EMPLOYMENT TRIBUNALS

Claimant: Julia Sas

Respondent: Cardiff Council

Heard at: By CVP **On:** 1 to 4 July 2025

Before: Employment Judge Othen

Appearances

For the Claimant: Mr Ward (Counsel)

For the Respondent: Mr Vines (Counsel).

RESERVED JUDGMENT ON LIABILITY

The Claimant's claim of unfair dismissal fails and is dismissed.

REASONS

Introduction

1. The Claimant was employed from 23 October 2008 to 24 June 2024, as a Project manager at Bute Park in Cardiff. The Claimant claims that she was (constructively) dismissed in accordance with Section 95(1)(c) of the Employment Rights Act 1996.

2. The Respondent contests the claim. It says that the Claimant resigned on 19 June 2024 and her effective date of termination was as paragraph 1 above.

Issues for the Tribunal to decide

3. At the outset of the case, I took some time to discuss the issues with the parties and to understand the Claimant's case.

4. After some discussion, the Claimant and her representative confirmed the alleged breaches of her contract of employment in response to which she resigned, and the list of issues to be determined in the hearing was as follows:

4.1 Whether the Respondent, without reasonable and proper cause, acted in such a way as to destroy or seriously damage the implied term of trust and confidence in:

4.1.1 Failing to properly consider and address the Claimant 's initial Violence at Work report submitted on 4 August 2023, contrary to the Respondent's Dignity at Work and Violence at Work policies by not:

(a) Properly following its Violence at Work reporting procedure, including failing to involve at least two H&S Officers;

(b) Holding a meeting with the Claimant ;

(c) Speaking to the witnesses named by the Claimant ;

(d) Specific breaches of clauses 6.11 of the Violence at Work Policy and clause 3.5 of the Dignity at Work Policy.

4.1.2 Significantly delay in consideration of her grievance:

(a) In holding a grievance meeting, and

(b) Issuing an outcome.

4.1.3 Failing to properly consider her grievance by:

(a) Failing to properly consider and uphold her seven grievance grounds;

(b) Failing to interview the witnesses named by the Claimant in her grievance ("RS1 Form");

(c) Failing to provide sufficient reasons to the Claimant for the grievance outcome.

4.1.4 Significantly delaying consideration of her appeal contrary to its own policies in:

(a) Holding a grievance appeal meeting, and

(b) Issuing an outcome.

4.1.5 Without a proper reason, failing to provide her with timely access to relevant organisational policies throughout the case (Violence at Work and Dignity at Work policies).

4.1.6 Mr Chris Lee (Appeal Manager) failing to respond to an email from the Claimant sent on 5 June 2024 at 6.42pm (the last straw relied on).

4.2 Whether the Claimant affirmed the breach of contract;

4.3 Whether the Claimant resigned in response to the breach of contract.

5. I decided, in discussion with the parties that given the length of allocated hearing and the evidence to be heard and considered, the issues for the hearing would be limited to liability as above.

Evidence.

6. The parties were represented at the hearing. The Claimant gave sworn evidence and called sworn evidence from David Le Masurier. The Respondent called sworn evidence from Paul James, Andrew Gregory and Chris Lee, three of the Respondent's employees. I considered the documents from an agreed, 1891 page Bundle of Documents which the parties introduced in evidence.

7. Again, given the allocated length of hearing, time was taken to understand the relevant evidence, given the clarified list of issues as above and the now clear material period of claim which was from 4 August 2023 to 19 June 2024 (the date of the Claimant's resignation). The bundle appeared to be disproportionately large and unclear with multiple duplications and no helpful chronological order. The Claimant 's witness statement also was unclear and very lengthy (74 pages), did not refer to any bundle page numbers and was not in chronological order.

8. From this discussion, it was agreed that the parties should only consider certain limited pages of the Claimant 's witness statement, which were specified by her representative and should only consider certain, specified bundle documents, the rest appearing irrelevant.

9. Despite this, the Tribunal found the Claimant's witness statement still to be of very limited assistance in understanding the alleged breaches and the evidence to which she wished to refer regarding those breaches, given its unclear narrative and reference to many events which, on their face, would appear to be irrelevant. The Respondent's witness statements were very brief and, in some cases, were amended significantly as the witnesses gave evidence. As such, the Tribunal primarily considered the bundle documents to which the witnesses were referred in their evidence, as well as the oral witness evidence, in order to understand the relevant facts.

Interlocutory Issues

10. At the start of the fourth day of the hearing, the Respondent made an application to amend its response to omit the words "Violence at Work Policy" from paragraphs 2 and 2c of its Amended Grounds of Resistance (page 39). This was for the reasons stated in paragraphs 37 to 39 below. The application was resisted. I considered the application and denied it. Full oral reasons for my decision were given during the hearing. In summary, I took into account the principles set out in Selkent Bus Company v Moore 1996 ICR 186 amongst other cases, and in Guidance Note 1 of the Presidential Guidance on Case Management.

11. The amendment was significant and was not a relabelling. It had been left to a very late stage in the proceedings, on day four of the liability hearing after the Claimant 's evidence had been given. No reason was submitted by the

Respondent as to why the application had not been made before that point. The Respondent had access to legal advice and representation throughout, had already amended its Grounds of resistance once and a list of issues had been agreed. The balance of prejudice was clearly in favour of the Claimant who had given evidence on the basis of the Respondent pleaded case. The Respondent's witnesses had also been cross-examined on that basis.

Findings of Fact

12. The relevant facts are as follows. Where I have had to resolve any conflict of evidence, I indicate how I have done so at the material point. References to page numbers are to the PDF page numbers of the agreed Bundle of Documents (not the written page numbers).

13. The Claimant had a written contract of employment. Under "Rules, Policies and Procedures" it states at paragraph 48: "..for the avoidance of doubt, such rules, policies and procedures that are not part of the Council's collective agreement are not incorporated by reference into your contract of employment and they can be changed, replaced or withdrawn at any time at the discretion of the Council".

14. In a role profile document at page 416, the purpose of the Claimant 's role was defined as follows: "Develop, conserve and promote Bute Park and Arboretum as a world-class heritage site. Manage the Park and its facilities to secure the legacy of the Bute Park restoration project and comply with requirements of Heritage lottery fund".

15. In March 2018, the Respondent signed a lease with Miss A to operate a café within Bute Park. For a number of years thereafter, problems developed between the Claimant and Miss A. Put in its most general and neutral terms, this was a mutual dispute between those parties which also involved other employees, leaseholders and stakeholders of the Respondent. Most of the details of that dispute are not relevant to the facts of this case and did not comprise evidence which I considered.

