



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant: Ms J Jiang

Respondent: SOAS University of London

Heard at: in public

On: 27, 28, 29, 30 May, 2 June 2025 (3 June in chambers)

Before: Employment Judge Adkin
Ms J Marshall
Mr P Alleyne

Appearances

For the claimant: in person

For the respondent: Miss K Barry, Counsel

JUDGMENT

(1) The following complaints are not well founded and are dismissed:

- a. automatic unfair dismissal because of a protected disclosure pursuant to section 103A of the Employment Rights Act 1996 ("**ERA**");
- b. detriment because of a protected disclosure pursuant to section 47B of the ERA;
- c. unlawful deduction from wages pursuant to section 13 of the ERA.

REASONS

Overview

1. The Claimant Dr Jue Jiang ("the Claimant") was a post-doctorate student researching the Chinese criminal justice system being paid from funding provided from a European Commission fellowship.
2. The Claimant worked for the Respondent as a Marie Curie Research Fellow, from 16 September 2022 until 19 October 2023. Early conciliation started on 2 December 2023 and ended on 4 January 2024. The Claimant presented her claim on 11 February 2024.
3. She initially started work under the fellowship under supervision at the Newcastle University, but then changed supervisor and moved to the School of Oriental and African Studies, University of London ("SOAS", "Respondent"). This claim is about her dismissal and events leading up to and after her dismissal.
4. The Respondent dismissed the Claimant purportedly for a breakdown in trust and confidence described as "some other substantial reason" without giving her the opportunity to comment nor a hearing nor an appeal right. They contend that despite repeated requests the Claimant failed to provide evidence of producing work as she was required to under her fellowship.
5. The Claimant on the other hand contends that she made five protected disclosures and has been automatically unfairly dismissed and treated detrimentally for making protected disclosures. She says that she was unable to complete her work because the Respondent failed in its duty to her to supervise her in particular in relation to the ethics of her research given the human subjects of the research.
6. The Tribunal concluded that none of the disclosures made by the Claimant were qualifying protected disclosures within the meaning of section 43B of 43G of the Employment Rights Act 1996. It follows that neither of the protected disclosure (often called "whistleblowing") complaints succeeded. A complaint for unpaid holiday pay was not persuaded and the Claimant failed to establish a complaint for unpaid wages (arrears of pay).

Evidence

7. We had the benefit of an agreed bundle of 1,550 pages to which several pages were added by agreement.
8. As to witness evidence we heard from the Claimant himself and the following witnesses from the Respondent:
 - 8.1. Professor Eddie Bruce-Jones, Head of School of Law;

- 8.2. Dr Grace Mou, Senior Lecture, Chinese Criminal Justice, the Claimant's supervisor from September 2022 onward;
- 8.3. Professor Graeme Were, Head of the College of Law, Anthropology and Politics until February 2025, who dismissed the Claimant;
- 8.4. Ms Johanne ("Jo") Bland, (at that time) Deputy HR Director, Policy & Reward;
- 8.5. Mr Khalid Hasan, Research Ethics & Governance Officer;
- 8.6. Ms Michelle Kelsall, Senior Lecturer in International Law;
- 8.7. Ms Nicolette Busutill, Lecturer in Law, Module Convener for Criminal Law Module Academic Year 2023/2024.

Findings of fact

- 9. The Tribunal was substantially assisted by a chronology, much of which was agreed between the parties.

Background to Fellowship, EC funding and initial hosting at Newcastle University

- 10. The Claimant was awarded a 24 month Marie Sklodowska-Curie post-doctoral fellowship (the "Fellowship") from the European Commission European Research Executive Agency ("EC", "the Funder", "EC Funder"). The terms of that Fellowship were set out in a Grant Agreement dated 16 April 2021 made between the EC and Newcastle University as the initial host of the Claimant's research project.
- 11. The Fellowship started on 5 July 2021. The total value of the Fellowship was in the region of €212,000. Not all of that figure would go to the Claimant.
- 12. The research topic was "The Rationale & Ramification of Sentencing & Punishment in China Through A Gender-Based Perspective".
- 13. The Fellowship at Newcastle University was suspended from May 2022 to September 2022. The Claimant told the Respondent's investigator that this was because of a similar situation that arose at Newcastle University to that which she said later arose on the Respondent, namely her supervisor at Newcastle did not perform their responsibilities in line with what they wrote on the Fellowship submission. She said she reported this to the EC, and they advised her to transfer to another institution. Newcastle University is not a party to this litigation and the Tribunal has not heard any evidence from it.

Approach to Respondent suggesting transfer

- 14. As a result of the Claimant's relationships at Newcastle University breaking down she approached Dr Grace Mou at the Respondent on 27 July 2022 explore the possibility of transferring her post-doctoral fellowship research project from Newcastle University to SOAS University.

15. Dr Mou agreed. She and the Claimant had research areas in common and some common background including an education institution at which they had both studied back in China, although they had not met each other before

Transfer

16. It was agreed that the Claimant would transfer from Newcastle University to the Respondent SOAS, by a transfer of the EC Grant Agreement dated 16 September 2022. On this date the Claimant commenced working for the Respondent.
17. Upon transfer, it appears that no references were taken up, for example by the Respondent contacting Newcastle University. The Respondent did not identify whether or not Newcastle University had carried out an ethics review of the Claimant's research.

First supervisory meeting

18. On 28 September 2022 the Claimant and Grace Mou had their first supervisory meeting.

Worktribe account

19. On 11 October 2022 Dr Mou wrote:

"I met with Jue yesterday and we found that Jue does not have worktribe account yet. I wonder whether you could help her set up a worktribe account so that she can access her project, especially to complete her ethical review:"

Ethics

20. It seems to be common ground that an ethics review of the approach being taken is important in particular for a topic of this sort which involves research with human subjects in which there are actual people, who are the subject of the research and who might be affected or subject to political repercussions in their home country.
21. Within the Respondent's administration, Sadeep Rai, Acting up Post-Award Manager Research and Knowledge Exchange Delivery emailed Respondent's Peter Niven, Research & KE Development Officer about an ethical checklist completion for the Claimant's research. He chased up on 18 October 2022. Mr Niven responded the following day suggesting that a review of "ethics and risk" would have been carried shortly after application or before award by Newcastle University. For this reason he suggested that these would not be needed. The Claimant was copied on this email exchange containing this assumption and did not reply to state anything to the contrary.
22. Sadeep Rai queried the point about an ethics review further by email, stating that he had not set up a project without ethic completion before.

23. Two days later on 20 October 2022 Ying Chen, suggested to her team members Sadeep Rai and Khalid Hassan that:

"I think we need the PI to complete the ethics checklist due to the sensitive nature of the project".

[PI denotes "Principal Investigator"]

24. By this stage neither the Claimant nor Dr Mou are copied on the email exchange.
25. Mr Hassan, Research Ethics & Governance Officer, who gave evidence to the Tribunal admitted that the ethics checklist was never completed.
26. By an email of 20 October Mr Hasan listed the matter to be considered at a Research Ethics Panel (REP) in November 2022.

Research Ethics Panel ("REP")

27. By an email on 29 November 2022 at 17:00 Khalid Hasan circulated a bundle of documents to Panel members ahead of the November virtual REP meeting, including the Claimant's Response to Funder on pre-grant Ethics queries (774 - 778) and Synopsis of Proposal (778 - 781).
28. A cover sheet which related to a number of different research projects that were being considered by the Panel contained a section posing some specific questions about the ethics approach of the Claimant's research and the transition across from Newcastle University.
29. In one of the papers submitted to REP, produced by Peter Niven he reiterated his assumption that ethics and risk had been covered by Newcastle University and the funder at the application stage.
30. At the Panel, held virtually on 30 November 2022 each REP member completed a cover sheet and Khalid Hasan prepared a "Collated tabular decisions" document, showing that the Claimant's project had been approved but "PI must successfully complete the Epigeum Research Integrity course". The PI (i.e. the Claimant) was asked to consider three detailed ethical questions.
31. The outcome of this Research Ethics Panel on 30 November 2022 was not confirmed to the Claimant until a short letter of 7 June 2023, which is described below later in the chronology.

Relationship with Dr Mou breaks down

32. Unrelated to these matters relating to ethics, as documented by emails in the period 30 January 2023 - 2 February 2023 the relationship between the Claimant and her new supervisor Grace Mou broke down. This led to a situation where she was again looking for a new supervisor, as evidenced by email exchanges between the Claimant, Dr Scott Newton (then Head of Law)

and Vanja Hamzic relating to her request for a change of supervisor for her research project in early March 2023.

33. The need to find a new supervisor for the Claimant's research project was discussed at an internal Departmental Research Committee meeting in March 2023.
34. After Scott Newton stepped down as the Head of Law on 24 March, the Claimant continued to correspond with Vanja Hamzic about potential supervisors of the Claimant's research project within the Respondent.

Criminal law moderation

35. On 3 April 2023 a moderation exercise took place in relation to the marking carried out by tutors on the Criminal Law module for academic year 2022/2023.
36. Concerns about the Claimant's marking on this course were subsequently raised, given that she had given some examination papers particularly high scores and others particularly low scores compared to other examination markers. This led to a total remark of the Claimant's marking of Criminal Law assignments under her additional Teaching Fellow employment.
37. Inconsistencies in the marking carried out by the Claimant and the entire remark were noted in a Moderation Marking Report Form for academic year 2022/2023 completed the following month. The author of this report also notes that marking carried out by other tutors was subject to moderation and changes of some grades although not in any case a total remark.

New head of law school

38. On 17 April 2023 Professor Eddie Bruce-Jones was appointed Head of Law School. He met with Grace Mou on 21 April to discuss the breakdown in relationship with the Claimant and the attempts to locate an alternate supervisor for her research project.
39. On 22 April 2023 Prof Bruce-Jones approached Yuka Kobayashi to be the Claimant's supervisor, however she declined and suggested academic colleagues Jieyu Liu and Tim Pringle as potential supervisors.

