EMPLOYMENT TRIBUNALS

Claimant: Ms A

Respondent: Mr M Hill

Heard at: London Central
(Via Cloud Video Platform)

On: **10, 11, 12, 13, 14, 17, 18 and 19 May 2021 and 20, 21 and 26 May 2021 (in chambers)**

Before: Employment Judge Joffe
Mr D Carter
Ms F Bond

Appearances
For the claimant: Mr S Nicholls, counsel
For the respondent: Mr T Perry, counsel

RESERVED JUDGMENT

1. The respondent was in breach of section 26 (2) of the Equality Act 2010 in subjecting the claimant to unwanted conduct of a sexual nature as follows:
    a) a telephone call on the evening of 22 September 2017 in which he told the claimant that he loved her and could not go ahead with sharing a flat with her unless he was able to share a bed with her.
    b) getting into bed with the claimant on 11 December 2017 and rubbing his erection against her, wrapping his arms around her and attempting to fondle her breasts.
    c) getting into bed with the claimant on 8 January 2018 and rubbing his erection against her, wrapping his arms around her and attempting to fondle her breasts.

d) informing the claimant in relation to the incident on 8 January 2018 that she was "overreacting"; that she must be "frigid or something"; that he could not understand how someone could be celibate for so many years; consequently there must be "something wrong" with her.
e) entering the claimant 's bedroom in the night on many occasions throughout December 2017 to February 2018.
f) sexual assaults on occasions at the Westminster office: by approaching the claimant from behind putting his arms round her; rubbing his penis against the claimant's bottom and attempting to fondle the claimant's breasts; touching the claimant's bottom.

2. The respondent was in breach of section 26(3) of the Equality Act 2010 as follows:
a) informing the claimant in relation to the incident on 8 January 2018 that she was "overreacting"; that she must be "frigid or something"; that he could not understand how someone could be celibate for so many years; consequently there must be "something wrong" with her.
b) between 5 February 2018 and 7 February 2018 reacting sharply to the claimant and expressing his upset about the claimant not booking a double hotel room.
c) his text to the claimant at 00.23 on 13 May 2018 to inform her that her probation would be extended by a further 6 months.
d) failing to give the claimant a promised pay rise.
e) insisting that the claimant work in the constituency during the summer recess in breach of a prior promise.
f) repeated threats to put notice on the flat the claimant shared with him.
g) ignoring the claimant's work-related texts, telephone calls and emails, and neglecting to provide the claimant with input for his diary.
h) the claimant having to report to Mrs Greig as her line manager.
i) terminating the claimant's employment and stating that he would put notice on the shared flat in a text message on 30 June 2018.
j) refusing to allow the claimant to travel to work by car unless she submitted to an OH assessment.
k) removal of an agreement to allow the claimant to travel to work by car.
l) informing the claimant by text message that the respondent would notify IPSA that the claimant was no longer on his payroll.
m) conduct of the redundancy consultation:
- Pressuring the claimant to attend consultation meetings.
- Requiring the claimant to agree to agree to her GP providing a medical report after only 9 days of sickness absence
- Contacting the claimant directly by letter on 19 July 2019 contrary to two previous requests that Mrs Greig not contact the claimant directly.
- Failing to provide the full staffing review document

- Comments made in the notes of the meeting of 24 May 2019 by Mrs Greig.

n) deactivating the claimant's security pass on or about 18 June 2019.
o) the production of a Management Report about the claimant.
p) the allegation by Mrs Greig that the claimant went off on sick leave because she wanted the respondent to remain as her line manager.
q) the claimant's dismissal.

3. The respondent was in breach of section 26(1) Equality Act 2010 as follows:
   a) in or around January 2018 the respondent asking the claimant to walk ahead of him and pretend she did not know him, and pretending he did not know the claimant when the respondent's wife met him at the station.
   b) the claimant not being invited to the opening of the respondent's constituency office.
   c) on 18 March 2019 the respondent informing the claimant that he would prefer her not to attend a meeting between himself and two of his constituents because they knew his wife and he did not want gossip to reach her.

4. The respondent victimised the claimant contrary to section 27 Equality Act 2010 as follows:
   a) his text to the claimant at 00.23 on 13 May 2018 to inform her that her probation would be extended by a further 6 months.
   b) failing to give the claimant a promised pay rise.
   c) insisting that the claimant work in the constituency during the summer recess in breach of a prior promise.
   d) repeated threats to put notice on the flat the claimant shared with him.
   e) ignoring the claimant's work-related texts, telephone calls and emails, and neglecting to provide the claimant with input for his diary.
   f) the claimant having to report to Mrs Greig as her line manager.
   g) terminating the claimant's employment and stating that he would put notice on the shared flat in a text message on 30 June 2018.
   h) refusing to allow the claimant to travel to work by car unless she submitted to an OH assessment.
   i) removal of an agreement to allow the claimant to travel to work by car.
   j) informing the claimant by text message that the respondent would notify IPSA that the claimant was no longer on his payroll.
   k) conduct of the redundancy consultation:
      - Sending the redundancy consultation letter to the claimant's mother's and brother's addresses.
      - Pressuring the claimant to attend consultation meetings.
      - Requiring the claimant to agree to agree to her GP providing a medical report after only 9 days of sickness absence

- Contacting the claimant directly by letter on 19 July 2019 contrary to two previous requests that Mrs Greig not contact the claimant directly.
- Failing to provide the full staffing review document.
- Comments made in the notes of the meeting of 24 May 2019 by Mrs Greig.

n) deactivating the claimant's security pass on or about 18 June 2019.
o) the production of a Management Report about the claimant.
p) the allegation by Mrs Greig that the claimant went off on sick leave because she wanted the respondent to remain as her line manager.
q) the claimant's dismissal.

5. The remaining claims under section 26(3), section 26(1) and section 27 Equality Act 2010 are not upheld.

6. The acts of harassment and victimisation were conduct extending over a period such that all of the claims which have succeeded were presented in time.

7. The complaint of direct disability discrimination contrary to section 13 of the Equality Act 2010 is not upheld.

8. The complaint of unfavourable treatment because of something arising in consequence of disability contrary to section 15 of the Equality Act 2010 is not upheld.

9. The complaint of failure to make reasonable adjustments contrary to sections 20 and 21 of the Equality Act 2020 is not upheld.

10. The complaint of public interest disclosure detriment contrary to section 47B of the Employment Rights Act 1996 is not upheld.

11. The complaint of automatically unfair dismissal contrary to section 103A Employment Rights Act 1996 is not upheld.

REASONS

Claims and issues

1. The issues had been set out in an agreed list of issues in the course of case management. We were not satisfied with the list and it appeared the parties shared our dissatisfaction as we were presented with a new list shortly after the hearing started, which better articulated the issues we were required to

decide. We would comment, however, that we felt the list could have been pruned significantly at some earlier stage. There was a proliferation of causes of action, some of which might sensibly have been culled once the exchange of evidence had been completed. As it was there were some issues on which we ultimately heard very little evidence and very little by way of submissions. We were obliged to decide all of the issues which remained live but it slowed down our deliberations and the proceedings would have benefitted from being more focused.

2. The agreed list of issues in its final form was as follows. We have retained the parties' abbreviations, including 'R' for respondent and 'C' for claimant:

Harassment
Sexual Harassment (s.26(2) EqA)

i. Did R engage in unwanted conduct of a sexual nature? C relies on the following alleged incidents of R's conduct:
(a) Telephone call from R on the evening of 22/09/17 in which it is alleged that R told C that he loved her and could not go ahead with sharing a flat with her unless he was able to share a bed with her. [ET1/1 para 10]
(b) R getting into bed with C on 11/12/17 and rubbing his erection against her, wrapping his arms around her and attempting to fondle her breasts. [ET1/1 para 14]
(c) R getting into bed with C on 08/01/18 and rubbing his erection against her, wrapping his arms around her and attempting to fondle her breasts. [ET1/1 para 14]
(d) R informing C in relation to the incident on 08/01/18 that she was "overreacting"; that she must be "frigid or something"; that he could not understand how someone could be celibate for so many years; consequently there must be "something wrong" with C. [ET1/1 para 14]
(e) R entering C's bedroom in the night on many occasions throughout 12/17 to 02/18. [ET1/1 para 15]
(f) Sexual assaults by R on C on occasions at the Westminster office: by approaching C from behind putting his arms round her; rubbing his penis against C's bottom and attempting to fondle C's breasts; touching C's bottom. [ET1/1 para 21]

ii. If so, did the conduct have the purpose or effect of violating C's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for C?