16. From at least 2022, the Claimant reported the details of her concerns about Miss A to the Respondent and that her mental health was being affected. By May 2023, she started taking time off work due to illness caused by stress at work because of this and was asking for the Respondent's support.

17. On 5, 19, 23 and 30 June 2023, the Respondent carried out a series of stress risk assessments for the Claimant . Various required measures were recorded within the assessment documentation (page 89). They included:

17.1 a series of steps to remove the Claimant from the requirement for any contact and interaction with Miss A; and

17.2 regular meetings between the Claimant and her line manager and implementation of a buddy system for the Claimant ; and

17.3 referral of the Claimant to employee counselling services for one-to-one support; and

17.4 referral to various other organisations and to occupational health assessment; and

17.5 legal advice support from the Respondent's legal services department regarding the allegations of the Claimant about Miss A.

18. Throughout most of this period, the Claimant 's line manager was JJ.

19. From 23 June 2023, the Claimant commenced a period of sickness absence which continued until 19 January 2024.

20. On 13 July 2023, JJ sent an email to the Claimant : "We have now been advised that it is appropriate for you to complete the Violence at Work Form". (For the remainder of this judgment, "VAW" will be used as an abbreviation for Violence at Work). She sent a copy of a "VAW Report Form Issue 8" as an attachment to the Claimant and asked her to complete it as soon as possible (pg 497). It subsequently emerged that this was an incorrect version of the form and an up-to-date version was later clarified.

21. On 17 July 2023, the Claimant replied to confirm that she was in the process of completing the form but asked for any guidance notes to assist her with this. JJ replied on the same day to send her some guidance notes which she had found on the Respondent's intranet (pages 538/539). JJ also offered the Claimant an opportunity to speak with Paul James (the Respondent's Head of Health and Safety) who could assist her. Mr James holds a Masters' Degree in Occupational Safety and Health from Cardiff University.

22. On 21 July 2023, a meeting took place between the Claimant and Paul James to discuss completion of the VAW form. There are no notes from the meeting. But at page 544 of the bundle is a series of questions which the Claimant prepared for it which generally appear consistent with the email correspondence at the time and the witness evidence of the Claimant and Paul James. Based on all this evidence, I find that there was general discussion about how to complete the form and next steps but I do not find, on the balance of probabilities that the Claimant was given any clear assurances or guarantees about next steps or actions that would be taken once she completed the form, specifically regarding Miss A. Paul James had no previous involvement in the dispute between her and the Claimant and the purpose of his role was to assess and address health and safety risks. At that time, the form was not completed and Paul James would have needed to assess the information provided by the Claimant within it.

23. The blank form completed by the Claimant is entitled "ALERT – VIOLENCE INCIDENT REPORT FORM". There are a series of sections for completion, including:

23.1 Details of Offended Person;

23.2 Report of Violent incident which contains a space for a single date and location etc;

23.3 Details of the Incident with required details of "Assailant", a request for any injuries or damage caused and a space for witnesses.

24. It specifically asks whether the person completing the form requests that the "individual's" details be placed on the "ALERT register" and at the conclusion of the form, explains the requirements of the Data Protection Act on the Respondent to notify "assailants" when they are placed on this register unless where such notification is likely to lead to further instances of violence or aggression.

25. The guidance notes sent to the Claimant to assist with her completion appear at page 172. Their stated aim is to reduce the risk of violence to employees with a non-exhaustive list of guidelines. They set out that where employees have experienced "an incident" a line manager should complete the violent incidents report form (page 174). The purpose of the ALERT register is to keep a list of individuals who have previously carried out "VAW actions towards council employees, i.e. verbal abuse, threatening behaviour or violence" so that employees can have access to this register when dealing directly with the public".

26. A document at page 187 of the bundle is entitled: "GUIDANCE-ALERT guide on the use of the '**A**dvice for **L**one Workers-**E**mployee **R**egister of **T**hreats' Database". Paragraph 3 of the guidance notes states that: "An entry onto the register shall only be created where there is evidence of an incident suggesting that an individual/privacy is poses a risk to Council employees, members or contractors" (page 190). Various clauses require the processing of all entries in accordance with the Data Protection Act 2018 and Freedom of Information principles, and clause 10 provides a right to legal challenge and representation to any person whose details are included on the register.

27. The documents details at paragraphs 25 and 26 above will be referred to in the rest of this judgment as **the Guidance Documents**.

28. The Claimant completed and submitted the VAW form on 25 July 2023 (page 1773 and 1763). For the alleged violent incident, the Claimant stated: "Ongoing over 5+ years". For the details of incident, she referred to various other documents, three of which she stated were attachments to the form:

28.1 a description of harmful behaviour

28.2 an impact statement

28.3 a witness list.

29. The form itself contains little information from her about any incidents alleged and asked for the opportunity to present evidence in person.

30. During cross-examination, the Claimant admitted that she had only submitted two of these attachments with her form: the impact statement and the witness list. She had omitted the "description of harmful behaviour" document by mistake as evident from her submission email at page 1773 of the bundle.

31. The impact statement which was submitted is four pages long and details various symptoms experienced by the Claimant at length which include worry, anxiety burnout and shame. She says that: "I want the harm to stop" (page 571). The witness list is over two pages long and includes a list of approximately 17 witnesses, along with details of their role, relevance and the evidence which the Claimant reports that they could give regarding the alleged behaviour of Miss A (page 564). One of the witnesses named was David Le Masurier who gave evidence for the Claimant at this hearing.

32. At page 567 of the bundle is the description of harmful behaviour document which the Claimant omitted to send. It is three pages long and contains a table of alleged harmful behaviour perpetrated by Miss A. This includes no allegations of physical violence or threats of physical violence or abuse other than alleged "slamming doors". The rest of the behaviour alleged includes "looks", demeanour, passive aggression, vexatious demands, tactical silence, criticism, harmful allegations, not escalating grievances through appropriate channels, "Love bombing" and "virtue signalling". The evidence given by David Le Masurier was that Miss A had, in his view, tried to undermine the Claimant's authority and role and had tried to encourage other Bute Park commercial stakeholders to do so via WhatsApp and other social media.

33. On 4 August 2023, JJ emailed Paul James with a copy of the attachments and form sent by the Claimant and included in the email a list of the control measures that had been put in place as a result of the stress risk assessments with her.