Claimant raises concern about ethics

40. On 26 May 2023 the Claimant emailed Khalid Hasan on 26 May 2023 about the ethics/outstanding issues as follows:

"my fellowship requires an appointment of an ethics advisor and a data protection officer, as my ongoing research involves an empirical part (e.g. online interviews/conversations with human participants). Would you please help with this (or suggest where/whom I can approach for these two appointments/roles)?

Moreover, I will need to go through the research ethics review and approval for this research. May I also trouble you with information on the procedure of this?"

Suspension of fellowship requested

41. On 31 May 2023 the Claimant requested a 2-month suspension of the research fellowship. She stated this would enable the appointment of a new supervisor, research ethics advisor, and data protection officer.
42. Prof Bruce-Jones says, and we accept that this was the first he was aware of a problem regarding an ethics review.

Claimant raises concerns

43. On 2 June 2023 the Claimant reported the difficulties with project progress and her situation at the Respondent to Nancy Bolain at the EU, her funder.
44. On 6 June 2023 the Claimant notified the Respondent of the number of overdue and outstanding deliverables in her research project
45. Also on 6 June, Prof Bruce-Jones wrote to the Claimant

"I am writing to remind you that eighteen ethics deliverables and the data management plan relating to your project are now significantly overdue.

Please kindly submit the deliverables in question without delay. We are well aware of the suspension and then the transfer of the project and of the pending appointment of an ethics advisor. However, those circumstances do not justify such a huge delay for all deliverables. Please start working on the deliverables that do not require the support of the ethics advisor and submit them."

46. The Claimant responded, explaining that she had suspended her fellowship for some five months before she arrived at SOAS.

Confirmation of ethics approval

47. On 7 June 2023 Khalid Hasan sent the Claimant a letter which stated
"following referral in Worktribe (SOAS' grant management portal), this submission originally came before the Research Ethics Panel (virtual session) on 30 November 2022. Ethics approval was granted by the Panel for this project." 955
48. This document the Claimant concluded at the time was "faked". By the time of the Employment Tribunal hearing however she accepted that her conclusion on this point was wrong.

Prof Bruce-Jones / Claimant meeting

49. On 7 June 2023 Prof Bruce-Jones met with the Claimant to discuss her project and allegations against Grace Mou. We have been provided with what appears to be an AI transcript of that conversation.
50. During the course of that conversation, Prof Bruce-Jones offered the view that, having reviewed email exchanges between the Claimant and Dr Mou, he did not see this as bullying or humiliation. He did make it clear however that it was open to the Claimant to raise a complaint about it.

Khalid Hasan / Claimant meeting

51. The following day 8 June 2023 the Claimant met with Khalid Hasan to discuss the outstanding ethics deliverables.
52. In that conversation Mr Hasan notified the Claimant that a virtual REP meeting had taken place on 30 November 2022 and ethics approval was therefore already in place from the ethics committee (REP). He noted that a formal letter had not immediately been typed up which is why he circulated ahead of the call was dated 7 June 2023.
53. As to the question of an external ethics advisor, he denies that he refused this. He said he had dealt with this situation numerous times with the EC as a funder. He advised the Claimant to push back on this point initially in order to establish whether or not this is a mandatory requirement that is being stipulated. Based on his experience sometimes this point was mandatory and sometimes it is just a recommendation.
54. Mr Hasan's concern was cost, given that by this stage in the process the budgets had been fixed. If the funder was adamant that an external ethics advisor needs to be appointed, the budget might need to be revisited, and costs reapportioned to ensure that this can be appropriately remunerated.
55. He told the Claimant that she did not need to worry about "ethics approval" as this was already in place.
56. Following this meeting the Claimant seemed to believe that Mr Hasan should be drafting the entire response regarding the outstanding deliverables. Mr Hasan explained that this was not his role. He felt that the Claimant did not understand this. He explained that he could help with certain points, e.g. the Respondent's ICO registration number or the identify of the Data Protection Officer at SOAS. He explained however that it was the Claimant's responsibility to complete the substantive parts of the response, because she had the relevant information about the project.
57. The Claimant did not suggest in this meeting that the documents were "fake".

Allegation of fake email (alleged protected disclosure)

58. The following day, 9 June 2023 the Claimant wrote in relation to the letter of 7 June:

“But this entire thing actually does not exist at all. This is made up and fake. I never submitted anything related to this research for any ethics review at SOAS - - not at all! But he asked me to just submit that to the EU (so I can finish my ethics deliverables sooner).

Further attempts to find new supervisor

59. In early June 2023 another academic Jieyu Liu was approached to be the Claimant's supervisor and initially agreed, but then later on 25 July 2023 withdrew the agreement.

Suspension approved

60. On 20 June 2023 Prof Bruce-Jones approved the Claimant's request for suspension of the research fellowship and application for discretionary unpaid leave covering July and August 2023.

Concerns about Claimant's exam marking escalated

61. On 4 July 2023 Michelle Kelsall, Senior Lecturer wrote to Eddie Bruce-Jones and Nicolette Busuttil identifying issues with the Claimant's marking (in her Teaching Fellow role) and arranged a meeting with Prof Bruce-Jones to discuss. The Claimant was not identified by name in this email chain but was the individual referred to:

“Re: the marker whose scripts needed to be remarked-was this discussed with the marker and was there an acknowledgement of the marking needing improvement and support? I am keen not to have a repeat of that.”

62. It is clear that the Claimant's marking had been identified as a problem and was being discussed as such by Prof Bruce-Jones before any of the alleged protected disclosures.

Funder query

63. On 7 July 2023 Nancy Bolain from the EC Funder wrote to the Respondent requesting an update on :
- 63.1. An update on the progress of the research project;
 - 63.2. An overview of the outstanding deliverables; and
 - 63.3. An overview of the request for suspension of the project.
64. The outstanding deliverables included "ethics deliverables" - which it seems from the EC original documentation should have been completed at six months.

65. On 10 July 2023 Dr Mou updated Nancy Bolain, wrongly stating that there was going to be a new supervisor in place. Ms Bolain responded the following day stating that she need to insist on the fact that as signatory and beneficiary of the grant agreement, the Respondent SOAS was responsible for the correct implementation of the project and must therefore provide the fellow with training and the necessary means, including supervision, for implementing the Action as described in the Grant Agreement as referred at article 32.1 and annex I.
66. Dr Mou pursued the matter internally at the Respondent with Sadeep Rai and Ying Chen on 11 July:

"I checked the outstanding deliverables set out in the Grant Agreement, which were all about ethics requirements. It appears that there were some confusions during the transfer process. I am attaching Peter's email on worktribe here. Following Peter's email, it seemed that there was an assumption that these ethics checks were undertaken when Jue Jiang was still at Newcastle?"

Dr Mou updates funder

67. On 10 July 2023 Grace Mou updated Nancy Bolain at the EC funder providing some context to the Claimant's request for a suspension. She explained that there had been a breakdown in her relationship with the Claimant and indicated her view that the accusations made by the Claimant were "not factual".
68. The Claimant took issue with some of the communication and, despite Dr Mou trying to suggest that this was not appropriate forum to review disagreements the Claimant began to take her to task on an email exchange in which the head of law and various others were copied in saying:

Grace, It is just one more illustration of your arrogance -- maybe because you think you are in a much more privileged position than me -- by arbitrarily making untrue statements

69. This led to Prof Bruce Jones responding to remind his colleagues to address one another with courtesy and respect. He stated, perfectly reasonably that he did not think it was appropriate to call other members of staff arrogant or make the strong accusation that they abuse their power.

Meeting re: marking

70. Following on from the email of 4 July 2023, some time in mid-July Michelle Kelsall met with Eddie Bruce-Jones for a discussion with included the problems with the Claimant's marking.

Respondent meeting

71. On 25 July 2023 Dr Mou met with administrative staff Ying Chen and Sadeep Rai regarding Nancy Bolain's request on the progress of the Claimant's project and the temporary suspension of her research project.

First alleged PD

72. On 28 July 2023 the Claimant submitted her grievance to Laura Hammond, Deb Edgell and Richard Abslom, HR, alleged to be the first alleged protected disclosure. In that five page grievance she alleged that the "ethics report certificate" (it transpires that she had in mind Mr Hasan's letter dated 7 June 2023) was a forgery. The second section was entitled:

"Cover-up by the line managers at law school, including a serious violation of academic integrity by faking a research report"

73. Information was disclosed in the following passage:

"2). Maybe also driven by their resolution to cover up Grace at all costs, after I applied for suspending my fellowship, on 7 June, I was sent by Khalid Hasan, the Research Ethics & Governance Officer, a completely fake ethics review report. This report proclaimed that my research "had already passed the ethics review by the Research Ethics Panel (virtual session) on 30 November 2022.

Later, in our online meeting, Khalid asked me to send this fake report to the EU in order to fulfil the requested/long-delayed ethics deliverables as soon as possible.

Surprising or appalling is not enough to describe my feelings when seeing a fake research report. I never imaged that for the purpose of covering up Grace's misconduct, they (I do not know who exactly asked Khalid to do this; I do not think this was an idea/initiative from Khalid, since on the previous day, he emailed me saying there was no information at all for my research project/ethics review issues) even made up a research report. Faking any research report constitutes a serious violation of academic integrity and should be dealt with seriously with zero tolerance.

74. There are five annexed documents referred to. It is clear from the content of the later investigation meeting that annex 2 is Mr Hasan's letter.

Supervisor update

75. On 2 August 2023 Prof Bruce-Jones notified the Claimant that he had reviewed potential research project supervisors within the Law and Politics departments, that he had exhausted potential supervisor alternatives within the Respondent and suggested that the Claimant could potentially seek supervision at another institution. He advised the Claimant that she should invest some of the time during which her project was suspended into locating an appropriate research project supervisor.