Less Favourable Treatment for Rejecting Sexual Harassment (s.26(3) EqA)

i. Did R engage in unwanted conduct of a sexual nature? [see above]

ii. If so, did the conduct have the purpose or effect of violating C's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for C?

iii. Was any proven conduct because of C's rejection of, or submission to, the conduct, R treated C less favourably that R would treat C if she had not rejected or submitted to the conduct? C relies on the following alleged conduct as amounting to less favourable conduct:

(a) R allegedly informing C in relation to the incident on 08/01/18 that she was "overreacting"; that she must be "frigid or something"; that he could not understand how someone could be celibate for so many years; consequently there must be "something wrong" with C. [ET1/1 para 14]

(b) Between 05/02/18 and 07/02/18 R reacting sharply to C and expressing his upset about C not booking a double hotel room. [ET1/1 para 19]

(c) R's text to C at 00.23 on 13/05/18 to inform her that her probation would be extended by a further 6 months. [ET1/1 para 24]

(d) Failing to give C a promised pay rise. [ET1/1 para 26]

(e) Insisting that C work in the constituency during the summer recess in breach of a prior promise. [ET1/1 para 27]

(f) Repeated threats to put notice on the flat C shared with him. [ET1/1 para 27]

(g) R ignoring all of C's work-related texts, telephone calls and emails, and neglecting to provide C with input for his diary. [ET1/1 para 27]

(h) C having to report to JG as her line manager. [ET1/1 para 28]

(i) R instructing JG and MB to treat C in an inappropriate manner at a meeting on 29/06/18. [ET1/1 para 29]

(j) R terminating C's employment and stating that he would put notice on the shared flat in a text message on 30/06/18. [ET1/1 para 30]

(k) Refusing to allow C to travel to work by car unless she submitted to an OH assessment. [ET1/1 para 32]

(l) Removal of an agreement to allow C to travel to work by car. [ET1/1 para 32]

(m) Changing C's role at a meeting on 04/09/18 by informing her that she would need to undertake case work. [ET1/1 para 31]

(n) Informing C by text message that R would notify IPSA that C was no longer on his payroll. [ET1/1 para 36]

(o) Conduct of the redundancy consultation:
-Sending redundancy consultation letter to C's mother and brother's address. [ET1/1 para 41]
- Pressuring C to attend consultation meetings. [ET1/1 paras 43, 55]
- Requiring C to agree to agree to her GP providing a medical report after only 9 days of sickness absence. [ET1/1 para 45]
- Contacting C directly by letter on 19/07/19 contrary to two previous requests that JG not contact C directly. [ET1/1 para 53]
- Failing to provide C the full staffing review document, the rationale for the redundancy or details of the pooling for the redundancy. [ET1/1 para 53]

- Comments made in the notes of the meeting of 24/05/19 by JG. [ET1/56]

(p) R deactivating C's security pass on or about 18/06/19. [ET1/1 para 47]
(q) Refusing to appoint someone independent to internally investigate C's grievance. [ET1/1 para 58]
(r) A failure to properly respond to C's DSAR in that no emails between R and JG were disclosed. [ET1/2 para 10a]
(s) The production of a Management Report about C. [ET1/2 para 10b]
(t) The allegation by JG that C went off on sick leave because she wanted R to remain as her line manager. [ET1/2 para 10b]
(u) C's dismissal. [ET1/2: 7]

Gender Harassment (s.26(1) EqA)

i. Did R engage in unwanted conduct related to C's gender? The alleged conduct relied on is:

(a) In or around 01/18 R asking C to walk ahead of him and pretend she did not know him, and pretending he did not know C, when R's wife met him at the station. [ET1/1 para 17]
(b) C not being invited to the opening of R's constituency office. [ET1/1 para 17]
(c) On 18/03/19 R informing C that he was prefer her not to attend a meeting between himself and two of his constituents because they knew his wife he did not want gossip to reach her. [ET1/1 para 17]
(d) Insisting that C work in the constituency during the summer recess in breach of a prior promise. [ET1/1 para 27]
(e) Repeated threats to put notice on the flat C shared with him. [ET1/1 para 27]
(f) R ignoring all of C's work-related texts, telephone calls and emails, and neglecting to provide C with input for his diary. [ET1/1 para 27]
(g) C having to report to JG as her line manager rather than R directly. [ET1/1 para 28]

ii. If so, did the conduct have the purpose or effect of violating C's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for C?

Victimisation (s.27 EqA)

i. Did C do a protected act, as defined in s.27(2)? The alleged protected acts are:

(a) In 05/18 C complaining to R that he had to stop touching C and that if he did not stop touching her she would need to get some advice. [ET1/1 para 23]
(b) C's text to R on 29/06/18 informing him that she would seek legal advice unless he stopped the sexual harassment and bullying. [ET1/1 para 29]
(c) C's solicitor emailing R on 02/07/19. [ET1/1 para 49]
(d) 30/07/19 grievance [ET1/1 para 58]
(e) Issuing proceedings in the ET from breaches of the EqA (i.e. the first ET1). [ET1/2 para 7]

(f) C's complaint to ISMA on 05/08/19. [ET1/2 para 7]

ii. Did R subject C to a detriment? The alleged detriments are:

(a) R's text to C at 00.23 on 13/05/18 to inform her that her probation would be extended by a further 6 months. [ET1/1 para 24]
(b) Failing to give C a promised pay rise. [ET1/1 para 26]
(c) Insisting that C work in the constituency during the summer recess in breach of a prior promise. [ET1/1 para 27]
(d) Repeated threats to put notice on the flat C shared with him. [ET1/1 para 27]
(e) R ignoring all of C's work-related texts, telephone calls and emails, and neglecting to provide C with input for his diary. [ET1/1 para 27]
(f) C having to report to JG as her line manager. [ET1/1 para 28]
(g) R terminating C's employment and stating that he would put notice on the shared flat in a text message on 30/06/18. [ET1/1 para 30]
(h) Refusing to allow C to travel to work by car unless she submitted to an OH assessment. [ET1/1 para 32]
(i) Removal of an agreement to allow C to travel to work by car. [ET1/1 para 32]
(j) Changing C's role at a meeting on 04/09/18 by informing her that she would need to undertake case work. [ET1/1 para 31]
(k) Informing C by text message that R would notify IPSA that C was no longer on his payroll. [ET1/1 para 36]
(l) Conduct of the redundancy consultation:
- Sending redundancy consultation letter to C's mother and brother's address. [ET1/1 para 41]
- Pressuring C to attend consultation meetings. [ET1/1 paras 43, 55]
- Requiring C to agree to agree to her GP providing a medical report after only 9 days of sickness absence. [ET1/1 para 45]
- Contacting C directly by letter on 19/07/19 contrary to two previous requests that JG not contact C directly. [ET1/1 para 53]
- Failing to provide C the full staffing review document, the rationale for the redundancy or details of the pooling for the redundancy. [ET1/1 para 53]
- Comments made in the notes of the meeting of 24/05/19 by JG [ET1/56]

(m) R deactivating C's security pass on or about 18/06/19. [ET1/1 para 47]
(n) A refusal of R to appoint someone independent to internally I investigate C's grievance. [ET1/1 para 58]
(o) A failure to properly respond to C's DSAR in that no emails between R and JG were disclosed. [ET1/2 para 10a]
(p) The production of a Management Report [ET1/2 para 10b]
(q) The allegation by JG that C went off on sick leave because she wanted R to remain as her line manager [ET1/2 para 10b]
(r) Dismissing C [ET1/2 para 7(b)]

iii. If so, was C subject to the detriment because C did a protected act or R believed that C had done or may do a protected act?

Disability Discrimination

Disability: The Respondent accept that C is a disabled person for the purposes of s.6 EqA.

6. Direct Discrimination (s.13 EqA)
i. Did R treat C less favourably than he treats or would treat others by:
(a) Refusing to allow C to use her car to travel to work [ET1/1 para 36]
(b) Targeting C for removal because of her disabilities [ET1/1 para 57]
(c) Dismissing C [ET1/2 para 8]

ii. Was any less favourable treatment because C was disabled?

Discrimination Arising From Disability (s.15 EqA)

i. Did R treat C unfavourably?
C relies on her dismissal. [ET1/2 para 8]

ii. Was any unfavourable treatment because of something arising in consequence of C's disability?
C avers that her long term absence from work arose as a consequence of her disability and this absence had a material influence on the decision to dismiss her.

iii. Was any proven treatment a proportionate means of achieving a legitimate aim?