34. Paul James emailed the Claimant on 8 August 2023 with an outcome to the form and attachments she had sent. He stated: "I have discussed with [JJ] what reasonable adjustments can be implemented to reduce your level of anxiety" and then includes the list of measures sent to him by JJ in her email of 4 August 2023. He concludes that: "I am content that with these adjustments in place it will reduce you [sic] level of anxiety and stress, on your return to work". He then explained that he would not enter Miss A on the ALERT register. The reasons given for this were that the purpose of the register is to alert other parties who may come into contact with the assailant, that there must be a clear justification for any such entry and that in this case, he did not feel there was one. He further concluded that the Claimant had provided an impact statement but had not provided any details of alleged incidents.

35. Mr James did not contact any of the witnesses suggested by the Claimant .

36. On the subject of why he did not feel it appropriate to place Miss A on the ALERT register, he answered that the criteria were strict and based on the information given by the Claimant , Miss A did not pose a risk to anyone else. He had not been made aware of any other VAW complaints about Miss A. He also asserted that to place a party on the register of violent offenders was a serious matter, open to challenge, with which he must be comfortable and have sufficient justification. He was not comfortable that Miss A posed a risk for the reasons set out above.

37. During Paul James evidence, it became clear that his witness statement was inaccurate in one specific manner. At paragraph 7, he had stated: "in making my decision, I considered the VAW form, the VAW policy and the outcomes from the stress risk assessment". Mr James amended his witness statement orally to explain that he had not taken into account any VAW policy. A Violence at Work Policy (**the VAW Policy**) dated October 2001 was at page 283 of the bundle. This was later sent to the Claimant on 8 December 2023 (see paragraph 49 below). From that date, the Claimant had believed that this was the applicable policy to the VAW form which she had submitted. The Policy was referred to in all the pleadings of both the Claimant and the Respondent on this basis. Specific reference is made to it in the agreed list of issues.

38. In fact, during his evidence, Mr James explained on behalf of the Respondent for the first time that this policy had been withdrawn in 2019 as a result of a complete policy review at that time and that it was no longer in force at the time of the Claimant 's employment. He explained that she should not have been sent a copy of this and could not explain why and how this had happened. Further, he could not explain why the Respondent had failed to explain this, why specific reference to this was included within the agreed list of issues and in his witness statement.

39. Mr James asserted that the documentary evidence applicable to the Claimant's VAW form and the processing of it by him were the Guidance Documents. He asserted that there was no applicable policy at that time other than the overarching Health and Safety Policy of the Respondent.

40. I accept the evidence of Paul James in this regard. Although I found parts of his evidence to be unreliable and misleading for the reasons set out above (that he changed his evidence at such a late stage) I do not find that he was a dishonest witness who showed any intention of deliberately misleading the Tribunal in his evidence. On the balance of probabilities, I find it far more likely that the above confusion was caused by miscommunication and poor understanding and preparation, rather than dishonesty.

41. The VAW Policy is similar in content to the Guidance Documents. It states at paragraph 4.4 (page 286) that: "The Council is committed to support employees who are subjected to violence in the course of their employment. The extent of such support will depend on the individual circumstances of each incident". From paragraph 6, it contains a reporting procedure which includes the following:

41.1 paragraph 6.6: (after reporting of a violent incident to a manager): "The manager should ensure that factual written statements are obtained as soon as possible from any witnesses together with their names and addresses".

41.2 Paragraph 6.11: the Council may, after consideration of the facts of the case by legal services, take action on behalf of the employee. If legal action is not taken, it may still be appropriate for the County Council to send a letter to the perpetrator of the violence explaining that the behaviour displayed is not acceptable".

42. The Claimant has alleged as part of her claim that as well as failing to properly consider and address her VAW report and breach of its VAW policies, it also breached clause 3.5 of the Respondent's Dignity at Work Policy. This policy was at page 251 of the bundle and clause 3.5 states that (regarding incidents of Unacceptable Behaviour by Service Users or Contractors): "Managers should not automatically remove the employee from their work or workplace as this is likely to undermine the employee and give the perpetrator the impression that their actions are acceptable". During cross-examination, the Claimant accepted that she had access to the Dignity at Work Policy (which was available on the Respondent's intranet) as she had found it (on a date which was not specified) as an attachment to an email.

43. On 16 October 2023, the Claimant was made aware that Miss A had raised a formal complaint with the Respondent about her.

44. On 20 November 2023, the Claimant submitted a formal written grievance via an "RS1 Form", which was the required template from the Respondent's Resolution Policy (page 319) along with various appendices. The Resolution Policy contains the following relevant clauses:

44.1 at clause 1.30: "all parties will endeavour to deal with concerns as quickly as possible and within the timescales stated"; and

44.2 of formal grievances, at clause 55: "Management have a responsibility to act promptly and the person with whom the formal resolution application has been lodged must meet with the employee as soon as possible but not later than 14 days after receiving the request".

45. Together, the completed RS1 Form and appendices run to 34 pages. Due to length, it is not possible to sufficiently detail all the issues and evidence raised by the Claimant in this document but she summarised it as seven complaints, all alleged against the Respondent. They were, briefly summarised:

45.1 incompetence which increased a health and safety risk to her and led to a loss of trust and confidence;

45.2 that it did not act in the public interest and the behaviour of councillors and officers fell short of that required by the constitution;

45.3 that it failed to properly investigate her VAW report and the response from Paul James was not acceptable because he was not qualified to "hold such an opinion";

45.4 that it did not follow its Dignity at Work Policy and procedure in a timely way regarding her report of bullying by Miss A;

45.5 that it failed to accurately record her sickness absence in order to avoid liability for injury caused

45.6 that she had been "victim-blamed" and "mistreated" and trust and confidence with her had been breached after her report of bullying about Miss A;

45.7 that she could not contact the Respondent's Monitoring Officer for advice when required.

46. The appendices included lengthy chronologies from 2011 to September 2023. For witnesses, the Claimant stated: "Please refer to witness list provided with my Violence at Work Report".

47. The Claimant submitted her grievance to a general Monitoring Officer email address but on 21 November 2023, re-sent the form to the direct email address of the then Interim Monitoring Officer (IMO) as well, stating that the previous form had been sent by her in error. This form was acknowledged by the IMO on 22 November 2023 (page 761). On 30 November 2023, the IMO replied to the Claimant , referring to an interim meeting which had been arranged for 6 December 2023 but advising that in her view, the grievance contents appeared consistent with the Respondent's Resolution Policy rather than its Whistleblowing Policy which fell within her remit. As such, she reported that she would liaise with colleagues regarding the grievance.

48. From 7 December 2023, the Claimant was away in New Zealand on annual leave until the New Year. She had informed JJ that she was unable to attend a meeting with a different purpose before 5 January 2024 (page 776).