76. He wrote:

"In fairness to you and to best support your project, we all feel that it would best serve you if you were to seek supervision at another institution."

Grievance progresses

77. On 2 August 2023 Claire Loftus of Evolve Engagement & Management Solutions Limited was appointed as an external investigator to investigate the grievance.
78. The following day, 3 August 2023 Prof Bruce-Jones received an email notification that the Claimant had raised a grievance and that an external investigator had been appointed.

Grievance investigation

Claimant

79. The Claimant attended a grievance investigation meeting on 10 August 2023.
80. During the course of that meeting the investigator Claire Loftus identified the alleged falsified ethics report as "annex 2".
81. The alleged fabricated document is dealt with in a single question, which struck the Tribunal as being fairly cursory treatment for what appears to be a serious allegation. The notes of the meeting do not document any attempt to understand why the Claimant believed the "report" was fabricated for example.

Grace Mou

82. Dr Grace Mou attended a grievance investigation meeting on 16 August 2023. The greater part of this investigation related to allegations of bullying. Although Dr Mou sought to suggest to the Tribunal that she did not know what document it was alleged had been "faked", the note of the grievance interviews does not suggest that she does not know which document was being referred to.
83. The prompt question is recorded as:

"CL: JJ also alleges there has been a falsification of an ethics report – with a report being submitted which proclaimed that my research "had already passed the ethics review by the Research Ethics Panel (virtual session) on 30 November 2022." Can you comment on this?
84. To which she answered:

"No idea. When JJ [i.e. the Claimant] first arrived at SOAS the Research Office and I tried to find out where the paperwork was and set it up on the Work Tribe platform. I raised the issue of ethical reviews and the Research Office tried to find out if JJ's research had passed the Ethics review and the conclusion was

that this should have been done at Newcastle. Months later we found out that JJ had not done anything regarding her ethic review."

85. There was no further question on this topic and the point about falsification was not engaged with.

EC Funder chases

86. On 21 August 2023 Nancy Bolain emailed the Respondent raising concerns with the progress of the research project and requested submission of the outstanding deliverables, as follows:

"I have indeed a lot of questions remained unsettled (see enclosed email to Grace) and I urge you to clarify the situation and to submit the requested deliverables.

Note that my hierarchy commented your case as follows: "If the researcher is not currently being supervised then the beneficiary is not meeting its obligations and it's arguable whether the costs would be eligible. The fact that the researcher is requesting a suspension enhances this concern."

Grievance investigation (continued)

Prof Bruce-Jones

87. On 22 August 2023 Prof Bruce-Jones attended a grievance investigation meeting. The Tribunal has had the benefit of a four page minute of the investigation meeting in which Claire Loftus asked the questions and Pauline Hourigan took notes. On the topic of the ethics review process and the alleged falsification there was the following exchange:

"[QUESTION] CL: JJ Jue alleges there has been a falsification of an ethics report – with a report being submitted which proclaimed that her research “had already passed the ethics review by the Research Ethics Panel (virtual session) on 30 November 2022.” Can you comment on this?

EBJ: I have read some correspondence about this. I understand that JJ came from another University and that the ethics process had begun there. Our expectation was that the ethics process had been completed. There were things that JJ did not agree with and she didn't assist with this being shared with the panel. The form was not filled out by SOAS. The funder asked if the ethics form had been completed and GM was trying to do this. There may be some duplication regarding some aspects of the Ethics process."

88. There was not follow up question on falsification. Prof Bruce-Jones does not really engage with the question of falsification, but rather gives a general

overview of what he understood had occurred in relation to the ethics review process. There is no direct evidence that he was explicitly asked to consider annex 2, the document which the Claimant says was falsified. Again, as with the investigation with Dr Mou, there appears to have been a lack of curiosity on the part of interviewer and interviewee as to the alleged falsified document.

Khalid Hassan

89. The alleged author of the alleged falsified document Khalid Hassan attended a grievance investigation meeting on 22 August 2023. The exchange relating to that document was as follows:

CL: Can you tell me about the ethics approval process for her research? JJ alleges there has been a falsification of an ethics report – with a report being submitted which proclaimed that her research “had already passed the ethics review by the Research Ethics Panel (virtual session) on 30 November 2022.” Can you comment on this?

KH: This is a serious allegation. I can give you the relevant documents as well as the letter I issued to JJ confirming that her submission came before the REP in November 2022. This letter was not issued to JJ immediately due to an admin error. The letter was required by the funder and was issued on 7 June.

90. Mr Hasan followed up afterward with a comment in the margin of the notes of the interview “An allegation based upon what? And falsified by whom exactly?”.
91. It seems to the Tribunal that Mr Hasan must have understood that it was his later letter that was said to be falsified, but there was not detailed questioning on this topic, and he was struggling to understand the basis of the allegation.

Ethics deliverable support

92. On the following day, 23 August 2023, Khalid Hasan wrote to the Claimant to support her in trying to complete the ethics deliverables.

Supervision search continues

93. After nearly four weeks, on 28 August 2023 the Claimant replied to Prof Bruce-Jones that she was reluctant to explore research supervision options outside of SOAS (the Respondent) and asked Eddie Bruce-Jones for more information about all the potential supervisors he approached in order to seek any further opportunity to find a new supervisor at SOAS.
94. In his reply dated the same day Prof Bruce-Jones suggested potentially extending the research project suspension in order to give the Claimant more time to locate an alternative supervisor however the Claimant declined this suggestion.

Supervision report

95. On 30 August 2023 Grace Mou submitted the Supervision Report, supporting documents and an Ethics Approval Letter onto the European Commission European Research Executive Agency portal and also a request to further extend the Claimant's suspension of the Fellowship starting from September 2023.

Second & third alleged PD

96. On 30 August 2023 the Claimant initially said that she made her second protected disclosure, although that allegation that this was a protected disclosure was subsequently withdrawn. She alleged that the attachments Grace Mou submitted onto the portal included serious and substantial errors and should not be accepted.
97. The same day the Claimant emailed Pauline Hourigan, Employment Relations Advisor, identifying that the documents submitted to the portal by Grace Mou contained a "SOAS ethics approval" which she alleged to be fake. This is alleged to be the **third protected disclosure** (retaining the original numbering for ease of reference).

Tutorials reduced

98. On 4 September 2023 Prof Bruce-Jones notified Nicolette Busuttil, Lecturer and Module Convenor for the Criminal Law module for the Academic Year 2023/24 that the Claimant was the tutor (Teaching Fellow) who was identified as having marking issues the previous year and confirmed the proposed approach of decreasing the number of her tutorials in this role.
99. On 7 September 2023 the Claimant and Nicolette Busuttil exchanged emails in relation to the proposed reduction in tutor groups. Ms Busuttil offered two teaching groups. The Claimant pointed out that she had taught four teaching groups the previous year. Ms Busuttil said that though only two available, but did not at this stage explain that the Claimant's performance was a factor.
100. On 9 September 2023 Prof Bruce-Jones told Nicolette Busuttil of the reason for the proposed reduction in the Claimant's tutor groups in her Teaching Fellow role. He suggested that she either be offered to seminars across the year or two seminars for the first term only. He wrote:
- "You may want to just communicate to Jue that the marking and feedback raised a question for the convenor as to whether it wouldn't be best to reduce the number of seminars this year and give her some form of support."

Grievance outcome

101. On 12 September 2023 Claire Loftus, the external investigator, finalised the grievance report and emailed it to Ms Bland. In short she did not find any evidence of bullying and accepted what Khalid Hasan said which was that the

letter not confirming the ethics panel approval following the meeting on 30 November 2022 was an oversight rather than falsification as the Claimant had contended.

102. Pauline Hourigan, Employment Relations Adviser, chased Ms Bland for an outcome of the grievance on 3 October 2024.
103. Ms Bland, who is an experienced HR professional explained by way of explanation for a substantial delay in dealing with this that at this time there had been a significant impact on her workload by an industrial dispute including a marking and assessment boycott by SOAS academic staff from April until September 2023. Due to SOAS not accepting partial performance there were monthly exercises establishing who was participating in the boycott, making appropriate salary deductions and responding to the many participation and/or pay queries each month from staff that continued for the remainder of the Autumn term. This unfortunately coincided with a number of staff vacancies in her area and also the Director of HR role remained vacant until October 2023. As a result she explained that backlogs developed over this period in other areas of her work including reviewing and processing grievances. She explained that this was an exceptionally busy period during which she was working evenings, weekends and holidays.

Funder communication

104. Returning back to the chronology, on 15 September 2023 Maria Vili of the EC emailed the Respondent in relation to the outstanding deliverables and requested an update on the progress of the Claimant's project:

"We would like to hear about the progress of the research activities, status of ethics deliverables, training of the MSCA researcher, supervision arrangements in place at SOAS, amendment request."

105. Four days later on 19 September 2023, Maria Vili and Nancy Bolain from the EC met with Grace Mou and James Griffin, Post Award Manager of the Respondent met to discuss the progress of the Claimant's research activities, the status of the ethics deliverables, the Claimant's training and the supervision arrangements in place.

Reason for tutorial number reduction given to Claimant

106. On 25 September 2023 Nicolette Busuttil provided the Claimant with feedback from the moderation for the Criminal Law module for academic year 2022/2023 and the reason for the proposed reduction in tutor groups. She wrote:

"My understanding is that the marking and feedback of last year's scripts raised a question as to whether it would not be best to reduce the number of seminars this year and provide more support (individually and within the Criminal Law team). By this I mean more regular meetings to discuss ongoing teaching and the possibility of peer-review of teaching."

107. In response to this feedback the Claimant declined to do any teaching.
108. In the period 28 September 2023 - 5 October 2023 the Claimant and Michelle Kelsall exchanged emails in relation to the feedback from the moderation for the Criminal Law module for academic year 2022/2023 and the proposed reduction.

