Cases: 1801185/2020,
1804881/2020 & 1800269/2022

EMPLOYMENT TRIBUNALS

1801185/2020 & 1800269/2022

Claimant: **Mrs H Toheed**
Respondent: **Dr J Akhtar**

1804881/2020

Claimant: **Miss M Allam**
Respondents: **(1) Frizinghall Medical Centre**
(2) Dr J Akhtar
(3) Dr H Toheed

AT A HEARING

Heard at: **Leeds** **On: 9th, 10th, 11th, 14th, 15th, 16th , 17th, 21st ,22nd and 23rd February 2022**
Before: **Employment Judge Lancaster**
Members: **JL Hiser**
DW Fields

1801185/2020 & 1800269/2022

Representation
Claimant: Mr M Curtis, counsel
Respondent: Ms J Linford, counsel

1804881/2020

Representation
Claimant: Mr F Morton. counsel
Respondents: (1) No separate representation
(2) In person
(3) Mr M Curtis, counsel

ORDERS

1. BY CONSENT Dr J Akhtar, sued in his capacity as the representative of the firm of Dr H Toheed and Dr J Akhtar trading as Frizinghall Medical Centre but who is not himself the Claimant, is substituted as the single Respondent to claims 1801185/2020

& 1800269/2022. All other previously named Respondents are removed from these proceedings.

2. BY CONSENT claims 1801185/2020 & 1800269/2022 are consolidated to be heard together at this final hearing which had been listed in respect of case 1801185/2020 only.

3. Claim 1804881/2020 is withdrawn. It is not in the interests of justice to dismiss the claim at this stage.

JUDGMENT

The claims brought by Dr Toheed are dismissed.

WRITTEN REASONS

1. Written and oral submissions having been concluded on 22nd February, the parties were released and the final day of the listed hearing, 23rd February, was then allocated to the making of a reserved decision. Written Reasons are therefore now required for what is the unanimous judgment of the tribunal.

Jurisdictional issues

2. There have been various attempts properly to identify the correct parties to these claims. The issue has been complicated by the fact that Mrs (Dr) Toheed, a partner with Dr Akhtar in the GP practice trading as Frizinghall Medical Centre was ostensibly suing herself, and that where the firm was identified as a party the partners were not acting in unison.

3. By consent, following the guidance in *Dave v Robinska* [2003] 1248, the appropriate respondent to Dr Toheed's claims is only Dr Akhtar, sued in his capacity as a partner and therefore the properly named representative of the firm. Any award would accordingly fall to be met, in the first instance, out of the partnership assets and any apportionment of liability as between the partners upon distribution in a subsequent dissolution will have to be resolved elsewhere.

4. The position in respect to the subsisting complaint against the firm which is brought by Miss Allam under section 24 (2) of the Employment Rights Act 1996, where primary liability under section 24 (1) has already been conceded by Dr Akhtar, who of course has ostensible authority to bind the partnership, but not by Dr Toheed, is hugely simplified by her withdrawal of her claim.

5. Because there may nonetheless be outstanding issues as to the conditions of that withdrawal, and potential further dispute between the partners, who are jointly and severally liable for any moneys owing to an employee of the firm, there is a legitimate reason not to do so, and nor is it in the interests of justice, so there will be no dismissal of Miss Allam's claim pursuant to rule 52 of the Employment Tribunals Rules of Procedure 2013.

6. Claim 1800269/2022 was only presented on 25th January 2022, and the Response was not required until 3rd March 2022. A draft Response, purportedly on behalf of both named Respondents (Frizinghall Medical Centre and Dr J Akhtar) was however submitted pre-service on 26th January by Dr Akhtar, and this claim has also now formally been responded to well before the due date. It is agreed, even before acceptance of that Response, that this case should be heard immediately and both parties have witness evidence available, including from Miss Allam, who is also identified as an alleged discriminator under the new claim.

7. The claims are for discrimination under sections 13 and 18 of the Equality Act 2010, where the protected characteristics relied upon are sex (section 11) and pregnancy and maternity (section 18). The alleged overarching detriment is expressed by the Claimant as her having been "excluded, marginalised and denied a voice."

8 These claims are and can only be brought under section 44 (2) of the Equality Act 2010. That provides, so far as is relevant:

"***44 (2)***
A firm (A) must not discriminate against a partner (B)—
(a)as to the terms on which B is a partner;
(b)in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c)by expelling B;
(d)by subjecting B to any other detriment."

9. The Claimant in respect of many allegations also relies in conjunction with section 44 upon section 111, where "person A" is Dr Akhtar (a representative of the firm) "person B" is Miss Allam (the practice manager and an employee of the firm) and she herself is "person C". That is:

"111 Instructing, causing or inducing contraventions
(1)A person (A) must not instruct another (B) to do in relation to a third person (C) anything which contravenes Part 3, 4, 5, 6 or 7 or section 108(1) or (2) or 112(1) (a basic contravention).
(2)A person (A) must not cause another (B) to do in relation to a third person (C) anything which is a basic contravention.
(3)A person (A) must not induce another (B) to do in relation to a third person (C) anything which is a basic contravention.
(4)For the purposes of subsection (3), inducement may be direct or indirect.
(5)Proceedings for a contravention of this section may be brought—
(a)by B, if B is subjected to a detriment as a result of A's conduct;
(b)by C, if C is subjected to a detriment as a result of A's conduct;
(c)by the Commission.
(6)For the purposes of subsection (5), it does not matter whether—
(a)the basic contravention occurs;
(b)any other proceedings are, or may be, brought in relation to A's conduct.

(7)This section does not apply unless the relationship between A and B is such that A is in a position to commit a basic contravention in relation to B.
(8)A reference in this section to causing or inducing a person to do something includes a reference to attempting to cause or induce the person to do it.
(9)For the purposes of Part 9 (enforcement), a contravention of this section is to be treated as relating—
(a)in a case within subsection (5)(a), to the Part of this Act which, because of the relationship between A and B, A is in a position to contravene in relation to B;
(b)in a case within subsection (5)(b), to the Part of this Act which, because of the relationship between B and C, B is in a position to contravene in relation to C."

10. Because Miss Allam is not a partner or a member of the firm, as defined for the purposes of section 44 by the Partnership Act 1890[1], she cannot be sued as a principal in respect of any alleged discrimination. That begs the question of whether under section 111 she is capable of doing anything in relation to the Claimant which contravenes section 44 (which is in part 5 of the Equality Act covering "Work") – a basic contravention. Similarly under section 111 (9) (b) this provision can only be enforced where, because of the relationship between Miss Allam and the Claimant, Miss Allam is in a position to contravene section 44 in relation to the Claimant. There is, however, no dispute that as a partner in the firm which was her legal employer. Dr Akhtar was, for the purposes of section 111 (7), in such a relationship to Miss Allam that he would have been in a position to commit a basic contravention in relation to her.

11. Mr Curtis for the Claimant submits that as an employee of the firm, she is in fact capable of committing a basic contravention in relation to the Claimant by application of sections 109 and 110 of the Equality Act 2010.

109. Liability of employers and principals
(1)Anything done by a person (A) in the course of A's employment must be treated as also done by the employer.
(2)Anything done by an agent for a principal, with the authority of the principal, must be treated as also done by the principal..
(3)It does not matter whether that thing is done with the employer's or principal's knowledge or approval.
(4)In proceedings against A's employer (B) in respect of anything alleged to have been done by A in the course of A's employment it is a defence for B to show that B took all reasonable steps to prevent A—
(a)from doing that thing, or
(b)from doing anything of that description.
(5)This section does not apply to offences under this Act (other than offences under Part 12 (disabled persons: transport)).

[1] Section 1. Partnership is the relation which subsists between persons carrying on a business in common with a view of profit.
Section 4 . Persons who have entered into partnership with one another are for the purposes of this Act called collectively a

110. Liability of employees and agents

(1)A person (A) contravenes this section if—

(a)A is an employee or agent,

(b)A does something which, by virtue of section 109(1) or (2), is treated as having been done by A's employer or principal (as the case may be), and

(c)the doing of that thing by A amounts to a contravention of this Act by the employer or principal (as the case may be).

(2)It does not matter whether, in any proceedings, the employer is found not to have contravened this Act by virtue of section 109(4).

12. The difficulty with this analysis is that Miss Allam may only commit a basis contravention where as an employee of the firm she does an act which is also a contravention on the part of the employer, and the Claimant is herself the employer as a member of the partnership. To bring the claim at all she must therefore rely upon her own imputed wrongdoing. To address this problem, Mr Curtis submits that a similar logic to *Dave v Robinska* should be applied so as to identify Dr Akhtar alone as the representative of the employer for the purposes of sections 109 and 110 as well as the representative of the firm under section 44.

13. In a case where a partner simply instructs an employee of the firm to commit a discriminatory act it will not be necessary to rely upon section 111. The employee will be merely the conduit through whom the discrimination is effected and it will still be perpetrated by the principal. So, similarly, if such a situation arose in respect of another employee, rather than a partner, that person would sue the employer firm under section 39. The partner (as an agent of the firm pursuant to section 5 of the Partnership Act 1890) or the employee carrying out their instructions would also be potentially liable under section 110, but section 111 would not come into play.

14. Section 111 is obviously relevant where the person actually carrying out the act of discrimination is able to act autonomously, but is influenced by another person to exercise their discretion in a particular way. Although the reasoning suggested by Mr Curtis is not entirely satisfactory and requires us to contemplate the proposition that a subordinate employee is in fact in a position, independently, to discriminate against their employer, it would leave a lacuna in the prohibition of discrimination if there were to be no redress in this situation.