Failure to Make Reasonable Adjustments (ss.20 & 21 EqA)

i. Was there a PCP?
(a) That staff were only permitted to travel to work on public transport and / or not use private transport;
(b) That staff were required to work core hours.

ii. Did that PCP place C at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled?

iii. Did R fail to take all reasonable steps to avoid the PCP having that effect?

Whistleblowing: detriment

i. Did C make a protected disclosure?
• C relies on: (a) her complaint to ISMA on 05/08/19 and (b) her grievance of 30/07/19.

ii. Was any disclosure made by C made in the reasonable belief that she was making it in the public interest?

iii. Was any disclosure made by C made in the reasonable belief that it tended to show any of the matters set out at s.43B(1)(a) and/or (b).

iv. In respect of the disclosure made by C to ISMA did C reasonably believe that the information disclosed and the allegations contained therein were substantially true per s.43F(1)(b) / or s.43G of the ERA 96?

v. Was C subjected to a detriment by any act, or any deliberate failure to act, by R (or by another worker of R) done on the ground that the worker made the protected disclosure? C relies on the following alleged detriments:
(a) A failure to properly respond to C's DSAR in that no emails between R and JG were disclosed. [ET1/2 para 10a]

Whistleblowing: Automatic Unfair Dismissal (s.103A ERA)

i. Did C make a protected disclosure? [see above]

ii. If so, was the reason (or if more than one reason the principal reason) for the dismissal that C made a protected disclosure?

Jurisdiction - Time

i. Are the claims under the EqA brought in time?
ii. If not, do they constitute a continuing act?
iii. If not, is it just and equitable to extend time?

Personal Injury - Remedy

i. Did C sustain a personal injury arising from the treatment she alleges she received from R. What is that injury and what is the prognosis.

NB: We were not being asked to determine this issue at this hearing, which concerned liability only.

Findings of Fact

<u>The hearing</u>

3. The hearing was a remote hearing via Cloud Video Platform. The Tribunal is not able to hold any significant number of in person hearings at present and the parties did not object to a remote hearing. There were no significant technical issues.

4. We heard from the claimant and, on her behalf: Mr Kirk Porter, 'Palaces' branch secretary for the Public and Commercial Services Union ('PCSU') and

Mr Andrew Bridgen, Member of Parliament for North West Leicestershire. We heard from the respondent, formerly Member of Parliament for Hartlepool, and on his behalf, Mrs Janet Grieg, who worked as the respondent's office manager. We had an agreed electronic bundle which ran to 1657 pages and we were provided with some recordings, the transcripts of which were in the bundle. We listened to a selection of those recordings.

Chronology

Respondent

5. Prior to becoming an MP, the respondent's background was as a trade union representative and official. He was appointed in 1999 to the role of regional organiser for Unison; prior to that he held a number of elected positions, from shop steward through to branch secretary.

6. In terms of the content of the work he did, he told us:

In respect of dismissals, my main rep work was on appeals - appeals against whatever sanction. Dismissals were done by lay officials in branch - if they appealed I would usually do the appeals.

7. He had experience with redundancies and a significant interest in and experience with equal pay; sex and race discrimination came up in his work relatively rarely.

Claimant

8. The claimant had a background working in the NHS in mental health services. She suffered from PTSD and depression after abuse from patients in the course of that work, including sexual abuse.

9. The claimant commenced proceedings against the NHS trust by which she had been employed in about 2015. She got to know the respondent in his capacity as Unison regional organiser from June 2015 and he supported her through the proceedings.

10. We saw a witness statement the respondent produced for the claimant in her claim against her former employer dated 19 May 2016. He said in that statement:

I personally know that [A] finds it difficult to go outside the house. A doesn't like people behind her. A gets worked up but does make an effort to get out and do

things as she has to and she doesn't want to be ill. She is trying to improve but she requires treatment and assistance.

If she didn't have her daughter she would have become agoraphobic and because of this and because of her personality she is determined not to slip into this condition. I think her PTSD is still acute and requires treatment.

11. The respondent and the claimant had developed a friendship through his involvement with her as a trade union representative. He frequently visited the claimant at home (the claimant said three times a week) and got to know her family, including her parents and her daughter. They discussed relationships. The respondent said he was in a loveless unhappy relationship. The claimant said she was celibate and happy with that.

12. The respondent told the Tribunal that on occasions he paid money into the claimant's account when she was broke, he thought for her mortgage. That matter was not put to the claimant and we did not find it necessary to make a finding about it.

13. The claimant achieved a settlement of £40,000 in her claim against her former employer. Her evidence to us was that she had wanted to continue to fight the case and not settle it. The settlement money was spent on a variety of things, including her daughter's education and support, paying off the claimant's car, items for her house, short courses for herself, savings for daughter. She had possibly £3 - 4,000 left by the time she moved to London.

14. We saw various text messages between the claimant and respondent from May 2017 which showed a warm relationship between the claimant and respondent. On 26 May 2017, the respondent spent time with the claimant's father who was dying and sent the claimant a text telling her that he had promised her father that he would look after her.

15. In June 2017, the respondent was elected as MP for Hartlepool. He told the Tribunal he originally asked his previous Unison secretary, Angela Cook, to work with him in parliament but she had a young child and was unable to do so. He was new to Westminster and felt a need to have support in London.

16. It is relevant to make some findings about the claimant's finances at this time. She was at the time living on benefits: £125 per week ESA plus PIP. She had a rental house which cost her approximately £600 pcm.

17. On 18 June 2017, the respondent sent the claimant a text:

Havn't changed at all and I am so sorry we cannot be close anymore. That's not what I want as you know but that's your choice. You've always been very careful to let me know plainly that there would never be anything physical between us which I've always regretted but accepted. I do want you back but

knowing me having thought it through I'm never going to go to the dark side as an MP and therefore would live up to your expectations on that account.

18. We were not told what led to that text but it was apparent that the respondent had made some suggestion that he and the claimant might have a relationship which was more than friendship and that she indicated that she did not want that.

19. On 7 or 8 September 2017, the respondent visited the claimant at home and asked her to work for him. He accepted in evidence that he knew she was still a vulnerable person but said that her PTSD had improved tremendously. She needed support but was much improved.

20. On 9 September 2017, the respondent came to the claimant's house and got on his knees and begged her to come and work for him. He cried and said that he could not cope with going to parliament without her support. The respondent said he could not recall that incident happening, but when the claimant referred to the incident in a subsequent recorded conversation, he did not challenge that it had happened and we accepted the claimant's account.

21. There were discussions about where the claimant would live in London and the respondent told her he would investigate whether the claimant could receive funding from the Independent Parliamentary Standards Authority ('IPSA').

22. The claimant told us that she was waiting for IPSA confirmation before she made a decision about the job offer and we saw a text message from the claimant to the respondent on 10 September 2017 in which the claimant said that her mother was supportive and asked the respondent to find out about accommodation. There are further text messages in which the claimant tells the respondent that she is doing research about the role she might hold and the respondent says:

It all will come crashing down if you can't get a separate flat paid for. Hope not because we would have a perfect partnership…

23. The respondent's evidence in chief on the issue of accommodation was that:

*I did however make enquiries with IPSA about the funding of accommodation for London based staff but was told they didn't pay for that and I told the claimant. From that moment it was my understanding the claimant would be living with her brother in London. By the time I was made aware that was no longer an option the claimant had accepted the job. We were in the process of arranging for her parliamentary vetting to be approved when the arrangements for her to live with her brother in London fell through***.**

24. The claimant's evidence was that in the week commencing 11 September 2019**,** the respondent told her that IPSA would not pay for a flat or hotel or temporary accommodation. The claimant said that she declined the job offer at this stage.

25. She said that the respondent then suggested that she share a flat with him, in the course of a visit to her house that week. He said that he received about £2000 per month towards his own accommodation and because of their strong friendship they could share a two bedroom flat.

26. The claimant told us that she asked the respondent if this arrangement was acceptable and he said flat shares were common in parliament

27. The claimant said the respondent said that once they had a two bed flat, the claimant's daughter could join them to attend makeup artist school. He told her he thought they would be able to get a two bed flat within a matter of weeks.

28. The respondent told the Tribunal that he thought the claimant would be living at her brother's place. He was unable to tell us clearly how he had formed that impression. The respondent said he offered to put the claimant up temporarily in his one bedroom flat in Pimlico. He had thought she owned the property she lived in near Hartlepool.

29. The claimant told us that that living with her brother was never discussed; her brother had no room for the claimant as his small house was filled with his family.

30. In resolving which version of events we preferred, we had regard to a number of matters. There were text messages on 1 December and in January 2018 which supported the claimant's account. Other events we relate below demonstrate the respondent's extreme keenness to get the claimant to accept the job. The claimant's brother's accommodation was in an outer borough of London and it was not disputed that the claimant had difficulty travelling on public transport so it was hard to believe that this would ever have been a viable option for her. There were text messages showing the claimant was looking for a two bedroom flat in London from September 2017. None of the contemporaneous text messages nor the later transcripts of recorded conversations support the respondent's account. We accepted that, once the possibility of IPSA support fell through, the respondent told the claimant that he would share a two bedroom flat with her. Both he and the claimant understood, we accept, that she could not realistically afford to rent a flat for herself in London.

31. There were various other matters discussed about the role. The claimant told us that the respondent told her she could have time off during summer recess to do freelance floristry in London as there was limited work when parliament was not sitting. Floristry was a career she had been exploring and she had done some training.

32. The respondent's oral evidence on this point was that he and the claimant had a conversation 'in principle but the contract allows that not to be the case', ie allowed him to say that she could not take time off for floristry.

33. They also discussed the ambit of the claimant's role. The claimant said that the respondent proposed the job title of senior parliamentary researcher. She had done some research about that role.

34. The claimant said that they talked about salary and the respondent said that she would go to the top of her pay band in April 2018. She says he offered that; she did not request it or negotiate the pay or terms. She said that she had not asked for anything. He said that if she worked hard she would go to the top of her pay band. The pay bands are set by IPSA. The respondent agreed he had said that the claimant would go to the top of her pay band by incremental progression in April 2018.

35. The claimant told the Tribunal that the respondent told her she would run her own office in London and their working relationship would be more of a partnership; that was consistent with a number of text messages between them in which both referred to the relationship as a 'partnership'.

36. We essentially accepted the claimant's account of these discussions, which the respondent did not challenge in any material way. The respondent seemed keen to offer a package to the claimant which would attract her to the role. We accept that this was in fact an attractive and potentially life changing opportunity for the claimant.

37. In the second week of September 2017, the claimant accepted the role. The claimant gave her landlady notice to quit her accommodation. She started looking for two bedroom flats in London.

38. On 22 September 2017, the claimant said the respondent telephoned her. The claimant told us that he said he could not share a flat with a woman he loved unless she shared a bed with him. He said that he had been in a loveless marriage for over a decade and it would be impossible for him to share a flat with her unless they shared a bed.

39. The respondent told the Tribunal that he did not say he wanted to share a bed with the claimant. The submission ultimately made on his behalf was that he had simply expressed that he had developed feelings for the claimant. His evidence under cross examination was that he did not remember the conversation:

R: I telephoned her a lot, can't recall that day specifically.

Counsel: You told her you could not share flat with a woman you loved unless she shared a bed with you?

R: I can't remember what phone conversation about.

Counsel: Could you have said that?

R: Doesn't sound like I would. I can't answer that as can't recall.

Counsel: Told her that had been living in loveless marriage for over a decade and impossible to share a flat unless shared a bed?

R: No ultimatum about the bed.

Counsel: Loveless marriage for a decade?

R: Can't recall.

Counsel: Could you have said that?

R: Many conversations about many things. I don't recall that.

Counsel: She ended the conversation as she was shocked and upset and confused?

R: Don't recall that.

40. What is not disputed is that the respondent then sent the claimant text messages in the early hours of the morning of 23 September 2017:

Am truly sorry. I hoped we had a future together in the long term hoping that I could look after you and care for you like I have done. Didn't know your feelings were a million miles away from that. Sorry but I couldn't cope with a loveless future as I have that now. If I could propose to you today I would but if you're not interested then what's the point? I end up in torture. Sharing a space and having a great time with a woman who doesn't want me ultimately. Don't think I could cope with that. Sorry babe xx

…

It was never ever about an immediate intimate relationship it was about me and you working together and getting on. You know how much I love you and your family and how much we'd get on and do in London, but without a bit of hope love I'm emotionally fucked x

…

You've got the only bloke on the planet whose stood by you no matter what, who loves your kids, done everything you ask, cares 1 thousand per cent and wants to share a life with you despite everything but I'm not good enough. Ok. One day I will believe I'm not that bad if a bloke. Take care love

You have your reasons and I respect that fully, I really do, but you know my circumstances and you know that I crave your company and intelligence and conversation all the time but that I also crave your body too. That's only purely

because we've known each other for such a long time we fit like a glove mentally and so why shouldn't we physically.

In my strange brain I had the happy prospect of me and you getting married and having a long term future somewhere down the line but that was happily distracted by me thinking about having a real strong friend and supporter and company in a Westminster making it impossible for us to marry.

None the less I thought about it which shows how much I love you. I won't intrude anymore because I know you know I'm a gentleman so won't intrude further. Am sorry this has ruined ou…[This text was incomplete in the bundle]

41. Although Mr Perry asserted in submissions that the reference to an 'immediate intimate relationship' showed that the respondent had already accepted that there would be no physical relationship with the claimant, it seemed to us that it showed the opposite.

42. The messages continued with a message from the claimant:

You should never have opened that amazing opportunity up of working together and spending quality time together and making me believe I was special and had the qualities to support and help you… You really have broken my heart for good… I wish you nothing but success and happiness.

43. The respondent replied:

I haven't been very well today and deservedly so because I upset you and it's been playing on my mind. I didn't mean to but I did all same. I'm horrified but not surprised that you think of me like that as I can see where your coming from and frankly others would say the same. I got my feelings all wrong and I am sorry. I did and still do want you to be by my side in London, we would make a brilliant team. I've probably ruined that now which I deeply regret. Sometimes I say stupid things based on my emotions. Please think again. We've always looked after each other.

44. On the evening of 23 September 2017, the claimant wrote:

What you did yesterday was so cruel… you offered me a huge life line… a chance not only to be financially secure, to regain my confidence after going through the last few years of hell; a chance to live again and enjoy life again.. a chance to experience that with the person who I adored… and a chance to help my kids…and with a few moments you took it all away… I will never be held to ransom by you or anyone else…cruel beyond words… you have no idea how that has effected me today… you know how my health is I haven't stopped crying all day…

…

I am dreading telling my mum why I am not going to London…she actually cried when I told her you promised dad you would look after me… I am absolutely heartbroken.

45. The respondent replied:

I am very sorry I made you cry all day and think of me as just an opportunist. That is as far from the truth as you could imagine. I am not the sort of person to contrive anything like that and yes although I love you as you know it was you the person who I wanted to work for me and I meant it and still do. The basis of me asking is the same and not disrespectful and was honestly meant. My speaking with my heart on my sleeve was not and I apologise unreservedly. I didn't realise you didn't have feelings for me and I made a mistake. If you can accept my apology we can start again hopefully

46. He then wrote:

I've unintentionally put you over a barrel and I accept that. I did and do think we had a more respectful and understanding relationship based on love not lust and am sorry that I pushed you about previous relationships in a blundered attempt to say I'm different. I never ever have seen you in the light you talk about I've just grown to love you over the time we've known each other. I felt awful after and yes selfishly ugly but also I did get it. Which is more than your average Male would do and because of that would seek your forgiveness. Doesn't change my mind one bit on you coming to work in London if you want

47. It seemed to us that those text messages were entirely consistent with the claimant's account of the telephone conversation. The respondent's first few messages are those of a man who has been physically rejected; he says he cannot share a flat with a woman who does not want him; he is hoping for an intimate relationship at some point if not immediately. The fact that he is seeking to explain in the messages that his physical desire for her is part of a larger picture of his feelings for the claimant is clearly a response to her rejection of a proposal that the relationship be a physical one. By the final messages he has changed his position and is not making a physical relationship or the hope of an eventual physical relationship a condition of the arrangement.

48. The claimant's evidence was that the respondent then visited her at home and apologised repeatedly. She said he knew that she had given notice to finish her state benefits and her tenancy agreement. Her possessions were packed to go into storage. She said she told him there would be no more talk about an intimate relationship between them and he agreed. He assured her there would be no further outbursts.

49. On 30 October 2017, the claimant's contract of employment was signed. It contained a probationary period of six months. The claimant's starting salary was £44,950 and her hours of work were 37.5 per week.

50. As to place of work, the contract provided:

The main location of your work will be London.

However, I will require you on occasions to work, attend meetings or events. Either in Westminster, in the constituency or at another location. If you travel between my constituency and Westminster at my request the travelling time will be regarded as part of your working hours.