Non-payment wages

109. It is common ground that wages for September would be paid on 29 September 2023, the last working day of the month and that the Claimant was not paid in the usual course of monthly payroll. The Claimant spotted this omission within minutes and raised a complaint by email sent at 00:51 on that day that she had not been paid via payroll. An emergency payment was made the same day.

EU funder issues

110. On 3 October 2023 Grace Mou and James Griffin, met with Richard Abslom of HR to discuss the issues raised during the meeting with Maria Vili and Nancy Bolain on 19 September 2023.
111. On 5 October 2023 Nancy Bolain emailed the Respondent and requested an update on the progress of the Claimant's research project, namely:

"we would like you to report about the state of play of the above project above at the SOAS (progress of the research activities, status of ethics deliverables, supervision arrangements in place at SOAS, amendment request or any measure taken)."

Requests to Claimant for update

112. On 5 October 2023 Prof Bruce-Jones requested an update from the Claimant on the progress of her research project, as follows:

"I will need a short summary of the activities you have undertaken toward the conceptualising, researching and writing of your project this year, including in the last weeks since returning to working on your project. I will be meeting with the funder shortly and need to understand your timeline and progress, as well as any needs for support for the final months of your project. if you could send me a paragraph with these details by tomorrow, I would appreciate it"

113. The Claimant responded the same day but did not provide any update on progress. The response was:

"is your meeting with my funder about my progress and activities?
-- I would appreciate my direct communication with my funder about my progress and activities (better not conveyed by you or anyone)."

114. We accept the Respondent's submission that the tone of this message from the Claimant to the Head of the Law department was rude.

115. The following day, 6 October 2023 Prof Bruce-Jones made a second request for an update from the Claimant on the progress of her project:

"As the Head of the Department, I will be working with the research department to discuss your progress, including with your funders. Therefore, I need to know how your project work is progressing. Please do send me an update, as described below, at your earliest convenience."

116. The Claimant responded the same day but did not provide any update on the progress of her research project. The response was:

"but what has been the crux is never my progress..."

117. Prof Bruce-Jones replied:

"Please do send me an update at your earliest convenience. Just to reiterate what information I need:

A summary of the work you have done on your project whilst at SOAS, including research activities and approximate number of words/pages written

Your timeline for research and writing up your project

a brief summary of what you have done since restarting your project, after the suspension, which recently ended.

I'm sorry to be so formulaic, these are just aspects that I need to have an overview on."

118. The Claimant did not answer the points requested but rather responded:

"I have been very disturbed these days after receiving your request as such - although I tried to adopt a cooperative attitude, what I have been recalling is the serious and long-lasting bullying I am subjected to and what I have been receiving from you for the past months: blame, criticism, and resolution to kick me out from SOAS"

119. The following day, Saturday 7 October 2023 Prof Bruce-Jones responded to this and stated:

"I would normally not email on a weekend, but I would not like you to sit all weekend with an impression that I am 'blaming, criticising and trying to kick you out of SOAS', because I am certainly not.

If we could find an adequate replacement supervisor for you to complete your project here, I would support their appointment.

The problem is that I think we have exhausted options, and while I am open to suggestions from you or others, I do think your best realistic prospect is to look outside of SOAS. I do not blame you for that, nor have I criticised you. It is simply that Grace was your supervisor, and now that she is not, and now that we have not been able to appoint another viable candidate as your supervisor, that important aspect of your experience does not seem forthcoming. I do not know what support for the completion of your project could substitute this. Would you like me to ask your funder whether an external supervisor (external to SOAS) could serve as your supervisor, even as SOAS remains your institutional home?"

120. Prof Bruce-Jones then requested for a fourth time an update from the Claimant on the progress of her research project:

"In any case, Jue, I still do need the update from you that I have described before. Please send me an update on Monday. It should not take long at all, but it is necessary so that we at SOAS can have a sense of what you have achieved to date and what you plan for the remainder of the project. As a reminder, I need from you:

A summary of the work you have done on your project whilst at SOAS, including research activities and approximate number of words/pages written

Your timeline for research and writing up your project

a brief summary of what you have done since restarting your project, after the suspension, which recently ended."

121. The Claimant responded the same day but did not provide any update on progress. The response was:

"in case my "fault" is somehow added if I do not fulfill your request as such, I just make it crystal clear: I do not see any help of that to me. Why now (actually always) it is me to prove myself,

e.g. how much work have I completed and how well I have implemented my role under this fellowship (even in the context of all the bullying I have been suffering)? The support I need is all about the serious and long-lasting bullying I have been subjected to, and your cover-up of the bullying, including blaming me and criticizing me during the past months, and dedication to kick me out from SOAS. I think that is what you need to discuss with my funder:

How did SOAS perform the role under the fellowship?"

Meeting Bruce-Jones / Abslom

122. Prof Bruce Jones met with Richard Abslom, HRBP to discuss the issues related to the Claimant's research project and the difficulties he faced in obtaining any progress updates from the Claimant.

Professor Were

123. On or around 16 October 2023 Richard Abslom met with Professor Graeme Were to discuss the issues related to the Claimant's project. Prof Were was an experienced senior academic and at that time Head of the College of Law, Anthropology and Politics, and was Prof Bruce-Jones' line manager. On or around 17 October 2023 Graeme Were met with Prof Bruce-Jones to discuss the issues related to the Claimant's project.
124. Prof Were thinks that the difficulties finding a new supervisor may have been mentioned historically although did not have a detailed knowledge of that topic. He was given a very narrow brief. He was told about the Claimant's failure to provide any evidence on the progress of her work. He was, deliberately we find, kept in ignorance of the fact that there was a grievance, protected disclosure and other matters relating to this case.

Claimant chases grievance outcome

125. On 18 October 2023 the Claimant emailed Pauline Hourigan requesting an update on the grievance and Prof Bruce-Jones requesting an update from his meeting with the Funder.
126. On 18 October 2023 the EC sent instructions to the Claimant and Respondent about drafting the final Technical Report for the project.

Dismissal

127. On 19 October 2023 Graeme Were dismissed the Claimant and her employment with the Respondent was terminated with effect from 19 October 2023.
128. The stated reason for dismissal was a failure to provide evidence of research to allow further funding, which was said to be a breakdown in trust and confidence (SOSR).
129. The Claimant was paid 3 months' pay in lieu of notice.

Funder pressure

130. We accepted Ms Bland's evidence that there was pressure being placed on the Respondent by the Funder not to allow the entire 24 month Fellowship to run its course if the research was not going to be produced at all by the Claimant. Her understanding was that for reasons of the Funder's internal metrics, it was better for a Fellowship to be terminated early than to be allowed to run with no research produced.

131. Her evidence was that the relevant department within the Respondent confirmed to her that the Funder reserved the right under the terms of the Grant Agreement to reclaim not just the monies paid during the Claimant's employment by the Respondent but also the earlier period when she was working at Newcastle University. In the context of a €212,000 total award this was a potentially significant sum and a real concern to the Respondent.

Fourth, fifth and sixth alleged PD

132. On 19 October 2023 the Claimant sent three emails. First, she emailed Ms Jo Bland and Ms Laura Hammond and alleged that the dismissal was retaliation to the grievance and done to further cover-up the issues which she believed may constitute legal violations, **the fourth alleged protected disclosure**.
133. The Claimant emailed Prof Were and Mr Abslom and notified them of her grievance and her allegations of a "faked" research ethics report that she stated was a "serious and blatant violation of research integrity", **the fifth alleged protected disclosure**.
134. The Claimant notified the Funder of her dismissal and provided them with her grievance and raised concerns with her treatment by SOAS, the circumstances of her dismissal and notified them of the "fake" ethics report, **the sixth alleged protected disclosure**.

Appeal right query

135. On 20 October 2023 the Claimant queried her right to appeal the decision to dismiss her, which she chased a month later 20 November 2023
136. In response, on 23 November 2023 Johanne Bland offered a virtual meeting:
- “Thank you for your email. Your contract was due to end on 16 November. You received pay that covered the period up to 16 November and also additional notice pay as your contract had ended prior to the original date and we feel the School has discharged its responsibilities in this respect. However, I'm happy to discuss this with you further over a Teams meeting if you feel this would be helpful.”

PILON

137. On 31 October 2023 the Claimant was paid 3 months' payment in lieu of notice in recognition of early termination of her employment, in addition to payment for any accrued but untaken annual leave at the date of termination (we note there was no accrued but untaken annual leave at the date of termination).

Objection

138. On 10 November 2023 the Claimant objected to her dismissal and provided a progress update to Prof Were and Richard Abslom.

139. Also on 10 November 2023 the Claimant contacted Tim Pringle, an academic colleague at the Respondent in relation to him potentially being her supervisor.

Portal removed

140. On 1 December 2023 the Claimant's access to the EC funder's portal was removed. The Claimant alleges that this was termination of the fellowship by the Respondent "behind my back"
141. The same day the Claimant made a complaint that Sadeep Rai lodged a termination application via the EC portal to terminate the Research Fellowship and revoked her portal access.
142. On 5 December 2023 the Funder was notified by the Respondent of the termination of the Grant Agreement based on the grounds that the Claimant's employment ended at SOAS on 19 October 2023. On 6 December 2023 the Fellowship was formally terminated.

Grievance outcome

143. On 21 December 2023 Ms Joanne Bland provided the Claimant with the outcome of the grievance investigation. Reasons for that substantial delay are given above.

Termination report for Funder

144. On 8 April 2024 a termination report of some 18 pages in length was submitted by the Respondent to the Funder. This

Belated back payment

145. On 30 April 2025, approximately four weeks before the Employment Tribunal hearing, the Respondent made a back-payment of "Mobility Allowance and London Allowance" to the Claimant.
146. This was a gross payment of £3,213.40, made up of Mobility Allowance for the period 1 September to 19 October 2023 inclusive of £754.84 (£468 and £286.84); Mobility Allowance for the 3 months pay in lieu of notice of £1,404 (£468 x 3) and London Allowance for the 3 months pay in lieu of notice of £1,054.56 (£351.52 x3).