15. We are therefore prepared to accept that we have jurisdiction to entertain the claims under section 111. The crucial question is, however, a purely factual one, as identified by His Honour Judge Hand QC in in *NHS Development Authority v Saiger and others [2018] ICR 297:*

"118. But I agree with Mr Reade that the factual findings made by the ET do not amount to breaches of section 111 or section 112 EqA so far as TDA is concerned**. Putting it another way there must be evidence of instruction or causation or inducement for there to be a breach of section 111 EqA. That Mr Blythin was in a position to instruct cause or induce "*a basic contravention*" is not enough to establish liability. The evidence must show that he behaved in that way not that he had the potential to do so. Likewise concluding that "*he did participate in the decision*" (see paragraph 10.14 at page 35 of the Appeal Bundle) or that he was "*a party to a discussion*"(see paragraph 10.14 at page 37 of the Appeal Bundle) or that he "*played a material part***

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firm, and the name under which their business is carried on is called the firm-name.

***in the decision*" (see also paragraph 10.14 page 37 of the Appeal Bundle) is in my judgment not, without more, to be equated with an instruction, causation or inducement.** Nor do any of these findings amount to giving help knowingly. Although this matter really concerns the Trust I do not think that the inference drawn by the ET that Odgers wished to have written approval from Mr Blythin, even if sound, does mind this is looking through the wrong end of the telescope. The question is not whether Odgers wished to be supported but whether Mr Blythin was intentionally lending support. In my view the evidence falls short of this. Therefore, in concluding that the findings discussed above were sufficient to render TDA liable under section 111 or section 112 EqA the ET misdirected itself as to what had to be proved before breaches of those sections could arise" (**emphasis added).**

Issues

16. The issues are now as set out in the revised list, submitted in conjunction with Mr Curtis's closing submissions. It is only in this document that it has become clear that some of the matters that were still being actively pursued throughout the case are now in fact no longer material.

17. It is, however, still instructive to put the claims in context by having regard to the list of issues as originally put forward. The full list with deletions is therefore reproduced as an endnote to this decision[i]. The full list of issues will also serve as a template for our relevant findings.

Law

18. Section 18 of the Equality Act 2010, which is the principal provision relied upon reads as follows.

Section 18 Pregnancy and maternity discrimination:

(1)This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of pregnancy and maternity.
(2)A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, A treats her unfavourably —
(a)because of the pregnancy, or
(b)because of illness suffered by her as a result of it.
(3)A person (A) discriminates against a woman if A treats her unfavourably because she is on compulsory maternity leave.
(4)A person (A) discriminates against a woman if A treats her unfavourably because she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave.
(5)For the purposes of subsection (2), if the treatment of a woman is in implementation of a decision taken in the protected period, the treatment is to be regarded as occurring in that period (even if the implementation is not until after the end of that period).
(6)The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins, and ends—
(a)if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy;
(b)if she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy.
(7)Section 13, so far as relating to sex discrimination, does not apply to treatment of a woman in so far as—

(a)it is in the protected period in relation to her and is for a reason mentioned in paragraph (a) or (b) of subsection (2), or
(b)it is for a reason mentioned in subsection (3) or (4).

19. Although the alleged instances of sex discrimination within the first claim also occurred during the protected period of the Claimant's pregnancy, they are not alleged to have been for a reason connected to that pregnancy and so are not precluded by subsection 7. The allegations within the second claim are after the end of maternity leave and therefore outside the protected period. Sections 11 and 13 of the Equality Act therefore apply: "A person (A) discriminates against another (B) if, because of a protected characteristic (sc. sex), A treats B less favourably that A treats or would treat others."

20. We have been referred, as follows, to authorities directing our approach in applying – particularly in the context of pregnancy discrimination - the relevant burden of proof provisions in 136 Equality Act 2010, the material part of which provides:

> "(1) This section applies to any proceedings relating to a contravention of this Act.
>
> (2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.
>
> (3) But subsection (2) does not apply if A shows that A did not contravene the provision."

Glasgow City Council v Zafar [1998] ICR 120
Talbot v Costain Oil, Gas & Process Ltd & ors UKEAT/0283/16. [2017] ICR D11. Paragraph 16 of the transcript.
Nagarajan v London Regional Transport and others [1999] IRLR 572.
Dunn v Secretary of State for Justice [2018] EWCA Civ 1998)
Johal v Commission for Equality and Human Rights UKEAT/0541/09
Indigo Design Build and Management Ltd and another v Martinez UKEAT/0020/14 and UKEAT/0021/14

21. It is common ground that the primary issue for us to determine is the "reason why" the Respondent did what he did.

Background

22. The Respondent had previously been in partnership with a Dr Jandhu, who still holds the freehold of the property out of which the GP's practice. Frizinghall Medical Centre, operates. After Dr Jandhu's retirement from the practice, the Respondent for a short time continued as a sole practitioner with Dr Jandhu continuing to do locum work.

23. On 1st January 2018 the Respondent then went into partnership with the Claimant, who had also previously worked as his locum. Neither worked full-time. The Claimant worked 25 hours per week, including four clinical sessions

24. The written partnership agreement substantially mirrored that between doctors Akhtar and Jandhu. It was again a 50;50 equity partnership, although the Claimant did not put in any money at that time. The partnership capital was expressed as "TBA", though the Claimant maintains that she did not understand that abbreviation, and signed the agreement without making any further enquiries as to what it meant.

25. The Partnership Agreement provided that for the first 4 weeks of sickness absence the firm would cover the cost of locum expenses occasioned by the partner being off work. After that period the absent partner would be personally liable to meet those costs, up to the amount of their drawings. There are legitimate grounds for a difference in contractual interpretation as to whether that maximum amount of drawings was limited to the sums withdrawn individually on a month by month basis (at that time £6,000) or whether it also included an additional element for pension contributions. This is not in fact material because any liability for locum expenses, either falling on the firm or on the individual partner, might be offset by reimbursements from NHS England or provided for by insurance, and the amounts so recovered always exceeded the higher figure for drawings. For this purpose the Claimant was added to the Respondent's insurance policy from the time she entered into partnership with him.

26. The Partnership Agreement was silent as to how the specific requirement for locum cover in the event of sickness would be assessed or as to what arrangements would be made as to who should provide that cover, and when or at what rate of pay.

27. In the first 12 months or so of the partnership short term sickness absences, which never in fact exceeded 3 days, were usually covered, similarly to planned holiday absences (up to a maximum of 3 weeks), by the remaining partner working the addiitonal hours and charging the practice at the local hourly rate for GP locums.

28. Similar provisions were included in the Partnership Agreement with respect to maternity leave. Though in this case the initial period when costs would be borne by the firm was 6 months, which was considerably in excess of the 2 weeks equivalent provision in the 2016 agreement between doctors Jandhu and Akhtar – though it was not, of course, directly applicable to either of them it would have applied to a woman being admitted to that partnership - and also substantially more generous to the pregnant partner than the BMA standard template which still only allowed for up to 4 weeks. Again the Agreement was silent as to the mechanisms by which appropriate locum cover was to be allocated. These locum expenses were also to be offset by any sums received by way of reimbursement from any source, though in this case it appears that the Claimant had not taken out additional insurance cover.

29. In about early 2019 the Claimant became pregnant with her second child. On the 2nd March 2019 she went off sick with hyperemesis, a pregnancy-related illness and never in fact returned to work before commencing maternity leave. The baby was born on 27th September 2019. The period of additional maternity leave ended on 27th August 2020. The Claimant did not return to work and after a further 12 months absence

notice of expulsion dated 31st August 2021 was served by the Respondent, to expire on 30th November 2021. On 26th October 2021, within that notice period, upon an alleged breach of the Partnership Agreement, a further notice was issued to expel the Claimant with immediate effect. The Claimant, throughout this whole period of absence, or certainly at least, up to the end of August 2021, continued to receive her monthly drawings of £6,000 in full.

Relevant Findings

A. Pregnancy and maternity discrimination

30. **Refusing to adhere to the partnership agreement and the custom and practice agreement already in place, in respect of sickness and maternity leave, insisting on new arrangements to be made but rejecting all the Claimant's proposals in favour of Dr Akhtar's own. (from 8 April 2019 – July 2019).**

30.1 There was no custom or practice in place in respect to either long-term sickness absence or maternity leave cover, because neither of these situations had arisen.

30.2 The initial exchange of WhatsApp messages between the Claimant and the Respondent following the commencement of her sick leave demonstrate the parties reasonably discussing the possible locum arrangements. It is however apparent that the longer the absence went on the more strain it was placing upon the Respondent.

30.3 The Claimant's initial arrangement was to book Dr Jandhu as a locum for additional sessions, and this of course was perfectly acceptable to the Respondent.

30.4 The Claimant also at the very beginning suggested a friend, Dr Samina Khali to cover for her in April in the event of her absence continuing. The Respondent did follow this up, but Dr Khali was in fact only able to offer four sessions in the whole of April which was insufficient. Dr Khali was again approached by the Respondent prior to 16th May 2019 with a view to her working as a locum on the Claimant's model of someone who would effectively cover all the duties of a partner, but she texted to decline this role. Dr Khali did, nonetheless provide some locum cover.

30.5 From 3rd April 2019 the Respondent did manage to book female GPs to cover clinical session, and the two names put forward at this time, Hadia Aslam and Mahmoodah, were both accepted by the Claimant.

30.6 The exchanges of messages up to 6th April 2019 do, however, disclose a potential divergence of opinion as to how appropriate it would be to devolve duties to locums. The Respondent's approach might be categorised as more "traditional" or "personal" believing that it was the primary duty of the partners to take responsibility for the patients of the practice and that locums would not have that same level of responsibility, nor be prepared to show the same level of commitment or interest to the non-clinical duties involved in running the practice. The Claimant's position was that she herself had extensive recent experience of working as a locum and was familiar with other practices that operated on a purely outsourced team of locums.

31. **In particular**: **On 8 April 2019, the Respondents undermined the Claimant ~~by insisting on a meeting and~~ rejecting the Claimant's proposals**

31.1 On 6th April 2019, by which stage it was clear that the Claimant would not return before June at the earliest, the Respondent suggested a face to face meeting rather than continue discussion by WhatsApp messaging. The Claimant willingly agreed to this proposal, which appears to have been eminently sensible, and on 8th April 2019 it was she who put forward the date for that meeting which was to be Thursday 11th April 2019, between herself the Respondent and Miss Allam, the practice manager.

31.2 After fixing that date the Claimant, on Monday 8th April 2019, telephoned the Respondent whilst he was at work and sought to put to him a proposal for outsourcing the analysis of blood tests to a practice in Halifax. The Respondent responded that was not how he wished to run the practice. The planned meeting went ahead as planned.

32. **In particular**: **On 11 April 2019, the Second Respondent refused to discuss the Claimant's proposals for sick pay mechanisms. ~~Mouna Allam coerced the Claimant into accepting the Second Respondent's proposed mechanism for sickness payments~~**.

32.1 Prior to that meeting the Claimant had put her proposals in writing to Miss Allam. The Respondent did not do so.

32.2 The Respondent attended the first part of the meeting during his lunchtime. The Claimant and Miss Allam then discussed the arrangements further. The meeting in total lasted some 4 hours, and there is no criticism whatsoever of Miss Allam's conduct at that time.

32.3 The Claimant agreed to Miss Allam producing a formula for locum cover during her long-term sickness absence, provided that the total cost did not exceed the sums recovered from the NHS and via insurance.

32.3 Over the following days, during which time she was also in further contact with the Claimant, Miss Allam did work up a detailed proposal which fell within those financial parameters. This did allow for the Respondent to claim locum costs of £50 in respect to each of the 25 hours ordinarily worked by the Claimant to recompense him for additional work load and responsibilities, as well as paying locums to cover her clinical duties at the regional rate of £95 per hour, but still did not exceed the sums recovered.

32.4 Miss Allam emailed the final proposal, including a form for the Claimant to sign amending the relevant clause of the Partnership Agreement so as to reflect these specific terms. That was sent or re-sent at 12.21 pm on 17th April 2019, but the Claimant either had not received it, or had not read it before she telephoned Miss Allam later that afternoon. The Claimant did not ever in fact sign the amendment to the Agreement.

33. **On 17 April 2019, Mouna Allam challenged the Claimant's proposals for locum arrangements. Dr Akhtar refused to discuss the arrangements with the Claimant.**

33.1 In a phone call initiated by the Claimant she proposed to Miss Allam two possible locums whom she had contacted to cover for her maternity leave, from September. However neither of these doctors could work afternoons, which necessarily would

have meant the Respondent swapping his morning clinics to accommodate them. Without having yet put this to the Respondent Miss Allam explained that from a practice management perspective she personally did not think this was viable. There then followed a lengthy dispute with both arguing their point. It does not matter who was in fact right, it was an area where there was legitimate room for disagreement. Having heard the recording of the conversation we are, however quite satisfied that the Claimant is incorrect when she describe Miss Allam as having spoken down to her as if she were her subordinate. Miss Allam is throughout at pains to seek to differentiate between those matters which are properly for the parties to resolve in accordance with the terms of their Partnership Agreement, and those which ought properly to concern her as the practice manager.

33.2 The discussion did, however become heated for other reasons and Miss Allam terminated it by putting the phone down.

33.3 Subsequently the Claimant did send a message to the Respondent saying that she wanted a meeting with him to discuss maternity cover but that she expressly did not want Miss Allam to be present. She did not at that time explain specifically why not.

33.4 The Respondent did reply somewhat tersely, emphasising that he believed that the practice manager was doing a good job, and that she needed to be involved in arranging maternity cover a s he was busy with clinical work. The Claimant was invited to submit possible names, but it was also stated that as she was off sick she was not obliged to involve herself in these practical arrangements.

33.5 The Claimant did not then make any further contact with the Respondent until she sent an email some 4 weeks later on 13th May 2019. This is a lengthy document of some 9-10 pages and its general tenor is disputational and critical of the Respondent, for instance using phrases such as “As you can see it is not sustainable for you…” and “I would like to break down why this is disproportionate…”

33.6. There then followed an exchange of emails which in tone clearly demonstrate the increasingly strained nature of the parties’ relationship from this point onwards. The Respondent did not ever respond in details to the Claimant’s initial proposal, claiming “I have little energy or time to calculate all financial options to cover your absence.” He also reiterated his view that this was a matter which the practice manager ought to be dealing with. The Respondent appears to have taken particular exception to what he perceived to be a suggestion that he should be prepared to work for as little as £25 per hour.

33.7 In the 13th May email the Claimant first proposed mediation. The Respondent agreed to this course on 16th May, but with the caveat “Let’s be clear what we are seeking mediation on and when. This is putting our partnership in danger.”

33.8 The essence of the dispute between the parties is encapsulated in the Claimant’s email of 20th May 2019.

“I have already stated in my first email where the dispute lies which is ultimately the internal payment mechanism of locum rate/duties between the partners which is not defined or detailed in our partnership agreement. I believe it is not a financially sustainable mechanism for the practice during the later UNPAID period of my

maternity leave. Also further conditions that you are imposing on the type of locum required to cover my absence are in dispute and no stipulated or a requirement in the partnership agreement."

34. **In particular: In July 2019, the Second Respondent refused to arrange any locum cover other than that which he proposed**

34.1 It is conceded that this should only be a reference to "between May and July".

34.2 There were two mediation meetings held on 1st and 17th July 2019. After these it is agreed that the arrangements made for locum cover, both during the remainder of the sickness absence and then during maternity leave were in fact mutually acceptable.

34.3 Between May and July the external locum cover was organised through the practice and the Respondent claimed in accordance with the formula finalised on 17th April, and apparently acceded to by the Claimant, albeit she did not actually ratify the amendment to the Partnership Agreement. There is no suggestion that the patient care provided during this period was in any way substandard.

35. **Undermining the Claimant's position, excluding her and taking actions intend to coerce her into leaving the Practice/Partnership, in particular:**
i) ~~On 22 March 2019, the Respondents did not submit the Claimant's documentation to the CQC~~. On 31 May 2019, the Respondents excluded the Claimant from the CQC assessment results and ignored the Claimant's correspondence relating to this. In June 2019, the Claimant found out about the CQC results on a Whatsapp group and her sending a hamper to congratulate the staff was not acknowledged by the Respondents.

~~In July 2019, the Respondents did not inform the Claimant that her registration as a partner with the CQC had not been completed and the Respondents failed to submit the Claimant's relevant documentation~~

35.1 Shortly after the Claimant went off sick, at the end of March 2019 the practice underwent a CQC inspection, the outcome of which is of course extremely important and which entails a great deal of extra work.

35.2 The relevant paperwork identifying the Claimant as a partner after 1st January 2018, so that she appeared a such on the CQC records, should have been completed by the previous practice manager before she left in February 2019. In December 2018 the Claimant had been requested to provide the necessary information to enable a DBS check to be carried out so that she could be duly registered, but had failed to do so. The matter had not been rectified at the time of the inspection and the Claimant took no steps to chase it up. When it came to light in July that she was still shown on CQC records as a salaried GP rather than a partner the Claimant herself took the appropriate steps to put it right.

35.3 The inspection results were notified to the Respondent in or about mid May 2019, some two weeks before they were due to be published so that he was able to make any representations in advance. They went to him because he was the nominated CQC lead within the practice.

35.4 The outcome, which was very positive, was not shared by the Respondent with the Claimant. Though it was public information after 31st May 2019 on the CQC website, she only learned of it when the Respondent posted the results on a regional GPs WhatsApp group on 1st June 2019.

35.6 This failure to inform the Claimant personally or to acknowledge her congratulatory gift is on any view extremely rude.

35.7 Within the timeframe of this case it is however to be noted that it coincides exactly with the period where the relationship was evidently beginning seriously to break down.

36. **On 31 May 2019, the Second Respondent and Mouna Allam conspired to remove the Claimant from the Partnership as evident in the call recording of same date.**

36.1 At some later stage, in what is clear evidence of the breakdown in trust, the Claimant carried out a trawl of the practice telephone records which all have to be recorded for regulatory purposes, even where there would ordinarily be an expectation of privacy – by searching against Mis Allam's mobile number for calls she made into the surgery. She thereby identified a conversation between Miss Allam and another employee, the office manager Dolores Canning, from 31st May 2019.

36.2 In that conversation Miss Allam refers to the pending mediation between the parties. She also refers to a proposal to be put by the Respondent to the Claimant with two options as to how the partnership agreement might be severed. One was for a split in the practice. This was a suggestion which the Respondent raised again on 18th July 2019 in the context of his believing that the Claimant no longer trusted him. Although historically this had been a method of resolving a serious breach within a practice, it was no longer something which the Local Commissioning Group (LCG) would in fact ever countenance. The alternative proposal was to buy the Claimant out for between £10,000 and £30,000.

36.3 Either of these proposals would have required the consent of the Claimant. That consent was never forthcoming and the possible severance of the partnership was not in fact then discussed at the mediation meetings.

36.4 Although the position is not entirely clear there is evidence that outside of the proposed mediation process the Respondent did at this time instruct solicitors to negotiate with the Claimant. Any such offers as referenced by Miss Allam are likely therefore to have been part of such discussions and no doubt would have been headed "without prejudice".

36.5 Although as at 31st May 2019 Mis Allam was clearly privy to the Respondent's thoughts in this regard, there is no proper basis for describing this as a conspiracy between them to remove the Claimant from the partnership, and that could not have happened in this manner without her agreement in any event.

36.6 Once again within the timeframe of this case it is however to be noted that it coincides exactly with the period where the relationship was evidently beginning seriously to break down.

37. **On 3 June 2019, the Second Respondent demanded that the Claimant paid £33,000 into the partnership account and threatened to withhold the Claimant's monthly drawings.**

37.1 At the date of inception of the partnership the Claimant had put no money in. We find that she did, however, clearly understand that was a matter which would need to be addressed in due course, and in in summer 2018 she had indeed offered to equalise the position within the accounts. whereby the practice was effectively being run off the Respondent's personal overdraft.

37.2 As at 5th June 2019, in conjunction with information obtained from the practice accountants on about 3rd June, it was calculated by the Respondent that having regard to the current level of overdraft and the relevant figures from the last set of completed accounts, the Claimant would have to inject £33,059.60. That figure is open to challenge on the basis that the draft accounts for the current year appeared to resent a more favourable picture, but the fact remains that there was an imbalance in the parties respective equities.

37.3 That having been said the tone of the letter of 5th June 2019 demanding payment of the full sum by 3rd September 2019 is extremely heavy-handed.

37.4 The Claimant did not ever pay the sum demanded and nor were her drawings withheld.

38. **On 1 July 2019~~, the Second Respondent informed the Claimant that the First Respondent's landlord was only prepared to enter a lease agreement with the Second Respondent. On the same date~~ the Second Respondent stated to the Claimant at the mediation meeting "you are just a salaried GP" and "you planned this to get NHS money".**

38.1 As a sole practioner the Respondent had not in fact held a formal lease of the property after the dissolution of the partnership with Dr Jandhu. Although the intention after 1st January 2018 had evidently then been to enter into a tenancy in the names of both the Claimant and Respondent this had also never been put into effect.

38.2 As the date of the first mediation meeting on 1st July 2019, Dr Jandhu had however intimated that he was no longer prepared to deal with the Claimant but only now with the Respondent alone. That was his right as landlord, and his change of mind gives rise to no lability on the part of the Respondent.

38.3 There is no good reason for postulating as the Claimant does, that in ascribing the reason for this change to a belief that Dr Jandhu may have suspected the Claimant "planned this to get NHS money" he is in fact expressing his own opinion.

38.4 It was at the 1st July meeting that it was noted that the CQC erroneously recorded the Claimant still as a salaried GP and not a partner: see paragraph 35.2 above. We do not accept the Claimant's assertion that this information was imparted by the Respondent in any pejorative manner, so as to give rise to any possible claim for detriment.

39. **In July and August 2019, the Respondents made malicious fraud allegations to NHS England, themselves and through instructing/causing/inducing Mouna Allam to do so.**

39.1 Following the meeting on 1st July 2019 the Claimant had made clear her intention of acting alone, without the agreement of the Respondent, to pursue disciplinary action against Miss Allam in respect of the alleged misconduct in the course of the 17th April telephone call. It was after this date that Miss Allam sought to challenge the legitimacy of the Claimant taking an active involvement in such HR matters whilst off sick, and we are satisfied that the pursuit of these disciplinary proceedings therefore provides the context for that challenge.

39.2 Miss Allam made contact firstly with the NHS and Social Care Whistleblowing Helpline and with the GMC Confidential Helpline. As a result of being advised that dealing with practice related matters whilst on sickness leave was considered "work", she further contacted Gillian Warrener in the Finance Department for Primary Care NHS England.

39.3 Ms Warrener confirmed on 9th July 2019 that in respect of any GP for whom the practice was receiving a locum allowance to perform any duties that would be part of the usual role of a doctor in general practice "and claim the reimbursement is fraud and as such could lead to criminal proceedings".

39.4 Miss Allam forwarded this email to the parties at 10.06 on 11th July 2019. In reply the Respondent (at 14.29) instructed Miss Allam that because this was a matter of concern she should stop forthwith any further claims for locum cost reimbursement from NHS England.

39.5 The Claimant had in the meantime then referred the matter to the Local Medical Committee (LMC). The position of the LMC is somewhat ambivalent, they were facilitating the mediation meetings whilst at the same time assisting the Claimant and the opinions of their representative were not always expressed in temperate or impartial terms. The LMC therefore contacted Ms Warrener who at 14.37 on 11th July acknowledging that she had been asked by them to put any sanctions on hold until the issue had been resolved, presumably meaning the ongoing issue between the parties that was subject to mediation. She therefore advised that the practice should "continue to claim as you are entitled to without any further concern on my part".

39.6 Prior to this exchange Ms Warrener had, however further clarified her position in an email to Miss Allam alone timed at 10.13 on 11th July. In this she had confirmed that "I must stress that no work in or out of the practice building may be undertaken while the allowance is being paid by the GP or partner on leave, this includes but is not limited to… any administrative task whether involving patients or staff, any HR duties…"If any such duties are carried out then the claim for the allowance is fraudulent."

39.7 Ms Warrener did not ever resile from this clear statement as to how she interpreted the relevant regulations, which were not in her mind limited purely to clinical duties. It appears to be accepted that the Respondent will have had sight of the 10.13 email also when at 14.47 he responded to Ms Warrener's more recent email of 14.37 that he would still not be making or endorsing any further claims because "I do not want to be part of any possible or supposed fraudulent claims".

39.8 At the same time an issue had been raised with the insurers, Wesleyan, as to whether the work that the Claimant was doing might also potentially invalidate a claim. The Claimant had, however received an assurance at 15.36 on 11th July that the definition of incapacity for their purposes was limited to clinical duties, so that there was no objection to her performing some limited administrative duties. The Respondent at 19.58 on 11th July therefore instructed Miss Allam to continue claiming from Wesleyan which he would sign for without the need for further clarification, but informed the Claimant that she would in future be required to sign the NHS claim forms. The reimbursements from both NHS and from the insurers therefore continued to be paid and covered the costs of the locums and of the Respondent's additional work throughout.

39.8. Miss Allam responded to the Respondent's instruction on 12th July 2019, confirming that she would continue to claim from the insurers as directed, but reiterating her concerns with regard to NHS England. She said that she reserved her right to raise matters with the NHS Counter Fraud Authority, NHS England, CCG and CQC Whistleblowing Helpline in the event of any further irregularities, and that she was seeking the advice of her Union in relation to any retaliation that may arise from her "whistleblowing".

39.9 The Claimant continued to be actively involved in pursuing disciplinary action against Miss Allam, including directly contacting other members of staff in respect of her non-attendance at a so-called grievance meeting which the Claimant had unilaterally organised for 19th July 2019. The staff so contacted then put their concerns about the discomfort occasioned by the Claimant in "grievance letters". Specifically as a result of this further activity and the response of the staff the Respondent's solicitors sent a letter dated 31st August 2019, requiring her to cease her involvement, expressly citing the terms of Ms Warrener's email of 10.13 on 11th July 2019 (see paragraph 39.6 above).

39.10 The Claimant then purported to rearrange the "grievance meeting" for 8th August 2019, now to be followed immediately by a disciplinary hearing in respect of the 17th April phone call. As a consequence the Respondent's solicitors sent a further "cease and desist" letter dated 7th August 2019, again stating that the undertaking of any other work relating to the practice before her return to work could give rise to her reimbursements ending.

39.11 Since it was in fact NHS England who had identified a possible fraud, it cannot be said that this was not a legitimate matter for concern. Ms Warrener's statement of general principle could not be clearer, even if she was persuaded not to pursue any sanctions at this time. No doubt Miss Allam in particular, in defending herself against the actions of the Claimant, and to an extent the Respondent also in expressing his disapproval of her unilateral pursuit of the practice manager, were acting from mixed motives in raising these concerns over possible impropriety, but that does not mean that those concerns were not genuine. It is wholly inappropriate to seek to describe them as "malicious" in these circumstances. There is no evidence of the Respondent having induced Miss Allam to explore these matters: she was "fighting back" against the Claimant and having in so doing identified a potential jeopardy to the reputation of the practice, the Respondent then reacted with what is reasonable caution in the circumstances.

40. **On 17 July 2019, the Second Respondent made unwarranted allegations including that the Claimant had planned to become pregnant, that she was not of sane mind, that she shoud be reported to the authorities and that he wanted rid of her.**

40.1 This allegation in fact refers to a statement in writing sent privately to the Claimant by a locum, Dr Aslam, on that date and not to anything that actually happened on 17th July 2019.

40.2 The evidence of Dr Aslam, who was also called as a witness by the Claimant, does, however, raise a number of questions as to her credibility. The witness had worked as a locum at the practice on fifteen occasions between 5th April and 29th May 2019. In that time she had raised no concerns at all. She then went to Spain, where she was geting married, but on 23rd June 2019 expressly requested that she be given "first dibs" if any further locum sessions became available in July. She did not in fact ever work at the practice again. Subsequent discussions in July and August with a view to her then covering the Claimant's maternity leave from September then foundered, principally over a failure to agree the extent of the hours to be worked. All these communications with either the Respondent or Miss Allam appeared perfectly amicable. It is unclear therefore what prompted the email of 17th July 2019, but it can only have come after communication with the Claimant. Also within that email she purports to remember hearing Ms Allam threatening to "whistle blow" on the Claimant, and she repeats that assertion in her witness statement but now also with the further elaboration and that she heard Ms Allam say that was also going to ask members of the admin staff to issue a statement against her. These, however, are matters in mid July 2019 (see paragraphs 39.8 and 39.9 above) of which the witness can have had no knowledge, because she was not there, so that she can only have been aware of them via hearsay from the Claimant after the event. The new allegation in relation to staff grievances (cf paragraph 43 below), of course, post dates the witness's original email of 17th July

40.3 Dr Aslam was , however, present in April 2019 when the pressures arising as a result of the Claimant's continuing sickness absence began to become apparent. In particular she was involved in an incident on 5th April, her first day at work, involving a suicidal patient. This was specifically cited by the Respondent as an example of the additional burdens placed upon him as the only partner in work, and the difficulties posed by reliance on locums which was then the trigger for the meeting on 11th April to discuss the arrangements.

40.4 She was also present at the time after 17th April 2019 when the relationship between the Claimant and Miss Allam began to disintegrate following Miss Allam becoming upset as a result of her clear perception that the Claimant was accusing her of taking sides with the Respondent and of not doing her job properly.She will therefore have witnessed the effect upon Mis Allam, and her reaction.

40.5 She was also present when the relationship between the partners began to breakdown following the Respondent's reaction to the Claimant' s lengthy email of 13th May 2019. This is the only series of email exchanges upon which the Respondent could possibly have commented to Dr Aslam (see paragraphs 33.5 to 3.8 above). This led to

the possible proposal being put forward to split the partnership and then to mediation. Dr Aslam is no doubt largely accurate, therefore, when in her email of 17th July she identifies the Respondent's "grievances" at around this time as being "obviously finance related".

40.6 Whilst she will have observed these growing tensions with respect to the Claimant in April and May 2019, we do not consider Dr Aslam a sufficiently reliable witness for us, without more, to accept her description or alleged examples of "a highly toxic scenarion where a GP partner was being discriminated against due to her pregnancy and sicknesss" as facts from which we could infer that there has indeed been such discrimination.

41. **On 18 and 19 July 2019, the Second Respondent undermined the Claimant's ability to carry out HR functions by stating that the Claimant should not contact employees while she was off sick. On 18 and 19 July 2019, the Second Respondent threatened to split the practice**.

41.1 At the second mediation meeting on 17th July 2019, despite the Respondent's clear insistence on 5th July that she obtain his consent before taking employment matters to Peninsula, the Claimant had unilaterally informed him for the first time that a grievance meeting with Miss Allam had been arranged with Peninsula for 19th July. This gave the impression that the timing and purpose of that meeting had already been agreed In actual fact the invitation letter to invite Miss Allam to that meeting was not sent until 11.41am on the following day, 18th July 2019, giving less than 24 hours notice of a meeting to be held at 9am on 19th July, when Miss Allam had not in fact yet raised any grievance.

41.2 Miss Allam replied within the hour to object to the proposed meeting, and particularly to the involvement of Peninsula. She also informed the Claimant that she was on holiday, which was correct because she took time off to deal with a house move and the transportation of household items from Spain to the UK.

41.3 The Claimant then on 18th July 2019 telephoned the surgery, or in the case of the office manager, Ms Canning, telephoned her on her mobile at a time when she was in fact returning from attending a funeral, to interrogate staff about Miss Allam's holiday arrangements.

41.4 It is, we find, disingenuous of the Claimant to suggest that she only did this because she wanted to investigate why the Respondent had not, at the meeting on 17th July when it was mentioned, alerted her to the fact that Miss Allam would be holiday on 19th July, the day of the putative meeting. It may be that at that stage the Respondent did not in fact know of Miss Allam' s precise holiday arrangements, and in any event, as we have observed, the impression given was that this had somehow already been agreed. What the Claimant did not do, of course, was contact the Respondent to discuss the situation. In seeking to interrogate the staff about it we are quite satisfied that she was in fact looking for further ammunition to use against Miss Allam.

41.5 The members of staff who were contacted in this way by the Claimant felt uncomfortable as a result and this was communicated to Miss Allam. She therefore, through Ms Canning, requested that the staff's concerns be put down in writing,

which they were headed “grievance letters”. These letters were all in the employee’s own words.

41.6 When the matter also came to the attention of the Respondent he spoke to the Claimant on the telephone and specifically posed the question whether or not she trusted him. It was in this context that the issue again came up as to a possible split of the partnership, requiring of course, the consent of the Claimant had this in actual fact been a permissible option (see paragraphs 36.2 to 36.4 above).

41.7 This also prompted the solicitor’s letter of 31st July 2019 instructing the Claimant not to contact staff, because by that stage four grievances had been raised against her (see paragraph 39.9 above).

42. **From 18-25 July 2019 the Second Respondent held himself out to be the sole partner**.

On 25 and 26 July 2019, the Second Respondent held himself out to be the sole partner dealing with HR Managers. The Second Respondent accused the Claimant of being sick and unable to deal with these matters.

~~**On 6 August 2019, Mouna Allam listed herself as a Practice Manager/Partner alongside the Second Respondent on a CCG declaration of interests but did not list the Claimant.**~~

On 31 July 2019 and 7 August 2019, the Respondents served notice on the Claimant to cease her involvement in practice affairs and informed her of the need to nominate a proxy. The Second Respondent threatened to remove the Claimant as a partner

42.1 The Respondent was older than the Claimant, therefore had more post-qualification experience as a doctor and had worked at the Frizinghall practice for considerably longer than she had. It is perfectly natural that he should in an appropriate context be referred to as the “senior partner” or ”lead GP”, in a similar way to how Dr Jandhu had been identified when he worked full-time at the surgery. The Claimant appears somewhat preoccupied with her status and sees slights where clearly none were intended.

42.2 The assertion that Miss Allam held herself out as a partner, and which has now been abandoned, was based upon a wholly unreasonable misinterpretation of the documentation submitted by Miss Allam to the CQC on behalf of the Respondent.

42.3 On 25th July 2019 the Claimant unilaterally purported to extend Miss Allam’s probationary period by 6 months on the grounds that she was required to show “an improvement in your conduct”.

42.4 On that same date Miss Allam then raised a formal grievance with the Respondent, pointing out rightly that she had never been subject to any disciplinary process, formal or informal, in respect to her conduct, and accusing the Claimant of stressing, bullying, harassing and discriminating against her.

42.5 The Respondent replied to this grievance, the Claimant was not copied into this email:

"*To put the record straight, these are Dr Toheed's individual actions and do not represent actions of Frizinghall Medical Centre. Dr Toheed is officially off sick and absent from work. I am the sole senior partner present at work and authorised to deal with employees matters. Dr Toheed has not consulted me when writing these emails and letters to you on our official letterhead. Contracted company Peninsula for HR matters has not approached me and I am not aware of their involvement.*
I am seeking legal advice to deal with this matter."

42.6 The Respondent then did take legal advice and his solicitors wrote on 31st July 2019, and again on 7th August 2019 (see paragraphs 39.9 and 39.10). In the earlier letter it was emphasised, however, that the Claimant was still entitled to participate in the partnership's decision making process, albeit now upon due notice of a formal meeting. It is, however, right to observe that the suggestion of nominating a proxy in a two partner firm such as this was nonsensical. In the second letter, and again in context this refers specifically to the unilateral disciplinary actions being taken by the Claimant in respect of Miss Allam, it is stated:
"Any such continued action <u>may well</u> also give rise to a breach of the partnership deed, which in turn <u>could</u> give rise to grounds for expulsion" (emphasis added).

43. **From 18-25 July 2019 Mouna Allam to phone several members of staff and tell them she had been given leave to deal with the Claimant and state 'I need to sort her out'. In the same calls Mouna Allam incited staff to raise individual grievances against the Claimant. Ms. Allam's actions were caused/instructed/induced by the Second Respondent**

On 22 July 2019 the practice manager called staff to encourage them to raise separate grievances against the Claimant. The sole purpose to apply pressure on her to leave (as also evidenced in the call recording).

43.1 Miss Allam was on leave because she needed to deal with her own domestic affairs. In a phone call from Miss Allam to Gemma on 18th July 2019, one of the calls identified by the Claimant in her subsequent trawl through the records, she referred to the Respondent having agreed that she prioritise her personal affairs, including caring for her sick husband, over responding to the Claimant's invitation to a so-called grievance meeting with Peninsula. This is clearly the context in which Miss Allam says that "I don't have time to sit down and focus on her and I need to sort her out." That is sorting out the specific situation arising from the Claimant's email of 18th July. Miss Allam then identifies the actions she will take, which are replying fully to the Claimant, which she does by letter dated 22nd July, informing the Respondent, which she does most particularly by raising the grievance on 25th July and by involving her trade union, which she had already intimated on 12th July and which she then pursued further.

43.2 Miss Allam does say in a call to Ms Canning on 22nd July that "we are going to go as a whole practice against this woman so she can leave", but again the context is clearly the response to the Claimant's specific actions initiated on 18th July and is with particular reference to Miss Allam's detailed retort in her letter also of 22nd July.

43.2 Miss Allam does not incite staff to raise grievances, she coordinates that process through Ms Canning only once the staff have already made their concerns known.

She is at pains to exhort them only to tell the truth and there is no suggestion that the letters as subsequently drafted are anything other than the genuine expressions of the employees concerned. That is confirmed specifically in the case of Ms Canning , who was called as a witness for the Claimant.

44. **On 25 July 2019, the Second Respondent excluded the Claimant from a work do.**

44.1 The party was in celebration of the good CQC report.

44.2 It was organised by Miss Allam. The Claimant was not invited. It is unclear whether the Respondent in fact concerned himself with the arrangements for the party or not. Had the Claimant been in work and not on sick leave she no doubt would have been aware of the party before the event and would have been in a position to go to it That having been said in the context of events at around this time it would have been an extremely uncomfortable situation had the Claimant chosen to attend.

44.3 it was nonetheless rude not to have even discussed this practice event with the Claimant and to have at least given her the option to decline.

45. **On 29 July 2019, the Second Respondent raised issues regarding reimbursement. The Second Respondent accused the Claimant of disrupting the First Respondent's services by the way she dealt with her concerns with Mouna Allam**

45.1 Whatever precisely was said in a phone conversation between the Respondent and the Claimant on 29th July 2019 is to be understood in the context of the events around this time. See paragraphs 39.19 and 39.10 and 42.3 to 42.8 above. The continued prosecution of disciplinary action against Miss Allam was causing disruption, and had caused the possible issue of an invalid reimbursements claim to be raised once more.

45.2 Also on 23rd July 2019 Miss Allam had become aware that the Claimant had prohibited her from taking advice on staff employment issues matters from Peninsula, with whom the practice had an HR contract. Miss Allam raised these concerns in an informal complaint to the Respondent on that date, shortly before raising her grievance two days later. She stated then "*this is creating an unhealthy working environment in order for me to be able to carry out my basic duties in the best possible way* (sic)."

46. **On 23 August 2019, the Second Respondent excluded the Claimant from the accountant's meeting and cancelled the meeting. The Second Respondent made unilateral changes to the pension arrangements and unilaterally charged for CQC work.**

On 23 September 2019, the Second Respondent excluded the Claimant from meetings with the accountant and made unilateral changes to the arrangements for partners and the charging of CQC work

46.1 The annual review meeting with the accountants was a recurring event. it will have been held sometime in 2018, so the Claimant will have been aware that it was to take place. The accountants sent an email around all their clients in April 2019 inviting them to schedule the 2019 review meetings for June or July. The meeting was in fact, on an

unknown date, arranged for 8th August 2019. The Claimant was not informed of this date immediately, but became aware of it by 6th June 2019 (cf paragraph 37.2 above).

46.2 On 29th July 2019 the Claimant contacted the accountants to reschedule the meeting without prior notification to the Respondent. It is now apparent that the reason for doing this was because she intended the grievance/disciplinary meeting with Mis Allam to take place on this date.

46.2 The meeting was then rescheduled on notification sent from the accountants to 23rd August 2019, prior to which the Claimant was in contact with the accountants with a view to her holding a private discussion.

46.3 That meeting had to be cancelled because the Respondent was ill. It was again re-scheduled to 23rd September, but on this occasion the Claimant was not sent notice of the new date by the accountants.

46.4 On 23rd September the Respondent, Miss Allam and the accountant waited for the Claimant to arrive in the mistaken belief that she was aware. This was, of course, very close to the date the Claimant' s baby was due and she in fact gave birth on 27th September 2019. On the following day the accountant sent her a summary of the matters discussed, prefacing it with the comment "*Dr Toheed, I appreciate you couldn't attend due to maternity leave – I hope all goes well!"*

46.5 This was clearly nothing more than an unfortunate breakdown in communications.

46.6. The action points from the email of 24th September 2019 were then amended following further communications with the Claimant and it appeared that the accounts had in fact been agreed and that any outstanding issues had been clarified. No amendments were in fact made to the pension arrangements.

46.7. Payments for attendance at PCN meetings had first began to be received in the last month of the previous accounting year to April 2019. In the accounts £483.00 was allocated to the Respondent's profit share. It is a possible, though not admitted, construction of the Partnership Agreement that such sums are to be included within clause 17 "Income for Individual Partners" rather than clause 16 "Partnership Income". It is also a potentially valid interpretation of the discussion at the mediation meeting on 17th July 2019 where it is minuted that the Respondent "would keep any money from any Private work he undertook."

47. **Between 4-17 October 2019, the Second Respondent spent partnership funds in fences without the Claimant's agreement.**

47.1 There had been a long-standing problem with security of the surgery car park, and disturbance caused by people congregating there. This came to a head in a letter from the Council dated 24th September 2019. The matter, though not requiring urgently immediate action, was dealt with expeditiously. There is no dispute that this work, putting up fences, was in fact reasonable and necessary.

47.2 The cost was shared jointly between the practice and the landlord, Dr Jandhu. In the first instance it was paid for out of partnership funds and Dr Jandhu's contribution was

then offset against his future locum payments. The cost to the firm was above the £1000.00 limit before the consent of both partners was required under the Agreement.

47.3 The relationship between the parties was, however, by this stage highly dysfunctional. It is noted that the Claimant had herself at about this time committed to the cost of engaging additional services from Peninsula, also in total in excess of £1,000.00 and also against the express wishes of the Respondent that she not act unilaterally.

48. **Undermining the Claimant's position by refusing to acknowledge or support the Claimant in respect of the conduct issues with the Practice Manager, and deliberately aligning support with the employee. In particular:**

i) In May 2019, the Second Respondent refused to accept that Mouna Allam's conduct on 17 April had been unsuitable and did not warrant disciplinary action, despite evidence of the conduct on the recorded call and advise from the Respondent's HR providers.

ii) In May 2019, the Second Respondent insisted that the Claimant's emails to him should be passed to Mouna Allam to respond.

iii) ~~In July 2019, the Second Respondent refused to accept Peninsula Law's advice regarding Mouna Allam~~.

iv) In July 2019, the Second Respondent was supportive of Mouna Allam's responses to the Claimant and undermined the Claimant's (sic) grievances).

v) On 8 August 2019, the Respondents advised Mouna Allam not to attend a meeting with the Claimant regarding the Claimant's (sic) grievance.

48.1 We have listened to the recording of the telephone call on 17th April 2019. We are satisfied that the Claimant's insistence that this constitutes gross misconduct on the part of Miss Allam, which should therefore have led to her dismissal, is a disproportionate response to what happened.

48.2 The call was instigated by the Claimant, because she wished to discuss possible arrangements for her maternity leave commencing in September. Miss Allam returned her call, although she was not actually at work at the time. There was a lengthy discussion over the practicalities of this proposal, and the two did not agree (see paragraph 33.1 above). The discussion then moved to the form in which the arrangements for sickness cover which had been taking place on and after the meeting on 11th April, where it had appeared that a consensus had been reached (see paragraph 32 above), were to be finalised, and whether that should be concluded before the future arrangements for maternity leave were addressed. In particular we reiterate that Miss Allam was apparently at pains to stress that matters covered by the Partnership agreement were for the parties to resolve in accordance with the terms of that Agreement. It is at this point that the conversation becomes strained. Miss Allam perceived that the Claimant needed to calm down, The Claimant said that it was" turning very one sided" Miss Allam raises her voice to the Claimant which she should not have done. The trigger for her becoming so upset was however clearly that she understood that the Claimant was accusing her of being one-sided and taking the part of one partner against the other. Because she realised that she was becoming emotional, Miss Allam sought to end the conversation, but it was the Claimant who prolonged it beyond that point, after which stage she accused Miss Allam of being unprofessional, which upset her further, and of "having crossed a line".

Miss Allam then put the phone down. Although the Claimant remained outwardly calm, in contrast to Miss Allam, we are satisfied that she too was in fact being confrontational in this conversation.

48.3 The Claimant did then wish to continue discussing detailed proposals for her maternity leave cover with the Respondent alone, but she did not at that stage provide specific details of why Miss Allam was to be excluded (see paragraphs 33.3 and 33.4 above).

48.4 By the time that the Claimant sent the email of 13th May 2019, a month later, her views with respect to Miss Allam and the events of 17th April had evidently become fixed. In that first email she requests that the Respondent treat her expressed concerns discreetly, and that no discussion take place with Mis Allam until they had collectively made a "decision on the outcome". The Respondent that same day asked for evidence of any misconduct on the part of Miss Allam, and expressed his entire satisfaction with her work. The Claimant replied on 16th May 2019 stating that there was "a breakdown in communication" between her and Miss Allam such that she was refusing to liaise with her, but that there was no criticism of her performance: she again appeared to believe that no matters of alleged misconduct actually be addressed with Miss Allam until the partners had reached a resolution. The Respondent then replied, again that same day, saying that although the Claimant's relationship with the practice manager may have broken down, but that she need to keep communicating with her because he was unable himself to keep on calculating the costs incidental to sickness or maternity cover. The Respondent then reiterated on 19th May that he would copy Miss Allam into emails to keep her "in the picture".

48.5 The Claimant did not ever raise specifically any suggestion as to how she and the Respondent should in fact proceed with respect to any possible disciplinary action against Miss Allam. She did not ever provide him with a copy, nor invite him to listen to the recording of the 17th April conversation.

48.6 the Claimant did, without informing the Respondent, on about 23rd May 2019 send a copy of the recording to Peninsula and sought their advice. That advice which was "that we look at dismissal", appears to prejudge the outcome of any disciplinary procedure, though of course Miss Allam only had some 3 months continuous employment by this stage, and had not acquired any right not to be unfairly dismissed in these circumstances. That advice was never communicated to the Respondent.

48.7 At the mediation meeting on 1st July 2019, although it had not been agreed as a matter to be addressed within the parameters of that meeting, the Claimant had played the recording of the 17th April conversation. She had also sent a copy of the recording to the mediator in advance. That was the first time the Respondent had heard the recording of the conversation, and therefore the first time that he became aware of its actual content. It was noted that the respondent had a difference of opinion on this matter to that of the Claimant.

48.8 Although it was mentioned at the meeting that the Claimant had been in contact with Peninsula and that they might be involved in deciding further action, it was not disclosed then that the Claimant had already obtained an opinion to the effect that dismissal should be pursued. Also on 1st July the Claimant reiterated to the Respondent words to the effect that with respect to Miss Allam she would "sort it". We

do not have to decide whether or not, as alleged by Mis Allam overhearing that conversation, she also made an offensive reference to Miss Allam's nationality. On 5th July 2019 the Respondent however wrote to the Claimant, requiring that she inform him before again taking employee matters to any outside agency, be it Peninsula, solicitors or the LMC.

48.9 Nonetheless the Claimant did instruct Peninsula, acting through its "Face2Face" consultancy service to act in respect of Miss Allam. Initially this purported to be upon advice that a grievance hearing be conducted, although none had in fact been raised. The invitation letter was not only issued outside of a reasonable time frame (see paragraph 41.1 above) it was also inaccurate and inappropriate. It refers to the so-called grievances being contained within letters from Miss Allam dated 4th and 15th July 2019. There is an email on or about 4th July which is part of a chain of correspondence principally about now registering the Claimant with CQC as a partner and making enquiries with the previous practice manager about the documentation in this respect (see paragraph 35.2 above). In the course of that Miss Allam identified that she had not in fact received all necessary documentation upon starting work, including the legally required written statement of terms and conditions of employment. This matter was referred by the Claimant to the Respondent to address in her absence from the practice, and was, or was being dealt with by him. It is a nonsense to seek to frame this as a grievance that "you feel (sic) as though within the first two weeks of your incorporation you had not received your necessary employment documents." There is no letter of 15th July, what is intended to be referred to is the email of 12th July 2019 (see paragraph 39.8 above). The Claimant had not been subject to any actual disciplinary process and she did not say in that email, as the grievance is construed that she felt as though she was being disciplined for blowing the whistle. Nor did she say that she felt she was being targeted to be dismissed due to blowing the whistle.

48.10 This is a blatant attempt, in advance of seeking to dismiss her, to wrestle away from Miss Allam control of the grievance process in respect to any legitimate complaint that she may have had. It is not surprising that Miss Allam, both in private telephone conversation and in the subsequent grievance which she did in fact raise with the Respondent, described this conduct as deceitful. In her initial telephone response to the Claimant and in a detailed letter of 22nd July 2019 Miss Allam made clear her objections to this attempt to impose upon her a formal grievance that was not of her making, and which appears therefore to be in breach of the ACAS Code of Practice which clearly places the onus on the employee to decide if and how a grievance is to be resolved. In particular she objected to any involvement by Peninsula, whom she did not consider to be impartial.

48.11 Mis Allam's objections to the process that had been imposed upon her were never addressed. Instead the "grievance meeting" was rescheduled unilaterally by the Claimant in conjunction with Peninsula, this time to be followed immediately by a disciplinary hearing, also conducted by Face2Face. The Respondent was opposed to this process, and when it came to his attention raised his objections to the Claimant acting unilaterally (see paragraphs 39.9 and 39.10, and 42.3 to 42.6 above). He also instructed Miss Allam that in the circumstances she should not attend the meeting on 8th August 2019.

48.12 Nonetheless in somewhat farcical circumstances the Face2Face consultant attended on that date, apparently without the solicitor's letter to the Claimant of 7th August having been brought to their attention. The consultant did however make contact with Miss Allam and was then informed that, as had already been notified, she would not be attending on the advice of the Respondent and his legal advisers. The consultant then adjourned to the Claimant's home and took a lengthy statement from her. That witness statement was never disclosed to Miss Allam, so necessarily she was never going to be afforded any opportunity to address or challenge it.

48.13 On 2nd September 2019 the Consultant made their report, and based on the same statement/interview with the Claimant recommended that both the "grievance" be rejected in its entirety and that Miss Allam be dismissed on notice. It is though unclear whether this recommended dismissal was in fact on the basis of the "proven" allegation of "rude and objectionable behaviour" towards her employer or any further purported finding of bias or of treating the Claimant improperly because of her pregnancy, or on the basis of a breakdown in trust and confidence. This report was never, however, disclosed to the Respondent.

B. Direct sex discrimination

49. **On 19 November 2019, the Second Respondent allocated funds to himself without agreement from the Claimant and charging all Primary Care Network income solely to himself.**

49.1 This is in fact the same issue already addressed at paragraph 46.7 above.

49.2 There is no evidence whatsoever to suggest, alternatively, that a male partner would have been dealt with any differently by the Respondent in these circumstances.

49.3 The Respondent allocated these funds to his personal income rather than to the partnership because, rightly or wrongly, he believed that he was entitled to do so based upon his interpretation of the Partnership Agreement and upon subsequent discussions.

50. **On 2 December 2019, the Second Respondent withdrew £7,000 from the partnership account without agreeing it with the Claimant.**

On 2 December 2019, the Second Respondent withdrew £8,431 from the partnership account without agreeing it with the Claimant.

50.1 As the Claimant had not ever agreed to the demand that she pay £33,059.60 to equalise the accounts (see paragraphs 37.1 to 37.4 above) there remained an imbalance in the parties exposure to financial risk.

50.2 The Respondent unilaterally decided to adopt an alternative means to securing the same end by withdrawing a total of £15,431.00 from the partnership account. To do this without prior consultation or notification was extremely discourteous.

50.3 There is, however, no evidence whatsoever to suggest that a male partner would have been dealt with any differently by the Respondent in these circumstances.

50.4 The Respondent appropriated these funds to himself because, rightly or wrongly, he believed that he was entitled to do so based upon his interpretation of the Partnership Agreement and upon subsequent discussions with the accountants to seek to establish what should be the proper respective financial positions of the parties.

51. **On 13 January 2021 Mouna Allam, on the instruction of Second Respondent, contacted NHS England to seek to try and remove the Claimant from the performers list. Ms Allam contacted NHS England and informed them that she should be removed as she was not working at the Practice.**

51.1 The first documented contact between Mss Allam and NHS England on this subject was in fact on 18th December 2020. On that date NHS England confirmed that "this GP should be removed from the Performer List and will need to re-apply via the I & R scheme".

51.2 It is therefore totally plausible, as Miss Allam has said in evidence, that this contact was in fact prompted by the Claimant herself, in her Schedule of Loss within these tribunal proceedings, having raised the matter of her being unable to practice until she had undergone mandatory retraining. The criticisms of Miss Allam in respect of unsubstantiated claims for hours worked within her own withdrawn claim, do not affect her credibility in this regard.

51.3 Following further correspondence on this topic, on 12th January 2021 Miss Allam requested that the Claimant be removed from the list, because on the face of it that was what she was being requested to do, in an email of 31st December 2020, in order to regularise the position in regard to a GP who had not practised for some two years.

51.4 In actual fact it transpired that the practice could not make this request alone, and by subsequent agreement between the Claimant and NHS England she remains on the list.

51.5 We therefore find as fact that this request was made by Mis Allam because she was following up a suggestion, first mooted by the Claimant herself, that she would not be able to practice again until she had undergone retraining.

51.6 There is no evidence that the Respondent instructed Miss Allam to make this enquiry, nor that a male partner in the same circumstances would have been dealt with any differently.

52. ~~**On 12 February 2021 Mouna Allam, on the instruction of Second Respondent, obstructing the Claimant's right to IT access.**~~

52.1 Although this claim is now withdrawn we note that it was put on instructions to the witness Mukhtiar Qayum that she was not telling the truth when she gave evidence that the Respondent had not instructed her, from Pakistan where he was on leave at the time attending to family matters, to block the Claimant's IT access.

52.2 Ms Qayum was a patently honest witness. When there was a system failure which meant that the Claimant's access would need to be reactivated she sought to prevail

upon Ms Qayum to carry out this operation for her, although Ms Qayum told her that she was not authorised to do so. The Respondent did not even know about this IT problem, and though Ms Qayum did tell the Claimant when pressed that he had instructed her that she could not have her card reactivated because it was a security risk, we accept that she only did this to get out of the conversation. Ms Qayum was clearly distressed by the phone call, she suffered an episode of tachycardia, was off work for some time, and with the aid of her son she subsequently raised a grievance about the Claimant's conduct.

53. **On 26 October 2021 Dr Akhtar served an expulsion notice on the Claimant to remove her from the practice. The first notice was served on 31 August 2021, due to take effect on 30 November 2021 and the second notice on 26 October 2021, which took effect immediately.**

53.1 The Partnership Agreement permits a partner to be expelled upon not less than 3 months' notice where they have been absent for a period of "12 months consecutively or during a 12 month period". Whilst the actual wording is non-sensical the effect is clear.

53.2 The Respondent duly served an expulsion notice on the Claimant when she had been absent for a further 12 months beyond the end of her extended maternity leave.

53.3 Before the expiry of that notice period on 30th November 2021, the Claimant withdrew a total of £39,929.00 (£24,739 plus £15,190) from the practice account. It is highly contentious whether she was in fact entitled to recover these sums as she alleged in a letter from her solicitors which was contemporaneous with the withdrawals. The Respondent then served a further expulsion notice to take immediate effect because the Claimant had failed to repay the monies when requested to do so, relying again upon an express provision of the Partnership Agreement in respect of allegedly unauthorised deductions.

53.4 There is, however, no evidence whatsoever to suggest that a male partner would have been dealt with any differently by the Respondent in these circumstances.

53.5 The Respondent issued these notices because, rightly or wrongly, and having taken legal advice he believed that he was entitled to do so based upon his interpretation of the Partnership Agreement, and certainly in the case of the first notice that appears incontrovertible.

Conclusions

54. Neither party nor Miss Allam comes out of this case particularly well.

55. We are satisfied, however, that having carried out our analysis of the issues and having made our relevant findings of fact in relation to those issues, the reason why this relationship broke down leaving the Claimant, understandably, with the feeling that she was excluded and marginalised, was simply that she and the Respondent had a profound disagreement. That disagreement was not because the Claimant was pregnant, although the fault lines would not have opened up when they did, nor have widened so rapidly, had she not been absent for a long period. Although on

occasions the Claimant has certainly been subjected to unfavourable treatment whilst she was pregnant, it was not, we find, done as a consequence of her pregnancy.

56. That disagreement was initially about the way in which the practice should be managed in the Claimant's absence. It crystallised into a dispute over money, with each side seeking to secure the best possible financial position for themselves. It was exacerbated by a fundamental difference in in opinion about he practice manager. The mutual antagonism between the Claimant and Miss Allam is now so strong that it is hard to believe that this clash would not have arisen in any event. The two women had only in fact worked alongside each other for about a month so that there was little occasion for them to have fallen out then. The Claimant is very disparaging of Miss Allam's abilities and has taken every opportunity throughout this case to comment upon her limited experience in the role of practice manager.

57. The breakdown in relationship was not in any way because the Claimant was absent as a result of her pregnancy. It was because of what she did and of what happened whilst she was absent.

Time Limits

58. Because we find that none of the claims succeed it follows that there is no act or series of discriminatory acts extending over a period.

59. Similarly on the first claim our findings mean that on the merits it would not be just and equitable to extend time so as to allow any allegations to proceed which date prior to 23rd September 2019, which is 3 months before the commencement of ACAS early conciliation, and also the date of the accountants' meeting (see paragraph 46.4 above).