49. On 8 December 2023, the Claimant was sent a copy of the VAW Policy by one of the Respondent's HR team, as one of various forms and policies requested by the Claimant and sent to her on that date (page 771).

50. The Claimant was invited, on 3 January 2024, to a meeting on 5 January 2024 to discuss her grievance, by an administrative staff member working for Mr Andrew Gregory, the Grievance Manager (page 1460). The Claimant emailed the following day to explain that she had no childcare and jetlag and requested a meeting for the following week instead (page 1485). A response was sent by the Respondent the following day to offer a meeting on 22 January 2024.

51. On 17 January 2024, the Claimant returned to work to a different role on a temporary basis. She remained in that role until the termination of her employment.

52. A grievance meeting took place between the Claimant and Andrew Gregory on 22 January 2024. On 25 January 2024, the Claimant sent a follow-up email to Mr Gregory of over three pages in length with further information and a further attachment which was a further summary document. The email concluded by referring to an agreement (at the grievance meeting on 22 January 2024) to allow Mr Gregory time to review the information. She asked for confirmation of when she would next hear from him (page 992).

53. On 31 January 2024 the Respondent's HR Department informed the Claimant of an estimated further period of three weeks by which an outcome would be issued but that she would be updated if this was delayed. This was followed by a further email on 21 February 2024 to update the Claimant that: "interviews with others have been progressing".

54. On 1 March 2024, the Claimant emailed the Respondent's HR function to chase the grievance outcome but also as follows: "…having learned a little more about the corporate complaints made by [Miss A] against me I maintain that the intent of it was/is malicious. I know that is a separate process but I do think it's essential Andrew is made aware of its existence and status……".

55. Andrew Gregory issued his grievance outcome letter on 6 March 2024 (incorrectly dated 6 June 2024) (page 1002). He confirmed that he had spoken to five witnesses and listed who they were. He upheld none of her complaints. The letter responded to all her complaints in turn and provided an explanation for his reasoning. This reasoning includes that:

55.1 there was a general lack of evidence to support the Claimant 's complaints;

55.2 that the witness evidence which he had gathered demonstrated that all procedures and policies were adhered to;

55.3 regarding the VAW report, that the Health and Safety Policy had been adhered to, that Paul James was qualified and competent to reach his view and that the ALERT register procedure was appropriately followed;

55.4 with regard to the alleged breach of the Dignity at Work policy, that no evidence had been found of bullying, that the complaints raised by Miss A were directed more specifically at the Respondent rather than the Claimant and that the Claimant had been appropriately supported by line managers.

56. The Claimant has alleged that the Respondent fail to properly consider her grievance by not upholding the seven complaints, by failing to interview witnesses specified in the RS1 Form and by failing to provide sufficient reasons for the outcome.

57. During cross-examination and questioning by the Tribunal, Mr Gregory explained why he had not chosen to interview other witnesses. He considered that the critical issues of the grievance related to the line management of the Claimant and the application of the Respondent's policies and guidance. For this reason, he chose to interview the witnesses who would be able to provide him with information relevant to those issues, which he regarded were "quite narrow". The witnesses whom he interviewed included the Claimant's line manager JJ, JJ's line manager, the Claimant 's previous line manager, Paul James and a Bethan Joynson from the Respondent's HR Department who provided background information on events until Claimant 's sickness absence. I find, on the balance of probabilities that he did interview those witnesses, despite the lack of notes. His evidence on this (the fact of the interviews) was consistent and it is corroborated by the email detailed in paragraph 53.

58. Mr Gregory admitted that he kept no notes of the interviews and his reasoning for this was that he thought he could remember everything that he was told. He was unable to confirm what further documents he had taken into account in his grievance investigation and referred to a pack provided by HR which was not evident from the bundle.

59. With regard to the complaint about the Claimant 's VAW report (complaint 3) Mr Gregory confirmed that he based his outcome conclusion on what he had been told by Mr James and did not, himself, scrutinise relevant documents or policies.

60. He further gave evidence that he did review an "extensive amount of background information" which included relevant emails, newspaper articles about the complaints raised by Ms A and the Claimant and correspondence. He confirmed that based on this evidence he, personally, did not find evidence of bullying of the Claimant by Miss A.

61. It is difficult to scrutinise or validate the extent of the grievance investigation. There is little if any evidence of the investigation or conclusions other than the contemporaneous correspondence and Mr Gregory's witness evidence. It is not credible that he could remember in detail what he was told by relevant witnesses in the weeks of his investigation and until the outcome, some six weeks after the grievance meeting.

62. On 18 March 2024, the Claimant submitted an appeal against all the grievance outcome conclusions of 20 pages in length. Her appeal grounds mirrored her grievance grounds.

63. The Respondent's Resolution Policy provides at clauses 5.17 that any appeal should be on the grounds of a procedural flaw, inconsistent findings or new evidence. At clause 5.19, it states that a more senior manager will hear any appeal and: "…… will make initial contact with the employee….as soon as is possible but not later than 14 calendar days after receiving the request in their DigiGov work list" (page 312). Clause 5.21 states that an appeal outcome "should" be sent to the appellant within 14 days of the appeal meeting.

64. The appeal was heard by Mr Christopher Lee, the Respondent's Corporate Director. In evidence, Mr Lee explained that he was one of two Corporate Directors who reported to the Respondent's Chief Executive Officer. He sat above Andrew Gregory in the Respondent's line management structure.

65. He admitted that due to the length of the Claimant 's grievance and the demands of his general workload, he was unable to arrange a meeting with the Claimant before 24 May 2024. He did not provide any explanation as to why no initial contact had been made with the Claimant by him before then.

66. The Claimant 's grievance appeal submission was 20 pages long and was of similar detail to all her previous correspondence and documents submitted to the Respondent.

67. The first appeal meeting between the Claimant and Mr Lee lasted for approximately 2 ½ hours on 24 May 2024. The final agreed notes are at page 1611 of the bundle. The second appeal meeting took place on 29 May 2024 and lasted for a further hour.

68. At page 1717 of the bundle in the agreed meeting notes was a discussion regarding the expected timeframe for the grievance appeal outcome. There

was a recognition that this would normally be within 14 days but the Claimant is noted as saying that she was not looking for a decision within this timeframe. Rather, she was noted to say that she did not want a rushed decision but did not want open-ended silence without communication. At the end of this meeting, the Claimant shared an electronic folder of additional information and documents with the Respondent pertaining to her appeal.