LAW

Protected disclosure detriment ("whistleblowing")

147. The Employment Rights Act 1996 contains the following provisions:

43B 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-

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

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

43G Disclosure in other cases.

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

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

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

(d) any of the conditions in subsection (2) is met, and

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

(2) The conditions referred to in subsection (1)(d) are—

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

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

(c) that the worker has previously made a disclosure of substantially the same information—

(i) to his employer, or

(ii) in accordance with section 43F.

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

(a) the identity of the person to whom the disclosure is made,

(b) the seriousness of the relevant failure,

(c) whether the relevant failure is continuing or is likely to occur in the future,

(d) whether the disclosure is made in breach of a duty of confidentiality owed by the employer to any other person,

(e) in a case falling within subsection (2)(c)(i) or (ii), any action which the employer or the person to whom the previous disclosure in accordance with section 43F was made has taken or might reasonably be expected to have taken as a result of the previous disclosure, and

(f) in a case falling within subsection (2)(c)(i), whether in making the disclosure to the employer the worker complied with any procedure whose use by him was authorised by the employer.

47B Protected disclosures.

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

48.— Complaints to employment tribunals

(1A) A worker may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47B.

On a complaint under subsection ... (1A) ... it is for the employer to show the ground on which any act, or deliberate failure to act, was done.

(3) An employment tribunal shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them, or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

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.

148. The burden of proving each of the elements of a protected disclosure is on a claimant (**Western Union Payment Services UK Ltd v Anastasiou**, 13 February 2014 per HHJ Eady QC at [44]).
149. Guidance given by the Court of Appeal in the case of **Croydon Health Services NHS Trust v Beatt** [2017] ICR 1240 per Underhill LJ is as follows at paragraph 94:

“... it is all too easy for an employer to allow its view of a whistleblower as a difficult colleague or an awkward personality (as whistleblowers sometimes are) to cloud its judgment about whether the disclosures in question do in fact have a reasonable basis or are made (under the old law) in good faith or (under the new law) in the public interest. Those questions will ultimately be judged by a tribunal, and if the employer proceeds to dismiss it takes the risk that the tribunal will take a different view about them. I appreciate that this state of affairs might be thought to place a heavy burden on employers; but Parliament has quite deliberately, and for understandable policy reasons, conferred a high level of protection on whistleblowers. ...”

Tends to show

150. “Tends to show” imposes a relatively light burden on a Claimant (**Babula v Waltham Forest College** [2007] ICR 1026 per Wall LJ at para 79; **Arjomand-Sissan v East Sussex Healthcare NHS Trust** UKEAT/0122/17/BA per Soole J para 26).

Disclosure

151. In **Kilraine v London Borough of Wandsworth** [2018] ICR 1850 the Court of Appeal held that a sharp distinction between “allegations” and “disclosures” which appeared to have been identified in earlier authorities was a false dichotomy, given that an allegation might also contain information tending to show, in the reasonable belief of the maker, a relevant failure. At [35], Sales LJ said:

“In order for a statement or disclosure to be a qualifying disclosure according to this language, it has to have a sufficient factual content and specificity such as is capable of tending to show one of the matters listed in subsection (1).”

[emphasis added]

Reasonable belief in relevant failure

152. Whether a belief is reasonable is to be assessed by reference to “what a person in their position would reasonably believe to be wrongdoing”: **Korashi v Abertawe Bro Morgannwg University Local Health Board** [2012] IRLR 4 per Judge McMullen QC at [62]. In that case Mr Korashi was a specialist medical consultant and an assessment of what was reasonable needed to be by reference to what someone in that position would reasonably believe. HHJ McMullen QC said this:

“61 There seems to be no dispute in this case that the material for the purposes of s.43B(1)(a)–(e) would as a matter of content satisfy the section. In our view it is a fairly low threshold. The words 'tend to show' and the absence of a requirement as to naming the person against whom a matter is alleged put it in a more general context. What is required is a belief. Belief seems to us to be entirely centred upon a subjective consideration of what was in the mind of the discloser. That again seems to be a fairly low threshold. No doubt because of that Parliament inserted a filter which is the word 'reasonable'.

62 This filter appears in many areas of the law. It requires consideration of the personal circumstances facing the relevant person at the time. Bringing it into our own case, it requires consideration of what a staff grade O&G doctor knows and ought to know about the circumstances of the matters disclosed. To take a simple example: a healthy young man who is taken into hospital for an orthopaedic athletic injury should not die on the operating table. A whistleblower who says that that tends to show a breach of duty is required to demonstrate that such belief is reasonable. On the other hand, a surgeon who knows the risk of such procedure and possibly the results of meta-analysis of such procedure is in a good position to evaluate whether there has been such a breach. While it might be reasonable for our lay observer to believe that such death from a simple procedure was the product of a breach of duty, an experienced surgeon might take an entirely different view of what was reasonable given what further information he or she knows about what happened at the table. So in our judgment what is reasonable in s.43B involves of course an objective standard – that is the whole point of the use of the adjective reasonable – and its application to the personal circumstances of the discloser. It works both ways. Our lay observer must expect to be tested on the reasonableness of his belief that some surgical procedure has gone wrong is a breach of duty. Our consultant surgeon is entitled to respect for his view, knowing what he does from his experience and training, but **is expected to look at all the material including the records before making such a disclosure**. To bring this back to our own case, many whistleblowers are insiders. That means that they are so much more informed about the goings-on of the organisation of which they make complaint than outsiders, and that that insight

entitles their views to respect. **Since the test is their 'reasonable' belief, that belief must be subject to what a person in their position would reasonably believe to be wrong-doing."**

Burden of proof causation

153. There is an initial burden of proof on a claimant to show (in effect) a *prima facie* case that he has been subject to a detriment on the grounds that he made a protected disclosure. If so, the burden passes to a respondent to prove that any alleged protected disclosure played no part whatever in the claimant's alleged treatment, but rather what was the reason for that alleged treatment. Simply because the respondent fails to prove the reason does not act as a default mechanism so that the claimant succeeds. The tribunal is concerned with the reason for the treatment and not a quasi-reversal of proof and deemed finding of discrimination i.e. there is no mandatory adverse inference mechanism (**Dahou v Serco Ltd** [2017] IRLR 81, CA).

Public interest

154. The Court of Appeal in **Chesterton Global Ltd & Anor v Nurmohamed & Anor** [2017] EWCA Civ 979 confirmed that public interest does not need to relate to the population at large, but might relate to a subset, in that case a category of managers whose bonus calculation was negatively affected. It seems that it cannot relate solely to the interest of the person making the disclosure. The following guidance was given on that case as to reasonable belief in the public interest, per Underhill LJ:

"27. First, and at the risk of stating the obvious, the words added by the 2013 Act fit into the structure of section 43B as expounded in Babula (see para. 8 above). The tribunal thus has to ask (a) whether the worker believed, at the time that he was making it, that the disclosure was in the public interest and (b) whether, if so, that belief was reasonable.

28. Second, and hardly moving much further from the obvious, element (b) in that exercise requires the tribunal to recognise, as in the case of any other reasonableness review, that there may be more than one reasonable view as to whether a particular disclosure was in the public interest; and that is perhaps particularly so given that that question is of its nature so broad-textured. The parties in their oral submissions referred both to the "range of reasonable responses" approach applied in considering whether a dismissal is unfair under Part X of the 1996 Act and to "the Wednesbury approach" employed in (some) public law cases. Of course we are in essentially the same territory, but I do not believe that resort to tests formulated in different contexts is helpful. **All that matters is that the Tribunal should be careful not to substitute its own view of whether the disclosure was in the public interest for that of the worker. That does not**

mean that it is illegitimate for the tribunal to form its own view on that question, as part of its thinking – that is indeed often difficult to avoid – but only that that view is not as such determinative.

29. Third, the necessary belief is simply that the disclosure is in the public interest. The particular reasons why the worker believes that to be so are not of the essence. That means that a disclosure does not cease to qualify simply because the worker seeks, as not uncommonly happens, to justify it after the event by reference to specific matters which the tribunal finds were not in his head at the time he made it. Of course, if he cannot give credible reasons for why he thought at the time that the disclosure was in the public interest, that may cast doubt on whether he really thought so at all; but the significance is evidential not substantive. Likewise, **in principle a tribunal might find that the particular reasons why the worker believed the disclosure to be in the public interest did not reasonably justify his belief, but nevertheless find it to have been reasonable for different reasons which he had not articulated to himself at the time: all that matters is that his (subjective) belief was (objectively) reasonable.**

30. Fourth, while the worker must have a genuine (and reasonable) belief that the disclosure is in the public interest, **that does not have to be his or her predominant motive in making it:** otherwise, as pointed out at para. 17 above, the new sections 49 (6A) and 103 (6A) would have no role. **I am inclined to think that the belief does not in fact have to form any part of the worker's motivation – the phrase "in the belief" is not the same as "motivated by the belief"; but it is hard to see that the point will arise in practice, since where a worker believes that a disclosure is in the public interest it would be odd if that did not form at least some part of their motivation in making it."**

[emphasis added]

Causation

155. The causation test for *detriment* is whether the alleged protected disclosure played more than a trivial part in the Claimant's treatment (**Fecitt v NHS Manchester (Public Concern at Work intervening)** [2012] ICR 372, CA).

CONCLUSIONS

TIME LIMITS

[1] Whether claim in time - Whistleblowing Detriment Claim - section 48(3)(a) Employment Rights Act 1996

156. We accept the Respondent's submission that the claim is out of time for any act which occurred on 9 October 2023 or earlier, unless it was part of a continuing act running to October 2023.
157. Any act on 9 October 2023 would have a deadline of 8 January 2024. The Claimant commenced the ACAS EC process on 2 December which "stopped the clock" i.e. limitation did not run by operation of section 207B(3) of the Employment Rights Act 1996, for the 33 day period 2 December 2023 – 4 January 2024. The deadline would have expired without extension on 8 January 2023. With the benefit of the extension, 33 days after 8 January 2024 is 10 February 2024.
158. The claim was in fact presented on 11 February 2024. We accept that for acts occurring on 9 October 2023 or earlier the claim was presented out of time absent a continuing act.
159. The claim was in time in relation to later events. For example the dismissal took effect on 19 October 2023 and had a deadline of 18 January 2024. The Claimant commenced the ACAS EC process on 2 December which stopped the clock for the period 2 December 2023 – 4 January 2024 i.e. 33 days. The deadline would have expired on 18 January 2024. By operation of section 207B(3) of the Employment Rights Act 1996, the time limit expires 33 days after 18 January 2024 which is **20 February 2024**. This is in time.

[1.1] Was the claim brought within the time limit set by section 48(3)(a) of the Employment Rights Act 1996? This gives rise to the following sub-issues:

[1.1.1] What was the date of the act/failure to act to which the complaint relates?

160. The Respondent argues that alleged detriments 1 - 5 are out of time. We accepted that alleged detriments 1-4 were out of time.

[1.1.2] Did the act to which the complaint relates extend over a period? If so, what was the last day of that period?

161. Alleged detriment 5 ran over a period which was partly in time and partly out of time.

[1.1.3] Was the act/failure to act to which the complaint relates part of a series of similar acts/failures? If so, what was the date of the last of those acts/failures?

162. Detriment 5 was partly in time. The later allegations were all in time.

[1.1.4] Insofar as the complaint relates to a deliberate failure to act, when did the Respondent decide on it?

[1.2] If not, was it reasonably practicable for the complaint to be presented within the time limit set by section 48(3)(a) of the Employment Rights Act 1996?

[1.3] If not:

163. The burden was on the Claimant to show that it was not reasonably practicable to present the claim in time. She failed to do this. The only argument she advanced was that there was a continuing act of detriment such that the claim was in time.

164. In relation to allegations 1-4 we did not find that this was part of a series of failures, nor did we find that it was not reasonably practicable for her to present a claim in time.

[2] Protected disclosures (i.e. Whistleblowing)

165. We have focused on whether the Claimant made a qualifying disclosure - **section 43B(1) (a) - (f) Employment Rights Act 1996**.

166. Did the Claimant disclose information? The Claimant relies upon the following alleged disclosures:

[2.1.1] PD#1 Grievance

167. The first alleged protected disclosure is that on 28 July 2023, the Claimant emailed Laura Hammond, Deb Edgell and Richard Abslom regarding the Respondent's fabrication of an ethics report certificate. This documentation appeared in the agreed bundle at pages 1005-1037.

168. The Claimant admitted in cross examination that, contrary to her allegation in July 2023, now having seen the full set of documents produced back in October/November 2022 she recognises that a panel meeting did take place in November 2022. She now realistically does not contest the Respondent's case that the letter of 7 July was not fabricated. She came to this conclusion having seen the bundle for the final tribunal hearing (i.e. fairly recently) but maintains that previously and at the material time of making the relevant disclosure she genuinely believed that there had been a fabrication.

169. The Tribunal finds that the Claimant believed that this raised in the public interest and that she was reasonable to do so. In short, we find it would be reasonable to consider that it was in the public interest to raise evidence of a violation of academic integrity (relevant to legal obligation) and that an important safeguard for the subjects of this research might not be in place

(relevant to health and safety). We accepted her evidence that the Respondent as ethics supervisor would be expected to act as safekeeper for participants/human subjects. It would follow that a failure to carry out this scrutiny of the ethical aspect might lessen that safekeeping role.

170. The Respondent does not dispute belief in the relevant failures, but disputes that this was reasonable. The Tribunal finds that the Claimant did believe that this disclosure tended to show the relevant failure.
171. Was this reasonable? The Tribunal did not find that it was reasonable to believe that this disclosure tended to show a breach of legal obligation or that health and safety was endangered given the following.
172. First, the Claimant jumped to the conclusion that Dr Mou had instigated a conspiracy involving Mr Hasan to retrospectively fabricate a document of a meeting that had never occurred months before. The only evidence she appeared to have had was that Mr Hasan wrote on 6 June that there was no information on file and then subsequently supplied the “ethics review report” (in reality not a report at all but simply very short letter of half a page or so which confirmed that the matter had been discussed by the Research Ethics Panel at a virtual session on 30 November 2022) and that approval had been given. This cited an approval code.
173. At the point that the disclosure was made, the Claimant had carried out no investigation nor even made a simple query in the period from 7 June, when she first became aware of the ethics review approval certificate which was purportedly documenting a decision reached on 30 November 2022, and 28 July 2022 when she made her disclosure.
174. What is “reasonable” depends on the context and the knowledge and resources of the person making the disclosure. **Korashi** provides that the Tribunal can take account of what the person in a claimant’s position would reasonably believe bearing in mind their status (in that case a specialist doctor). In that case there was an expectation that a doctor would look at the materials available, including records. It follows that following **Korashi** there must be some onus on a claimant as a responsible whistleblower to make sure of their position. The Claimant in the present case in our assessment did not do that.
175. The period from the alleged faked letter of 7 June to the alleged disclosure of six weeks. The Claimant was an academic researcher in the legal field and (we find) plainly understood the importance of evidence. In the Tribunal hearing she made repeated reference to the fact that the Respondent had failed to evidence a particular allegation.
176. The Claimant was making a serious allegation that her erstwhile supervisor had involved at least one other (Mr Hasan) in a conspiracy to fabricate documentation of a decision taken 7 months earlier. She had no evidence beyond her general suspicion and dislike of Dr Mou and the fact of Mr Hasan not being able to find paperwork the day before.

177. We bear in mind that a belief can be reasonable yet wrong. Two different individuals can come to two different conclusions based on the same information. While the Tribunal might understand why the Claimant had a suspicion (particularly given the poor relationship with Dr Mou) in early June, we find objectively that it was not reasonable still to believe that the very limited information she disclosed on 28 July 2023 tended to show the relevant failures i.e. that documents have been fabricated.
178. We did not accept the Claimant's evidence that she was too concerned to challenge Mr Hasan directly. The Claimant in this case generally did not shy away from challenging her supervisor and head of department in robust terms and making serious allegations using the grievance process and externally. She could have made a simple enquiry to understand better what review had been carried out on 28 November 2022.
179. For all of these reasons we do not find it was reasonable for the Claimant to hold a belief that the disclosure she made tended to show relevant failures.

[2.1.2] PD#2 – abandoned

180. The Claimant quite reasonably in view of the higher threshold for a protected disclosure made externally, abandoned the second alleged protected disclosure, which we simply record here out of completeness (on 30 August 2023, the Claimant sent a message to her funder, the European Commission (the "EC") regarding Dr Mou's submission of a fabricated ethics report certificate).

[2.1.3] PD#3 – email to Pauline Hourigan

181. The third alleged protected disclosure is that on 30 August 2023, the Claimant emailed Pauline Hourigan regarding Dr Mou's submission of fabricated ethics report certificate to the EC.
182. This disclosure must be looked at cumulatively, in view of what Ms Hourigan knew due to her involvement in the grievance. In essence the allegation was that Dr Mou compounded the fabricated documentation by submission of it to the EC, an external body.
183. In short we find that the Claimant did believe that this tended to show the relevant failures (viewed cumulatively with earlier disclosures), and reasonably believed that this was raised in the public interest.
184. For very similar reasons to those applying to the first alleged protected disclosure, we do not find that this was a qualifying protected disclosure. It was unreasonable to believe that the information disclosed on 28 July tended to show the relevant failures. Just over a month later, as of 30 August 2023 there was no further evidence nor any reasonable basis to believe that this tended to show that documentation have been fabricated.

[2.1.4] PD#4 – retaliation and cover-up

185. The three remaining alleged protected disclosures all occurred after the dismissal had been communicated to the Claimant.
186. The alleged fourth protected disclosure was that on 19 October 2023, the Claimant disclosed to Mr Abslom and Prof Were that the dismissal was a retaliation against the Claimant's whistleblowing and further cover-up, which would constitute legal violations and that Dr Mou had attempted to submit a fabricated ethics report certificate to the EC, which the Claimant had stopped and objected to.
187. We find that the Claimant did believe that this tended to show the relevant failures (viewed cumulatively with earlier disclosures), and reasonably believed that this was raised in the public interest.
188. For similar reasons to those applying to the third alleged protected disclosure, we do not find that this was a qualifying protected disclosure. There was no further evidence nor any reasonable basis as of 19 October 2023 to believe that this tended to show that documentation had been fabricated. It followed that the further allegations on which this was based had no substance.

[2.1.5] PD#5 –

189. The alleged fifth protected disclosure was that on 19 October 2023, the Claimant emailed Laura Hammond, Jo Bland and Pauline Hourigan stating that the dismissal was a retaliation against the Claimant's whistleblowing and further cover-up, which would constitute legal violations and that Dr Mou had attempted to submit a fabricated ethics report certificate to the EC not there, which the Claimant had stopped and objected to; and
190. The Claimant has not established that message was sent by her to Jo Bland at all. That aspect is not established.
191. We find that the Claimant did believe that the two different disclosures made to Professor Hammond and Pauline Hourigan on 19 October 2023 tended to show the relevant failures (viewed cumulatively with earlier disclosures), and reasonably believed that this was raised in the public interest.
192. For very similar reasons to those applying to the fourth alleged protected disclosure, we do not find that this was a qualifying protected disclosure. There was no further evidence nor any reasonable basis as of 19 October 2023 to believe that this tended to show that documentation had been fabricated.

[2.1.6] PD#6 –

193. The alleged sixth protected disclosure was that on 19 October 2023, the Claimant emailed the EC, reporting the fabrication of the research ethics report and stating that the dismissal by the Respondent was a retaliation against the Claimant's protected disclosures and further concealment, which would constitute legal violations and that Dr Mou had attempted to submit a fabricated

ethics report certificate to the EC, which the Claimant had stopped and objected to.

194. We have had to consider whether this protected disclosure satisfies the more stringent test under **section 43G ERA**.
195. We find that the Claimant did believe that the information disclosed and the allegations contained within were substantially true. We find that she reasonably believed that this was raised in the public interest.
196. We find that the condition in **section 43G(c)(i)** was met in that the Claimant had made a disclosure of substantially the same information to her employer previously.
197. For similar reasons to those applying to the third, fourth and fifth alleged protected disclosure however, we do not find that this was a qualifying protected disclosure. There was no further evidence nor any reasonable basis as of 19 October 2023 to believe that this tended to show that documentation had been fabricated. It was not reasonable to believe that the allegation of fabrication was substantially true, nor was it, in all the circumstances of the case reasonable to make the disclosure per **section 43G(1)(e)**, in particular given that the Claimant had not done any basic investigation, nor even made an enquiry to understand the exercise that had been carried out on 28 November 2022. Had she simply asked she would have received the documentation which, once she had seen it in the Tribunal hearing bundle, satisfied her that in fact in ethics review had been carried out.

Summary on alleged protected disclosures

198. We find that none of the disclosures made by the Claimant were qualifying protected disclosures.

Elements of protected disclosure

199. In carrying out the exercise above we have considered the following:

[2.2] Did the Claimant reasonably believe the information disclosed tended to show that:

the Respondent had failed, was failing or was likely to fail to comply with any legal obligation to which it was subject or deliberately conceal such failure?; and/or

the health and safety of any individual had been, was being or was likely to be endangered.

Did the Claimant reasonably believe it was in the public interest to make the disclosure?

[3] Whether qualifying disclosure was protected - section 43C Employment Rights Act 1996

[3.1] Was the disclosure made in accordance with section 43C of the Employment Rights Act 1996? In particular, was the qualifying disclosure made to the Respondent or to any person falling within section 43C(1)(a), (1)(b) or (2).

[4] Detriment - section 47B Employment Rights Act 1996

[4.1] Did the Claimant make a protected disclosure (see 2-3 above)?

200. The answer to this is no, for the reasons given above.
201. **It follows from our finding that there was no protected disclosure that the complaints of detriment cannot succeed.**
202. In relation to alleged detriments 1-4 the claim was out of time and the Claimant does not get the benefit of any extension.
203. Nevertheless, in case the Tribunal is wrong about the protected disclosure and wrong in relation to time/jurisdiction, we have gone on in the alternative to consider whether the alleged detriments were detriments and if so were they caused by the matters that the Claimant contends were alleged protected disclosures.

[4.2.1] Detriment 1 – Prof Bruce-Jones’ conduct August – October 2023

204. The alleged detriment is that from early August 2023 to 19 October 2023 Professor Eddie Bruce-Jones asked the Claimant to leave the Respondent, ignored and belittled her concerns, continued to put her on unpaid leave, constantly criticised the Claimant's interactions with Dr Grace Mou and disturbed her academic activities.
205. Professor Bruce-Jones had relatively recently joined the department as Head of Law. The Tribunal finds that he was dealing with a difficult situation, represented by the breakdown of the relationship between the Claimant and Dr Mou. We find that he did so sensitively and appropriately.
206. We find that the Claimant has mischaracterised his conduct. We find that Prof Bruce-Jones genuinely explored alternative options for supervisor, including offering the Claimant the opportunity to make her own suggestions, which she did not do. He explored with the Claimant the possibility that she might need to leave to find a suitable supervisor for her particular research.
207. He did not ignore the Claimant's concerns. He provided a candid view that he did not consider Dr Mou's emails were bullying, but made it clear to the Claimant that she had the right to bring a grievance, which she did. We do not find he belittled her concerns. As to putting the Claimant on unpaid leave, we do not find this is a fair representation of events. The Claimant asked for a period of suspension, and thereafter her pay resumed with a hiccup in a few hours which was outside of Prof Bruce-Jones' control. We are not satisfied that

he constantly criticised the Claimant's interactions with Dr Mou, nor that he disturbed the Claimant's academic activities.

208. We find on the balance of probabilities that it was the Claimant herself who was the substantial cause of the lack of progress with her academic activities.

[4.2.2] detriment 2 – unfounded comments about teaching

209. The allegation is that in September and early October 2023, Michelle Kelsall and Nicolette Busutil made unfounded and negative comments regarding the Claimant's teaching, leading to the loss of the Claimant's teaching opportunities in the new year.
210. The Claimant conceded during the course of the hearing that neither Michelle Kelsall nor Nicolette were aware of the alleged protected disclosures.
211. We do not accept the Claimant's belated reframed version of this allegation to say that Prof Bruce-Jones caused Ms Kelsall and Ms Busutil to make unfounded and negative comments. It was a fact that the Claimant's marking required re-marking. The large range of marks that she had given from the 20s to the 80s we find suggested a problem viewed from the Respondent's perspective. We accepted the point made on behalf of the Respondent that they could simply have reduced the Claimant's teaching load to zero, since she did not have any guaranteed teaching allocation. Instead they reduced it to two hours a week instead of four hours a week, with support. It was the Claimant's decision not to accept that offer.
212. We did not find the apparent inconsistency between the evidence of Ms Kelsall and Ms Busutil to be of great significance. Whether the problem with the Claimant was one purely of marking or whether this suggested a substantial problem with her teaching we find is not particularly suspicious and might be explained by slight differences of view.

[4.2.3] detriment 3 – fabricated report submitted to EC

213. This alleged detriment was that from the end of July 2023 to 19 October 2023 Dr Mou submitted the fabricated ethics review report to the EC, arbitrarily extended the Claimant's unpaid leave, stopped the payment of her September 2023 salary, damaged her relationship with colleagues at the Respondent, stalled her research project and directly caused her dismissal;
214. The Tribunal did not accept that this represented a detriment for the following reasons.
215. Dr Mou did not believe that the ethics review report was fabricated. It was a requirement that the Claimant produce documentation relating to ethics. This was part of her "deliverables". Dr Mou acted reasonably. It would have been to the Claimant's detriment not to file this report.
216. As to arbitrarily extending unpaid leave, Dr Mou gave a clear explanation that there was a misalignment between the unpaid period from the Respondent's perspective which resulted from the Claimant suspension of her fellowship

period and the period of suspension registered with the EC. In each case it was a two month suspension, but they did not run at the same time. That was not a detriment but merely a misalignment administratively.

217. As to stopping the payment of the Claimant's September salary, our finding is that it was simply a payroll error (remedied within hours upon the Claimant's flagging it up). The reason was that her pay had not been reinstated after the two months' unpaid suspension, which had been instigated at the Claimant's own request. We accept the version of events given by Ms Bland in her witness statement at paragraph 27.2.
218. As to damaging relationships with colleagues the Claimant has failed to demonstrate either that this occurred at all, nor that this occurred particularly after 28 July 2023, i.e. after the first of the alleged protected disclosures. The relationship between the two women had been broken down since February 2023.
219. We find that it was the Claimant herself who was the substantial cause of the lack of progress with her academic activities not Dr Mou, although it is fair to say that the breakdown in the relationship between the two cannot have been helpful to the Claimant's progress, but this was not as a result of the alleged protected disclosures since it pre-dated them.
220. As to the dismissal, we did not find that Dr Mou was a cause of this. Reasons for the dismissal are discussed below.

[4.2.4] detriment 4 - that the Respondent failed to pay the Claimant's salary on time in September 2023

221. As to the failure to pay the Claimant's September salary, our finding is that it was simply a payroll error (remedied within hours upon the Claimant's flagging it up) not to reinstate her pay after the two months unpaid suspension which had been instigated at the Claimant's own request. We accept the version of events given by Ms Bland in her witness statement at paragraph 27.2.

[4.2.5] detriment 5 – failure to response July – October 2023

222. The alleged detriment is that from the end of July 2023 to the termination of her employment on 19 October 2023, the Respondent failed to respond to the Claimant's messages in which she requested an update on the investigation and reported a rapid deterioration in her situation.
223. The Tribunal found that the delay between the outcome of the grievance process on 12 September 2023 and notification to the Claimant on 21 December 2023 was difficult to justify, even against the background of what clearly a busy and overworked period for the HR team and an industrial dispute. This is over three months. We found that this **was detrimental treatment**.
224. What were the reasons for this delay? We have considered whether the first and third alleged protected disclosures were more than trivially the cause of the

detrimental delay. The second disclosure was not protected and the timing of the fourth, fifth and sixth disclosures preclude those disclosure being the cause.

225. The Tribunal was initially slightly sceptical when Respondent witnesses professed that they could not even identify what the alleged fabricated document was, since this was referenced by the Claimant in her grievance as annex 2. It should have been clear to the external investigator Claire Loftus at least.
226. The notes of the interviews however show that Prof Bruce-Jones and Dr Mou responded to the question about this point about falsification in a somewhat nonplussed manner. They were each asked a single question about it. Neither really engaged with the question of falsification.
227. The alleged author of the “faked” letter Mr Hasan had more to say, but the note of his meeting suggested that he was puzzled rather than outraged by the allegation. Based on his margin note, he did not really understand the basis for the allegation of falsification, nor did he appear to understand that the accusation was being directed at him.
228. Based on the notes of the internal interviews and the evidence of the three individuals, it does not appear to the Tribunal that the protected disclosure in itself created much by way of reaction. The main focus of the investigation was on the alleged bullying and the breakdown in the relationship.
229. Looking at the wider context, the industrial dispute and the understaffed and overworked HR Department we find were certainly important factors to delay in communicating with the Claimant, notwithstanding our conclusion that this is not a satisfactory reason for more than a three-month delay. We did not have a reason not to accept Ms Bland’s evidence that other grievances had already been delayed.
230. The Claimant was, we find, by the time of the dismissal to some extent perceived as a source of nuisance by the Respondent. There had been a breakdown in the relationship with Grace Mou. The Claimant was rude and uncooperative in her communication with the Head of department Prof Bruce-Jones. Her marking of student work had been completely re-marked. Importantly she was very significantly behind in the academic research that she was being funded to carry out, such that the Funder was repeatedly chasing, which was a real concern leading to the dismissal. As was clear from Mr Hasan’s evidence the Respondent’s relationship with a Funder is wider than one individual post-doctoral researcher. He had experience of dealing with them before. Ms Bland was concerned about funding monies being clawed back.
231. There was the grievance and other communications including the alleged protected disclosures. We find that the primary focus of the grievance was on the allegations of bullying that the Claimant had made against Dr Mou. The alleged fabrication was a minor “sideshow”, a less important matter that was given minimal consideration. We note that in the grievance investigation the question of the “fabricated” report which is the substance of the first alleged

protected disclosure and the foundation for the other alleged protected disclosures was dealt with in simply one question with Grace Mou and Prof Bruce-Jones.