51. We saw the claimant's job description. In terms of how that document was drawn up, the claimant said that she and the respondent looked at the duties together from a menu of suggested duties for the role. He had said what he wanted her to do, and told her to put as much in as possible, to 'tick all the boxes' as this would 'look good'. She said that she said that 'wasn't right' but he said to 'tick them all as it looked good'. The duties included 'progress casework as required'. She said that the respondent said that she should not worry about case working in the constituency. The claimant said that she said she would like to do training. We accepted that account of how the job description was prepared, which was consistent with what we found was the respondent's desire to present an opportunity which would seem attractive to the claimant and justify a salary towards the top of the band for the role.

52. The claimant commenced employment on 6 November 2017. She moved into the respondent's one bedroom flat in Pimlico; she understood that this was a temporary arrangement until she found a two bedroom flat for them to share.

53. The claimant said that she and the respondent travelled down to London together on a Monday and back on a Thursday and travelled in to parliament together as she needed support on public transport for her PTSD. They would be in Westminster from 10 am until 9 or 10 pm. She said that the respondent offered an arrangement whereby she worked from home (her mother's home in the North East) on Fridays.

54. The Pimlico flat had one bedroom. The claimant had the bedroom. The respondent slept on a two seater sofa in the living room. The claimant lived out of her suitcase. She said that was pending the move to a larger flat.

55. The claimant became friendly with Andrew Bridgen MP after being introduced to him in her first week in parliament by the respondent.

56. The claimant was looking for two bedroom flats during autumn and winter 2017 but told us the respondent procrastinated about viewing flats. We saw some

messages between the claimant and estate agents which showed that she was looking for flats between late September and November 2017 and texts in which the claimant sent the respondent property details.

57. The respondent said that he was reluctant to move out of the one bedroom flat because he wanted the claimant to move out and stop living with him. He said that he told her that he was concerned because his wife had access to his online bank account and would question him if he went over his IPSA accommodation allowance. The respondent said in oral evidence:

She was ambitious to have two bed accommodation. The Pimlico flat was so small, she moved me along from Pimlico flat by giving notice and giving me an ultimatum and she persuaded me that it was ok to share a flat because she had been told by a lady who worked for a fellow MP that it was not uncommon to share. She did not say members and members. She said that it was not uncommon for members and staff.

58. The claimant said that the respondent did not want to move out of the small flat, in part because the respondent was worried his wife would see more money going out of his account as she had control of his online banking. She also said: 'I think he was happy to have me isolated in that one bedroom flat, away from my family and daughter.'

59. In late November 2017**,** the claimant told us that she bought an overcoat for the respondent because there had been remarks from MPs and others about the respondent's threadbare suits. The overcoat was to cover up the suits and was more suitable, she thought, than his donkey jacket.

60. Mrs Greig's evidence to the Tribunal was that she believed this gift and the claimant's behaviour were inconsistent with the claimant's allegations of sexual harassment: *I believe that the claimant from the very beginning when I met her she was very very complimentary about Mike, no suggestion at any time that anything inappropriate, concerned about his eating habits, buying a coat, it was strange for an employee to buy an employer a coat. I didn't think more about it until year later when she was saying in one breath he was wonderful, she trusted him, and in next breath that he had been sexually harassing her.*

61. On 1 December 2017, the claimant sent the respondent a text message:

I am upset with you to be honest...yet again you are trying to have a go at me about my wages and how other people will react and yet again you bring up us sharing a flat together and try to make me feel bad in some way

.....I am going to say this for the last time you came to me with a job offer ...you said we should share a flat together after it was clear that I couldn't have my own place and yet again you throw the same things back in my face ....I am

stating yet again it's nobody's business how much I earn and secondly I do not want to hear about the repercussions of [respondent's wife] finding out about flat sharing ....to be honest I am burnt out psychologically with your going on about it and trying to make me feel bad or you trying to scare me....I know you want to stay in that bedsit and it would suit you as [respondent's wife] would not see any change on your bank statements but I can not and will not live like that ....if you want to sack me then do so but I will not live in fear of your wife....that's your life not mine .....

62. The claimant told us about this text message in oral evidence:

That was before the first sexual assault, whilst staying at Pimlico flat when we talked about seeing flats he started making excuses and started going on about money. If they found out what I earned the party would be upset as he had taken on an outsider and it wasn't the done thing to do. He was trying to make me feel bad. He had a way of getting into my head, jumping from one topic to another, he used to confuse me, that text was me being frustrated as he was finding excuses not to look at flats. He wanted to stay in the bedsit – keep me there on my own isolated, he was the one in power.

63. In December 2017, the claimant found a duplex they could move into with three bedrooms. The claimant said she put pressure on the respondent to make an offer, which was accepted and the respondent gave one month's notice to terminate the Pimlico tenancy.

11 December 2017: first alleged sexual assault

64. The claimant gave this account in her witness statement:

I was startled in the night when I became aware that somebody else was in the bed with me. I discovered that it was Mr Hill. He was behind me and rubbing his erect penis against my bottom and had his arms wrapped around me and was feeling my breasts. I managed to get out of the bed and went to the living room. I was crying and shaking because of the experience.

Mr Hill never did acknowledge his unwanted sexual conduct or presence in the bedroom. Nor did he attempt to apologise for his behaviour, and nor did he leave the bedroom until later that morning. Meanwhile, I sat in the living room on the sofa shaking and crying my eyes out.

I confronted Mr Hill when he came into the living room later that morning. He still did not apologise. I told him that his actions had caused me a great deal of distress and I asked him why he got into my bed with me. Mr Hill told me that he was cold and wanted a cuddle.

65. In oral evidence, the claimant added that it had been pitch black. The respondent was dressed in underpants and T-shirt at the time and the next morning. She said that he often walked around in those items of clothing and an open dressing gown.

66. The respondent's account in his witness statement was as follows:

On one occasion, when I had a bad back I did get into the claimant's bed. I was suffering extreme back pain due to sleeping on the two seater sofa. With the claimant's agreement and in an attempt to relieve the pain it was agreed I could share the bed with the claimant. The claimant agreed to this and at no time during the night was there any inappropriate physical contact between myself and the claimant. I did not rub myself against the claimant nor did I attempt to fondle her breasts as she alleges. I never said I was cold and wanted a cuddle nor did I say that the claimant was overreacting and must be frigid or something, that I couldn't understand how anyone could be celibate.

67. In oral evidence, the respondent was unable to say exactly how the claimant had consented to him sharing the bed.

R: I woke up with a pain in my back. It was cold. It wasn't a recurring problem. I woke up with a bad back.

Counsel: Not a long term health condition?

R: If it was would have medical evidence. I do feel cold round kidneys – had for ages and father had. I simply asked if it was ok to get into the bed. Considered it to be her bed and her room.

Counsel: More normal to ask her to take your place on the couch?

R: The reality I woke up with that [back pain] and I asked her and that's it, just telling you what happened.

R: I asked and she consented. I don't remember exactly what said…I remember the pain of the back, I remember that.

68. The claimant said that the respondent never mentioned bad back issues.

69. The claimant said that the respondent repeatedly came into the bedroom at night after that and she went into the living room when she heard him coming in and spent the rest of the night there.

70. She said she told the respondent repeatedly that they had spoken about intimacy and he had agreed that there would be none. She said she told him that she felt very threatened by his actions and that he must not do it again:

Instead of apologising and trying to assure me it would not be repeated, Mr Hill would tell me that I was overreacting because he meant me no harm. He once told me that I "must be frigid or something". He also told me that he could not

understand how anyone could be celibate for so many years and said there must be "something wrong" with me.

71. The respondent denied that he had come into the bedroom again during the night on any occasion and denied that he made those remarks to the claimant.

72. On 21 December 2017**,** the landlady of the duplex said she had received a higher offer; the lease on the Pimlico flat was extended until February 2018.

73. In January 2018**,** the claimant found a two bedroom flat in Chelsea. She negotiated a three year lease as that length of tenure reduced the monthly rent.

74. The respondent said in oral evidence:

The Chelsea flat was a flat which the claimant pursued. She pursued a two bed flat and convinced me it was all right. It was a time of heavy duty business in parliament, first time I came across Chelsea flat was moving in with suitcases. I didn't want to flat share, I really didn't. I got myself into a mess of a situation. She got the three year lease.

Counsel: At what point did you think not right to be in three year lease?

R: It never felt right, she guilt tripped me all the way through, she said gave up her home. Constantly throughout this made me feel so guilty that I dragged my feet on many things. Many months where I said nothing to my wife – awfulness of me, clearly, not having guts to do that, it's the claimant constantly reminding me when I expressed my concern, reminding me of what she said I had done, saying she would be out on the street and made me feel bad about it. If I was that kind of person, I would have pulled out of that situation.

75. We saw part of a chain of texts from this period:

Claimant:

This situation has gone on for months now…its not what I agreed to when you offered me the job and I have given up my home because we were supposed to get a real flat but you keep putting it off as much as possible… I don't know how much more I can take to be honest

Respondent:

No it's not that. Plus it's not my fault we aren't somewhere else.

76. There are further texts in which the respondent tells the claimant 'Just slow down a bit. Job comes first,' and the claimant replies 'job comes first for you cos you have a home… I want a home like any other human being.'

Week commencing 8 January 2018: second alleged sexual assault

77. The claimant's account in her witness statement was as follows:

The second sexual assault of me by Mr Hill occurred in the week commencing 8 January 2018, when Parliament had resumed, and we were back in London. The effect of Mr Hill's treatment on me led me to suffer sleep deprivation and this eventually caught up with me. On the night of the sexual assault, I was so exhausted I fell into a deep sleep when I did manage to drop off. As such I did not hear Mr Hill come into the bedroom. The next thing I know I found him behind me rubbing his body and his erect penis against me. This caused me to wake suddenly, and I quickly retreated to the living room. It was so awful that I spent my weekends back in the North East sleeping and so much so that I needed medication to help with it.

78. The respondent denied this account in its entirety.

79. A significant issue for us to consider was why the claimant remained in the original flat and then moved into the Chelsea flat with the respondent. The respondent relied on these as facts which demonstrated that the sexual assaults had not occurred.

80. The claimant's explanations for staying in the situation were that she was unable to afford accommodation for herself in London. Because of her mental health issues, she could not move into a flat share with strangers and because of her difficulties taking public transport, she could not move to cheaper accommodation far from Westminster. She had given up her accommodation in the North East. She thought the behaviour would stop if she moved to a two bed flat and her daughter moved in. She did not want to have to tell her family what had happened.

81. In oral evidence she said:

I tried to minimise it. I tried to block it out. I wanted a safe roof for my daughter, if I pushed too much I would be out on streets… I tried to not think about it, I tried to get on with getting on with day to day, I felt ashamed for not packing my bags and leaving, I am ashamed and embarrassed. I tried to push it to one side – times when I tried to bring it up, it wasn't my shame to carry, he was my friend and I trusted him.

January 2018 incident

82. On a date in January 2018, the claimant and respondent were travelling on a train back to the constituency with Graeme Morris MP. The respondent received a text message from his wife saying she would pick him up from the station

because of snow. The claimant told us that she said it would be nice to meet Mrs Hill. She said the respondent then said that Mrs Hill did not know about the claimant or the fact that she worked for the respondent. He said he would speak to his wife over the weekend and tell her that the claimant was working for him. On this occasion, however, the claimant should walk ahead of him off the train and pretend she did not know him. She told us that she did not feel she had any option but to agree. Whilst she was waiting for her son, the respondent and Mrs Hill walked past her and the respondent did not acknowledge her. Mr Morris witnessed this. The claimant said that the incident was humiliating and degrading.

83. The respondent's account was: *Because we kept quiet about the fact that she was sharing my flat, when we returned to the North East one evening and got off the train, we both agreed to get off separately. The claimant was as complicit in this as I was. We both pretended that we didn't know each other.*

84. In oral evidence, the respondent said that Mrs Hill did text to say she would collect him. He could not recall the claimant saying she would like to meet Mrs Hill. In oral evidence, his explanation was as follows:

Mrs Hill had disapproved of the wages being paid to staff in Hartlepool office after discovering what they were paid and she would have disapproved of what the claimant was being paid, I was going to tell her

Ms A knew that Mrs Hill had an opinion about the wages in office and would have an opinion about Ms A's wages and it wouldn't have been in Ms A's interests to do otherwise because she was in a job she enjoyed and an accommodation situation I was not happy about.

I can't remember precisely the conversation just know it was mutually agreed. It was not to her benefit if disclosed. She did not want it exposed.

85. Later that evening, the respondent sent the claimant a text message:

Note to [claimant]. Never ever will I treat you like shit again as I did tonight. Good night love. Xx

Hotel stay

86. On 1 February 2018, the claimant and the respondent vacated the Pimlico flat. Between 5 and 7 February 2018, they stayed in a hotel as the Chelsea flat was not yet available.

87. The claimant's account of this interlude was as follows:

As we had to vacate the Pimlico Flat on Thursday 1 February 2018, and we were due to return to the constituency that day for Friday and the weekend, but

the new tenancy of the Chelsea Flat could not start until 20 February 2018 (the date Parliament returned from its February 2018 recess), Mr Hill and I had to find temporary accommodation for 3 nights in London, being 5 to 7 February 2018 (the Parliamentary recess started on 8 February 2018). Mr Hill asked me to book accommodation from 5 to 7 February 2018 inclusive. I asked Mr Hill if I could also book another room for myself. Mr Hill told me that IPSA would not allow this. I was very unhappy about having to share a hotel room with him but was also fearful about being left in London on my own because of my PTSD. I booked a twin room for us in a hotel and when I told Mr Hill what I had done, I remember him reacting very sharply with me and telling me that I should have booked a room with one double bed.

Even when I stayed in the hotel with Mr Hill, I did my best to stay awake for fear that he might try and get into bed with me. Thankfully, he did not but, on 8 February 2018, the day we checked out of the hotel, I suffered a panic attack as we were leaving the hotel to head back to the constituency for the February recess. I believe the panic attack was exacerbated by my PTSD. In the hotel room, shortly before we checked out, I confronted Mr Hill because I was very upset that he had tried to force me into booking a room with a double bed. My frustration had built up over the preceding days about his behaviour and Mr Hill had been extremely moody and abrupt during our 3 day stay in the hotel, which I believed was because I refused to agree to a double bed. Mr Hill did not respond to my accusation. I feared a verbal onslaught from Mr Hill and so I fled from the hotel room (I believe my fight or flight response was triggered) with my bags but once I got outside the hotel, sheer panic hit me as I was in the centre of London and my PTSD symptoms were triggered.

I was in a state of extreme fear and I knew that I couldn't make it alone to Westminster tube station or to Kings Cross to catch the train back to Hartlepool. I was frozen with fear and I remained outside the hotel in the smoking shelter, trying to calm my racing thoughts. When Mr Hill appeared, I was shaking and crying. I told Mr Hill that I could no longer cope with his manipulative behaviour and it had to stop or else I would leave his employment. Mr Hill apologised but then pleaded with me not to go back to the North East and to continue in his employment. Unfortunately, although initially my daughter had been due to come down and join us as soon as she could on 20 February, she was delayed by illness and I knew she was arriving on 2 March. I agreed not to go back to the North East knowing that 2 March 2018 was just around the corner.

88. In oral evidence, the respondent denied that he had suggested that the claimant should have booked a room with a double bed. He said in cross examination that he received over £4000 a month net after tax and the hotel would have been paid for out of expenses.

89. He was cross-examined as follows:

Counsel: This was at a time when you say didn't want to be with the claimant – needed to get out?

R: When I was raising an issue in Pimlico flat – directly after notice served by the claimant on Pimlico flat.

Counsel: If that was the case and you were not paying for this room, why not say to the claimant – we are not sharing a room, it is inappropriate, not right, I will pay for you to have your own room?

R: I should have done in hindsight.

Counsel: Did your wife know you shared a hotel room?

R: No.

Counsel: You didn't tell her?

R: No.

Counsel: Because you knew how inappropriate it was?

R: I never gave it that kind of thought, I needed to be in London to work.

Counsel: Why not speak to e.g. Kate Hollern and say you were between homes – would you mind putting me up in spare room, or someone else?

R: Never crossed my mind.

Counsel: So obvious that should not have shared a hotel room with the claimant that you must have had an ulterior motive?

R: Not true.

Counsel: You told her she was not allowed to book a room for herself?

R: The room would have had two beds.

Counsel: When you realised it had twin beds you said she should have booked a room with one bed?

R: No.

Counsel: You were moody and abrupt with her?

R: I don't like hotel accommodation, I can't remember.

90. On 20 February 2018, the claimant and the respondent moved to the Chelsea flat. The claimant's daughter moved in a week later. The claimant was cross examined to the effect that she would not have moved her daughter into a flat with a man who had sexually assaulted the claimant and therefore she could not be telling the truth about the assaults. The claimant said that the respondent was fixated on her personally. She did not perceive him as a threat to her daughter.

91. Much of the rent was covered by IPSA and the claimant was paying £700 per month to the respondent by way of contribution.

