 November 2015 Miss Smith gave three reasons for not extending the Claimant's contract. It included the reasons regarding the school LADO investigation as well as Mr Long's conclusions regarding the meeting the Claimant chaired. These were

additional matters which had arisen since September 2015. However we accept the evidence of Miss Smith and the fact that was her state of mind and she had these genuine reasons at that time in November 2015.

182. Detriment (ii) is that the Claimant was bullied and humiliated by Eifion Price who clearly sought to undermine her authority, professionalism and integrity to his own Service Managers. We have found that Mr Price and the Claimant had very different views of their areas of responsibility and the way in which meetings regarding potential child sexual exploitation should be conducted. There was also an early exchange of views regarding the IRO's responsibilities and duties. We reject the suggestion that the Claimant was bullied and humiliated by Mr Price as a result of any disclosures. Mr Price considered that he should have been informed about what was going on and had a right to access minutes and to query what had been discussed. It is clear from the actions of the Claimant that the Claimant had a very strong and fixed view about her role and responsibilities and was unafraid to express that to those in the employment of the Respondents as well as others. The Claimant was more than able to stand up for herself and did. We do not accept that the Claimant was bullied or humiliated in the way that she suggests she was by Mr Price. There was no undermining of the Claimant's authority professionalism or integrity except there was criticism of the unstructured meeting held in October and the approach being adopted by the Claimant in relation to assessment of facts. This was an entirely reasonable view of the conduct of the Claimant and the allegations being made by the Claimant.

183. Detriment (iii) says that the Claimant had it intimated to her by Sheila Smith that her reputation would be compromised by her disclosures and believes that the Respondents are likely to have slurred her reputation to other local Senior Managers with the intention of preventing her finding future work. It was alleged that at the meeting on 20 November 2015, when the contract was not extended by Miss Smith, Miss Smith said her reputation would be compromised by her disclosures. We have no hesitation in rejecting this suggestion. Miss Smith acted professionally and referred to giving a reference but it was not one the Claimant would be wishing for or was probably going to like it. This was a statement of fact. There is no evidence that Miss Smith slurred the Claimant's reputation to other local Senior Managers with the intention of preventing her finding future work. We have already dealt with the references which had been supplied and the findings we made in relation to those. We reject the alleged detriment as having taken place as the Claimant alleges.

184. Detriment (iv) is that the Claimant had complained about the disclosure of confidential minutes discussing Councillor Bryant and that rather than investigating this Miss Smith turned it round onto the Claimant and commissioned an investigation into the way the Claimant had chaired the sensitive meeting discussing Councillor Bryant. It is suggested that this detriment should be considered by the Claimant with the detriment number (vi) which is the Claimant had her capability and performance questioned without basis. Mr Long's evidence, which we have accepted, was that the investigation was commissioned by the Claimant when she informed him of the conflict of interest incident on 16 October 2015. Mr Long started the investigation by speaking to Mr Penska Head of Support Services. Mr Long was to investigate the Claimant's concerns about the confidentiality issues but as the investigation progressed concerns came to light about the nature and conduct of the strategy meeting. Mr Long did meet with Brianne Ackland, Emily Reid, and Tracey Twentyman who was the Agilisys Team Leader. We have found that Mr Long accepted that his report goes further about the governance and structure of the meeting and that although with hindsight he should have asked the Claimant about this matter since it figured highly in his final report, he had the response of the Claimant to his concerns and data sharing agreement in the email referred to from the Claimant. We reject the suggestion that Miss Smith turned around this investigation because it was clear that once the investigation was underway into the Claimant's concerns that the views of others would be taken and would have to be considered in the light of what Mr Long had discovered about the lack of a data sharing agreement. Therefore we reject the suggestion that this was a detriment as set out in (iv) and or (vi). We do not consider that Mr Long was told to or steered into making a report highly critical of the Claimant. He conducted the investigation into all the matters he considered to be appropriate. We find that Mr Long conducted the investigation independently.

185. In relation to detriment (v) that the Claimant received threatening legal letter with serious allegations in respect of the disclosure of confidential information. This allegation concerns a lengthy extract from a letter sent to the Claimant's legal representative at that time on 22 January 2016 in which the Respondents legal advisers set out their interpretation of events and the fact that confidential information had been uploaded to the Claimant's personal cloud or otherwise transmitted by email and that that amounts to a common law breach of confidence and a breach of the Council policies and they threaten possible proceedings. We do not consider that this was linked to any of the protected disclosures as alleged or at all but was the expression of one party's solicitor's views regarding what allegedly occurred. We

reject the suggestion that this was a detriment as put forward by the Claimant.