232. For these reasons we came to the conclusion that the alleged protected disclosures was part of the factual matrix, but no more than a trivial cause of failure to respond and the delay. The wider picture of the industrial dispute meant that the HR department was distracted. The Claimant was antagonising colleagues in a variety of different ways. In any event the allegation of falsification at the root of the alleged protected disclosures was a tiny part of the overall picture and did not generate much by way of reaction.
233. In summary, we find the alleged protected disclosures were not a material cause of the detriment.

[4.2.6] detriment 6 – dismissal

234. The allegation is that the Respondent decided to terminate the Claimant's employment via email on 19 October 2023 based on 'unfounded criticisms of [the Claimant's] work which was incapable of justifying the dismissal'.
235. This detriment cannot succeed given that it “amounts to a dismissal”. The proper place for consideration of the dismissal is the section 103A dismissal claim.
236. To the extent to which this might be a complaint about the format of the communication, i.e. by email rather than in a hearing, we feel this is dealt with as detriment 8 below.

[4.2.7] detriment 7 – dismissal

237. The allegation is that the Respondent decided to terminate the Claimant's employment.
238. This detriment cannot succeed given that “amounts to a dismissal”. The proper place for consideration of the dismissal is the section 103A dismissal claim.

[4.2.8] detriment 8 - lack of recognised procedure; no right of response; false allegation

239. The alleged detriment is that in deciding to terminate the Claimant's employment, the Respondent failed to follow a recognised procedure, included a false allegation in the Claimant's dismissal letter and denied the Claimant an opportunity to respond to the allegations contained in the dismissal letter.
240. This was reframed in the Claimant's closing submissions as “The Respondent arbitrarily terminated my Fellowship on 6 December 2023”.
241. We find that this allegation concerning procedure as originally framed is separable to the dismissal itself, by contrast with the two previous alleged detriments. We have dealt with the substantive reasons for dismissal under the **section 103A** claim.

242. We are not satisfied that the Claimant has established that the letter of dismissal contained a false allegation. That part does not succeed.
243. It is right to say that the Respondent did not follow a recognised procedure and did not give the Claimant the opportunity to respond to the allegations contained in the dismissal letter. This was in our view plainly a detriment.
244. As to the reasons for the Claimant's treatment, we find that there were multiple reasons. We accept that there was a breakdown in trust and confidence. The Claimant had been given repeated chances to explain her position in writing and had failed to do so. She wrote to the Head of Department in disrespectful terms. The Claimant had significantly fallen behind on the academic research she was supposed to carry out as part of the EC Fellowship. It seemed that after genuine attempts it had not been possible to find a supervisor willing to take on the Claimant that the Claimant approved of with a sufficiently close area of research.
245. There was pressure from the EC funder. The funder, with which the Respondent had to deal in relation to other students as well was putting pressure on the Respondent to bring matters to a head. Ms Bland had been advised that the Respondent faced the prospect of having to repay the whole of the funding provided to the Claimant, including the period when she was under the supervision of the Newcastle University. In the context of total funding in the region of €212,000 this was a genuine and non-trivial concern. The Funder's pressure genuinely added an element of time pressure which mitigated against a protracted internal process.
246. Given that the Claimant did not have two years' continuous service and therefore the right to being an "ordinary" unfair dismissal claim under section 98 of the Employment Rights Act 1996 the decision to dismiss without any process is less remarkable than it might otherwise have been.

4.2.9 detriment 9 – no appeal rights

247. The alleged detriments are two distinct points. The Respondent failed to follow an appeal procedure in line with ACAS Code of Practice on Disciplinary and Grievance Procedures in relation to the dismissal and the grievance. This was a detriment.
248. We accept the Respondent's submission that HR felt that it would be pointless to afford the Claimant an appeal. Nothing was going to change the fact that trust and confidence had broken down and the funder wanted the Grant Agreement to be terminated.
249. There are similar considerations here as applied in detriment 8. We do not find that the alleged protected disclosures were more than a trivial cause of the absence of appeal rights.

[4.2.10] detriment 10 – failure to pay fellowship monies

250. The alleged detriment is that the Respondent failed to pay the Claimant the outstanding fellowship monies which she was entitled.
251. The Respondent made a payment of £3,213.40 (net £2,607.17) for mobility (living) allowance on 30 April 2025, i.e. approximately four weeks before the Tribunal hearing and 18 months after the decision to terminate. That delay in payment was a detriment.
252. What was the cause of the detriment?
253. Ms Bland explained that the initial non-payment of the mobility (living) allowance was an administrative error which arose in September when the Claimant's pay was reinstated after a period of suspension. While that is somewhat unsatisfactory and the circumstances are somewhat opaque, we infer from the speed at which the failure to pay salary on 29 September was corrected that non-payment of salary was immediately recognised as an error and payment made on that day. Those circumstances do not suggest that some deliberate action was being taken against the Claimant but rather point to an administrative oversight. We accept Ms Bland's explanation that mobility allowance was not reinstated at the same time and accept on the balance of probabilities that this was a further administrative error rather than being a result of the alleged protected disclosures. We have reminded ourselves that the underlying reason for the suspension was that the Claimant had fallen behind with her work.
254. We note that the Claimant was paid 3 months' notice when the Respondent's position was that she was only entitled to 1 month's notice.
255. We were not satisfied that the Claimant established her entitlement to any other sum. It was difficult to understand the Claimant's claim in relation to other sums paid by the Funder to the Respondent. It is not the case, insofar as it was alleged that she had a personal entitlement to all of these sums. Salary costs are only one element of the cost of hosting a fellowship such as the one that the Claimant had.

[4.2.11] detriment 11 – termination fellowship / portal block

256. We accept the Respondent's submissions that the termination of the Fellowship was consequence of dismissal and that blocking the portal was something that fell within the control of the Funder not the Respondent. It was after all the Funder's portal, not the Respondent's. These matters were a consequence of the nature of the funding and the Grant Agreement.

[4.2.12] detriment 12 – fabricated report submitted to EC (April 2024)

257. The allegation is that in early April 2024, the Respondent finally submitted the fabricated research ethics report to the EC and made further unfounded or fabricated and derogatory statements about the Claimant's work performance, professional capacity and achievements/deliverables.

- 258. The provision of a termination report was a contract requirement for the Respondent to provide to the EC as funder.
- 259. The Claimant has not established that the content of this report was fabrication and indeed admitted that during the course of her oral evidence. On the contrary, we find that this 18 page report carefully sets out the history of the Claimant's short period at the Respondent.
- 260. We did not find that this was a detriment.

[5] Automatic Unfair Dismissal (Whistleblowing) - section 103A Employment Rights Act 1996

- 261. [5.1] Did the Claimant make a protected disclosure (see 2-3 above)? Given that there was no protected disclosure, this complaint cannot succeed.
- 262. Nevertheless, in case we are wrong, in the alternative, we have considered whether the sole or principal reason for dismissal was the making of the alleged protected disclosures.
- 263. We accepted the Respondent's submissions that it was Professor Weir's decision to dismiss for a fundamental breakdown in trust and confidence. He was totally unaware of the alleged protected disclosure. The evidence before him suggested that there had been a fundamental breakdown in trust and confidence. The Claimant had failed to provide Professor Bruce-Jones with the information he reasonably required.
- 264. We accept that the Respondent's evidence was clear about the expectations of the EC Funder and given they were not satisfied as to the Claimant's progress with her research project they were entitled to refuse to provide any more funding.
- 265. The EC had funded a project for almost 2 years and yet had received no work product or nor assurances as to the Claimant's progress.
- 266. We find that the dismissal was therefore not on the sole or principal ground that the Claimant had made a protected disclosure.

[6] Holiday Pay [not pursued]

- 267. This complaint was not pursued.

[7] Arrears of Pay

[7.1] Was there an agreement between the Claimant and the Respondent to extend the duration of the Claimant's contract of employment and/or the Fellowship Agreement?

- 268. The Claimant conceded during the hearing that the Respondent never agreed to extend the contract of employment. The complaint as framed in the list of issues cannot succeed.

269. The Claimant has tried to present this as a claim of wrongful termination or for some outstanding “balancing” sum based on amounts paid by the Funder to the Respondent. We did not grant permission for the this complaint to be amended. Even if we had these arguments would not have succeeded.
270. The Claimant received three months’ notice pay, which was in excess of her contractual entitlement on termination.
271. We do not accept that there are any outstanding sums beyond the mobility allowance paid on 30 April 2025. It does not follow that the Claimant is entitled to receive other sums paid to the Respondent, since the value of the Fellowship supplied by the EC to the Respondent is greater than salary costs and mobility allowances and the Claimant has not satisfied us that there were sums due to her from the Respondent under the contract which are unpaid.

Approved by

Employment Judge Adkin

Date 28 July 2025

WRITTEN REASONS SENT TO THE PARTIES ON

29 July 2025

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