92. The claimant's evidence was that the respondent at around this time said he would start work later in day and the claimant would have to travel to work on her own. She told us that the respondent started being resentful towards her and his moods became 'Jekyll and Hyde'.

93. At some point after the move to Chelsea, the respondent said that he locked his bedroom at night, ate and slept in there and spent most of his time there working or watching TV. He said that he did this because he was fed up with coming home late after voting to arguments. He wanted peace and quiet. He accepted that the claimant never came into his room uninvited when he was there but said that she would sometimes clean his room on her own initiative when he was not in it. He suggested that he locked his room because he was scared of the claimant and that she had 'a real temper on her. There was often an argument when I stepped through the door.'

Alleged sexual harassment in the office

94. From about February 2018, the claimant said the respondent started sexually harassing her in the office. It was a small office with a desk, an office chair and an armchair and we were provided with a plan of the office which showed the claimant's desk facing a side wall with the desk chair behind it and the armchair to the side of the desk chair. The office was reconfigured in about June 2018 so that a further redundant desk was removed and the armchair was placed across the room. The claimant's desk was then facing the door and the desk chair was behind it. She said that before the office was rearranged the respondent would sit behind her in the armchair when she was sat at her desk. He would manoeuvre himself behind her when she stood up and rub his body and erect penis against her.

95. Further:

There were occasions where Mr Hill would also approach me from behind whilst I was working at my desk. Mr Hill would crouch down, rest his chin or my shoulder and give the impression he was trying to read emails. He would ask what I had been working on. He often put his arms around the front of my body and brushed his hands against my breasts. If I were standing up, he would hold always approach me from behind and he would hold me by my waist. I would always resist and would try to get him off me but did not always succeed. He would say things like "I just want a cuddle love". When I pushed Mr Hill away, sometimes he would try again, and I resisted further, at which point he became very moody with me. These moods got worse as time went on and I would see more of the 'Jekyll and Hyde' personality

Mr Hill would touch my bottom. When he first did this, I asked him not to do it again but, as he did then (and afterwards) he always played it down as if it was

my problem and I was making more of it than I should. I told Mr Hill that he had to stop doing this to me and that I did not like it or want his sexual advances. Mr Hill would often respond by questioning what was wrong with me. I felt Mr Hill had a 'Jekyll and Hyde' personality in that, at times, he would be friendly with me, but at others, particularly after I rejected his advances, he would turn and act like he hated me.

96. The respondent denied this account. He said that he and the claimant would have 'cuddles', ie non-sexual hugs in the office. These were often instigated by the claimant until a point when she said she no longer wished to have cuddles and then they stopped.

97. The claimant said that the layout of the office was changed so that she could avoid the respondent's behaviours. The respondent said that the layout was changed so the claimant could face the door.

98. The claimant's evidence was that she told the respondent on more than one occasion that she would have to speak to someone and get advice if he carried on with these behaviours.

99. The respondent said, in oral evidence about the suggestion the claimant had said she would get advice: **'**She might have said that. She made threats to seek advice… I see it in context of the arguments and she interjected those arguments with phrases like that which I interpreted as threats. When she mentioned those things it was usually in the context of an argument generated herself because she wasn't getting what she wanted - continuation of house share and an increase in pay, it was repetitive. She said things like that.'

100. In March or April 2018**,** the claimant picked up her car from the North East to drive in London so that she could use it to commute to work since she could no longer travel in on public transport with the respondent.

101. On 18 March 2018, the claimant said that there was an occasion when she arranged for the respondent to meet with some constituents and asked if he would like her to attend the meeting. She said that the respondent said that he would prefer her not to attend as he did not wish any gossip to reach his wife.

102. The respondent in evidence said that he did not recall this occasion; he had lots of meetings with constituents. He did not remember saying he did not want gossip to reach his wife and said it was not likely.

103. In April 2018**,** the claimant said that the respondent agreed that the claimant could drive to work early to avoid paying the congestion charge and leave work later. The claimant said that this was a reasonable adjustment in respect of her disabilities. She had panic attacks when travelling on public transport alone and could not afford to pay the congestion charge every day. It was agreed that

she could work from home Thursday and Friday if the respondent was not in parliament.

104. The respondent accepted he had agreed this working practice. He said that he did not see it as a 'formal reasonable adjustment'. He accepted that there was a conversation about her working from the flat Thursday and Friday: *'*as long as work was getting done I'm happy.*'* He repeated a number of times in evidence that he did not see it as a formal reasonable adjustment.

105. In a passage of a discussion which the claimant and respondent had on 18 July 2018, there was this exchange:

A: …you saw what I went through. For you to put me through Occupational Health, that is cruel.

MH: Not cruel, at all. The Occupational Health will tell us it's right that you get that reasonable adjustment that we've already put in place.

106. The claimant said that in April 2018, there was an incident where she 'retaliated' when the respondent touched her in the office and he backed off. Her characterisation of what followed was this:

He began a rampage of victimisation from the end of April 2018 until September 2019 which is when I was made redundant. This included constant threats to put in notice for early termination of the flat we shared. He was fully aware of the affects that this threat had on me. He knew it would leave myself and my daughter homeless and would trigger panic attacks, anxiety, insomnia and fear. If I tried to defend myself, he would retaliate and threaten me by sending me texts terminating my employment, which would send me in a tailspin and leave me in a heightened state of fear.

107. Also in April 2018, the claimant asked the respondent about her expected pay rise. The respondent told her he did not know if the pay rise would be within his budget. We understood that the respondent had an overall budget for staff. The claimant said the respondent told her to speak with Maxine Bartholomew, who was the office manager and based in Hartlepool. The respondent had told the claimant that Ms Bartholomew was planning to retire around July 2018.

108. The claimant said that Ms Bartholomew told her that the respondent was well within his staffing budget and that she and Martin Dunbar, a caseworker in the constituency office, were both on the top of their pay bands.

109. However the respondent then told the claimant that she would not be receiving the pay rise due to budgetary constraints.

110. In his witness statement, the respondent said that 'In spring 2018, other than the standard IPSA inflation increase the claimant didn't get a further pay rise i.e. she didn't move up her pay band. There had been a budget overspend. The

full cost of salaries i.e. inclusive of pension and national insurance contributions. as I understood it hadn't been taken into account and accordingly there was no budget to allow for a move up the band.'

111. The respondent at about this time recruited Mrs Greig and Mrs Cook to job share the office manager role when Ms Bartholomew retired. However, it appears that Ms Bartholomew then decided that she did not wish to retire completely and wanted to stay on one day per week. The claimant said that the respondent told her he had to accede to Ms Bartholomew's request because she was an active member of the GMB and he needed to retain the support of that trade union.

112. In order to assess the reason given by the respondent for not giving the claimant a pay rise in April 2018, it is necessary to look forward in the chronology.

113. Mrs Greig started work in June 2018. She told the Tribunal that after she started work she received a call from IPSA saying there had been a budget overspend because Ms Bartholomew had failed to take employers' national insurance contributions into account. She did not provide a date when this occurred but it must have been no earlier than June 2018.

114. A further clue as to when the budget overspend became apparent came from the minutes of the 24 July 2019 redundancy consultation meeting:

JG said that they were contacted by IPSA before Christmas to say they were massively overspent on staffing and asking if they were intending to do something with the staffing structure over the next few months. JG said she spoke with Maxine and asked if she'd taken into consideration all the additional payments and it turned out she hadn't taken into consideration staff NI payments. JG said she and Maxine agreed to take unpaid leave.

115. As to when Mrs Greig and Ms Bartholomew took the unpaid leave, it was apparent from the transcript of a meeting between the claimant and Mrs Greig in March 2019 that the unpaid leave was taken in March 2019.

116. The claimant said that the respondent reduced her contribution to the rent to £400 to make up for the lack of pay rise.

117. In May 2018, the claimant said that she confided in Kate Hollern, a Labour MP who socialised with the respondent on the parliamentary terrace. She said that Ms Hollern saw her crying on the terrace and she told Ms Hollern that the respondent had been sexually harassing her and that she was desperately unhappy. Ms Hollern offered to speak to the respondent but not mention the sexual harassment side of things. The claimant did not know what was discussed between the respondent and Ms Hollern.

118. On 9 May 2018, the claimant said that the respondent said for the first time that he was going to give early notice on the Chelsea flat as things weren't working out. She said that she understood that to mean the fact that she had not welcomed his sexual advances. The respondent accepted that he had repeatedly said he wanted to give notice on the flat but denied that these were 'threats'.

119. We saw a text message from the respondent dated after midnight on 13 May 2018 but did not see and were not told what messages preceded this message.