186. In respect of detriment (vii) the Claimant was threatened with being reported to a regulatory body, the HCPC (The Health and Care Standards Commission), for misconduct by the Council and the Claimant was informed of this by her Employment Agency but the Employment Agency refused to do so (the Employment Agency being Sanctuary). Miss Smith said that the Claimant had not yet been reported to the HCPC since they were awaiting the outcome of the Tribunal case because they did not want to seem as answering back because of the Claimant's own referral to the HCPC of Ms Wigmore. As there was no direct harm to the children they could await the outcome of the Employment Tribunal decision. Miss Smith had no direct dealings with the Agency and believes that Sue Turner did and they would refer the matter to HCPC. There is reference to the information commissioners understanding of the Respondents position in January 2016 (page 492 of the bundle) in which they understood that once the investigation was completed the Respondent may consider reporting the Claimant to the HCPC which is the organization that deals with the registration of social workers. We do not consider this is a detriment to the Claimant as there would be an obligation to report matters of misconduct in respect of social workers to the HCPC.

187. In respect of detriment (viii) we have already dealt with this matter regarding references as part of the decision. We do not consider that this is a detriment.

188. As to (ix) regarding information that should have been released to the Claimant through a subject access request being deliberately withheld, the history of Freedom of Information Requests are in the bundle on page 47. The Claimant's complaint to the ICO was dismissed on the basis that the Respondents did not appear to have breached the Data Protection Act. We do not consider that the Respondents have deliberately withheld information because the Claimant was a whistle blower.

189. As to (x) that the Respondent failed to conduct a thorough and transparent investigation into the disclosures by the Claimant to Ofsted. We reject the suggestion that because Mr Bunyan was instructed by Miss Smith that it can be shown that this affected his motivation, or was a material influence and that he produced a report that was not independent. Whilst the Tribunal has not heard direct evidence from Mr Bunyan, we have accepted the evidence of Miss Smith and the other Respondent witnesses about the fact that they did not interfere with Mr Bunyan's investigation findings of the report in any way. There was no

detriment to the Claimant because there was an independent report as a result of the Ofsted disclosures. We have already referred to the fact that the Claimant chose not to engage at all with Mr Bunyan and if there was relevant information held by the Claimant then it was her own failure to disclose this to Mr Bunyan. There is no detriment as alleged.

**Decision**

190. The Tribunal has found that in a limited extent the Claimant did make protected disclosures during the course of her employment. We have found that the Respondents took those disclosures seriously and carried out independent and thorough investigations in respect of those disclosures. Further we find that the Claimant was not subjected to any detriments as a result of making those disclosures.

191. We reject the Claimant's contentions that she suffered detriment because of her pursuit and belief in a "Rotherham" type situation with the Respondents concerning child sexual exploitation. There is little doubt that the Claimant convinced herself that she had uncovered such a scenario and went to considerable lengths to express her view to those directly employed by the Respondents and others with whom she contacted. The Claimant's view was treated with objective assessment by others, such as Miss Smith and Mr Price. However, the Claimant came to the belief at some time, probably after being told her contract was not to be renewed, that there had been collusion among senior employees of the Respondents to dismiss her and to suppress the facts. Despite the lack of evidence and information, the Claimant carried on making serious and unsubstantiated allegations which led her to access and copy confidential information from the Respondents. Applying the principals expressed in the case of ***Miss L Parsons -v- Air Plus International Limited***, against the statutory framework and other case law, we find that looking at the whole question where there is a history of disclosure, some protected and others not, and viewing the matter objectively, we have found that no detriment was suffered by the Claimant in relation to her protected disclosures. The protected disclosures made by the Claimant did not materially influence the Respondents treatment of the Claimant or in any way influence it.

192. We reject the suggestion that the Respondents were embarrassed or in some way involved in collusion to protect themselves or others as alleged by the Claimant. The Respondents were not concerned at the disclosures made which are protected but rather the way that the Claimant conducted the meeting in October 2015, her fixation on the fact that there was a "Rotherham" type situation in the Respondents, and that she was being thwarted in exposing such a situation by breaches of confidentiality on the part of the Respondents. The Claimant ignored the obvious deficiencies in what she was saying and

doing and ignored the opinions of her colleagues which highlighted those deficiencies. The Claimant failed to exercise proper professional judgment in reaching conclusions. In reality the Claimant was blinded to other explanations and was not assisted by her difficult working relationship with Mr Price in particular.

193. It is clear from the discussions that the Claimant had with Ofsted, amongst other discussions, that the Claimant had a very low opinion of the operating standards of the Respondents, and referred to subsequent documents regarding inspections of the Respondents, which widened her low opinion of the Respondents to matters that go well beyond the alleged protected disclosures and detriments in this case. The assessment of Respondent witnesses that the Claimant was on a crusade or campaign against the Respondents fuelled by her dismissal prior to the expiry of her fixed term contract, is evident from all that has taken place.

194. The unanimous view of the Tribunal is that the claims be dismissed.

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Employment Judge P Davies
Dated: April 2018

REASONS SENT TO THE PARTIES ON

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FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS