EMPLOYMENT TRIBUNALS

Claimant	**Respondent**
	v
Dr L Carty	Man Group Plc

Heard at: London Central Employment Tribunal (via CVP)

On: 3-11 March 2025 (11 March in Chambers)
(6, 7 May 2025 In Chambers)

Before: EJ Webster

Appearances
For the Claimant: In Person
For the Respondent: Ms Davis KC

JUDGMENT

1. The Claimant's claim for automatically unfair dismissal under s103 Employment Rights Act 1996 is not upheld.
2. The Claimant's claim for unfair dismissal under s98 Employment Rights Act 1996 is not upheld.
3. The Claimant's claims for 'whistleblowing' detriments under s 47B Employment Rights Act are not upheld.

RESERVED REASONS

The hearing

1. The hearing took place entirely remotely. Two witnesses gave evidence from overseas in accordance with the Presidential Guidance on this matter.

2. I was provided with a bundle numbering 1805 pages. At the outset of the hearing the Claimant applied for specific disclosure of 4 separate documents or sets of documents. Three were not allowed and the fourth was provided by the Respondent voluntarily. Oral reasons for my decision were given at the time and are not repeated here.

3. I was provided with written witness statements for the following individuals:

   (i) Dr Lara Carty (for the Claimant)
   (ii) Ms Lisa Appleby (for the Claimant)
   (iii) Ms Charlotte Keefe (for the Claimant)
   (iv) Ms Charlie Beeson (for the Claimant)
   (v) Ms Sarah Okuma (for the Claimant)
   (vi) Mr Patrick Kidney (for the Respondent)
   (vii) Ms Anne Wade (for the Respondent)

4. All were available to give oral evidence and all were cross examined.

5. The Respondent referred to an additional document during cross examination of one of the witnesses despite it not being in the bundle and it not being disclosed to the Claimant. I refused to allow it into evidence for reasons given orally during the hearing and I have disregarded the questions and answers given based on that document.

6. The List of Issues had been provisionally agreed between the parties before the hearing and are set out in full at Appendix 1 to this Judgment. They were discussed with the parties at the outset of the hearing. It was understood and accepted by both that these were the only issues I would decide. Further information was provided by the Claimant regarding what her alleged protected disclosures 'tended to show' breaches of and that is recorded in the reasons below.

7. This Tribunal considered itself bound by a restricted reporting order in another case that was brought to its attention by the Respondent. I decided that some short parts of this hearing, related to questions regarding Protected Disclosure 4, needed to be heard in private to comply with that restricted reporting order. The publicly available bundle and witness statements were redacted in order to reflect the Order from the other case. Further, the published Judgment in this case has amended the reference to that matter (Disclosure 4) in a way that accords with that restricted reporting order but does not diminish the understanding of those reading it as to what the basis for the Claimant's concerns were. Reasons for my decisions in respect of this matter were given to the parties during the hearing and are not repeated here.

Relevant Law

Qualifying Disclosures

8. S 43B ERA 1996 - Disclosures qualifying for protection.

(1) In this Part a " qualifying disclosure " means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—

(a)that a criminal offence has been committed, is being committed or is likely to be committed,

(b)that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

(c)that a miscarriage of justice has occurred, is occurring or is likely to occur,

(d)that the health or safety of any individual has been, is being or is likely to be endangered,

(e)that the environment has been, is being or is likely to be damaged, or

(f)that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed

9. In this case the Claimant relies on s43B(1) (b), (c) and (d). The Claimant must establish that at the time of the disclosure they have a reasonable belief that the information they provide tends to show that one of the above relevant failures has occurred, is occurring or is likely to occur.

10. The Tribunal must consider what the Claimant themself reasonably believed. This requires a mixture of assessing what the Claimant subjectively believed at the time but applying an element of objective reasonableness taking into account the experience and knowledge of the individual in question. *Korashi v Abertawe Bro Morgannwg University Local Health Board 2012 IRLR 4, EAT*, confirmed that a Tribunal must apply an objective standard to the personal circumstances of the discloser, and that those with professional or 'insider' knowledge will be held to a different standard than laypersons in respect of what it is 'reasonable' for them to believe.

11. If the worker establishes that they reasonably believe that the disclosure tends to show a relevant failure then the worker must establish that they reasonably believe that the disclosure is made in the public interest.

12. In Chesterton Global Limited v Nurmohamed [2018] ICR 731 the Court of Appeal concluded that a disclosure could be in the public interest even if the motivation for the disclosure was to advance the worker's own interests. Motive was irrelevant. What was required was that the worker reasonably believed disclosure was in the public interest in addition to his own personal interest. So long as workers genuinely believed that disclosures were in the public interest when making the disclosure, they could justify the reasonableness of the public

interest element by reference to factors that they did not have in mind at the time. A Tribunal would need to consider all the circumstances, and although not a checklist, that could include the following:

(i) The numbers in the group whose interests the disclosure served – although numbers by themselves would often be an insufficient basis for establishing public interest.
(ii) The nature and the extent of the interests affected – the more important the interest and the more serious the effect, the more likely that public interest is engaged.
(iii) The nature of the wrongdoing – disclosure about deliberate wrongdoing is more likely to be regarded as in the public interest than inadvertent wrongdoing.
(iv) The identity of the wrongdoer – the larger or more prominent the wrongdoer, the more likely that disclosure would be in the public interest.

13. Whistleblowing Detriment - s47B (1A) ERA

"A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, done –

(a) By another worker of W's employer in the course of that other worker's employment, or
(b) By an agent of W's employer with the employer's authority."

on the ground that W has made a protected disclosure.

14. The burden of proof is on the claimant to prove (on balance of probabilities) that they made a protected disclosure and that they suffered a detriment. The respondent then has the burden to prove (on balance of probabilities) the reason for the treatment (s48(2) ERA).

15. The test for whether a detriment was on the ground of the protected disclosure (s47B (1) ERA 1996*,* involves an analysis of the mental processes (conscious or unconscious) of the employer when it acted as it did. In *NHS Manchester v Fecitt and others [2012] IRLR 64*, the Court of Appeal held that the test in detriment cases is whether "the protected disclosure materially influences (in the sense of being more than a trivial influence) the employer's treatment of the whistleblower".

16. In *Malik v Cenkos Securities Plc UKEAT/0100/17* it was held that one person's knowledge and motivation cannot be imputed to another person in detriment claims. Therefore the decision maker who carried out the detriment must be personally motivated by the protected disclosure.

Automatically Unfair Dismissal – s103A ERA 1996

17. *103A. Protected disclosure.*
"An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure."

18. The protected disclosure must be the principal reason, not just a reason, for the dismissal.

19. In *Royal Mail Ltd v Jhuti [2019] UKSC 55*, the Supreme Court held that an employer was liable for automatically unfair dismissal as a result of protected disclosures, if the decision maker has been manipulated into adopting a reason for dismissal (e.g. poor performance) by another, more senior worker (who is motivated by the protected disclosures). In that case the decision maker had acted in good faith in treating poor performance as the reason for dismissal. However the other more senior individual had used the poor performance allegations to hide the true reason which was the protected disclosures. The Supreme Court held that, when consider what the reason for dismissal was, courts need generally look no further than the reasons given by the decision-maker but where the real reason for the dismissal is hidden from the decision-maker then it is the court's duty to look behind the invention.

20. In *University Hospital of North Tees & Hartlepool NHS Foundation Trust v Fairhall UKEAT/0150/20*, the EAT held that *Jhuti* will not often be applicable as it is only the reasoning process and knowledge of the decision-maker that the tribunal needs to consider. However, the fact that the dismissal appears to be the culmination of a plan to get rid of the whistleblower may be circumstantial evidence to support the conclusion that the decision-maker dismissed because the claimant made a protected disclosure.

Unfair Dismissal – s98 Employment Rights Act 1996

21. Section 98 of the Employment Rights Act 1996 (ERA) provides as follows:
(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair it is for the employer to show –
(a) The reason (or if more than one, the principal reason) for the dismissal, and
(b) That it is either a reason falling within subsection (20 or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.
(2) A reason falls within this subsection if it –
(a) Relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,
(b) Relates to the conduct of the employee,
(c) Is that the employee was redundant, or
(d) Is that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.
(3) In subsection (2)(a)

(a) ‘capability’ in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental qualify and

(b) ‘qualifications in relation to an employee means any degree, diploma or other academic technical or professional qualification relevant to the position which he held.

(4) In any other case where the employer has fulfilled the requirements of subsection (1) the determination of the question whether the dismiss is fair or unfair (having regard to the reason shown by the employer) –

(a) Depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonable or unreasonably in treating it as a sufficient reason for dismissing the employee and

(b) Shall be determined in accordance with equity and the substantial merits of the case.

22. The respondent’s case was that this was dismissal for Some Other Substantial Reason. ERA 1996. In the event that the respondent is correct in that context a determination of the fairness of the dismissal under s98(4) ERA is required. This involves an analysis of whether the respondent’s decision makers had a reasonable and honest belief in the some other substantial reason. Further a tribunal must determine whether there were reasonable grounds for such a belief after such investigation as a reasonable employer would have undertaken. The burden of proof is neutral in relation to the fairness of the dismissal once the respondent has established that the reason is a potentially fair reason for dismissal.

23. The test as to whether the employer acted reasonably in section 98(4)ERA 1996 is an objective one. I have to decide whether the employer's decision to dismiss the employee fell within the range of reasonable responses that a reasonable employer in those circumstances and in that business might have adopted (*Iceland Frozen Foods Ltd v Jones [1982] IRLR 439*). I have reminded myself of the fact that I must not substitute my view for that of the employer (*Foley v Post Office; Midland Bank plc v Madden [2000] IRLR 82*);

24. I have also reminded myself that this test and the requirement that I not substitute my own view applies to the investigation as well as the decision. (*Sainsbury's Supermarkets Ltd v Hitt [2003] IRLR 23*. This means that I must decide not whether I would have investigated things differently, but whether the investigation was within the range of investigations that a reasonable employer would have carried out.

Facts

25. I have only made findings of fact in relation to matters that assisted my conclusions. I heard a lot of evidence in this case that was not relevant to the claims. Where I have not referenced evidence that I was taken to by the parties

that does not mean that I have not considered it, simply that it was not relevant to my conclusions. All of my findings are made on the balance of probabilities.

26. In summary, the Claimant alleges that she made 5 separate protected disclosures and that as a result she suffered several detriments and was ultimately dismissed.

Background

27. The Claimant was employed by the respondent from 19 September 2016 as a Talent Coach and Consultant. She was then promoted to Global Head of Talent in February 2018 and then to Chief People Officer on 1 March 2023. The Claimant's performance prior to her promotion to Chief People Officer ('CPO') was not in question and she was well regarded within the business hence the promotions.

28. The Respondent is an investment management business that is listed on the London Stock Exchange. It is regulated by the Financial Conduct Authority (FCA) and has an obligation to ensure that it and its employees comply with the Conduct Rules set out in the FCA's Code of Conduct which apply to both financial and non-financial misconduct. It was not in dispute that "non-financial misconduct includes behaviours such as harassment, bullying, discrimination and other forms of inappropriate conduct that do not directly relate to financial transactions but can affect the workplace environment and the firm's culture." (Patrick Kidney's witness statement, para 8).

29. Mr Kidney and Ms Wade gave evidence as to the need to manage risk in accordance with the FCA requirements. Mr Kidney outlined that the Respondent needed to demonstrate that it had effective systems and controls in place to manage people risk and the occurrence of non-financial misconduct across its organisation. The People Function was considered to be a key function in managing non financial risk and misconduct. They therefore considered it part of their FCA requirements to ensure that the People team, the legal team and the compliance team work together to manage that risk. This premise was not challenged by the Claimant and she accepted that the People Function was a vital component of the Respondent organisation.

30. The Claimant's line manager was Antoine Forterre. This remained the case throughout the relevant period. His role was Chief Financial Officer ('CFO').

31. Prior to the Claimant's promotion to CPO the People function was divided into three teams:

    (i) The HR Team covering UK and European Economic Area led by Lucy Bond.
    This in turn had 3 sub teams:
    a) The HR Operations and Strategy Team led by Emma Milton

b) The HR Business Partnering team led by Hayley Samuel
c) The Recruitment team led by Neil Cornick

(ii) The HR team covering the US and the rest of the world led by Kristen Marola which was also divided into the three sub teams described above;

(iii) The Talent Team led by the Claimant which operated globally across the business

32. The Claimant indicated that there were further nuances to the way the teams operated and I accept that there will be an element of simplification in the structure outlined above. It was not in dispute however that there was no CPO role prior to the Claimant taking it on in March 2023.

33. At the same time as the Claimant was promoted to CPO, the HR function was integrated into one People team, led by the Claimant. The Claimant restructured the sub teams into 5 teams. The timing of when that occurred and when it was communicated to staff was in dispute as was the function and responsibilities and extent of any change to roles within the new teams. I deal with that below. Nevertheless, broadly speaking, the structure of the People team went from 3 groups to 5 groups as follows:

(i) The People Partnering team
(ii) The Employee Relations, People advisory and Operations team
(iii) The Recruitment team
(iv) The Talent Pipelines and Talent Development team
(v) The Chief of Staff

34. Two external investigations were commissioned by the Respondent in the course of the events I have had regard to. They were Project Kregel and Project Sartre. The Respondent commissioned different lawyers within Baker Mackenzie to carry out those investigations. Put as neutrally as possible, Project Kregel looked into complaints and concerns about the way the Claimant had managed the reorganisation of the People Team. Project Sartre looked into concerns that the Claimant raised about the motivations behind Project Kregel.

Data Breach - MoveIt

35. The Claimant provided a lot of evidence in her witness statement regarding what she refers to as the MoveIt Data breach that occurred in May 2023. This was not a protected disclosure relied upon for the purposes of the case. I make the following findings because it provides background evidence relating to the Claimant's relationship with her colleagues Ms Grew (CEO) and Kate Squire (Global Head of Compliance and BORR until August 2023 and Head of Non-Financial Risk from September 2023).

36. The Claimant strongly disagreed with the way communications with staff were dealt with when the data breach occurred, primarily relating to some of their personal details. Her concerns regarding the communications (put very broadly) were that she was not told about the breach for 5 working days when others were, this delay impeded her ability to do her job properly and undermined her position, and that staff were not informed about the leak in the way and as promptly as the Claimant thought appropriate.

37. As a result of the Claimant's fundamental disagreement with the way the whole situation was dealt with, she had a difficult conversation with Ms Squire who was Global Head of Compliance at that time. Ms Squire then reported to Ms Grew that the Claimant's behaviour was aggressive during that conversation. The Claimant refuted that. The Claimant, in her witness statement (para 17) said that at around that time she had told Ms Grew in a call or meeting**:**

"I call bullshit! You, I and Kate have worked in extremely aggressive investment banks for significant portions of our careers. I have seen people throw things, yell, scream, swear at each other. I did not raise my voice, I did not swear at Kate, I simply insisted she answered a question she was attempting to avoid. The suggestion that Kate was on the receiving end of the most aggressive behaviour she has ever received is not just laughable, it is manipulative." I went on to assert "If challenging a peer when I am concerned about them concealing information from employees and the board is aggressive, then I am not sure how to do my job." Then further asserted "Your Chief Compliance officer, is overseeing a cover-up."

38. In addition to this disagreement, the Claimant says that she had a significant disagreement with Ms Grew several years earlier in 2019. During that episode, the Claimant threatened to resign but the then CEO, Luke Ellis, sought to keep her. During this episode, the Claimant asserts that she gave Ms Grew some frank and harsh feedback because she felt confident that she had complete 'head cover' from Mr Ellis.

39. The Claimant also states that her relationship with these two colleagues was further weakened or made difficult by a disagreement as to whom the Claimant should report to once she was CPO. She wanted to report to Mr Forterre and Ms Grew wanted her to report to her directly. She suggested in cross examination that this was acrimonious. Her witness statement suggests that Ms Grew also bore a grudge against Mr Forterre because he had taken action to "remediate against a sub-standard HR provision" in integrating the People team which included appointing the Claimant to CPO. Ms Grew did not agree with the reorganisation of the People team and this resulted in a "broader retaliation directed at Antoine [Forterre] to create a perception that the changes he had instructed were inadequate." (para 63, Claimant's witness statement). Other than the Claimant's witness statement there was no evidence to substantiate this assertion.

40. I am satisfied that the relationship between the Claimant and both Ms Squire or Ms Grew was not easy. However, the Claimant felt secure enough to call out what she perceived to be negative behaviours within the Respondent and had done so periodically in relation to various issues over the years. Her own witness statement and evidence suggests that this was done robustly on her part. Until the set of events that were the focus of this case, the Claimant had never suffered any repercussions as a result of those disagreements or 'call outs'. She says that this was because she had the support of Luke Ellis who left in May 2023 and that the problems began the day he left. The Respondent says that there was no ill will towards the Claimant by Ms Grew or Ms Squire and certainly that the events that led to the Claimant's dismissal were not born from grudges held by Ms Squire or Ms Grew.

Email monitoring

41. The Respondent operated an email monitoring system. The monitoring system flagged the use of certain words. The apparent intention of the monitoring was to flag potential bullying or discriminatory behaviour or 'chat' within the organisation. It was the Respondent's case that part of the reason for this was to ensure that they remained compliant with their FCA requirements to manage possible risky behaviour and non-financial misconduct and report any such behaviour should they need to. The FCA at this time had recently published guidance which indicated that non-financial misconduct was considered as serious a breach of their rules as financial misconduct.

42. There were various policies in place regarding expectations of privacy within the Respondent. They all confirmed that the Respondent had the right to read all of their employees' communications via email or other internal communications systems. These policies were readily available to the employees at the Respondent and they signed some of them on a regular basis to say that they had been read. The Claimant agreed that she had signed accordingly. In addition, on logging onto their computers, the 'landing' screen indicated that their communications could be read.

43. In summary, 'The European Economic Area and Guernsey Data Protection Policy' (p1583 onwards) and the "Acceptable use of Technology and Electronic Communications (AUTEC) Policy" (p241 onwards) set out what the Respondent's policies were in respect of the data that they collected and how and why they stored and recorded it. The Claimant confirmed that she did not dispute that the Respondent had all relevant policies in place and that they were lawful. However it was what they did with the data that they collected and how it was processed and retained that she had concerns about. Her case before me is that she told the Respondent on 28 June and 11 July that the system was unlawful and a breach of a legal obligation.

44. The exact date on which the Claimant became aware that the People function monitored the emails of all staff within the Respondent is not clear but it was

near the beginning of her tenure as CPO. She became aware because a member of her team read a confidential email she had sent to her line manager. She was concerned by this practice and states that she had been unaware of it prior to this incident.

45. The Claimant's witness statement sets out her concerns at paragraph 22.

"*Our review culminated in me believing that the respondent firms current approach to monitoring the emails of all employees in the UK and US was unlawful. As Chief People Officer, I was now overseeing a practice that resulted in tens of thousands of personal emails between employees sitting dormant in a database. There was one A4 piece of paper with no author, no review date, no context or rationale that supported the process, as the sole documentation that existed (One page document detailing HR Email monitoring practices). The lexicon that had been developed was perplexing, with words such as 'banter' acting as a trigger for email review, yet very obvious and offence terms entirely omitted. There was no stated purpose of the process, and no rationale as to where the lexicon had come from and why it was deemed appropriate. The UK and US employee population was ~1,500 people at the time. The email monitoring practices were triggering ~800 emails per day, all requiring manual review, to give an insight on the ineptitude of process design and the disproportionate infringement on employee privacy."*

46. The Claimant does not however say in her witness statement what it was that was unlawful. She sets out that she came to the conclusion that it was unlawful because of her doctoral studies which meant that she concluded that the Respondent was in breach of GDPR but she does not say how the Respondent was in breach.

47. Her answers during cross examination eventually became more specific in that she set out that the lack of a DPIA certificate was what, in her opinion, made the system unlawful. Her evidence on this matter was far from clear but piecing together all the evidence she gave and that I was taken to within the bundle, I understood that she considered that the lack of a DPIA coupled with the lack of process behind retaining emails after they were flagged meant that the system could be disproportionately retaining emails without correctly considering its impact on the employees' private life. In turn she believed that this was a breach of GDPR.

48. Mr Forterre in his interview for Project Sartre said

"that he had three concerns regarding monitoring: (i) senior employee's emails being possibly reviewed (AF gave an example about the previous CEO using strong language which would be caught by the monitoring), (ii) cultural concerns over transparency, and (iii) the resource issue because of the time taken to

review the results of the monitoring. AF said he believed the monitoring at Man Group was not in line with the industry." (p885)

49. Broadly it seems as if his concerns align with those of the Claimant save for her concerns regarding GDPR compliance. The Claimant asked Ms Beeson to review the situation and to understand the extent of the email monitoring of staff. Ms Beeson commenced that process on or around 17 March. Her report was sent to Mr Forterre on 28 June.

50. There is significant disagreement between the parties as to what the Claimant actually said in her conversation with Mr Forterre on 28 June and during two separate conversations on 11 July.

51. The Claimant's witness statement does not say what the Claimant actually said to Mr Forterre during her conversation with him. The Respondent asserts that the Claimant did not say that the process was unlawful or if she did, she did not articulate how. I have looked to the documents to try to ascertain what was discussed.

52. In a Slack conversation on 23 March 2023 with her line manager, Mr Forterre, the Claimant says as follows:

"High level – after legal and reg consultations there was no legal or SMCR requirement for this to be turned on. Whilst legally defensible through the privacy statement, concerns raised about lexicon, scale of monitoring and how outputs were being utilised. General consensus that an alternative approach (such as meeting 1:1 with employees each annum for a 'speak up' conversation would provide a similar (probably better) output, in a more culturally aligned way. Unless additional information CB or I are unaware of, the risks of this being turned on outweigh the risk of turning it off."

She also confirms in that conversation that there is no documented control of the process that she has seen. This was early on in the review process.

53. Ms Beeson's report (sent to Mr Forterre on 28 June) does not suggest that any aspect of the system is 'unlawful' per se. It raises concerns about its efficacy and its cultural appropriateness. There is no suggestion in the report that any part of it was unlawful.

54. In interviews during Project Sartre, Ms Cruickshank and Ms Squire say that they had had conversations with the Claimant about the policy beforehand and had attempted to explain to her why it was in place, the purpose it served. They both considered it to be legally compliant and told her as much.

55. The Claimant says that during a discussion with Mr Forterre on 28 June she expressed the view that the current system was unlawful and in breach of

GDPR. The detail of that conversation is not clear. The Claimant's witness statement does not indicate what was actually said during the meeting. In the document entitled Narrative of Events the Claimant says of that meeting:

"I worked with my Chief of Staff to suspend this practice, suggesting alternate approaches that were more culturally aligned. This proposal was shared with my manager who confirmed his support to stop the activity. As we had previously sought input from both legal and compliance on this practice, we followed up to confirm the practice had been stopped."

56. During her evidence in this hearing, she could not clearly articulate what she had said in that meeting. Her answers were non-specific and at times equivocal. It was difficult to decipher what she had actually told Mr Forterre in the meeting. In the notes of Mr Forterre's interview during Project Sartre Mr Forterre was not specifically asked what she had said to him on 28 June. He said that he recalled that the claimant had said that the monitoring was 'not normal in the market' and that she described having an 'ethical conflict' (p867) though the latter comment appears to have been made in the conversation on 11 July.

57. One of her answers during cross examination was that without a DPIA it was unlawful to process special category data without the required steps in place to process and hold that data. She said in evidence that the tool at the time had 60000 dormant emails, that the processing of that special category data and storing it was unlawful, and that there should be a DPIA in place to do that as there were alternative ways of doing the same thing which reduced the risk for employees.

58. I believe it more likely than not that she told Mr Forterre she did not consider that the system was culturally appropriate, and not fit for purpose. I think had she said anything less it is not likely that Mr Forterre would have given her permission to switch the system off although he indicated in his interview for project Sartre that he did not think it was a particularly big deal.

59. During the interviews for Project Sartre, Mr Forterre did not say that the Claimant had told him it was unlawful or even a breach of GDPR. I believe he had no reason not to set out his full understanding from her during that investigatory meeting. Afterall his was the decision to allow it to be turned off so he bore some culpability for the situation. Had he been assured that something was unlawful and based his decision on that I think, on balance, that he would have said so during the investigation process.

60. The Claimant's evidence in Project Sartre on this point was lengthy. I reviewed the notes of her meetings on 6th and 9th November 2023. The Claimant says that she was extremely uncomfortable with the process, that it was said to feel like snooping, that the lexicon was inappropriate and subsequently changed,

that she told them how uncomfortable it made her feel as a licensed professional and put her in a very difficult position and confirmed that when she had sought legal advice during the consultation process it was unhelpful, opaque and not specific enough. However she did say that all the legal advice had been that it was legally compliant though she did not feel that it was correct because it was so unspecific.

61. On balance I do not accept that she expressly told Mr Forterre that it was unlawful nor that, if she mentioned the GDPR she explained how it was in breach with any specificity that day. The evidence from the time such as Ms Beeson's report does not suggest the system is unlawful or that the Claimant thought it was unlawful in any specific way. Ms Beeson's report would have been the focus of the Claimant's discussion with Mr Forterre given that it was sent to him that day. I believe it more likely than not that her language would have been in line with the report. Her forcs was on cultural fit, efficacy and ethcis. It was not on legal obligations.

62. On 7 July Robyn Grew, the CEO, wrote to the Claimant, amongst others querying whether the email monitoring had been turned off and if so why. The Claimant confirmed that it was and Mr Forterre, in a subsequent email, confirmed that he had authorised it.

63. Ms Grew, asked them to attend a call with her on 11 July 2022. There were two calls on that day that the Claimant relies upon as being occasions when she made a protected disclosure.

64. The first was with Ms Grew, Ms Squire, Ms Cruickshank and Mr Forterre and the second was just with Ms Squire and Ms Cruickshank after Ms Grew and Mr Forterre had left the call.

65. During the first call Ms Grew said that the monitoring system needed to be turned back on. The Claimant says that during that call she shared her view that the HR email monitoring practices were unlawful and would be highly problematic if they were ever audited. The grounds of claim also make reference to the conduct being unethical and that as a registered psychologist they put her in a difficult position. It is not clear to me how being a psychologist meant that the Claimant was in a difficult position as opposed to in her role as CPO. Nevertheless I accept that she mentioned these issues during one or both of the phone calls. Her Narrative of Events sent on 4 October says as follows:

"We (Robyn, Antoine, Kate, Tania, Lara) met to discuss on 11 July 2023, there was no interest in hearing my concerns, instead I was gaslit that this was a "normal practice, it's just that no one admits to doing it" and I should work to reinstate this immediately. I expressed concern that Man was not doing the right thing here and that I would be truly fearful if we were ever audited on this practice, and concern that engaging in what I believed to be a highly unethical,

if not unlawful, people practice would risk my professional licences. This was met with a general sentiment of "do what is needed to reinstate this". (p708)

66. I find that the Claimant felt very strongly that the system was an ineffective and inappropriate method of monitoring employees or preventing bullying behaviour and that she felt that it would undermine the employees' trust and confidence. I accept that she did not like the system and wanted it to remain switched off and a different system put in place. She made these points robustly in her meeting with Mr Forterre and during the telephone meetings on 11 July. I also accept that Ms Grew was adamant that she wanted it switched on regardless of the Claimant's concerns whether it be as a licensed psychologist or for considering it wholly disproportionate.

67. I find that the Claimant was bitterly disappointed that after Ms Grew left the call Ms Cruickshank and Ms Squire said that they agreed that the lexicon of words which flagged which emails were cause for concern was not fit for purpose and had not spoken up in front of Ms Grew. I also accept that she will have continued to voice her concerns about the difficult position she was being put in in having to monitor staff emails.

68. During her interview for Project Sartre (an investigation into the Claimant's grievance/allegations which is discussed below) the Claimant accepted "*it may have been legally compliant, her evidence, which is credible, is that she genuinely felt it was 'unethical' and that the current process was 'not fit for purpose'".* (p1119)

69. Having considered all of the evidence I find that the main information the Claimant gave to the Respondent and all the stakeholders either on 28 June or 11 July was that she considered that the process was ethically and culturally wrong. I do not accept that she unequivocally stated it was unlawful as she did not use that language at the time and had she believed it was unlawful she would have said so. The first concrete reference to anything being 'unlawful' is in her Narrative of Events which is dated 4 October 2023. Even in her Narrative of Events, she says that it was '*highly unethical if not unlawful*'. The Claimant had no reason during either meeting on 11 July to minimise her view of the process, quite the contrary. She was fighting to keep the system switched off. She has also been unable during this hearing to articulate exactly what she said to whom and her witness statement does not cover it in any detail either. Had she truly believed that the system was unlawful, she would have said so clearly and her witness evidence during the Tribunal hearing would also have been clear on this point.

70. I do not believe that the Claimant in any way manufactured her concerns regarding the system nor that she acted with anything other than the best intentions when voicing her concerns. However, she also considered that her opinion was the only one that was correct. She considered that Ms Grew's

approach and desire to turn the system back on was wrong and she felt personally affronted that Ms Grew disagreed with her and that Ms Squire and Ms Cruickshank had not agreed with her more vocally in the meeting when they agreed that there were flaws in the system.

71. The authors of an Executive summary of Project Sartre (p1116-1120) go on to summarise what happened next as follows:

"LC, TC and KS then worked together to switch the monitoring back on but there were delays due to confusion on compliance steps and the need for a DPIA. Whilst LC was frustrated that TC and KS did not voice their view that it could be improved to RG and AF, the nature of debate on this issue seems professional and healthy (as opposed to the 13 June discussion on MOVEit). This is backed up by contemporaneous documentation, which is measured and collaborative in tone throughout."(P1120)

72. I was not taken to any documentary evidence that demonstrated a different tone in communications thereafter. The Claimant was, and is, upset that she was not listened to and that the system was turned back on. I consider that she felt professionally doubted and undermined. Nevertheless, I saw nothing in any emails or subsequent interview notes about this incident that indicated that there was any overtly negative behaviour or feelings towards the Claimant as a result of this. Even the interviews with Ms Cruickshank and Ms Squire during Project Sartre do not indicate negative views beyond the view that the Claimant misunderstood the system. It is clear that there was a sense that the Claimant had misunderstood the system and its purpose and that is conveyed in the Sartre interview notes. In addition, the fact that the Claimant had, with Mr Forterre, switched the system off without sign off from other teams was met with a sense of concern. However the fact that the Claimant had concerns about the system and the fact that she voiced them, has not been shown to have created any sense of hostility either in the conversations on the topic, the documentary or email evidence at the time or in the notes from the Sartre investigation.

73. However, I note that the issues regarding concerns about the People Team reorganisation arose shortly after 11 July and I presume that it is, at least in part because of the proximity in time that the Claimant draws a link between this incident and the subsequent decision to instigate project Kregel.

<u>Integration and reorganisation of People Function</u>

74. As mentioned above, when the Claimant was appointed CPO, it was decided by the Respondent that they wanted to integrate the People function into one People team led by the Claimant. The claimant reconfigured the HR teams and Talent teams.

75. On 1 August, Ms Samuel raised concerns with the Claimant that people were concerned that they were being demoted. The Claimant's email response said

that this suggested that Ms Samuel had not appropriately consulted with her team – a task that had been delegated to her. She did not refute that their roles had been changed in this email she indicated that Ms Samuel had not managed their expectations appropriately.

76. The Claimant and her witnesses gave evidence indicating that Ms Samuel became difficult to work and did not undertake her role properly or professionally once the Claimant was appointed as CPO.

77. On 11 August 2023 two individuals from within Ms Samuel's team sent Ms Samuel an email raising complaints. The changes that they complained about were that:

    (i) Their job titles had changed from Junior HR Business Partner to People Advisory Partner and on that change they considered that some of their key responsibilities had been removed. Their concerns were that they had had Performance Management removed from their role and that they were no longer directly partnered with the business. Those responsibilities had been given to the new role of People Partners who were largely made up of members of the Claimant's Talent Team.
    (ii) The new role of People Partner described was very similar to their old role of HR Business Partner
    (iii) That the new People Partners were not qualified to perform the roles they were being asked about and were giving inaccurate advice
    (iv) That a new contact email address for staff contacting HR was assigned to an individual who was not properly trained to manage those emails.
    (v) That the new People partners with no or little HR experience could decide whether a matter should be escalated to those with suitable HR knowledge and this could result in advice being given and not shared with those who need to know and/or creates risk to the individual or the business because it has not been discussed with HR professionals.

78. Subsequently on 24 August there was an email from a People Advisory Partner to Ms Davidson which highlighted 6 examples of incorrect advice being given to the business.

79. The Claimant alleges that the timing of all these complaints was prompted by her challenging the email monitoring system. The Respondent asserts that it was prompted by the email that the Claimant sent on 25 July to the wider business which set out what the organisation meant in terms of people's ongoing responsibilities which led to the aggrieved team members realising that their jobs had been permanently changed and, in their view, diminished. The Claimant asserts that the changes to the People Team had been ongoing or in place since March and therefore this was not a plausible trigger for these complaints and if anything it again reinforced her assertion that any shortcomings in consultation were with Ms Samuel not her.

80. I find that the email dated 11 August was prompted by the email on 25 July which expressed certainty as to what the different teams were and what they were doing and announced it externally. I accept that this was the first time that the individuals concerned understood concretely what their roles were though I believe that they had some concerns already. It is clear that Ms Samuel had raised concerns previously on 12 July suggesting that people were concerned. It was also clear that the situation remained in some flux given that Ms Okuma emailed Ms Samuel on 31 July explaining that the new People Partners were were the first point of contact for the business not the people who had been HR Business partners. Presumably such an email would not have been necessary if the roles and responsibilities had been clearly understood prior to that. Further, there were then Slack messages from 2 August to 11 August which introduced the new People teams to the wider business again suggesting that the exact shape of the reorganisation had not been finalised until around then. This all suggests that the 25 July and the finalisation of the reorganisation insofar as it affected the roles of these individuals, was the prompt. The individuals' concerns may have been, at least in part, due to failures by Ms Samuel and her consultations or communications with the team – but that does not change the fact that it was this situation which prompted the complaint email on 11 August. Their email even references the 25 July announcement at the outset. I do not consider that there was any plausible evidence before me that they had been pressured or encouraged to raise these concerns by Ms Samuel or by anyone higher up in the organisation. I find that they were raising these concerns because they were genuine. They may have been frustrated with Ms Samuel but that does not mean that the reorganisation and its repercussions was not the prompt.

81. All of the problems with the People Team that were reported and which caused Mr Kidney to launch Project Kregel, were motivated by the problems that were actually occurring. There was some coordination in that - for example that Ms Hosgood was asked to put the poor advice matters that were allegedly causing risk into an email which is the email dated 24 August.

82. However, there was no evidence whatsoever to link any of the issues to the Claimant's 'disclosures' regarding the email monitoring. The concerns that were being raised were numerous, detailed and serious. They were not manufactured or minor details. At this stage it was entirely possible that the cause of those problems may not have been the Claimant's actions or even as a result of the. However it was clear at this point in time that Ms Davidson and Mr Kidney now had several serious issues and complaints being brought to them that appeared to arise out of the People Team transformation. It was these issues that prompted Mr Kidney to take action. I had no plausible evidence to suggest anything else.

83. As a result of those concerns Mr Kidney tasked an external law firm, Baker Mackenzie, and one of their lawyers – Ann Marie Davies, to conduct a fact finding investigation into the reorganisation. Baker Mackenzie were not the Respondent's normal lawyers and have held themselves out as being independent. The reason for instructing external investigators was because the level of concerns raised made Mr Kidney consider whether this amounted to a matter that required reporting to the FCA as a non-financial risk and he needed to ensure that the Respondent reacted accordingly.

84. The terms of reference were not shared with the Claimant thought they were in the bundle before me. Those terms of reference reflect the issues that are summarised above as being the concerns to be considered. There is no reference in them to the email monitoring system. The fact find was limited to the reorganisation of the People Team and the problems that were alleged to have arisen as a result.

85. In the proposal document (send to Mr Kidney on 5 September 2023, Ms Davies sets out who she intends to interview and what facts she is looking to ascertain. It is a detailed document. That document was not sent to the Claimant. The Claimant was told, on 30 August, in a meeting with Ms Davidson and Mr Kidney that there was going to be an investigation. It is not in dispute that the Claimant did not have the level of detail set out in the terms of reference as to what the investigation was going to cover. However it is clear from the information that the Claimant sent on 30 August after her meeting with Mr Kidney and Ms Davidson, that she understood the broad remit and that it concerned the reorganisation.

86. Shortly after her meeting the Claimant raised concerns that Ms Davidson (then Head of Dispute Resolution) was involved or overseeing the investigation as she felt that this could lead to bias or unfairness because she had previously expressed concerns about the qualifications of the People Partners. As a result Mr Kidney agreed to remove Ms Davidson and substituted her with Lesley McFadzean (Head of Central and Distribution Compliance). He indicated that this was because he wanted the Claimant to have confidence in the process. The Claimant thanked him for taking this step.

87. The Claimant was interviewed by Ms Davies on 5 September and 6 September. The total time spent was 2.5 hours. The notes of the meeting were agreed by the Claimant at the time. At the outset of the meeting Ms Davies explained her remit.

88. On the same day the Claimant emailed Mr Kidney and Ms McFadzean with approximately 41 people who she considered also needed to be interviewed. Subsequently Ms Davies interviewed Ms Gurluk, Ms Hosgood, Ms Donelien, and Ms Samuel and received additional comments or notes from them regarding their interviews between 8 September and 14 September. All of these

individuals had raised specific concerns about the reorganisation. None of the individuals the Claimant suggested were interviewed.

89. Following those meetings, Baker Mackenzie updated Mr Kidney as to what the various interviews and information they were receiving appeared to show. Mr Kidney also reviewed the notes of the interviews.

90. From the interviews with the Claimant Mr Kidney and Baker Mackenzie (as confirmed in a later, written, interim report) ascertained the following:

    (i) The Claimant was inconsistent as to whether there had been a change to the roles and responsibilities of the People Advisory Partners
    (ii) The Claimant did not properly understand the different risk management functions and how they had to work together across teams
    (iii) That the claimant had not properly considered the skills and experience of candidates when appointing the People Partners and that the skills necessary for managing the HR queries inbox could be done by someone 'you'd hire someone off the street to do'.

91. In evidence before me, the Claimant's oral witness evidence regarding the reorganisation broadly confirmed these conclusions. Further I was taken to large amounts of documentary evidence that supported these conclusions.

92. The Claimant accepts that she reorganised the teams but maintains that any changes to roles or functions were akin to labelling changes. She also considers that they reflected what the business feedback was in terms of what they wanted from the People team and that it reflected various weaknesses and inadequacies that she had inherited such as what the HR business partner role actually entailed and the fact that several members of that team were unhappy with the role.

93. It was put to her during the hearing that the disgruntled staff who had complained were justified in their complaints because they were no longer going to be the first point of contact with the business and this was a significant change to their roles. I had difficulty following the Claimant's various answers on this subject. Her answer seemed to be that they were not justified in complaining, that although they were not going to be the first port of call, issues would be passed to them that required ER or HR advice. She also indicated that this was not a negative change in any event.

94. I find that on balance, that it was reasonable for Mr Kidney to conclude, at this stage, there was a significant change to their roles and that these individuals had not agreed to that change. I also consider that the Claimant knew that this was a significant change and had intended it. She may have thought that these individuals had been properly consulted about the changes, or that they would be content with them, or that they reflected what the business wanted, but it is

clear that she knew it was a change and that it was a significant change. I was taken to an email which referred to the new role of People Partner as being the 'really cool' role. It was clear that she had created a new role that amalgamated various different responsibilities from across the teams. To do that she had changed other roles including the role of HR Business Partners (Though they were now called People Advisory Partners). She accepted that she had not sought legal advice on this specific step. She said that legal were aware because of two exits that had occurred as a result. It is not clear how this would have made legal aware of the detail around this role specifically. Despite creating a new role and removing responsibilities from others, she did not acknowledge any risk had been created. As someone leading the People Team, responsible for HR issues, it was reasonable for the Respondent to expect a level of understanding from the Claimant that risk (e.g. employment law risks) could be created by such actions and to see appropriate advice and support from other teams.

95. She says that there was a full consultation with staff being spoken to, an exercise undertaken to ensure that she understood exactly what everyone's job entailed and several individuals receiving out of cycle pay increases. I did not have sufficient information to conclude that the Claimant had not consulted with or asked for the consultation of many, if not the majority, of the HR team. The witness statements prepared for this hearing from some of her previous colleagues indicated that they had understood exactly what their new roles were going to be and how the new team would work together. However, it is noteworthy that all of these individuals were given the 'cool' new jobs. None of them had responsibilities removed. I also note that one of the reasons the Claimant objected to Ms Davidson being involved in Project Kregel was because she has voiced concerns regarding the qualifications of the newly appointed People Partners. This indicated firstly that the Claimant was aware that others had voiced questions about the process and secondly that her response to that was to feel professionally undermined as opposed to being able to listen to the concerns raised. In any event, it appears that any consultations had not been formally recorded or noted with follow up correspondence regarding roles and responsibilities to the individuals involved and had not been done in conjunction with the legal or risk team. It is clear that Ms Samuel's team had not been properly consulted and ultimately, the Claimant did not accept that during this stage of the investigation.

96. The Claimant accepts that none of the new roles were appointed to by way of a formal interview and that none of the new roles were open to or offered for open competition. She appointed to the new role the people that she considered to be best for the job. She relied on what she considered to be a detailed and expert review of the individuals' capabilities which were the result of her in depth knowledge of their skills and experience. She did not consider that interviews were necessary in those circumstances and disputes that there were no criteria applied to giving people the new roles. The Claimant does not accept that this

could or should be a cause for concern or that it led to people being excluded from the new roles or that inexperienced people were being appointed to the new roles and exposing the business to risk.

97. Project Kregel did not make any factual findings as it did not conclude. However as part of the investigation and as part of these proceedings, evidence was provided that demonstrated that the advice of the new people partners had contributed to incorrect HR advice being given to managers leading to the mismanagement of staff including (but not limited to) someone on long term sick not being consulted during a restructure and someone on maternity leave not being consulted.

98. The Claimant's says that those who made the allegations against her were prompted to do so by Hayley Samuel who had clearly mismanaged the situation despite her out of cycle pay increase and increased responsibilities. She says that the respondent has ignored the fact that some people within this team were already historically unhappy with their roles when the reorganisation took place and that this pre-existing risk was ignored or not properly assessed and that without that assessment, any increase in risk cannot properly be measured either. She also says that it has been ignored that some of the people who left were on fixed term contracts.

99. During the hearing the Claimant gave evidence that, in her view, Hayley Samuels was prompted to act by more senior members of staff such as Kate Squire and Robyn Grew. Ms Samuels had been the 'owner' or overseer of the email monitoring system that the Claimant had challenged. The Claimant alleged that she felt upset by that and that Ms Grew and Ms Squire built on that to encourage Ms Samuels to build a case against the Claimant. That case was built by encouraging the staff in her team to complain about the reorganisation.

100. She says that Project Kregel was a sham for various reasons. Firstly the motivation behind its initiation. Secondly the methodology in that it only interviewed a small select group of people and finally because it was never finalised. She has also alleged that the interim report document was fabricated at a later date.

101. I find that the allegation that the interim report was fabricated is not true. The meta data was provided to me demonstrating that the report was created and emailed on 10 November 2023. I accept that the reason for the report being sent at this stage was that Ms Davies was leaving Baker Mackenzie and wanted to provide a written report of what she had earlier communicated verbally to Mr Kidney.

102. I find that the investigation is clearly incomplete but that up until it was paused it was not prompted by any issues save for those that are described above which were numerous, serious concerns of various natures, that all arose

out of the reorganisation. Ms Davies' methodology and work provided suggest that she was carrying out a reasonable investigation until it was paused.

103. What Project Kregel's interim report concluded was that there had been a change to some people's job descriptions without appropriate consultation, that this created a risk for the Respondent and that the Claimant's attitude and approach to the situation needed consideration.

104. Mr Kidney said that as a result of the updates he received from Ms Davies he was told that;

"(a) there was a fundamental change to some roles which the relevant individuals were not consulted about;

(b) there were concerning examples of situations which, on the face of it, created risk for Man Group;

(c) the People team was not functioning well because of the Integration. Many team members were disgruntled, disengaged and did not clearly understand their roles;

(d) as CPO and the primary decision maker on the Integration, the Claimant was responsible for the situation; and

(e) the Claimant did not understand the seriousness of the situation, nor did she seem willing to take on board the complaints that had been made."

105. I accept that this was an accurate reflection of what he was told by Ms Davies.

106. As a result of that interim position Mr Kidney and Ms McFadzean spoke to Mr Forterre in his capacity as the Claimant's line manager. It appeared from the direction of travel that the Claimant's role in creating the situation was likely to result in a negative final report and the possibility that the Claimant's performance or conduct would therefore need to be challenged formally. Mr Kidney was also keen to avoid having to disrupt the People Team more and avoid having Ms Davies interview further individuals to reach a final position. I accept that Mr Kidney was told (and communicated to Mr Forterre) that in order to reach a final position for Project Kregel, Ms Davies would need to speak to the People Partners and other members of the business.

107. Mr Forterre therefore agreed that he would speak to the Claimant and offer her an exit package.

<u>Without prejudice meeting – 19 September 2023</u>

108. Mr Forterre organised a meeting with the Claimant and one of their lawyers. It was held online. There was no notice given to the Claimant of the subject of the meeting.

109. The detail of what was said in this meeting is in dispute. I did not hear from Mr Forterre as a witness. The only account I have of that meeting is set out by the Claimant. I find that it is more likely than not that the Claimant was completely shocked by the meeting. She was, as is often the case for employees called to such meetings, completely unprepared and taken aback. I was provided with notes of the meeting that do not pretend to be verbatim notes. I was also taken to the script that Mr Forterre was working to. There were some technical difficulties with the microphones at the start of the call meaning that the notetaker couldn't hear Mr Forterre's introduction. The Claimant says that after the formal meeting had concluded, there followed a 20 minutes or so meeting with Mr Forterre alone during which he became emotional and cried. Mr Forterre, during his interview for Project Sartre states that it was the Claimant that became upset at the end of the meeting.

110. I accept, on balance, that Mr Forterre expressed regret that the Claimant would leave and that he had valued her work to date. How he expressed that I do not know but given the Claimant's previous work record, his decision to promote her to CPO, and her high standing within the organisation, I am sure that Mr Forterre was being genuine in what he said. I also accept that after the lawyer left, he may well have suggested that it would be better for her if she accepted an exit package. I consider that it is more likely than not that he suggested it would be better for her if she did accept a package and leave as he knew that the allegations against her regarding the reorganisation were serious and could be detrimental to her career. Again expressing such an opinion would not be unlikely in such circumstances but I do not accept that it would have been said as a threat or in the way the Claimant now characterises it. I also accept that he would have confirmed that the investigation would proceed if she did not accept an exit package and that many more people would be interviewed as a result.

111. The Claimant also asserts that as she left the meeting, she turned round and she reiterated her view that the email monitoring process was unlawful. It is not clear to me how or why that topic would have come up in this meeting. There is no reason for it to have come up. This conversation was happening in September, approximately 3 months after the email monitoring system had been an issue. It is clear from the notes of the meeting and the subsequent correspondence, that the Claimant 's role in the reorganisation was the focus. Nevertheless it may be that the Claimant considered that it had its roots in her disagreements with Ms Squire and Ms Grew as she appears to have developed a deep-seated distrust and dislike of Ms Squire and has, during these proceedings, and during the Project Sartre investigation, put together a theory

which links all subsequent incidents to an intricate set of decisions and grudges born by Ms Squire and Ms Grew and subsequently others against the Claimant.

Project Sartre

112. Following the without prejudice meeting the Claimant sent, via her lawyers, a document entitled Narrative of Events on 2 October 2023 (p678-691). That document set out in writing her concerns and linked her raising her concerns regarding the email monitoring to the decision to initiate Project Kregel. She also raised other concerns regarding the validity of the process behind Project Kregel.

113. The document was marked without prejudice subject to contract but it was treated by the Respondent as akin to a grievance. Although disputed by the Claimant I find that the Claimant's intent was to attempt to negotiate a better deal for her exit package. It would not have been sent by the Claimant's lawyers and marked without prejudice for any other reason. The Respondent asserts that this was the first time these allegations had been put in writing and that they were aware of any allegations of unlawful behaviour or whistleblowing allegations. Given the severity of the allegations they interpreted it as a grievance and appointed another independent lawyer from Baker McKenzie to investigate the grievance. Patrick Kidney was in charge of appointing the team.

114. As a result of the serious nature of the allegations, Mr Kidney contacted the FCA and on 4 October he updated them on the background of events as he considered that the concerns raised by the Claimant suggested a significant risk within the Respondent's People Function. He also took steps to ensure that the Respondent's audit and risk committee were fully apprised of the situation.

115. The Claimant was involved in finalising the terms of reference for the fact finding investigation and Julia Wilson and John Bracken, solicitors from Baker McKenzie were charged with carrying out the fact finding. The investigation did not commence until the Claimant had approved the terms of reference.

116. This investigation was called Project Sartre. Project Kregel was paused whilst Project Sartre was conducted. The Claimant had two interviews with them. The first was on 6 November 2023 and the second was on 9 November 2023. The notes of those meetings were sent to the Claimant.

117. During this period the Claimant was signed off sick.

118. During Project Sartre, the Claimant provided large amounts of written information and evidence regarding what she considered to be negative treatment of her.

119. Project Sartre was conducted by Julia Wilson and John Bracken of Baker Mackenzie. The process was overseen by Patrick Kidney. Project Sartre involved interviewing Kate Squire, Tania Cruickshank, Antoine Forterre, the Claimant, Madeline Courtney, Faye Davidson and Charlie Beeson. At the Claimant's request entire transcripts of her interviews were taken and provided to Ms Wade and Lucinda Bell. Those transcripts were provided to the Claimant and she was given the right to comment on them.

120. At the outset of the meeting on 6 November, Ms Wilson outlined the key issues that they were considering:

"Key issues were summarised by JW as follows:

a) Interpersonal relationships LC had at Man Group, in particular LC's relationship with Kate Squire ("KS");

b) the MOVEit Incident and Man Group's response;

c) employee communications surveillance at Man Group; and

d) the extent to which any of the above matters contributed to the instigation of the first investigation." (p1064)

121. During the 9 November interview with Ms Wilson, the Claimant told her about a conversation she had with Ms Squire several months earlier about a whistleblower. She said that Ms Squire had told her that the individual's submissions had been subjected to a psychiatric examination without their knowledge and that this had been done to inform support the Respondent's position in possible litigation. She said that this was evidence of how whistleblowers were treated by the respondent generally and specifically by Ms Squire.

122. During the interview she said that she was raising it for two reasons. She says that she no longer feels 'gas lit' by it and sees it as being abhorrent. She outlines that she does not believe there is a legitimate reason for this to have happened and secondly that she did not want the investigation into her that had been paused (Kregel) to be used in that way and did not give anyone consent to use her information in that way.

123. The Claimant raises the matter as being ' a broader concern about the ethical conduct of some investigations that happen'. She says she is raising it because she does not want to be treated in the same way as she believed it to be a horrifying process. She clearly states that she was so horrified by it because it was 'literally a definition of gas lighting'. She says that she raises it for 2 reasons;

"Firstly, having had time to reflect, I no longer feel gas lit by it. I see it for what it is . It is abhorrent. I don't believe there is a legitimate reason for that to have happened. And secondly, I want to make absolutely explicit that, in the current investigation and in the investigation that started into me that was then paused… [this doesn't happen to me]"

124. I do not set out the entirety of the relevant paragraphs but have read them carefully along with the note that Mr Bracken puts together of the interview and which was agreed by the Claimant.

125. In her witness statement (para 45) the Claimant says,

"*It was my belief that the Head of non-financial risk, Kate Squire, is not skilled to be in receipt of such information, and should have been operating in the capacity as 'independent investigator' in a whistleblowing investigation, not taking steps to gain insights and leverage for litigation with the complainant."*

126. The Claimant accepts that she did not know the detail of the situation only that this was in reference to an individual who in a long running legal dispute with the respondent.

127. She says that she believed the situation to be abhorrent and she was horrified. She does not say why beyond that it was apparently done without the individual's consent. She says it is gas lighting. It is not clear how Ms Squire communicating this information about someone else to the Claimant amounted to gas lighting of the Claimant. This was not clarified in the Claimant's evidence.

128. The purpose of Project Sartre was not to make recommendations to the Respondent but to investigate the points raised by the Claimant in her Narrative of Events.

129. They reached various conclusions which are summarised out in the Executive Summary. In relation to the concerns about project Kregel (which they refer to as the Review) they find no evidence of collusion between the People Team, Ms Samuel and members of the legal team. They also say, "

"Finally, LC did not provide evidence to suggest, or even expressly allege, that it was the compliance issues (i.e. MOVEit and email monitoring) that prompted the Review, so nor are we are able to make that connection."

130. In their consideration of the email monitoring process they conclude that the Claimant's concerns were regarding culture and unnecessary levels of monitoring as being unethical and not fit for purpose.

131. Ms Wade reviewed all the documents from Project Sartre. This included the transcripts of the interviews with the Claimant. Ms Wade accepted that she was fully aware of the concerns that the Claimant had regarding the email monitoring and the concerns she had raised regarding the treatment of the alleged whistleblower, X. Based on the Baker Mackenzie report Ms Wade wrote to the Claimant on 7 December.

132. Ms Wade confirmed that none of the Claimant's concerns were upheld and set out why.

133. Mr Kidney informed the FCA of the outcome of Project Sartre.

Dismissal

134. Whilst Project Sartre was being conducted the Claimant was signed off sick. Her sick note expired on 15 December 2023. She was therefore due to return on 18 December 2023. She did not provide an updated sick note and therefore the Respondent considered that she was due to return on 18 December. On 14 December 2023 the Claimant's solicitor had informed the Respondent's solicitor that the Claimant was going to return to work on 18 December when her fit note expired.

135. The Claimant has since provided a sick note that confirmed that she was unwell on 18 December 2023. This note was provided retrospectively. I find the Respondent had had no reason to believe that the Claimant was going to remain off sick on this date and that when Ms Wade sent the letter of dismissal she believed that the Claimant was returning to work that day.

136. Ms Wade made the decision, with Mr Kidney, that any decision regarding the Claimant's ongoing employment or whether to restart Project Kregel should no longer lie with Mr Forterre. They say that this was because he had been a witness in the Project Sartre investigation. I conclude that they did not want to involve him further because he had been the person who made the decision to promote the Claimant to the role of CPO and was intricately bound up in the issues around email monitoring. I accept that it was reasonable to consider that he was no longer sufficiently independent of the events that needed to be considered to make a decision regarding her ongoing employment.

137. On 18 December, Ms Wade wrote to the Claimant sent a dismissal letter. It is a brief letter. The reason given was as follows:

"As you are aware, we recently appointed an independent law firm, Baker McKenzie, to conduct an investigation into the People function. This was initiated following complaints by a number of employees within that function relating to the restructure of the People function that you instigated.

The output we have received has led us to the conclusion that due to an irretrievable breakdown in our trust and confidence of your ability to discharge the role of Chief People Officer to the standard we expect at Man Group, your ongoing employment is untenable. Therefore we have made the decision to terminate your employment with immediate effect." (p1127)

138. The letter does not give the Claimant the right to appeal. It informs her that she will be paid in lieu of her 3 months' notice period and any accrued but untaken holiday. It also says that her benefits entitlement will continue on the same terms for 3 months after the termination date.

139. The Claimant wrote to Ms Wade on 20 December. Within that letter she criticises the fact that the decision was based on an investigation that was not concluded and not shared with her and therefore she has no way of appealing against the outcome. She relies on the following passage as being her protected disclosure in that letter:

"Critically, you omit that I have spoken up about the sham nature of how this investigation was (not) conducted and that I believe this is indicative of a broader concern of systemic issues with investigatory processes at Man. These concerns have not been thoroughly investigated. The 'whitewashing' has extended to ignoring that a Senior Manger within Man thinks an appropriate investigatory step is to submit employees, without their consent, to a form of psychiatric assessment for no legitimate reason, simply to support Man Group's litigation strategy. This is an abuse of power and position beyond comprehension, falls far below the expectations of a regulated firm and it is alarming that a blind eye has been turned to this." (p1136-1137).

She also states that she does not accept that she has ever held the belief that the email monitoring practices within the HR team were 'legally compliant'.

140. Ms Wade acknowledged receipt of that email but did not vary her decision.

141. In Ms Wade's witness statement she sets out that her trust and confidence in the claimant's ability to continue as CPO had irretrievably broken down. She stated that she initially formed that view based on the interim position reached in Project Kregel. She was briefed by Mr Kidney and had formed the view that the reorganisation of the People Team had caused widespread fallout and disruption and created avoidable and unnecessary risk for the Respondent. She gives detail of this in her witness statement and I accept that she was basing her views on the information provided to her by Mr Kidney. She provides detail of her concerns in paragraphs 15-17 and I accept that these were genuinely held views based on the briefings she was receiving.

142. Ms Wade was then informed by Ms Grew on 4 October about the Claimant's Narrative of Events and the content of that document. Ms Grew decided that the matter needed to be investigated given the serious nature of the matters raised. Ms Wade undertook to oversee the investigation because she was Chair of the Board. The matters involved very senior members of the Executive Committee including the CEO and so there were few people higher in status to oversee the matter. She was supported in that by Ms Bell who was Chair of the Audit and Risk Committee. Mr Kidney briefed them both as matters progressed.

143. Ms Wade accepts that the outcome of the Project Sartre report strengthened her views that the Claimant was not able to perform her role as CPO. She concluded that the Claimant could not work constructively with senior individuals, the Claimant was alleging deep seated collusion against the Claimant which suggested that the Claimant did not have trust and confidence in a significant number of high level colleagues. Ms Wade also considered that it reinforced the fact that the Claimant did not like having her authority questioned and did not like having to give ground when others in other teams disagreed with her on legal or compliance grounds. This lack of ability to work collaboratively had, in Ms Wade's view, led to an increased risk to the business within the People Team such that they had had to report the situation to the FCA.

144. Ms Wade states that she considered whether to conduct a formal disciplinary process. It is not clear if this was to focus on the Claimant's behaviour or her capability. I assume from the fact that she called it a disciplinary process that she was considering whether this was a conduct issue. She says that she reached the decision not to follow a disciplinary process after she had reached the decision that trust and confidence had irretrievably broken down. Normally the process precedes the decision.

145. Nevertheless, I accept that Ms Wade's evidence that her decision not to follow a process were because she had already formed her view based on information provided by the two independent investigations that had been carried out (or partially carried out) and the information that this had provided, including the Claimant's extensive interviews. She formed the view that the Claimant was unlikely to take more accountability for what had happened as she disputed that any risk had arisen at all or if it had that it was her fault. She also proceeded to attack her senior colleagues and accused them of collusion. Ms Wade also indicated that there would not have been anyone to appeal to. She does not say whether she considered appointing someone external to hear an appeal.

146. At no point in these proceedings has the Claimant indicated what she would have said at any appeal that could have changed the outcome. Her continued position in respect of all the matters raised has been the same (or

expanded versions of) what she said in those investigations. At no point has she accepted any responsibility for any of the issues raised following the reorganisation and she has continued to assert that all aspects of the situation have arisen due to widespread collusion against her and others' shortcomings.

Payments on termination

147. The Claimant was paid in lieu of her salary but her health insurance was terminated on her last day of employment as were all her other benefits. The Claimant was not aware of this until later.

148. Due to very difficult and sensitive domestic circumstances the Claimant was overseas with her children at this time. The Respondent's actions meant that the Claimant was overseas without any travel insurance or health cover and when she realised that this had occurred she understandably felt extremely vulnerable and worried.

149. Mr Kidney provided evidence that the termination of the Claimant's health insurance was an error and it was reinstated as soon as she raised it as an issue. He provided evidence that this error had affected another individual who exited the business around the same time. The evidence demonstrates that swift action was taken to reinstate the cover when the mistake was realised.

150. The Respondent says that the other benefits were salary sacrifice benefits and are therefore never provided once pay in lieu of notice is made. They also state that the Claimant did not opt in to the salary sacrifice benefits that year and that is another reason as to why benefits had not been paid on this occasion. I was taken to evidence that the Claimant was told she needed to opt in and failed to do so. I accept that this was because she was under huge amounts of stress at the time both at work and at home. Nevertheless, I accept that I have evidence that she did not opt in and therefore the system did not record her as entitled to those benefits.

151. It is clear that Ms Wade's dismissal letter gives the impression that all benefits would be paid. I consider that the Claimant had a realistic expectation that this meant all the normal benefits that she had been entitled to would be paid for.

152. However I accept that the reason the Claimant was not paid those benefits was:

(i) In respect of the private health insurance a systems error that affected others and was rectified
(ii) In respect of the salary sacrifice benefits, that they were not normally paid out in lieu and in any event the Claimant had not contractually opted into those benefits for the calendar year of 2024 despite being given the option.

Collusion

153. During her evidence to the Tribunal the Claimant gave clear evidence that she believed, in summary, that there was a conspiracy theory between Ms Grew, (CEO) Ms Squire, Ms Samuel, Ms Davidson, Mr Kidney, Mr Forterre and Ms Cruickshank to get rid of the Claimant.

154. Although not dealt with in detail above, the Claimant outlined a clear dislike of Ms Squire during her interviews for Project Kregel and Project Sartre. This stemmed from one particular disagreement but appeared to be deep seated and she assigned a large amount of culpability to Ms Squire for the various complaints investigated by Project Kregel.

155. The Claimant also said (as did her other witnesses) that Ms Samuel was difficult to work with and had been responsible for most if not all of the issues that her team subsequently experienced during the reorganisation. She did not seem to have the same dislike of Ms Samuel but she made it clear that she did not consider her to be a reliable or capable colleague.

156. The Claimant also ascribed negative motives to Ms Grew's actions, arising out of a historical dispute in 2019 and a power struggle with Mr Forterre. During cross examination the Claimant brought more people into the collusion. Allegations against Mr Forterre's motives for example had not (from the evidence I was taken to) previously been raised until the hearing.

157. At no point was the Claimant able to point to any evidence of such collusion or animosity from these individuals. Her evidence in her witness statement was scarce on these points and where it was given, it was without any concrete evidence to support it.

158. I appreciate that it is unlikely that even if collusion was taking place on this scale that it would be clearly documented or admitted to by the individuals involved and therefore evidencing it is always challenging. However, the Claimant's own witness evidence failed to address these matters properly either. I appreciate that the Claimant is a litigant in person and that her understanding of how to evidence matters may be affected by that. However what was clear throughout her cross examination and reflected in the lengthy interviews she had during Project Kregel and Project Sartre, was that the Claimant frequently made sweeping statements about other people's motives or capabilities that had very little substance behind them and when pressed to explain the collusion, was unable to do so.

159. When pressed by Ms Davis during cross examination the Claimant often spoke at length in her answers but without there being much substance and no evidence to back up her answer. Frequently she did not answer the question she had been asked and instead spoke about her impression of situations and her beliefs as opposed to what had actually happened or been said. One

example is of the many occasions on which the issue of what she had said to Mr Forterre on 28 June was raised. She has not told the Tribunal, at any point, what she actually said to Mr Forterre on 28 June. Ms Davis' questions on this were extensive. The Claimant answered in a way that can best be described as equivocating and did not give answers that were concrete. This has made understanding her evidence and her case regarding collusion challenging.

160. This approach has been taken to her allegations of collusion amongst the senior leaders at the respondent. She believes it occurred but she did not, in my view, clearly set out why I ought to find, on balance of probabilities, that this is what occurred. Her case changed and the people involved in the collusion expanded as she answered questions. Again, I give latitude for her being a litigant in person, but it is not my role to seek out the evidence that could support her claims. Instead what I was taken to was clear and cogent evidence from the respondent as to why the individuals acted as they did.

161. My understanding, from the evidence she gave, is that the Claimant felt able to make her earlier challenges to Ms Squire and Ms Grew in particular because she had 'head cover' from the then CEO, Mr Ellis. Her challenges to them were, on her own evidence, robust. Then either the day before or the day after Mr Ellis left, the allegations against her began. Ms Grew had been biding her time until she could enact revenge against the Claimant for the events in 2019. She says that the other contributing factor to the collusion between the senior individuals to get rid of her was her protected disclosures about email monitoring. She believes that she had gained a reputation as a trouble maker because she had made those disclosures regarding the email monitoring. She considers that Ms Squire encouraged Hayley Samuels to encourage her team to put in writing their concerns regarding the Claimant's reorganisation of the People Function. That in turn led to Project Kregel which in turn led to the without prejudice conversation with Mr Forterre and ultimately to the Claimant's dismissal. The Claimant said that Ms Wade's decision was based on the sham findings of Project Kregel and was therefore tainted by the desire to subject her to a detriment for blowing the whistle. She also considered that Ms Wade was influenced by her refusal to accept the without prejudice offer to leave which was also tainted by the desire to subject her to a detriment for blowing the whistle. Later, when pressed by me because she was not answering Ms Davis' questions clearly, she also said that when deciding to dismiss her, Ms Wade had in mind what the Claimant said about the email monitoring on 11 July.

162. Other allegations included that Baker Mackenzie were not independent because they were paid by the Respondent and the terms of reference that they were given for Project Kregel were tainted by the senior team. She says that Mr Kidney was motivated by his desire to get rid of her and placed influence on Ms Wade. She states that Mr Kidney could not be independent of Ms Squire because she decided his bonus and therefore he would attempt to find the outcome that she desired.

163. The Claimant objected to the use of the word conspiracy because of its negative connotations. Nevertheless what she outlined over the course of her answers to cross examination can best be described as a conspiracy given the number of people allegedly involved and the multi-faceted and far reaching nature of their alleged actions. I find that the Claimant genuinely believed in the collusion or conspiracy but I find, on balance, that there was no evidence provided to me of any such conspiracy. I reach this finding because on balance I found that I had evidence from the Respondent that sets out why they made their decision and performed the actions that they did. This was in contrast to the Claimant's evidence which was often vague and at times confusing.

164. In reaching that conclusion I have taken into account that I did not hear witness evidence from many of the individuals the Claimant says were conspiring against her. However I was taken to communications between those witnesses, notes of interviews with many of the individuals during the investigations which do not even hint at such motives and I was provided with detailed witness evidence from both Mr Kidney and Ms Wade which clearly explain their thinking and evidence it. There were so many leaps of faith required, without any documents, to believe the Claimant's narrative. Further it was shown that the Claimant had got to the point where she believed the worst about all aspects of the Respondent's case including that they had manufactured documents and that their lawyers were, in effect, deliberately misleading the Tribunal. Although she stopped short of making that specific allegation, she clearly implied it. She made those allegations without any evidence whatsoever and when the basis for her allegation was demonstrated to be entirely false, such as over the manufacturing of the written interim report by Ms Davies on Project Kregel she would not resile from the allegation.

Conclusions

Protected Disclosures

165. I must assess whether the disclosures that the Claimant relied upon are qualifying disclosures in accordance with s43B ERA. As set out above in the section on applicable law that requires several steps.

166. I must first consider whether information has been disclosed, if yes, did the Claimant reasonably believe that the disclosure tended to show that the Respondent

(i) had breached or was breaching or was about to breach a legal obligation
(ii) that a miscarriage of justice has occurred was occurring or is likely to occur and
(iii) that a health and safety risk had occurred, was occurring or was likely to occur

and did the Claimant reasonably believe that the disclosure was in the public interest.

167. When considering the Claimant's reasonable beliefs in the above test it is both a subjective and objective test. When considering what it was reasonable for her to believe, I have born in mind that the Claimant was an HR professional of high standing. She was well regarded within the business and had been promoted to Chief People Officer. She was on the Executive Board for the Respondent. She had or was at the time studying for a PhD in psychology. I therefore consider that she is a professional individual working at the top of her field with significant academic credentials and have taken that into account when assessing what she reasonably believed.

Disclosure 1

On 28 June 2023 seeking permission from her manager Antoine Forterre (CFO and Executive Director) to suspend HR email monitoring practices due to the current execution of HR email monitoring being unlawful;

168. I accept that the Claimant told Mr Forterre that the HR email monitoring practices were not culturally appropriate and that she considered that they were unethical. The information she provided has not been specified by her in any detail at all.

169. I accept that the Claimant may have conveyed that there were possible breaches of the GDPR during this conversation with Mr Forterre, but I do not accept that she raised the DPIA or was in any way specific about how the GDPR was breached during this conversation. There was simply no evidence to substantiate that. Therefore any allegation of the breach of the GDPR was non-specific and was couched in the context of the system not being culturally appropriate or ethical and those were her primary concerns. I therefore consider that it is unlikely that this conversation amounted to a disclosure of 'information that tended to show that the Respondent was in breach of a legal obligation as it was too vague in all the circumstances.

170. I have considered the case law regarding how specific an individual needs to be in identifying a legal obligation. The case of *Bolton School v Evans 2006 IRLR 500, EAT* held that an employee does not need to identify a specific legal obligation but in that case where the disclosure was that the school's IT systems were vulnerable to hacking, it would have been obvious that his concern was that private information and sensitive information about pupils could get into the wrong hands. In something of a contrast, *Blackbay Ventures Ltd v Gahir* [2014] IRLR 416, stated that the source of the obligation should be identified and capable of verification.

171. I conclude that in this case, in the context of a report that did not say a legal obligation was being breached, and in the context where she was focussing on the system being unethical; it was not obvious that what she was saying was that a legal obligation was being breached. I appreciate that it is a relatively low bar for the Claimant to establish that she indicated unlawful behaviour and there is no need for her to cite specific legislation, but the burden is on the Claimant to establish that she made a protected disclosure and her evidence on this conversation has been vague and it has changed on many occasions throughout these proceedings. I therefore do not accept that she identified that the information she provided tended to show a legal obligation was being breached because I do not think that is what she said. If she mentioned the GDPR at all in this conversation, any possible breach was vague and non specific.

172. During these proceedings, the Claimant accepted that at the time, and now, she did not believe that email monitoring was unlawful per se. She also said this during her Project Sartre interview and this is then reflected in Ms Wade's dismissal letter.

173. I conclude that the Claimant did not actually believe, on 28 June 2023, that the system was unlawful or that the information she was providing tended to show that there had occurred, was occurring or was likely to occur a breach of a legal obligation. All the evidence she has provided either to the Respondent (apart from her letter dated 20 December to Ms Wade) or the Tribunal has been equivocal on this point. She said in her internal interviews and in her evidence to the Tribunal that she understood (and had understood at the time) that the email monitoring system was not unlawful. Therefore she cannot establish that the reasonably believed at the time that she was providing information that tended to show that a legal obligation had, was being or was likely to be breached.

174. The timing of when the Claimant raises her written concerns regarding this matter support the conclusion that the Claimant did not believe, at the relevant time, that the system was in breach of a legal obligation or unlawful. The first point at which this matter was raised in writing was in her without prejudice Narrative of Events. Whilst I recognise that there is no need for a disclosure to be raised in good faith, the motive behind making the disclosure could shed light on the belief of the individual at the time. I consider that the Claimant was trying to find leverage with which to negotiate a better exit package.

175. However, even in that document, where she was seeking leverage, the Claimant's most serious allegation in the document regarding lawfulness is,

"We (Robyn, Antoine, Kate, Tania, Lara) met to discuss on 11 July 2023, there was no interest in hearing my concerns, instead I was gaslit that this was a

*"normal practice, it's just that no one admits to doing it" and I should work to reinstate this immediately. I expressed concern that Man was not doing the right thing here and that I would be truly fearful if we were ever audited on this practice, and concern that engaging in what I believed to be a highly unethical, **if not unlawful**, people practice would risk my professional licences. This was met with a general sentiment of "do what is needed to reinstate this".* [my emphasis].

176. The remaining pages dedicated to this matter express repeated concerns regarding the proportionality of what was being done and how unethical she thought it was. I accept that those concerns were genuine. However I do not accept that she genuinely believed that the practice was unlawful as she only makes one reference to it and even then it is a back up position and not her primary position. I believe that she inserted this allegation of unlawfulness for the purposes of this negotiation document not because she believed it during the meetings on 28 June or 11 July.

177. She also says that she was upset by the fact that her role was being treated as subservient to the legal and compliance functions because Ms Cruickshank and Ms Squire's advice on the subject were taken above hers. However, given their expertise on the law and risk and compliance, it seems logical that their view on this particular topic would take precedence over hers and I consider that she understood at the time that they were giving advice that the system was lawful and she accepted that position at the time, she just did not like it. This is clearly supported by her acceptance during these proceedings and during Project Sartre that the email monitoring was not unlawful per se.

178. Even if I am wrong in that, I conclude that her belief was unreasonable. She was fully aware of all the contractual policies in place regarding the email monitoring which demonstrated that the Respondent had considered the position, considered its proportionality and informed its staff about why it was in place. She had had conversations with Ms Squire and Ms Cruickshank about the system before her conversation with Mr Forterre and they had told her it was lawful. Ms Samuel's note at the time did not say that the system was unlawful and Ms Samuel had apparently done the research into the matter.

179. The Claimant says that she based her knowledge and understanding of what was required on what she had been told during her research for a PHD. She says that her belief was based on that information and was therefore reasonable. I accept that the Claimant had genuine concerns regarding the operation of the email monitoring system. However I do not accept that she believed that the principles applicable to her academic research regarding GDPR were applicable here to the extent that she now relies upon.

180. I consider that despite her saying that the Information Commission Office website states that the DPIA is a mandatory requirement she knew at the time

that others who had more professional expertise and understanding of this area were telling her that the system was compliant despite her raising her concerns regarding the DPIA. This advice was confirmed during Project Sartre when the independent lawyer conducting the interview told her as much during the course of the interview. Therefore I do not accept that her belief was reasonable in all the circumstances. She has not explained to me why she did not accept their advice beyond the fact that she had done some doctoral research. She has not provided me with the advice she was given when conducting the research nor how she believed it translated to this situation.

181. I accept that if the Claimant had believed or reasonably believed that the system was unlawful, then it would have been in the public interest as all the employees within the respondent were affected and the respondent was an FCA regulated organisation.

182. On balance, I conclude that this was not a qualifying disclosure because:

(i) The information the Claimant gave did not tend to show that the breach of a legal obligation had occurred, was occurring or was likely to occur
(ii) The Claimant did not believe, at the time, that the monitoring system was unlawful
(iii) If I am wrong on that, the Claimant did not reasonably believe that the monitoring system was unlawful

Disclosures 2 and 3

On 11 July 2023, in a meeting with Robyn Grew (CEO and Executive Director), Tania Cruickshank (General Counsel), Kate Squire (Chief Compliance Officer) and Antoine Forterre, sharing her view that the HR email monitoring practices were unlawful and would be highly problematic if they were ever audited;

On 11 July 2023, in a meeting with Tania Cruickshank and Kate Squire, sharing that a Data Protection Impact Assessment had not taken place and that special category data was being captured and not purged in the HR email monitoring practices and this contravened both GDPR and ICO requirements;

183. I accept that the Claimant may well have given more context to her belief that the system should remain switched off during these conversations. In particular I conclude that she provided more context regarding her PHD research and that she considered the system to be unethical and why. I also consider that she articulated that this system put her in a compromising position professionally because of her psychology qualifications and her coaching role. I accept, on balance, that during these conversations she may have made reference to the GDPR and that there was a possible breach of the way the data collected was being managed. I conclude that the information provided during this conversation was, on balance, sufficient to show that a legal obligation was being breached. The bar in this regard is not that high. The

Claimant does not have to articulate which part of the GDPR was being breached or specifically outline the section number that was being breached.

184. However, as per my conclusions under Detriment 1 above, if she did say that the system breached the GDPR due to the lack of a DPIA certificate, she did not actually believe that this made the system unlawful. I accept she wanted to change it but I do not accept that she actually believed that a breach of a legal obligation had occurred, was occurring or was likely to occur. She is a highly educated HR professional who knew and understood the policies regarding the email monitoring systems and had received advice and guidance from colleagues who understood the law and Charlie Beeson's report (who was similarly concerned) had not stated that the system was unlawful. She did not have to like or agree with the system to know that it was not unlawful. She had valid and genuine concerns but they were not about the lawfulness of the system, they were about its ethical nature, whether it aligned with the culture of the respondent and whether it was efficacious.

185. In the alternative, as per my findings above I do not consider that any such belief was reasonable in any event for the same reasons given above.

186. On balance, I conclude that these were not qualifying disclosures because:

(i) The Claimant did not believe, at the time, that the monitoring system was unlawful
(ii) If I am wrong on that, the Claimant did not reasonably believe that the monitoring system was unlawful

<u>Respondent's understanding of what the Claimant was saying during these meetings</u>

187. I conclude that all the relevant individuals within the Respondent (those attending these meetings and Mr Kidney and Ms Wade) understood that the Claimant had significant objections to the ethical basis for email monitoring and that she wanted the system switched off and to remain switched off.

188. I find that any issue that the Respondent executives or senior managers had with the situation was not the Claimant's objections to the system (however they were articulated) or the fact that she raised them. Their concerns, as articulated during the investigation processes and the witness evidence for this Tribunal, was that the Claimant had sought permission from Mr Forterre to have the system switched off without formally running it past the legal and compliance teams. Further they had concerns that in switching it off for the reasons that she did, she had not appreciated the FCA related risk associated with not monitoring emails.

189. However what is clear, again from the interview notes on this topic and more importantly the subsequent actions, conversations and messages of the individuals involved was that nobody thought it was wrong for the Claimant to raise her concerns regarding the ethical nature of the system or even her doubts as to its lawfulness or compliance with GDPR. What had been wrong was to switch it off. However it was recognised that Mr Forterre had authorised it.

190. Mr Forterre said words to the effect that he did not understand what the big deal was when interviewed in the Sartre investigation. He showed no signs of bearing any ill will towards the Claimant despite having taken action based on her advice that Ms Grew fundamentally disagreed with.

191. Ms Squire and Ms Cruickshank worked with the Claimant to get the system switched back on. They recognised the Claimant's frustration with the out of date lexicon. There was no evidence whatsoever that this situation and whatever the Claimant said at these meetings, prompted them or anyone else to subject the Claimant to detriments. They found ways to get the system switched back on and from their point of view that was the end of the matter.

192. There was no evidence that Ms Grew, who played no part in either investigation or the decision to dismiss the Claimant, bore any ill will towards the Claimant as a result either. In fact, during cross examination of Ms Wade, the Claimant asserted that it was Ms Grew who should have made the decision as to whether the Claimant was dismissed though her basis for that assertion was not clear.

Disclosure 4

On 9 November 2023, in a meeting with Julia Wilson (of Baker McKenzie), disclosing the practice of a whistleblower being subjected to psychiatric assessment to support the Respondent's investigatory and litigation strategy; and the full transcript of the meeting was shared with Patrick Kidney, Anne Wade and Lucinda Bell.

193. The Claimant says that she reasonably believed that her disclosures regarding the above matter tended to show that there was a breach of health and safety of an individual and that there was going to be a miscarriage of justice. Her amended pleadings state that she reasonably believed the information she disclosed tended to show that there had been a breach of

(i) A breach of a legal obligation by the First Respondent to comply with GDPR requirements.

(ii) The deliberate concealment of information relating to infringement of employees rights to privacy and the gathering and processing of special category data without following GDPR requirements."

194. The Respondent's submissions on this point were that nothing the Claimant said during the meeting with Ms Wilson actually supported any of the beliefs relied upon. I accept that the Claimant provided information regarding the alleged referral of documents to a psychiatrist for assessment without the individual's knowledge.

195. At no point in the transcript does the Claimant set out that she believes the individual's health and safety is put at risk or make any allusion whatsoever to the individual's health or well being. Further it is clear that she did not raise her concerns at the time that Ms Squire communicated this to her in or around March. I consider that had she believed the individual's health and safety was at risk or about to be at risk she would have raised it at the time. I therefore conclude this cannot amount to a protected disclosure reliant on health and safety grounds. She does not make any reference to health and safety and it is not obvious from what she is saying that this is what she is alleging. Further I do not consider that at the time she reasonably believed that there had occurred, was occurring or was likely to occur any breach of health and safety rules.

196. In cross examination, when taken to the different categories under s47B she said that as well as a danger to health and safety, she reasonably believed that this information tended to show that a miscarriage of justice was occurring, was about to occur or had occurred. I do not accept that she believed that a miscarriage of justice had occurred, was occurring or was likely to occur or that she conveyed any information that tended to show that to the Respondent. I accept that her comments were made in the context of outlining that the individual was in a legal dispute with the Respondent but simply saying that there was 'no legitimate reason' for the actions she believed Ms Squire took, does not equate to any suggestion that there was a miscarriage of justice. It is not obvious or discernible from the context or the words used.

197. I therefore conclude that this is not a protected disclosure based on a belief in miscarriage of justice grounds.

198. I accept that it is possible that the Claimant believed that such a practice suggested broadly unlawful behaviour in that she appeared to be suggesting that some form of indirect medical assessment of somebody was being undertaken without their consent. I accept that the Claimant believed something along this lines had occurred and that this belief was reasonable given that she had been told by Ms Squire that something like this had occurred. I also accept that it would be reasonable to believe that referring somebody for some sort of medical assessment without their knowledge could be unlawful even if further information was not known.

199. However this is not the basis for the Claimant's pleaded claim nor how it was articulated by her during the hearing.

200. The Claimant's amended pleadings are that she reasonably believed that she was raising concerns about a breach of the respondent's obligation to comply with GDPR requirements and the deliberate concealment of information relating to infringement of employees rights to privacy and the gathering and processing of special category data without following GPDR requirements. The Claimant gave me no evidence to suggest that this was what she believed at the time. I consider that these pleadings describe her belief about Disclosures 1-3 and are not relevant to Disclosure 4.

201. On balance, I cannot conclude that saying there was 'no legitimate reason' for something to happen and that she does not want her notes or information treated this way amounts to her conveying to Mr Bracken (and those that subsequently read the transcript or the notes or the report), was information that tended to show that the Respondent had acted or was likely to act in a way that breached a legal obligation under GDPR. It is not obvious from what she says or the context.

202. She has not given any evidence to suggest that she believed any of the information allegedly provided to the psychiatrist was in breach of the GDPR. There is also no suggestion anywhere in her evidence that she considers that anybody is deliberately concealing information in relation to infringement of employees' rights to privacy or the gathering and processing of special category data without following GDPR requirements. What she expresses is horror and outrage and that it was not right but not that she considers that there has been some sort of breach of GDPR.

203. I therefore conclude that the information provided does not amount to information that tends to show that a breach of the GDPR or anybody is deliberately concealing information in relation to infringement of employees' rights to privacy or the gathering and processing of special category data without following GDPR requirements because it is too vague an assertion.

204. I have then gone on to consider whether the Claimant reasonably believed that this information tended to show the alleged breaches. What is reasonable is both a subjective and objective test. I have considered the subjective belief of the Claimant at the time and then applied an objective consideration of whether that was reasonable. I do not accept firstly that the Claimant actually believed that the information she was conveying to Mr Bracken tended to show the legal obligation breach she is relying upon. She had submitted a written document with the assistance of lawyers that made no reference to this matter at all. Had she thought it was a breach of the GDPR, given all the other matters outlined in that document, I consider that she would have included it or articulated it more clearly during the interview.

205. I therefore conclude that the Claimant has not demonstrated that she provided the Respondent with information that tended to show that:

(i) Someone's health and safety was at risk
(ii) That there had been a miscarriage of justice
(iii) That there was a breach of the legal obligation as pleaded

206. I accept however that the Claimant did convey that there was a possible breach of a different legal obligation albeit a vague one – namely that it was unlawful to refer someone for a medical examination without their consent. I accept that what she conveyed she reasonably believed tended to show that there had been a breach of a legal obligation albeit she has not articulated which legal obligation that may be.

207. Although my primary finding is that this is not her pleaded qualifying disclosure, I have, for the avoidance of doubt, considered whether this information affected any of the decision making for the detriments and dismissals pleaded.

Disclosure 5

On 20 December 2023, (i) putting in writing to Anne Wade her alleged protected disclosure of systemic issues with investigatory procedures at the Respondent and highlighting that no action had been taken with regards to her alleged protected disclosure of whistleblowers being subjected to psychiatric assessment without their consent, and (ii) going on the record to state that she retained the belief that HR email monitoring practices at the Respondent were unlawful despite there being attempts to suggest that she had confirmed that practices were legally compliant.

208. The Claimant's pleaded case was that this email disclosed information that she reasonable believed tended to show a breach of a legal obligation. During cross examination the Claimant changed her position and said that she had a reasonable belief that the words tended to show a miscarriage of justice and endangerment to the health and safety of an individual.

209. I must assess what the Claimant reasonably believed at the time that she made the disclosures. That the Claimant only introduced the belief around miscarriage of justice and health and safety endangerment during cross examination suggests to me that she had no such beliefs at the time that she sent this email. She was supported by lawyers at this time and therefore had access to legal advice and support so that had she genuinely believed these points at the time she would no doubt have articulated them or her lawyers would have done so on her behalf. In any event there is nothing within the email to Ms Wade which alludes to anyone's health and safety or any type of miscarriage of justice.

210. Turning to the pleaded case that it was her reasonable belief that this tended to show a breach of a legal obligation. In respect of restating her beliefs around email monitoring, I conclude that this was not a protected disclosure for the same reasons I reached that conclusion regarding Disclosures 1-3.

211. In respect of her restating her belief that whistleblowers were subjected to psychiatric assessment and this was not being properly investigated, I repeat my findings in respect of Disclosure 4.

212. I have concluded that none of the disclosures relied upon amount to Protected Disclosures in accordance with s47B ERA. This means that the Claimant's claim regarding whistleblowing detriments and automatically unfair dismissal fail because the Claimant has failed to establish that there were any protected disclosures.

213. However, in the event that any of my conclusions in this respect are wrong I have nevertheless gone on to consider whether the detriments or dismissal were tainted or caused by the disclosures in any event.

Detriments

214. An act or deliberate failure to act that amounts to a detriment must be more than trivially influenced by the whistleblowing for the claim to succeed. It does not have to be the sole or even main cause of the detriment. Despite my findings above I have considered whether any of the disclosures or information relied upon as disclosures more than trivially influenced the Respondent to undertake any of the alleged detriments.

215. My overarching conclusion is that the incident that influenced the way the Claimant was treated was the reorganisation of the People function and the repercussions of that process and the way it was managed. The disclosures analysed and discussed above, (regardless of their legal status), had no bearing whatsoever on what occurred in relation to the decision to investigate the Claimant and ultimately dismiss her though I deal with her dismissal separately.

216. I address each detriment in turn.

"The initiation, oversight and lack of conclusion of a sham investigation into me based on baseless and unfounded allegations and being summoned to this meeting with no knowledge of what the meeting was for."

217. Project Kregel was not a sham investigation nor did it occur because of baseless or unfounded allegations. There were clear concerns raised by a number of members of staff that the reorganisation of the People Function had been undertaken in such a way that it reduced their roles, that they had not

been properly consulted in relation to that reduction in role and that others had been placed into roles that they did not have the appropriate experience to undertake. The Respondent has evidenced that this in turn led to incorrect or potentially risky advice being given on a number of occasions to the business and a number of staff being disgruntled and possibly having legal claims against the Respondent.

218. I do not need to reach findings as to whether the reorganisation had in fact been undertaken badly to assess that these were genuine concerns raised by several staff. I do not accept that any evidence has been provided by the Claimant to link the various concerns that prompted the investigation to her disclosures regarding the email monitoring (which are the only disclosures which pre date Project Kregel).

219. The Claimant relies almost solely on the fact that the timing was suspicious because the changes to roles had been in place since March and the complaints were not made until August. However I have found that the Claimant had not sent team wide confirmation concerning the exact roles and responsibilities of the different teams until 25 July. She says that there had been extensive consultation across the business and that any lack of consultation within Ms Samuel's team was the fault of Ms Samuel. That may have been correct but that does not mean that the concerns raised by staff on 11 August were not genuine or prompted by that email. They clearly were.

220. I accept that Ms Samuel had raised concerns on 12 July and that her concerns were therefore not prompted by the 25 July message to the team. The Claimant's response to that email however was to assign blame (possibly correctly) to Ms Samuel for not managing expectations correctly. Whilst it is quite possible that Ms Samuel had not carried out the consultation as appropriately and this may have led to the complaint on 11 August, I make the following observations;

(i) The Claimant was CPO and it was her responsibility to ensure that the process was appropriately managed. If that process had not gone according to plan because of the failures of one her reports, she would need to manage that and it does not mean that the individuals complaining had not had their job significantly changed
(ii) The Claimant has not accepted that there was a significant change to their role. Her case has been that there was not enough of a change to warrant consultation
(iii) The Claimant did not seek express legal advice on the reorganisation. The advice she sought was limited to the exiting of certain individuals. She had not worked collaboratively with the legal team.
(iv) The Claimant accepts she did not interview candidates for the new roles but appointed people she thought appropriate. She just refutes the need to interview.

221. Therefore, whether or not I accept that the concerns or complaints should be upheld, or whether they caused risk to the respondent, or whether they were the Claimant's fault – they were all genuine concerns raised by people who were genuinely unhappy. On that basis the allegations were not baseless or unfounded.

222. I also consider that Project Kregel was not a sham investigation. Ms Davies of Baker Mackenzie was independent. The terms of reference for the investigation reflect the concerns raised by staff within the People Team that have been evidenced by the Respondent. The proposed methodology for the investigation seems sensible and involves interviewing numerous people including some of those suggested by the Claimant.

223. The investigation is paused because the interim findings of Ms Davies were such that Mr Kidney and Ms McFadzean considered that there was evidence that suggested that the Claimant had significantly mismanaged the reorganisation and that there was significant risk to the Respondent because of the turmoil that the People Team was now in and the fact that it appeared that the Claimant's ability to do the job of CPO was in question. Mr Kidney, with Ms Wade's approval, made the decision to pause the investigation to see if the process could be shortened and lead to fewer people being interviewed and the team being subjected to less upheaval. This was in my view a commercial and risk based decision. It occurred because of the evidence and information that had been gleaned from investigation Kregel. Most of the information informing that decision had been provided by the Claimant herself.

224. The Claimant also relies upon the fact that she was called into the meeting without notice. She said that this was detrimental because she then had a full afternoon of meetings and had she known that the meeting with Mr Forterre was a significant one she would have cleared her diary for that afternoon. Whilst I accept that she was no doubt in shock as a result of this meeting, there is no evidence to suggest that the way in which this was dealt with was in any way related to or tainted by her 'disclosures' regarding email monitoring. Without prejudice meetings are rarely openly advertised at the point they are convened because of their very nature and the Claimant gave no evidence that others who had been offered such exits were normally given such notice.

225. What is key is that at no point has the Claimant provided any evidence to suggest that

(i) Project Kregel was initiated because of the email monitoring 'disclosures'

(ii) That the investigation was paused and an exit package offered because she had previously raised concerns regarding the email monitoring system.
(iii) That the reason she was not given notice of the meeting was she had raised concerns regarding the email monitoring system.

226. Therefore in relation to this alleged detriment I conclude that it did not occur as described and in any event there is no evidence that links it to the Claimant's disclosures regarding email monitoring.

The decision that she should be dismissed communicated by email on 18 December 2023 on the basis of the allegation of not adequately consulting with direct reports on the restructure of her team and appointing people partners into roles that increased operational risk at the firm;

227. I deal with the decision to dismiss the Claimant below under the automatic unfair dismissal claim and unfair dismissal claim.

The manner (as opposed to the fact of) her dismissal on 18 December 2023 and in particular:

(i) the absence of any recognised procedure;
(ii) that she was communicated via email during a period of ill health;
(iii) the misleading content in the dismissal letter, including the false allegation that findings had been made against her;

228. I accept that it is possible for the manner of a dismissal to be separate from the dismissal itself and that it could therefore amount to a separate detriment.

229. However, I find that the absence of any recognised procedure occurred because the Respondent dismissed the Claimant for Some Other Substantial Reason as opposed to conduct or capability. I address Ms Wade's decision making about that below.

230. I have found that the Claimant's email monitoring 'disclosures' did not more than minimally influence or in any way taint Ms Wade's decision not to follow a proper procedure. Her decision was motivated by the fact that she did not consider that any further process or meetings would change her view. The fairness of and reason for that is discussed properly below.

231. The Claimant was not off sick at the date that Ms Wade sent her the letter. She was due to be returning to work that day. Her fit note is retrospective. I consider that the Claimant had every intention of returning to work that day or at least had indicated as such as a bargaining tool regarding any exit package.

232. The letter from Ms Wade was not misleading in respect of the reason for the Claimant's dismissal. It accurately reflected her decision making process. The Claimant obviously disagreed with it and continues to do so – but it is not a misleading letter because it reflects Ms Wade's genuine thoughts at the time.

233. I accept that the letter states that her benefits will be paid for the duration of her notice period and that this did not occur. In some part that was an error (health insurance) in others it was reflective of the contractual position. However, I accept that the letter did not reflect that and was therefore misleading. However I consider that Ms Wade did not know the detail of that when she wrote the letter. Her intention was to be accurate but she was mistaken. Her decision to write this information was not in any way tainted by the Claimant's disclosures, it was an error.

(i) I therefore do not uphold this detriment claim. The first point regarding lack of procedure was not tainted by the email disclosures. The Claimant was not off sick when the Respondent dismissed her. Any misleading element of Ms Wade's letter was there in error not because of the Claimant's disclosures..

The failure to follow an appeal procedure in line with the ACAS Code of Practice on Disciplinary and Grievance Procedures;

234. I have found that the Claimant's email monitoring 'disclosures' did not influence Ms Wade's decision not to offer an appeal. Her decision was motivated by the fact that she did not consider that any further process or meetings would change her view. The fairness of and reason for that is discussed properly below.

235. I do not uphold this part of the Claimant's detriment claim.

(f) the subsequent cancellation of her private medical, life insurance and travel insurance.

236. It was accepted by the Respondent that they erroneously cancelled the Claimant's private medical care. They said that this was a mistake. I was provided with evidence that this affected other individuals at the same time and was caused by an error. I accept that it was not linked in any way to any of the disclosures made by the Claimant as others were treated in the same way. Further the situation was swiftly rectified once the Respondent became aware. Had there been a negative motive or had the Respondent been influenced by the Claimant's disclosures, I do not believe that the situation would have been corrected.

237. I accept that the other matters were salary sacrifice benefits which terminated when the employment terminated. I believe that this was a policy

decision made when all employees were terminated and not limited to the Claimant. I also accept that the Claimant had not opted into those benefits when given the option to do so and therefore she had no contractual right to them in any event.

238. The Claimant may legitimately consider that this was not what she had been told by Ms Wade in the dismissal letter. However the Respondent has demonstrated, on balance of probabilities, that the reason for the Claimant not being paid these benefits was not in any way related to or tainted by her relied upon disclosures.

Automatically Unfair Dismissal

239. The Claimant has brought a claim against the Respondent, a corporate entity as opposed to an individual. Therefore, any claim relating to the fairness of her dismissal can only be brought as an automatically unfair dismissal claim pursuant to s 103A or as an unfair dismissal claim pursuant to s98 Employment Rights Act 1996. It cannot separately be pleaded as a detriment pursuant to s43B ERA 1996.

240. She cannot also plead the dismissal it as a separate, stand-alone detriment claim. This has been examined in various cases, most recently Wicked Vision Ltd v Rice [2024] ICR 675 (EAT).

241. As set out above I have found however that she can bring a standalone detriment claim regarding the manner in which the dismissal was carried out including any decision as to whether to follow an ACAS process and have decided it accordingly. In that respect I disagree with the Respondent's submissions. I accept that the decision to dismiss the Claimant (and why it was made) cannot be pursued as a standalone claim though.

242. In deciding whether a dismissal is automatically unfair, I must consider whether the whether the protected disclosure must be the principal reason for the dismissal. The protected disclosure does not have to be the only reason for the dismissal, but it does need to be the principal reason for the dismissal.

Reason for the Dismissal

243. I conclude that the Respondent has demonstrated that the real reason for the Claimant's dismissal was that they had lost trust and confidence in the Claimant's ability to carry out the Chief People Officer role. Ms Wade's evidence on this was clear and cogent. The burden of proof is on the Respondent to demonstrate the reason for the dismissal and I consider that they have done so.

244. The Claimant's case as to how Ms Wade was influenced by the protected disclosures was, ultimately, vague and unspecific. It also varied and was at times equivocal and at other times could have amounted to an acceptance that

her claim was ill founded. The Claimant's accounts of how the protected disclosures affected Ms Wade's actions varied considerably.

245. It was clear that the possibility of dismissal was not discussed or raised with the Claimant in any way prior to her dismissal. It was accepted by the Respondent that they followed no process whatsoever in dismissing her. It was accepted that she was not given the right to appeal against the decision. A letter was sent to her dated 18 December 2023 written by Ms Wade. I deal with the procedural fairness of the dismissal below. However, in circumstances where there has been no process followed, the decision to dismiss is, understandably, usually more shocking and difficult to accept or understand for the individual being dismissed. It is perhaps trite to say that such a significant decision occurring without any warning makes it harder to accept that the reasons set out in any dismissal communication are the true reasons. I would say that this has been particularly so for the Claimant in circumstances where she had already been assigning negative motives to the actions of several colleagues and had, at the time, been out of the workplace for a significant period of time due to ill health.

246. The Claimant, over the course of the Tribunal hearing, did not properly or consistently articulate how she said the disclosures she made on 28 June or 11 July or 9 November influenced Ms Wade's decision making process. The thrust of her evidence, as I understood it, was that the disclosures had prompted the initiation of Project Kregel which the Claimant says was a sham investigation and the interim report from Project Kregel and the fact that it was never concluded, then influenced Ms Wade's decision to dismiss the Claimant and influenced how she went about enacting that dismissal.

247. Some of the confused evidence given by the Claimant in answer to various cross examination questions on this point were quoted in the Respondent's submissions. Having reviewed my own notes I do not consider that this is a case of the Respondent 'cherry picking' the answers which suit their case. I accept that this is reflective of the general thrust of the Claimant's evidence regarding her dismissal and the circumstances that led up to it.

"I would agree with you if the precise question is: is it linked to a protected disclosure? It is not. It has been a very challenging experience for me to make sense of the treatment I have received from an employer that I had such loyal service to, but I completely agree with your point that motivation does not link to a protected disclosure. I agree."

248. The Respondent's submissions were as follows:

"When the Claimant was asked how she linked that evidence to her allegation that she had made protected disclosures on 11 July 2023 (the Claimant having already conceded that she could not draw a link between her dismissal and an

alleged protected disclosure to Antoine Forterre on 28 June 2023), the Claimant responded as follows*:*

"I don't. I link it to 11 July based on the first step being the initiation of the sham investigation; the second step being Anne being in receipt of the output of a very circumvented sham investigation and basing her decision upon that.

I'm of the belief that if my request had been followed to interview more individuals and get a more rounded and fair picture, that Anne would be considering different evidence to make her determination. So that is the causal link: the initiation of the investigation, the investigation being a sham in my mind, and Anne basing her outcome on an incomplete and malicious set of evidence."

249. Ms Wade considered assessed a significant amount of information to reach her decision regarding whether she had trust and confidence in the Claimant to carry out her role. She knew about the Claimant's allegations regarding the email monitoring and her concerns regarding how X was treated.

250. Project Kregel had not concluded but it had made various interim observations all of which cast significant doubt on the Claimant's role. The interim report was a document prepared by Ms Davies before she left Baker Mackenzie. It was not, as alleged by the Claimant, retrospectively created due to these proceedings.

251. The report was not a sham and Ms Wade had no reason to consider that it would be a sham or had been prepared or commissioned with any ulterior motives in mind.

252. Even if the Claimant is correct and Ms Samuels was negatively oriented towards the Claimant because of the concerns she had raised about the email monitoring, or if Ms Grew was circumspect about the Claimant's abilities to be a CPO because she had stood up to her in 2019 (none of which I accept), I do not accept that this was communicated to Ms Davies who carried out Project Kregel's initial investigation.

253. Ms Davies found, on an interim basis and pending more investigation, that the Claimant had carried out a reorganisation of the People Function:

(i) without sufficiently consulting with some individuals whose roles were changed,
(ii) That appeared to give preferential treatment to individuals from within her previous team
(iii) That had not followed proper process in appointing individuals
(iv) Appeared to have led to some individuals not being appropriately qualified to carry out their new roles which led to poor advice being given to the business

(v) That placed the Respondent at risk because they were at risk of litigation due to either unfair dismissal or discrimination claims
(vi) That placed the Respondent at risk of sanction by the FCA because of the level of risk created
(vii) That was leading to unhappiness and risk of departure amongst several staff members

254. That report was not shown to the Claimant at the time and she did not have an opportunity to counter the evidence or views formed as a result. She considers that Ms Davies did not interview sufficient people to be able to reach a 'safe' conclusion. She asserts that the people interviewed were from one team and had her team been interviewed, a different conclusion would have been reached.

255. Ms Wade's response to that was that it was the Claimant's responses and interviews that gave her most concern. The Claimant failed to appreciate at the time, and in evidence before me, that her actions had created any risk or fallen short of any of the competencies expected of someone in the CPO position. Her responses to the allegations demonstrated a lack of awareness and understanding of her very senior role such that Ms Wade's trust and confidence in the Claimant to perform the role was broken. I consider that, in all the circumstances, Ms Wade's conclusion was reasonable.

256. I reach that conclusion because the Claimant had acted without focussed advice from anyone in the legal department or in risk and compliance, and reorganised a vital department. Ms Wade reasonably concluded that risks had been created and were sufficient to cause an independent employment law professional to opine that significant risk had been caused. What turned this from being a capability matter to a loss of trust and confidence was that despite these queries being raised, the Claimant failed to appreciate or acknowledge that she could learn from the process or that she had done anything wrong. Her response was to immediately assign blame to Ms Samuels and she appeared blind to the fact that assigning the newly created People partners role to her colleagues from the Talent team without due process or allowing others to apply for the role not only legitimately created bad feeling amongst the People Team but also led to unqualified people delivering bad advice. Her response appeared to be either that the people did have appropriate experience (which she has not evidenced) or that the roles in question did not need any qualifications at all. I accept that it was reasonable for Ms Wade to consider these responses damaging to her trust and confidence in the Claimant to operate as the leader of the entire People Team.

257. Ms Samuels may have been underperforming and have not appropriately consulted with her team, but that did not change the fact that individuals had had changes made to their roles without consultation and they were unhappy. It is not in dispute that some people had been consulted – but

they were the ones getting the new roles. Not everyone had been properly consulted and it is reasonable for Ms Wade to consider that the responsibility ultimately lies with the CPO in those circumstances. It was also clear that the people appointed to the new roles had not been interviewed nor the roles opened up to any transparent application process. Further the report reasonably found that there were examples of those people newly appointed to the roles giving incomplete or incorrect advice to the business. Yet the Claimant's approach to that situation being raised with her was to attack others and deny any culpability whatsoever.

258. The decision to have a without prejudice meeting with the Claimant was an effort by the Respondent to reach a commercially sensible way of resolving the situation. It would have been in the Respondent's interests to exit the Claimant easily without having to complete the Project Kregel investigation as it would avoid the time, costs and upheaval of completing interviews with the remaining HR team members. The decision to hold that meeting was because of those interim findings. I do not accept that the Claimant has established any link whatsoever with her disclosures regarding the email monitoring process. Ms Samuels and her team were genuinely aggrieved by the reorganisation process and that was clearly evidenced in the interview notes. What was also evidenced was bad advice exposing the Respondent to the risk of potential Employment Tribunal claims. More importantly, the Claimant did not at any time suggest to Ms Davies that the entire set of complaints were motivated by any such disclosures.

259. It was only after the protected conversation that the Claimant raised the protected disclosures link. I have found that the document was not intended to be treated as a grievance. The Claimant intended it to be a negotiation tool. There is no criticism of the Claimant for attempting to negotiate with the Respondent. However, that does cast some doubt on the matters that are asserted in that document and why the Claimant had not raised the matters beforehand particularly in light of the in depth investigation that was being carried out by Ms Davies giving the Claimant the perfect opportunity to explain why she believed the complaints about her were motivated by those disclosures.

260. Even the Claimant's 'grievance' does not really attribute the complaints to the protected disclosures alone. She asserts that the MoveIt data breach was in fact the origin of the negative feelings towards her. Yet nothing associated with the MoveIt data breach was pleaded as a protected disclosure.

261. The timing for the complaints was prompted by the email dated 25 July when the Claimant, for the first time, communicated the new structure entirely. Again, the fact that this was news to the Team may well have been a failure on the part of Hayley Samuels but that does not change the fact that this was the motivation for the timing of the complaints on 11 August.

262. I conclude that the instigation of Project Kregel was not motivated in whole or in part by the issues surrounding the email monitoring. Perhaps even more importantly, even if the reports that led to the decision to initiate the investigation were somehow influenced by the email monitoring conversations, the investigation itself was carried out by an independent person. That independent person was provided with evidence and information, including by the Claimant herself that demonstrated that the reorganisation of the People Team had placed the Respondent at risk and that the Claimant had no insight into the role that she had played in that.

263. Ms Wade's subsequent reliance on that report was reasonable and entirely unrelated to any concerns the Claimant had raised about the email inbox monitoring process.

264. The case of Royal Mail Group Ltd v Jhuti 2020 ICR 731, SC, establishes that if the decision maker makes the decision to dismiss in good faith but someone else has deliberately kept them in ignorance of the disclosure and manufactured a bogus reason to dismiss then a Tribunal can penetrate through the invention of that bogus reason and find that the dismissal was unfair.

265. Therefore, if I found that someone within the senior leadership team (other than Ms Wade), motivated by any or all of the Claimant's disclosures 1-4, manufactured the grievances and/or the Kregel report in order to create a bogus reason to dismiss the Claimant, I could find that the Claimant had been automatically unfairly dismissed.

266. Ms Wade's evidence to this Tribunal was measured and considered. She was very clear as to what had led her to reach the conclusion that the Respondent no longer had trust and confidence in the Claimant's ability to lead the People Function. Her explanation was as follows. The extent of the problems within the People Team were, by this time, significant. The risk created in respect of possible unfair dismissals and discrimination claims was reported by Mr Kidney to the FCA. The people who had been appointed to the new roles lacked the appropriate skills and competencies, the Claimant continued to assert that she could and should make decisions without recourse to consultation with colleagues in the legal team and she refused at all stages to accept that she had created any risk or demonstrate any understanding of risk management at this level.

267. Ms Wade did not make any final decision pending the outcome of Project Sartre. The Claimant's allegations, if correct, could have shed doubt on the misgivings implicit in the interim Project Kregel investigation report. However the outcome report from Baker Mackenzie was that none of the Claimant's concerns were born out or justified in their opinion. Therefore, Ms Wade's opinion was unchanged regarding her trust and confidence in the Claimant.

268. Given that the Claimant, for the first time, set out in writing that she considered that the email monitoring process was unlawful, I have carefully considered whether, even without being influenced by the reports on 28 June and 11 July, Ms Wade was influenced by the reiteration of those allegations in the 'Narrative of Events sent by the Claimant's lawyers.

269. I consider that Ms Wade genuinely believed that the Respondent could no longer have trust and faith in the Claimant to carry out the role of Chief People Officer. She based that conclusion primarily on the findings in the interim Project Kregel report . However I consider that what the Claimant said in her interviews for Project Sartre reinforced Ms Wade's opinion of the Claimant. Her witness statement confirms that,

"The interview notes reinforced to the Claimant that she continued to display a lack of awareness of (i) the consequences of and responsibilities associated with operating in a regulatory environment as CPO and the need to work closely with the Legal and Compliance teams and (ii) the seriousness and genuine nature of the concerns that had been raised about the Restructure. In my view both had been downplayed by the Claimant to a concerning extent." (para 36, Ms Wade's witness statement).

270. Although Project Sartre's purpose was to consider the Claimant's concerns including that raising the challenges to the email monitoring had prompted the complaints against her, I do not find that Ms Wade's conclusions were reached because the Claimant had raised those concerns either on 28 June, 11 July or in the Narrative of Events.

271. The principal reason for Ms Wade's decision to dismiss the Claimant was her lack of faith in the Claimant's ability to lead the People Team based on the interim findings of Project Kregel and conclusions of Project Sartre and her own considerations of the evidence that they had gathered and the impact of the reorganisation and integration of the People Team. Neither of the investigations were bogus or sham or manufactured to hide protected disclosures. Independent, external lawyers carried out reasonable investigations. Ms Wade was fully aware of the disclosures such as they were and the concerns that the Claimant had regarding their possible influence on Project Kregel. Ms Wade's principal reason for dismissing the Claimant was not any of the disclosures relied upon in the pleadings.

272. I therefore do not uphold the Claimant's claim for automatic unfair dismissal.

Unfair Dismissal

273. As stated above, the principal reason for the Claimant's dismissal was Some Other Substantial Reason, namely that the Respondent had lost trust and confidence in the Claimant to carry out the role of CPO. To determine the Claimant's claim for unfair dismissal I must consider whether the decision to dismiss for this reason fell within the range of reasonable responses for an employer in all the circumstances including considering whether it was based on a fair procedure. When considering whether the procedure was reasonable I must consider whether it was within the range of reasonable investigations for an employer and not substitute it with what I would have done or consider reasonable.

274. No procedure was followed by the Respondent in this case. There is no statutory mandate that a certain procedure is followed in dismissing for Some Other Substantial Reason. Nevertheless, to dismiss, with no process or warning whatsoever is highly unusual and for it to be fair challenges the basic tenets of s98(4) that sets out that a Tribunal must consider whether in the circumstances the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee and shall be determined in accordance with equity and the substantial merits of the case.

275. I have carefully considered the caselaw which deals with the unusual dismissals where absolutely no process is followed before a decision to dismiss is made. In *Jefferson (Commercial) LLP v Westgate EAT 0128/12* W the EAT held that what is reasonable or unreasonable within S.98(4) ERA depends on the particular circumstances of the case and that the subsection does not in terms require a given or any procedure involving further meetings. *Gallacher v Abellio Scotrail Ltd EATS 0027/19* held that where there was a breakdown in working relations between an individual and their line manager , it was possible for a Tribunal to accept the Respondent's argument that if the breakdown was irretrievable and that this amounted to SOSR then a dismissal procedure was unnecessary because it was reasonably considered by the employer to be futile in the circumstances.

276. Finally, as in this case, in *Matthews v CGI IT UK Ltd 2024 EAT 38*, the employee was given no written warning and he was not offered an appeal. In Matthews the tribunal concluded that it was within the range of reasonable responses for the employer to decide that the breakdown was terminal and not remediable. It was reasonable because the Tribunal had found that the employer had made genuine and persistent efforts to find a solution to the situation and allow the Claimant's employment to continue but the Claimant in that case had instead been confrontational and dismissed the Respondent's attempts. There was therefore, in the Respondent's opinion, no alternative option that would work and a process would not change that given the process they had already undertaken.

277. In this case, the Respondent had asked independent external individuals to undertake two detailed investigations. The focus of those investigations was the Claimant and her actions. As part of those investigations the Claimant had been interviewed several times, she had been able to provide significant amounts of information and opinions to the investigations all of which Ms Wade had read and Ms Wade did not consider that any further meetings would provide any more information or clarity.

278. I accept the basic premise that an employee, understanding that they are at possible risk of dismissal might provide different information to a meeting than they would in the course of a grievance investigation (Sartre) or a possible capability or misconduct investigation (Kregel). The way in which an employee approaches such meetings could be different and I must consider whether it was reasonable for Ms Wade to decide to deny the Claimant the opportunity to do that on this occasion.

279. It is not for me to substitute what I would have done in these circumstances, it is for me to consider whether it was reasonable in all the circumstances for an employer to reach this decision without following a process. That assessment must be done taking into account all the circumstances of the case.

280. On balance, in these unusual circumstances, I find that it was reasonable for an employer in all the circumstances not to follow a process. I accept that it was reasonable for Ms Wade to the form the opinion that another meeting with the Claimant would not have provided any more information that would have shifted her conclusion that she had no trust and confidence in the Claimant to perform the CPO role. The Claimant had made it clear during both investigations and several hours of interviews that she was unable or uninterested in accepting any culpability or proper understanding of the risk she had created or, (even taking her explanation that some of the staff were unhappy already) at the very least exacerbated significantly. I have taken into account the fact that Project Kregel was paused half way through and was yet to interview members of staff that may have been more positive towards the actions of the Claimant. However I accept that it was reasonable for Ms Wade not to require the finalisation of Project Kregel. She understood and believed that there were members of the People Team that were not unhappy and had no complaints about what the Claimant had done. She understood that there had been some consultation across the Team. However, it was reasonable for her to conclude that even with those positives, it would not detract from the serious negative impact the situation had had on the People Team and the risks that had been created.

281. In circumstances where the Claimant's behaviour had been examined (Kregel) and then her colleagues' behaviour and motives had been examined (Sartre) Ms Wade had the benefit of two independent investigations, with two

different focuses, both of which, in her view, demonstrated that she could not trust the Claimant to carry out the role of CPO. This was an senior executive role that required collaborative and trusting relationships with colleagues. The Claimant, through her behaviour in reorganising the People Team and her response to an investigation into what had happened had demonstrated that she did not trust her colleagues, she failed to recognise the scope and detail of the reorganisation she had undertaken and she failed to consider the need to seek the advice and support of colleagues. Her response was at all times defensive and accusatory of others. The Respondent is an FCA regulated organisation. The FCA has clear rules regarding expectations surrounding the levels of risk that are tolerable including non-financial risk. This situation had created a level of risk that had resulted in Mr Kidney having to self-report the organisation to the FCA because of the number of possible claims created by the reorganisation.

282. In light of the fact that Ms Wade had all of this information it was reasonable for her to conclude that a further meeting with the Claimant would not provide her with any more information and therefore this was a rare situation where it was not unreasonable to dismiss the Claimant without further process.

283. I have also considered whether it was reasonable for Ms Wade to make the decision at all. She had overseen Project Kregel and Project Sartre and therefore had some involvement. She said that the reason she made the decision was that she was across all the information that had arisen in both investigations. She had not yet made any decisions or reached any conclusions because they had appointed independent investigators so she was not constrained by having made any earlier decisions yet she knew all of the information because she had already been briefed. She was also the most senior person within the organisation but had not had any relevant direct dealings with the Claimant and had not been accused of collusion by the Claimant. The Claimant appeared to suggest that Ms Grew would have been better placed to make the decision given that she was CEO and that would have given the Claimant the right to appeal to Ms Wade. However the Claimant had accused Ms Grew of bullying and collusion by this stage and so she would not have been appropriate. Taking into account all of these circumstances I accept that it was reasonable for Ms Wade to make the decision.

284. I have carefully considered whether it was reasonable for Ms Wade to conclude that the reason to dismiss the Claimant was a lack of trust and confidence as opposed to considering that this was a situation where they should be dismissing for capability. There is clearly a significant overlap between the two reasons given that Ms Wade's trust and confidence had been broken in respect of the Claimant's ability to carry out her role.

285. Ms Wade states that she had lost trust and confidence in the Claimant's ability to carry out the CPO role. This could therefore have been considered as

a capability matter and therefore it could be reasonable to expect the Respondent to engage in some form of performance management process as opposed to dismissing for some other substantial reason.

286. Ms Wade accepted that this could have been the route she took but considered that, at this senior executive level, the way in which the Claimant had responded to the concerns being raised and not just the errors of judgement that had led her there, were the reason that trust and confidence had broken down. As the most senior member of the People Team and a human resources professional, it was reasonable for Ms Wade to expect the Claimant to have an understanding of the possible repercussions of such a reorganisation even if not on a legal level, then she ought reasonably to have understood the need to consult with the legal and risk/compliance teams regarding possible risks. It was also reasonable for her to expect the Claimant to have understood the risks that had been created even if she did not accept responsibility. Instead, Ms Wade concluded that what the Claimant demonstrated during both Kregel and Sartre was a lack of awareness of the level at which she was operating and how to manage risk within that environment. I also consider that it was reasonable for Ms Wade to conclude that the Claimant had demonstrated during her interviews that she had an almost complete lack of trust in her colleagues, particularly Ms Squire but also Ms Grew and Ms Samuel. Her allegations against them were significant and suggested that the Claimant had also lost trust and confidence in the Respondent. It was reasonable for Ms Wade to conclude that the Claimant would be reluctant to collaborate across the teams thus ensuring that the Respondent's non-financial risk management remained compliant with the FCA requirements.

287. Therefore whilst some aspects of the situation could have been considered as capability matters, I consider that based on all of the evidence I have been provided with, it was reasonable for Ms Wade to conclude that her trust and confidence in the Claimant to perform the role of CPO has been broken, that the Claimant's trust in the Respondent had been significantly eroded and that combined this meant that the situation was not one which could or should be dealt with by way of a performance management process.

288. I therefore consider that it was reasonable taking into account all the circumstances and equity of the case for there not to be a process followed. I also consider that the it was reasonable (taking into account the circumstances and equity of the case), even without a process being followed, for Ms Wade to conclude that her trust and confidence in the Claimant to carry out the CPO role was broken and to dismiss the Claimant as a result. She based her decision on the large amounts of information and evidence provided by the Claimant during the investigations and on the facts established within them. At such a senior level I consider that her expectations of the Claimant's behaviour and conduct

in the role were reasonable and had not been met thus breaking trust and confidence.

289. I have considered whether it was fair for Ms Wade not to offer the Claimant an appeal. The Respondent did not offer an appeal because, Ms Wade said, she was the most senior person in the organisation so there was nobody suitable to hear an appeal. The Respondent had clearly seen fit to employ external independent law firms to consider two other investigations. However it appears that this was not considered for an appeal. I do not think however that the failure to offer an appeal takes the procedure outside the realms of what is reasonable in all the circumstances. Firstly, there is no statutorily mandated procedure for SOSR dismissals. Secondly, although an external appeals process could be suitable for assessing the seriousness of, for example, someone's conduct, I consider that assessing whether trust and confidence has been irretrievably broken is more likely to be a decision that needs to be taken 'in house' by an organisation as only they can consider whether their trust and confidence has been irretrievably broken. As found in the case of Matthews v CGI IT UK Ltd I must consider the case from the perspective of the employer at the time who concluded that it was reasonable to dismiss without a warning or an appeal as these efforts would have been futile. I believe that this is very similar to the situation here and that Ms Wade's conclusion was reasonable taking into account all the circumstances and the equity and substantial merits of the case.

290. I therefore conclude that the Respondent's decision to dismiss the Claimant falls within the range of reasonable responses for an employer taking into account all the circumstances of the case and when considering the equity and substantial merits of the case. I therefore do not uphold the Claimant's claim for unfair dismissal.

Employment Judge Webster

Date: 23 May 2025

JUDGMENT and SUMMARY SENT to the PARTIES ON

28 May 2025

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FOR THE TRIBUNAL OFFICE

Appendix 1

The Issues

1.1 By ET1 and Grounds of Complaint dated 7 February 20241, the Claimant is bringing the following claims:

(a) Whistleblowing detriment pursuant to section 47B Employment Rights Act 1996 ("ERA"); and

(b) Automatic unfair dismissal pursuant to section 103A ERA.

1.2 Her claims are denied by the Respondent as set out in Grounds of Resistance dated 4 April 2024.

2. Alleged Protected Disclosures

2.1 Did the Claimant make the protected disclosures set out in paragraph 31 of the GoC namely:

(a) On 28 June 2023 seeking permission from her manager Antoine Forterre (CFO and Executive Director) to suspend HR email monitoring practices due to the current execution of HR email monitoring being unlawful;

(b) On 11 July 2023, in a meeting with Robyn Grew (CEO and Executive Director), Tania Cruickshank (General Counsel), Kate Squire (Chief Compliance Officer) and Antoine Forterre, sharing her view that the HR email monitoring practices were unlawful and would be highly problematic if they were ever audited;

(c) On 11 July 2023, in a meeting with Tania Cruickshank and Kate Squire, sharing that a Data Protection Impact Assessment had not taken place and that special category data was being captured and not purged in the HR email monitoring practices and this contravened both GDPR and ICO requirements;

(d) On 9 November 2023, in a meeting with Julia Wilson (of Baker McKenzie), disclosing the practice of a whistleblower being subjected to psychiatric assessment to support the Respondent's investigatory and litigation strategy; and the full transcript of the meeting was shared with Patrick Kidney, Anne Wade and Lucinda Bell.

(e) On 20 December 2023, (i) putting in writing to Anne Wade her alleged protected disclosure of systemic issues with investigatory procedures at the Respondent and highlighting that no action had been taken with regards to her alleged protected disclosure of whistleblowers being subjected to psychiatric assessment without their consent, and (ii) going on the record to state that she retained the belief that HR email monitoring practices at the Respondent were unlawful despite there being attempts to suggest that she had confirmed that practices were legally compliant.

2.2 In respect of each of the above alleged protected disclosures:

(a) Did the Claimant make a disclose information which tends to show, in her reasonable belief, that the Respondent had (or was likely to have) failed to comply with each listed legal obligation at paragraph 31 of the GoC and/or deliberate concealment?

(b) Did the disclosure of information, in her reasonable belief, serve a wider "public interest" (section 43B(1) ERA)?

3. Alleged Detriments (Section 47B claim)

3.1 Was the Claimant subjected to the following alleged detriment set out at paragraph 35 of the GoC as a result of making the alleged protected disclosures listed at paragraph 31 of the GoC:

(a) the initiation, oversight and lack of conclusion of a sham investigation into her on baseless and unfounded allegations and being summoned to a meeting with no knowledge of what the meeting was for; or

(b) the decision that she should be dismissed communicated by email on 18 December 2023 on the basis of the allegation of not adequately consulting with direct reports on the restructure of her team and appointing people partners into roles that increased operational risk at the firm; or

(c) her dismissal (pleaded as a detriment); or

(d) the manner (as opposed to the fact of) her dismissal on 18 December 2023 and in particular:

(i) the absence of any recognised procedure;

(ii) that she was communicated via email during a period of ill health;

(iii) the misleading content in the dismissal letter, including the false allegation that findings had been made against her; or

(e) the failure to follow an appeal procedure in line with the ACAS Code of Practice on Disciplinary and Grievance Procedures; or

(f) the subsequent cancellation of her private medical, life insurance and travel insurance.

3.2 Can the alleged detriments at paragraphs 3.1(b) to 3.1(e) above constitute a standalone claim against the Respondent (being a corporate rather than an individual) pursuant to section 47B ERA6?

4. Automatic Unfair Dismissal (Section 103A claim)

4.1 What was the reason or principal reason for the Claimant's dismissal?

(a) The Claimant claims the principal reason for her dismissal was that she made one or more of the alleged protected disclosures set out at paragraph 31 of the GoC.

(b) The Respondent denies this and contends that the Claimant was dismissed for a reason related to her conduct and/or for some other substantial reason, namely an irretrievable breakdown in trust and confidence.

5. Ordinary Unfair Dismissal (Section 98 claim)

5.1 What was the reason or principal reason for the Claimant's dismissal and is it a fair reason falling within s98(2) ERA?

(a) The Claimant claims the principal reason for her dismissal was that she made one or more of the alleged protected disclosures set out at paragraph 31 of the GoC.

(b) The Respondent denies this and contends that the Claimant was dismissed for a reason related to her conduct and/or for some other substantial reason, namely an irretrievable breakdown in trust and confidence.

5.2 If the reason or principal reason for the Claimant's dismissal is a fair reason falling within s98(2) ERA, did the Respondent act reasonably in relying on this as sufficient reason for her dismissal?

6. Jurisdiction

6.1 Was the alleged detriment claim (at paragraph 3.1(a) above) presented within the applicable primary time limit?

6.2 Was the alleged detriment at paragraph 3.1(a) above part of a series of similar acts or failures to act within section 48(3)(a) ERA such that it was presented within time?

7. Remedy

7.1 Should the Tribunal make a declaration and, if so, in what terms?

7.2 Should the Tribunal make recommendation(s)? The Claimant seeks a recommendation that the Respondent be required to take action in relation to whistleblowing training.

7.3 Is (and if so, in what amount is) the Claimant entitled to compensation for financial loss?

7.4 Is (and if so, in what amount is) the Claimant entitled to compensation for:

(a) Injury to feelings;

(b) ACAS uplift of 25%; and

(c) Interest.