69. On 5 June 2024, one week later Chris Lee emailed the Claimant with an update. He informed her that the Respondent had nearly concluded its "detailed notes" and that it was "trying to make sure everything is covered and that we are able to draw out the key issues" (page 1892).

70. Later on that day, the Claimant emailed Mr Lee without having seen his earlier email of that day. This email is at page 1887 of the bundle. Its contents are significant. The subject line of the email is "Early warning notice". She states amongst other things:

70.1 ".. I need to understand your preliminary views on my case by close of play on Friday 7th June, since this is 14 calendar days from our first appeal meeting…… You made a clear commitment to keep in touch with me but I have not heard anything from you for over a week now and I see no evidence of further progress since the 29th May." Further: "I would take a lack of any meaningful progress by this Friday as a clear sign that there is no value to me in remaining engaged in the process. The little remaining confidence I have in my employer's ability to completely administer their internal procedures and respect their own policy timescales and stated commitments will have expired. My intention would therefore be to take next steps from Monday 10th June" (page 1887).

71. The Claimant relies on a failure by Mr Lee to reasonably respond to the above email as the alleged last straw which caused her to resign. She later followed up with an email to Mr Lee on the same evening of 5 June 2024, once she has seen his previous email from that day. She noted her gratitude of progress with the minutes but stated: "….this news alone does not substantially change my viewpoint as expressed in the other email" (page 1892).

72. Mr Lee responded the following afternoon, 6 June 2024 to acknowledge receipt of both of her emails. He stated his intention to investigate her appeal fully and be objective in his conclusion. He confirmed that the notes would be with her shortly. He further stated that he would not be in a position to be able to provide the Claimant with a preliminary view nor to give any preliminary indications on her appeal. He made clear that he wanted his outcome to be "thorough and evidence-based" and would be with the Claimant as soon as possible albeit that it would not be within 14 days (page 1886)

73. On 7 June 2024, there were further email exchanges between the Claimant and Mr Lee, providing the Claimant with an update and in an attempt to finalise the appeal hearing notes. The latter were provided to the Claimant by the Respondent's HR department on 10 June 2024 and the agreed final versions run to 58 pages in length. Further email exchanges followed on 11 June 2024 between Mr Lee and the Claimant and on 13 June 2024, the Claimant emailed

Chris Lee again sending amended meeting notes and asking, again, for clarification of next steps. Further, she also stated that: "… I will also write to you under separate cover following the meeting my line manager held with me… On Tuesday, 11 June 2024 regarding her feedback from the corporate complaints made against me by [Miss A]. I believe this is relevant to your investigation" (page 1607). Chris Lee responded the same day to update the Claimant on progress in his investigation and to reassure her that he would reach an outcome as quickly as he could (page 1690).

74. Further emails followed from the Claimant on Friday 14 June 2024 including one of two pages in length in which the Claimant provided significant 'new' evidence (page 1428). This was presented in a table format. Again, the Claimant required an update and concluded: "I am grateful for what you have done to date but I do need something more tangible please. I do need to hear something further from you, let's say by midday Monday 17th June".

75. Mr Lee actually responded to his last email from the Claimant (as detailed in paragraph 74 above) on 21 June 2024 after she had resigned. He informed her that he had been carrying out his investigation as quickly as possible and hoped to be able to share an outcome by 5 July 2024 (page 1427).

76. The Claimant resigned on 19 June 2024 by letter to the Respondent (page 1812). She referenced her last email to Chris Lee from 14 June 2024 and stated: "My working conditions have become intolerable now, and I must end my engagement with Cardiff Council as an employer in the interests of protecting my health & well-being". Her effective date of termination, in accordance with a request from the Claimant , was 24 June 2024.

77. The appeal outcome letter from Mr Chris Lee is at page 1734 of the bundle, dated 7 August 2024. It is 10 pages in length and detailed in its reasoning. Of the first ground : lack of basic competence and procedural failures in dealing with her complaints, it stated:

77.1 "Firstly, in respect of the original resolution, it is my view that all individuals named in the original RS1 document should have been interviewed as part of the process. However, AG was clear that in his view he had enough evidence from various sources to support his decision in this regard. On considering all available information, I do not feel that there is any additional evidence that contradicts this view, but neither can I absolutely determine that the concerns were robustly addressed."

77.2 "Outcome - Partially upheld, I considered there to be some shortcomings identified in the resolution process, that said, I do not believe that the outcome would have changed had the process been more robust."

78. None of the other grounds were upheld, save for the concern about being able to contact the Respondent's Monitoring Officer, which he explained had been affected by an IMO who was in role at the time and whose contact details were not accessible.

79. When asked in cross examination about the above quotes, Mr Lee said that his role was not to re-run the grievance investigation but was to consider the appeal grounds as put. He said that he did see "shortcomings in process" (in the failure to interview witnesses, but that he didn't believe, on the balance of probabilities, that the outcome would have changed in any event.

Relevant law

Constructive and Unfair Dismissal

80. Section 94 of the Employment Rights Act 1996 (ERA) confers on employees the right not to be unfairly dismissed. Enforcement of the right is by way of complaint to the Tribunal under section 111.

81. Section 95(1)(c) ERA states that an employee is dismissed if (s)he: "*terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct*".

82. The above statutory test has, over the decades, been clarified and refined by cases such as Western Excavating (ECC) Ltd v Sharp [1978] from which this well-known judgment extract is taken:

82.1 "*If the employer is guilty of conduct which is a significant breach going to the root of the contract of employment, or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract, then the employee is entitled to treat himself as discharged from any further performance. If he does so, then he terminates the contract by reason of the employer's conduct. He is constructively dismissed.*"

83. The relevant contractual breach can relate to express or written terms, such as a place of work or those which are implied into every contract of employment, such as the mutual term of trust and confidence.

Trust and Confidence

84. The House of Lords in Malik and another v Bank Of Credit & Commerce International SA (in compulsory liquidation) [1998] explained the effect of the breach of trust and confidence as follows:

84.1 "*The employer must not, without reasonable and proper cause, conduct itself in a manner calculated* [or][1] *likely to destroy or seriously damage the relationship of trust and confidence between employer and employee*".

85. The application of this test should be on an objective basis, that is to say, the question to ask is whether the employer's actions, considered objectively, were likely to destroy or seriously damage the relationship of trust and confidence; its intention is irrelevant.

[1] Varma v North Cheshire Hospitals NHS Trust UKEAT/0178/07

86. A course of conduct can, taken cumulatively, amount to a breach of trust and confidence.

Last Straw

87. In Kaur v Leeds Teaching Hospitals NHS Trust [2018] EWCA Civ 978 the Court of Appeal set out a test of five questions that an employment Tribunal should ask in order to determine whether an employee has been constructively dismissed:

87.1 What was the most recent act (or omission) on the part of the employer which the employee says caused, or triggered, their resignation?

87.2 Has the employee affirmed the contract since that act?

87.3 If not, was that act (or omission) by itself a repudiatory breach of contract?

87.4 If not, was it nevertheless a part (applying an approach explained in Waltham Forest v Omilaju [2004] EWCA Civ 1493) of a course of conduct comprising several acts and omissions which, viewed cumulatively, amounted to a repudiatory breach of the implied term of trust and confidence? (If it was, there is no need for any separate consideration of a possible previous affirmation, because the effect of the final act is to revive the right to resign.)

87.5 Did the employee resign in response (or partly in response) to that breach?

87.6 In Waltham, the Court of Appeal issued guidance which included the principle that an entirely innocuous act on the part of the employer cannot be a final straw, even if the employee genuinely, but mistakenly, interprets the act as hurtful and destructive of their trust and confidence in the employer. The test of whether the employee's trust and confidence has been undermined, is objective.

88. Where the most recent act or omission is innocuous, a constructive dismissal claim can still succeed if there was earlier conduct amounting to a fundamental breach, that breach has not been affirmed and the employee resigned at least partly in response to it. In other words, if the answer to the above question 87.4 is “no”, it is relevant to ask whether any earlier conduct itself entailed a breach of the Malik term, has not since been affirmed, and contributed to the decision to resign (Williams v. Governing Body of Alderman Davies Church in Wales Primary School EAT/0108/19).

Causation

89. The breach does not have to be the only cause of the employee's resignation; the repudiatory breach must have "played a part" and be "one of the factors relied upon" in the employee's resignation (Wright v North Ayrshire Council UKEAT/0017/13).

Failure to redress grievances.

89.1 In the case of W A Goold (Pearmak) Ltd v McConnell & anor [1995] IRLR 516, the EAT upheld a conclusion that "..there was an implied term in the contract of employment that the employers would reasonably and promptly afford a reasonable opportunity to their employees to obtain redress and any grievance they may have". In that case, no grievance procedure was available and the employer failed to deal with legitimate grievances raised by employees at all.

89.2 In the later case of Hamilton v Tandberg Television Ltd EAT/65/02/ST, the EAT found that in that case: "There was a [grievance] procedure, it was activated, it was prompt, it was the subject of an appeal. The Applicant had an opportunity to have his say. There was in reality little dispute about some of the matters which formed the basis of the investigation. The criticism [made as part of the appeal] however, is of the Respondent's judgment as to the seriousness of the incidents and of the quality of the Respondent's investigation." It endorsed a view that "the band of reasonable responses approach applies to the conduct of investigations as much as to other procedural and substantive aspects of the decision to dismiss a person from his or her employment for conduct".

Conclusions

Trust and Confidence

90. As directed, I will adopt the recommended reasoning in Kaur by asking the following questions:

91. *What was the most recent act (or omission) on the part of the employer which the employee says caused, or triggered, their resignation?*

91.1 This was the alleged failure by Mr Chris Lee (Appeal Manager) to respond to the email from the Claimant sent on 5 June 2024 at 6.42pm.

92. *Has the employee affirmed the contract since that act?*

92.1 I do not consider that she affirmed her contract before her resignation on 19 June or her effective date of termination on 24 June 2024. None of her communications in her multiple emails over that short period are consistent with an affirmation of the contract.

93. *If not, was that act (or omission) by itself a repudiatory breach of contract?*

93.1 I do not consider that Mr Lee failed to respond to the Claimant 's email of 5 June 2024. He responded the following day and multiple times afterwards as set out in paragraphs 72 to 75 above. The Claimant was mistaken when she said in her email that he had not been in touch or had seen any evidence of progress; Mr Lee had already been in touch earlier that day to advise on progress with collating the appeal hearing notes. Mr Lee did not respond with the information that the Claimant requested, that being "his preliminary views on [her] case", however, by his response email of 6 June 2024, he provided a reasonable and comprehensive update. He explained the need for him to investigate the matter fully and be objective in any view he came to. I must bear in mind that this was in the context of the Claimant having provided a folder of additional evidence after the appeal hearing. He stated clearly that

he would not be in a position to be able to provide a preliminary view, as the Claimant requested and provides reasons for this.

93.2 It is my view that all the responses provided by Mr Lee from 6 to 13 June 2024 are fair and reasonable in the circumstances of the case. He had heard a grievance appeal of the Claimant by way of two separate grievance appeal meetings which lasted approximately three and half hours. There was significant documentation to review. The appeal letter of itself was 20 pages in length but there was also all the documentation from the VAW process and the grievance process, as well as the additional documents provided by the Claimant after the last appeal hearing on 29 May 2024. There were also multiple grievance grounds raising serious allegations against the Respondent and its employees and officers. This was against a background of a complaint which had also been raised about the Claimant , and allegations which had clearly been made against the Respondent, by Miss A. The Claimant herself had acknowledged the complexity and importance of her appeal, agreed that the outcome would take longer than 14 days and she was not seeking a rushed decision (see paragraph 68 above). In addition, Mr Lee held a position of significant other responsibilities within the Respondent's organisation, a publicly funded local authority. In the circumstances, I do not consider that it was reasonable for the Claimant to have expected the response which she set out in her email of 5 June 2024, including a "preliminary view" on a very complex situation. Had Mr Lee failed to respond to it at all, or had failed to provide further detail or assurance, my conclusion might be different. In general, I find all his emails of that time to be courteous, helpful and reasonable in attempting to manage the Claimant 's expectations.

93.3 For these reasons, I do not find that this alleged failure, of itself, amounted to a repudiatory breach.

94. *If not, was it nevertheless a part of a course of conduct comprising several acts and omissions which, viewed cumulatively, amounted to a repudiatory breach of the implied term of trust and confidence?*

94.1 I do not consider that it was part of a course of conduct as alleged. I consider that this was an entirely innocuous act on the part of Mr Lee. Judged objectively, for the reasons set out in paragraphs 93.1 and 93.2 above, I do not consider that he could have reasonably responded any differently in the circumstances. There was no failure to respond, as the Claimant has asserted and his responses were entirely fair and reasonable.

95. In accordance with Williams v. Governing Body of Alderman Davies Church in Wales Primary School EAT/0108/19, I am therefore required to consider whether there was any earlier conduct of the Respondent (judged individually or cumulatively) which amounted to a fundamental breach and if so, whether that breach was affirmed by the Claimant and/or whether she resigned, at least partly in response to that breach.