60. On the second claim we conclude however that even if we had held that the allegation in respect to the performer's list (paragraph 51/item 5 (d) in the list of issues) was made out it would be out of time. It is distinct from the expulsion notices served in October and November some 9 or 10 month later, and there is no sufficient reason, even allowing for her illness, why the Claimant, who was already pursuing her earlier claim and had legal advice throughout, did not bring this further complaint in time.

EMPLOYMENT JUDGE LANCASTER

DATE 25th March 2022

[i] **AMENDED LIST OF ISSUES AS AT 22 FEBRUARY 2022**

Claims

The Claimant's claims under the Equality Act 2010 are that:

1. Her protected characteristics are her sex and pregnancy/maternity
2. She suffered pregnancy/maternity discrimination (Section 18) and then, after her protected period ended, direct sex discrimination (Section 13)
3. She suffered pregnancy/maternity discrimination (Section 18):
    a. At work from both Respondents which is made unlawful by Section 44 (partnership provisions), and
    b. By both Respondents through her partner, the Second Respondent, causing, instructing or inducing others to discriminate (Section 111)

Issues

Time limits

1) Were the discrimination complaints made within the time limit in Section 123 of the Equality Act 2010? The Tribunal will decide:

a) Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act to which the complaint relates?

b) If not, was there conduct extending over a period?

c) If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?

d) If not, were the claims made within a further period that the tribunal thinks is just and equitable?

1.

Pregnancy/Maternity discrimination

2) Did the Respondents do the following things which are stated to be pregnancy/maternity discrimination under Section 18:

a) Refusing to adhere to the partnership agreement and the custom and practice agreement already in place, in respect of sickness and maternity leave, insisting on new arrangements to be made but rejecting all the Claimant's proposals in favour of Dr Akhtar's own. (from 8 April 2019 – July 2019), in particular:

i) On 8 April 2019, the Respondents undermined the Claimant ~~by insisting on a meeting and~~ rejecting the Claimant's proposals. (S44)

ii) *On 11 April 2019, the Second Respondent refused to discuss the Claimant's proposals for sick pay mechanisms. ~~Mouna Allam coerced the Claimant into accepting the Second Respondent's proposed mechanism for sickness payments.~~ 9S44,)*

iii) *On 17 April 2019, Mouna Allam challenged the Claimant's proposals for locum arrangements. Dr Akhtar refused to discuss the arrangements with the Claimant. (S44, S111)*

iv) *In July 2019, the Second Respondent refused to arrange any locum cover other than that which he proposed. (S44)*

b) Undermining the Claimant's position, excluding her and taking actions intend to coerce her into leaving the Practice/Partnership, in particular:

i) *~~On 22 March 2019, the Respondents did not submit the Claimant's documentation to the CQC~~. On 31 May 2019, the Respondents excluded the Claimant from the CQC assessment results and ignored the Claimant's correspondence relating to this. In June 2019, the Claimant found out about the CQC results on a Whatsapp group and her sending a hamper to congratulate the staff was not acknowledged by the Respondents. (S44, S111)*

ii) *On 31 May 2019, the Second Respondent and Mouna Allam conspired to remove the Claimant from the Partnership as evident in the call recording of same date. (S44, S111)*

iii) *On 3 June 2019, the Second Respondent demanded that the Claimant paid £33,000 into the partnership account and threatened to withhold the Claimant's monthly drawings. (S44)*

~~iv) In July 2019, the Respondents did not inform the Claimant that her registration as a partner with the CQC had not been completed and the Respondents failed to submit the Claimant's relevant documentation. (S44, S111)~~

v) *On 1 July 2019~~, the Second Respondent informed the Claimant that the First Respondent's landlord was only prepared to enter a lease agreement with the Second Respondent. On the same date~~ the Second Respondent stated to the Claimant at the mediation meeting "you are just a salaried GP" and "you planned this to get NHS money".(S44)*

vi) *In July and August 2019, the Respondents made malicious fraud allegations to NHS England, themselves and through instructing/causing/inducing Mouna Allam to do so.(S44, S111)*

vii) *On 17 July 2019, the Second Respondent made unwarranted allegations including that the Claimant had planned to become pregnant, that she was not of sane mind, that she shoud be reported to the authorities and that he wanted rid of her. (S44)*

viii) *On 18 and 19 July 2019, the Second Respondent undermined the Claimant's ability to carry out HR functions by stating that the Claimant should not contact employees while she was off sick. On 18 and 19 July 2019, the Second Respondent threatened to split the practice.(S44)*

ix) From 18-25 July 2019 the Second Respondent held himself out to be the sole partner. (S44)

x) From 18-25 July 2019 Mouna Allam to phone several members of staff and tell them she had been given leave to deal with the Claimant and state 'I need to sort her out'. In the same calls Mouna Allam incited staff to raise individual grievances against the Claimant. Ms. Allam's actions were caused/instructed/induced by the Second Respondent. (S44, S111)

xi) On 22 July 2019 the practice manager called staff to encourage them to raised separate grievances against the Claimant. The sole purpose to apply pressure on her to leave (as also evidenced in the call recording). (S44, S111)

xii) On 25 and 26 July 2019, the Second Respondent held himself out to be the sole partner dealing with HR Managers. The Second Respondent accused the Claimant of being sick and unable to deal with these matters. (S44)

xiii) On 25 July 2019, the Second Respondent excluded the Claimant from a work do. (S44)

xiv) On 29 July 2019, the Second Respondent raised issues regarding reimbursement. The Second Respondent accused the Claimant of disrupting the First Respondent's services by the way she dealt with her concerns with Mouna Allam. (S44)

xv) On 31 July 2019 and 7 August 2019, the Respondents served notice on the Claimant to cease her involvement in practice affairs and informed her of the need to nominate a proxy. The Second Respondent threatened to remove the Claimant as a partner. (S44)

~~xvi) On 6 August 2019, Mouna Allam listed herself as a Practice Manager/Partner alongside the Second Respondent on a CCG declaration of interests but did not list the Claimant. (S44, S111)~~

xvii) On 23 August 2019, the Second Respondent excluded the Claimant from the accountant's meeting and cancelled the meeting. The Second Respondent made unilateral changes to the pension arrangements and unilaterally charged for CQC work. (S44)

xviii) On 23 September 2019, the Second Respondent excluded the Claimant from meetings with the accountant and made unilateral changes to the arrangements for partners and the charging of CQC work. (S44)

xix) Between 4-17 October 2019, the Second Respondent spent partnership funds in fences without the Claimant's agreement. (S44)

c) Undermining the Claimant's position by refusing to acknowledge or support the Claimant in respect of the conduct issues with the Practice Manager, and deliberately aligning support with the employee. In particular:

i) In May 2019, the Second Respondent refused to accept that Mouna Allam's conduct on 17 April had been unsuitable and did not warrant disciplinary action, despite evidence of the conduct on the recorded call and advise from the Respondent's HR providers. (S44)

ii) *In May 2019, the Second Respondent insisted that the Claimant's emails to him should be passed to Mouna Allam to respond. (S44)*

~~*iii) In July 2019, the Second Respondent refused to accept Peninsula Law's advice regarding Mouna Allam. (S44)*~~

iv) *In July 2019, the Second Respondent was supportive of Mouna Allam's responses to the Claimant and undermined the Claimant's grievances. (S44)*

v) *On 8 August 2019, the Respondents advised Mouna Allam not to attend a meeting with the Claimant regarding the Claimant's grievance. (S44, S111)*

3) Which, if any, of the things the Respondents are found to have done were unfavourable treatment?

4) Were those things done by the First and/or Second Respondent for the purposes of Section 44 and/or by the Respondents through the Second Respondent causing, instructing or inducing another to do them for the purposes of Section 111?

5) In relation to the Section 111 claims, was the relationship between the Respondents and BV (the other person) such that the Respondents are in a position to commit a basic contravention in relation to V (Section 111(7))?

6) Did the unfavourable treatment take place in a protected period (ending 11 October 2019)?

7) If not did it implement a decision taken in a protected period?

8) Was the unfavourable treatment because of the pregnancy or because of an illness suffered as a result of the pregnancy?

9) Would it be just and equitable to extend the time limit for submitting such claims?

Direct sex discrimination

5. Did the Respondents do the following things which are stated to be direct sex discrimination under Section 13:

a) On 19 November 2019, the Second Respondent allocated funds to himself without agreement from the Claimant and charging all Primary Care Network income solely to himself.

b) On 2 December 2019, the Second Respondent withdrew £7,000 from the partnership account without agreeing it with the Claimant.

c) On 2 December 2019, the Second Respondent withdrew £8,431 from the partnership account without agreeing it with the Claimant.

d) On 13 January 2021 Mouna Allam, on the instruction of Second Respondent, contacted NHS England to seek to try and remove the Claimant from the performers list. Ms Allam contacted NHS England and informed them that she should be removed as she was not working at the Practice.

~~e) On 12 February 2021 Mouna Allam, on the instruction of Second Respondent, obstructing the Claimant's right to IT access.~~

f) On 26 October 2021 Dr Akhtar served an expulsion notice on the Claimant to remove her from the practice. The first notice was served on 31 August 2021, due to take effect on 30 November 2021 and the second notice on 26 October 2021, which took effect immediately.

6. The Claimant compares herself to Dr Jandu, alternatively a hypothetical comparator.

7. Which, if any, of the things the Respondents are found to have done were less favourable treatment compared to how Dr Jandu/a hypothetical comparator would have been treated?

8. Was that less favourable treatment because of sex?

9. The Claimant alleges that this is because the Respondents' conduct towards the Claimant changed after the Claimant revealed her pregnancy-related illness and as evidenced by communications made by Dr Aslam (Locum GP) 17 July 2019, Brian McGregor (LMC mediator) July 2019 and comments made to the Claimant (as at paragraph numbers XX) about her pregnancy and/or pregnancy related illness.

Remedy

10. If the Claimant succeeds, in whole or part, the Tribunal will be concerned with issues of remedy and in particular, if the Claimant is awarded compensation and/or damages, will decide how much should be awarded.