96. The alleged breach which is most proximate to the Claimant 's resignation was the "significant delay" in the consideration of the Claimant 's grievance appeal, contrary to the Respondent's own policies:

96.1 in holding a grievance appeal meeting, and

96.2 in issuing outcome.

97. I do not consider that there was a significant delay in issuing an outcome for the same reasons stated in paragraphs 93.1 and 93.2 above.

98. There was a delay in holding the grievance appeal meeting. This was not actually in breach of the Respondent's Resolution Policy, which only required "initial contact" within 14 days and not a grievance appeal meeting. Nevertheless, no initial contact was made within 14 days and the appeal meeting was held over two months after the grievance appeal had been submitted by the Claimant . Some delay was entirely understandable given that Mr Lee was one of only two directors who could hear the appeal (being senior to Andrew Gregory) and had significant responsibilities and workload. In addition, he was required to spend significant time in reviewing the relevant documents before the grievance appeal meeting so that it could be productive. Despite this, a time period of two months, without any initial contact from him, was a significant delay in the circumstances in which the Claimant found herself.

99. I do not consider that this delay, in and of itself was sufficient to amount to a fundamental breach of contract. It was not a breach of the Resolution Policy and was not sufficiently likely, viewed objectively, to destroy or seriously damage the relationship of trust and confidence.

100. I must therefore consider whether that delay was part of a course of conduct which, considered cumulatively, amounted to a breach of trust and confidence.

101. The other breaches which are relied on by the Claimant are:

101.1 Failing to properly consider and address the Claimant 's initial VAW report submitted on 4 August 2023, contrary to the Respondent's Dignity at Work and VAW policies (as alleged), and:

101.2 Significant delay in consideration of the Claimant 's grievance (as alleged); and

101.3 Failing to properly consider her grievance (as alleged); and

101.4 Without a proper reason, failing to provide her with timely access to relevant organisational policies throughout the case (VAW and Dignity at Work policies).

102. I consider that the important conclusions regarding the first of these alleged breaches (the VAW procedure) are as follows (in no particular order):

102.1 The required contents of the ALERT – VIOLENCE INCIDENT REPORT FORM completed by the Claimant are consistent with single incidents of physical violence, or threats experienced by the Respondent's workers or employees from members of the public or service users, for the reasons stated in paragraphs 23 and 24 above.

102.2 This is consistent with the Guidance Documents which explain the stated aims which aligned to reducing the possibility of physical violence or threats of physical violence, as set out in paragraphs 25 and 26 above.

102.3 There are clear and significant limits on the circumstances in which someone can be entered onto the ALERT register. The fact that entries must be processed in accordance with the Data Protection Act 2018 and Freedom of Information principles and that anyone can legally challenge such an entry, with representation, makes clear that entry must be in circumstances in which a clear risk of violence is posed.

102.4 There was no VAW Policy which existed at the time of any of the facts which are material to this claim. This, however, is contrary to what the Claimant was informed, later on in the process, after submission of her VAW report form and submission of her grievance.

102.5 That even if the VAW Policy had been in force, it was not contractual.

102.6 In none of the Guidance Documents, or the VAW Policy, was there any reference to a requirement on the Respondent to involve at least two H&S officers, or to hold a meeting with the complainant, as the Claimant has alleged.

102.7 Paragraph 6.11 of the VAW Policy says that the Respondent may take action" and/or "may send a letter to the alleged perpetrator of reported violence" (my emphases); this is not a requirement.

102.8 Clause 3.5 of the Dignity at Work Policy states that: "Managers should not automatically remove the employee from their work or workplace.." where incidents of unacceptable behaviour by contractors are raised (my emphasis); the Claimant 's return to work to a different role from 17 January 2024 was not an automatic removal and was implemented with her consent.

102.9 Paragraph 6.6 of the VAW Policy does require the taking of written statements from witnesses after reporting of a violent incident. No written witness statements were taken by Paul James. In considering whether and how this meant that the Claimant 's VAW report was not properly addressed, I have taken into account the following facts:

102.9.1 at the time that the VAW report was considered, neither the Claimant nor Paul James was aware of any policy requirement to interview witnesses as they were aware of no such policy. Both thought the Guidance Documents were relevant. The Claimant only thought that this was a relevant policy requirement after 8 December 2023 which was after the report was addressed and even after her grievance was submitted. Paul James was only aware of this policy requirement at the ET hearing; and

102.9.2 the general nature and context of the VAW report; the fact that this arose from interactions and communications with a commercial leaseholder (who also raised complaints about the Claimant) rather than with a service user or member of the public who had perpetrated any act of physical violence; and

102.9.3 the significant list of measures which were taken by the Respondent as part of the stress risk assessments of the Claimant, which included the future unlikely contact between the Claimant and Miss A; and

102.9.4 the general procedure used by Paul James in considering the report which included an initial meeting, further review and a written outcome; and

102.9.5 the Claimant recorded no incidents of physical violence; and

102.9.6 the length of the witness list submitted by the Claimant , including approximately 17 witnesses; and

102.9.7 the fact that the Claimant omitted to send a document which set out any description of the behaviour alleged of Miss A; and

102.9.8 that based on the omitted document which described the alleged behaviour of Miss A, and on the witness evidence of David Le Masurier, it was likely, on the balance of probabilities, that the witnesses could have given evidence to support the allegations that, Miss A's behaviour had included incidents of "looks", demeanour, passive aggression, vexatious demands, tactical silence, criticism, harmful allegations, not escalating grievances through appropriate channels, "Love bombing" and "virtue signalling" (see paragraph 32).

103. I consider that the important conclusions regarding the second of the alleged breaches (at paragraph 101.2 above) (delay in grievance process) are as follows (in no particular order):

103.1 The Resolution Policy contained a requirement to meet with an employee who raised a grievance no later than 14 days after receiving it.

103.2 The Claimant 's grievance was (re)submitted on 21 November 2023. It was acknowledged on 22 November 2023. The Claimant was unavailable from 7 December 2023 until 5 January 2024. She was invited to a grievance meeting on 5 January 2024 which was then pushed back, at her request, until 22 January 2024. Therefore, although a grievance meeting did not take place within 14 days of submission, it took place within days thereafter, given the Claimant 's lack of availability.

103.3 The Resolution Policy did not contain the time limit by which outcomes should be issued.

103.4 The Claimant's grievance was lengthy, detailed and contains serious allegations. There were multiple appendices.

103.5 There was an agreement between the Claimant and Mr Gregory that he should be allowed sufficient time to consider her grievance.

103.6 The Claimant was updated regarding progress of the grievance investigation on two occasions by 21 February 24.

103.7 On 1 March 2024, the Claimant had asked for Mr Gregory to take account of further information regarding the complaint made by Miss A about her.

103.8 The grievance outcome letter was issued on 6 March 2024.

103.9 Given the above issues, I do not consider that there was significant delay in issuing a grievance outcome.

104. I consider that the important conclusions regarding the third of the alleged breaches (at paragraph 101.3 above) (failing to properly consider/address the grievance) are as follows (in no particular order):

104.1 Andrew Gregory did investigate the grievance. He had a meeting with the Claimant . He interviewed some witnesses. He considered documents. He issued an outcome. His conduct was generally consistent with the Resolution Policy and the ACAS Code of Practice and Guidance on Grievance Procedures.

104.2 The grievance allegations were about the Respondent, its employees and their actions and omissions; not about the behaviour of Miss A.

104.3 Some of the grievance allegations were extremely serious. They were often so wide in scope, and subjective in nature, as to render any reasonably objective investigation and conclusions very difficult:

104.3.1 "incompetence" in increasing a "health and safety risk";

104.3.2 Not acting "in the public interest" and in accordance with the constitution;

104.3.3 Paul James not being "qualified" to hold his opinion on the VAW report;

104.3.4 Failing to record sickness absence in order to avoid liability for injury;

104.3.5 "victim-blaming" and "mistreating" the Claimant and breach of trust and confidence.

104.4 The Respondent did not breach the Dignity at Work as she alleged in one ground;

104.5 Andrew Gregory was aware of the nature and general content of Miss A's complaint about the Claimant (which was not considered by the Tribunal) and took this into account in his investigation and outcome.

104.6 In general terms, his conclusions about adherence to policies and procedures: (regarding the VAW report and Dignity at Work Policy) by the Respondent and its employees were correct, and his conclusion that Paul James was competent and qualified to reach his view on the VAW report was reasonable, based on his position and qualifications.

104.7 With regard to the failure to interview the witnesses specified by the Claimant, it is important to remember that these were the same witnesses as stated on the VAW report. As such, my conclusions in paragraphs 102.9.6 and 102.9.8 are relevant. These were witnesses to the alleged behaviour of Miss A. The grievance was not about the behaviour of Miss A; it was about the alleged actions and/or omissions of the Respondent as set out above. As such, I

consider that it was not outside the band of reasonable responses, in all the circumstances, for Andrew Gregory, to limit his enquiry of witnesses as, and for the reasons set out in paragraph 57 above.

104.8 In view of all the factors summarised at paragraph 102, I do not consider that it was outside the band of reasonable response to largely rely on the account provided by Paul James when considering the VAW report investigation.

104.9 The outcome letter provided by Andrew Gregory did address all of the Claimant's grievance grounds. It identified the witnesses who had been interviewed. For some of the grievance grounds, the response is extremely brief, for example, on the allegation that the Respondent had not acted in the public interest/in accordance with the constitution, it simply concludes that there was no evidence of this. On other grounds it goes into more detail.

105. I consider that the important issues regarding the fourth of the alleged breaches (at paragraph 101.4 above) (failing to provide her with policies) are as follows (in no particular order):

105.1 the Claimant did have access to the Dignity at Work Policy as set out in paragraph 42 above.

105.2 The Claimant was provided with the Guidance Documents on request, before submitting her VAW report.

105.3 She was later provided with the VAW Policy, on 8 December 2023. This was provided incorrectly and was no longer in force. It did not however affect the Claimant 's completion of her VAW report or her grievance as she did not know about it at those points. It later affected her view on how her grievance and appeal had been addressed, and her grounds of claim and list of issues before the Tribunal.

106. There were clear deficiencies in the conduct of the Respondent alleged at paragraphs 96 and 101 above (the first five of the alleged breaches on which the Claimant relies):

106.1 As far as the VAW report was concerned, the investigation could have been more thorough and at least some of the witnesses could have been spoken to. The outcome was extremely brief and didn’t go into any detail about the alleged behaviour of Miss A which was alleged to amount to 'violence'. Speaking to witnesses may have resulted in this outcome, which was the result that the Claimant clearly sought from the process, even if that is not what Paul James considered was its purpose.

106.2 There was delay in the grievance meeting and in producing the grievance outcome.

106.3 The grievance investigation was not as thorough as it could have been. Andrew Gregory could and should have done a more. His failure to keep any notes or other documents is unusual, surprising and far from good practice for someone of his professional role. It is not credible that he could remember all relevant details. Regardless of the reasons for the brief grievance outcome, this should

have addressed the Claimant's grievance grounds in more detail, with examples, rather than briefly stating, as it often did, that there was no evidence to support the Claimant 's allegations. A documented grievance investigation would have resulted in more transparency and clarity for the Claimant, who raised serious allegations.

106.4 The grievance appeal meeting should have taken place sooner, rather than being more than two months from when the appeal was submitted.

106.5 The Claimant should not have sent a copy of the VAW Policy on 8 December 2023 as if it were a live policy, relevant to her previous VAW report.

107. However, for the reasons stated in paragraphs 102, 103, 104 and 105 above, I do not consider, on balance, that, considered cumulatively, this conduct was likely to destroy or seriously damage the relationship of trust and confidence between the parties.

108. I have in mind the guidance provided in Goold and Hamilton. In the former, there was no grievance procedure available and the employer failed to investigate or address the grievances which were raised at all. In the latter, the band of reasonable responses approach to investigations (which appears to have been endorsed) suggests that I am asked to consider whether the Respondent behaved as no reasonable employer would have done in the same circumstances. It is not sufficient to ask whether the Respondent could and should have done more; it clearly could, particularly in the very difficult situation in which the Claimant found herself. It is also not appropriate to ask whether its conduct was reasonable. Or whether I would have behaved in the same manner, as a reasonable employer. I must consider whether the Respondent's conduct went "to the root of the contract of employment…[showing] that the employer no longer intends to be bound by one or more of the essential terms of the contract". For the reasons stated above, on balance, I do not come to that conclusion.

109. I therefore find that the Claimant did not resign in response to a repudiatory breach of her contract of employment and was not dismissed by the Respondent as defined by section 95 of the Employment Rights Act 1996. Her claim fails and is dismissed.

Employment Judge Othen
29/08/25

JUDGMENT AND REASONS SENT TO THE PARTIES ON

02 September 2025

Kacey O'Brien

FOR THE TRIBUNAL