The message said:

Sorry you've not replied…You've made it a damn site clear that you are not happy that I won't make your salary up to the max of £50k and I accept that, but as explained not everybody is at the top of the grade meaning Indiana and Paige and although I did not expect Maxine to carry on she is so intrinsic to the Team that I will not as you suggest sack her. You are also intrinsic to the team and nobody has ever had a cross word to say against you but I'm sorry there's no excuse for you making the threats you did, including threats to kill, to bring me and everyone down, to use texts to do so and prohibit me talking about your Dad. I've done nothing more than try to help you from day one and while I know that people change and that applies to me too, I haven't really changed that much. I still believe that asking you to break new ground and go for a career in support of me was the right thing to do but it's a 2 way street. Your period of probation ends this week but will be extended by another 6 months.

120. The respondent said that the claimant's probation was not formally extended but he accepted that nor was the claimant told that it would not be extended. He said that it was just a knee jerk reaction in the heat of the moment. He accepted that it was unacceptable to send the text after midnight; he said that his mind raced at night. He said that the claimant had threatened to bring everyone down, him and the team. He was at the end of his tether. We note in passing the reference to using 'texts' to bring the respondent down.

121. The claimant responded at 12:23 am:

You begged me on several occasions to come and help you with nothing but false promises and when I gave up my home and put everything into storage and came here you showed your true colours…why should I be the one who pays the price because Maxine decides she wants to stay on after you have hired two other people to do her job and she's an extra pay packet…your paying Maxine, Angela and janet top pay band and they are all learning the job…plus Martin too… you disgust me…and to top it all off I have to share a flat with you…so go ahead and sack me but you are not going to threaten me with your comment about renewing my probationary period!!!

122. We note that by this point, the respondent was suggesting to the claimant that the reason she could not have a pay rise was that he had taken on Mrs Greig and Ms Cook to cover the office manager role and then Ms Batholomew decided to carry on doing one day a week.

123. That evening (which was a Sunday), the claimant wrote again:

I'm not feeling well emotionally…I feel I need to speak to someone about this situation…I'm letting you know as I'm not two faced like you

124. The respondent replied after midnight:

I am staunchly not two faced and am proud of you being there to support me but you seem to see enemies everywhere which is not my fault. New beginning tomorrow would be a blessing [because] I believe in you.

I am sorry that you don't feel so well. See you tomorrow.

125. The respondent said that he never intended to take any action. He said about the claimant's reference to 'speaking to someone': *I assume she intended to talk to her union about the salary situation. I never for one moment thought that this was anything to do with the allegations the claimant has subsequently made against me of touching her.*

126. The respondent said that the claimant had never 'quantified' what she would do to 'bring everyone down', although she said this frequently. He denied a suggestion put to him on cross examination that he was a vengeful person who threatened to extend the claimant's probation period because she was threatening to take advice. He said that he was at the end of his tether, listening to the claimant argue and make threats of this kind.

127. The respondent accepted that there was no probation review meeting or rationale provided as to why the claimant's probation would be extended. He said that he did not deal with that kind of thing. He could not remember what had provoked his text but said that the claimant had been pushy for everything on her terms and that it was 'her way or the highway'.

128. The claimant said that there was no formal confirmation that her probation was extended or that it was not extended. Consequently she felt that she was walking on eggshells and her employment was dependent on the respondent's mood.

129. On 20 May 2018, the claimant said that the respondent told her she would have to work in constituency during the summer recess rather than staying in London to undertake freelance floristry. We saw text messages dated 20 May 2018 and 3 June 2018 in which the respondent said that the claimant was expected in the [constituency] office during August.

130. The claimant replied on 3 June 2018:

…as far as working from the office in Hartlepool in summer recess you have moved the goal posts yet again… I think we need to discuss it this week

131. The claimant referred the Tribunal to occasions in the transcripts of later discussions when she said that the respondent had accepted that he had promised otherwise.

132. The respondent accepted in oral evidence that he had reneged on the promise that the claimant could spend time in London during the August recess doing freelance floristry.

133. In June 2018, Mrs Greig started work in the office manager role. In oral evidence she said that she and the respondent had a conversation before Mrs Greig accepted the job, in approximately March 2018, in which it was discussed that Mrs Greig would line manage all of the respondent's staff.

134. The respondent's evidence about his discussions and intentions for Mrs Greig's role was:

[They] started prior to Janet taking job on and Janet's observations about what she thought the job needed to develop into – Janet's job as office manager and the way in which the job needed to go direction wise. She would be the person in charge of the whole, holiday leave and working hours, harmonisation across the team. That was her ambition and what I wanted as well. We both identified the need. I was a rubbish manager in Unison as well on day to day issue like annual leave hours of work etc.

135. He said that he saw Mrs Greig as bringing order to the team. He denied making her the claimant's line manager to make the claimant's life difficult. He said he wanted to better integrate the claimant into the team. He said that he and Mrs Greig had conversations about Mrs Greig being the line manager of everyone in the team and he accepted that was an excellent idea. The respondent accepted that he did not tell the claimant that Mrs Greig was going to be her line manager prior to Mrs Greig starting work.

136. On 20 June 2018, Mrs Greig wrote to the claimant:

As this office has been up and running for a year now, both Maxine and I feel this is an ideal opportunity for us to start reviewing our office procedures and to see if they are still fit for purpose. I have mentioned this to the other staff in the office and to keep you also in the loop, I felt it best to advise you of what I'm intending to do.

The areas I feel we need to look at first, are:

- *Holding regular staff meetings and 1—1 meeting for all staff*
- *Making sure that the local office is always covered*
- *Procedures for the taking of annual leave, lieu time and working from home*

- *How we deal with e-mails on a daily basis*
- *The allocation of case work*

137. The claimant was concerned about the tenor of this email and its implications. She spoke to the respondent and he said that he was still her line manager in a meeting which she recorded and of which we saw the transcript. He told her in that meeting that neither Mrs Greig nor Ms Bartholomew was her line manager: 'I'm the boss'. The claimant expressed her concern that Mrs Greig might think she was the claimant's line manager because the respondent had not told her otherwise.

138. The respondent said in oral evidence that he was telling the claimant what she wanted to hear and he accepted he was the cause of the confusion between the claimant and Mrs Greig: 'anything for a quiet life'. He agreed that he was a contributing factor to Mrs Greig and the claimant not getting off to a good start. He said he afterwards gave firm messages. He denied that he deliberately set them up for a fight. He said that it was typical of him to have acted in this way in the course of an argumentative conversation with the claimant after she received Mrs Greig's email. It was lazy.

139. The claimant's evidence was that during this period, the respondent was ignoring her work-related emails, phone calls and text messages and not engaging with her so that she could keep his diary up to date. She raised that issue during the 20 May 2018 discussion. The respondent denied that he deliberately ignored the claimant.

140. On 29 June 2018, the claimant attended a staff meeting at the constituency office. Mrs Greig ran the meeting and the respondent was not present. The claimant said in her witness statement:

> *Ms Greig kept stating over and over in front of the whole team that she was now everyone's line manager and that everything had to go through her. As I said above, I found this confusing because Mr Hill told me that I reported to him. I also felt that Ms Greig was specifically targeting me about this issue, and she repeated her comments several times in an authoritarian and condescending tone which I found quite humiliating. When I attempted to raise this point with her, she replied; "no, I am your line manager [A]" I suggested to Ms Greig that because of the confusion it might be an idea if we had a meeting with Mr Hill after the team meeting. Ms Greig became even more authoritarian and said "no, that will not be necessary, you do not* **go** *directly to Mike [Mr Hill], everything goes through me and I am your line manager [A]".*
>
> *Ms Bartholomew then joined in and, out of the blue, accused me of not doing any work on Thursdays and Fridays. I was mortified to hear this because (a) I wondered where they had obtained this information from; and (b) it was not true. I asked Ms Greig and Ms Bartholomew what they were basing this on, and*

I told them this was not true. They did not respond other than Ms Greig saying this wasn't the time or the place to get into this.

I felt as though Mr Hill had spoken to Ms Grieg and Ms Bartholomew and manipulated them to do his dirty work and find a way to force me to leave his employment. I left the meeting feeling very demoralised and distressed and felt that I had been attacked by them both. Once outside the office, in the car park, I telephoned Ms Greig. I explained that I was confused about the reporting lines because of the mixed messages given by Mr Hill and now her. I also told Ms Greig that I did not appreciate the hostile way that she and Ms Bartholomew had spoken down to me during the meeting. Ms Greig apologised to me for this.

141. Mrs Greig's account of the meeting in her witness statement was that it was the claimant whose behaviour was problematic:

She came to the staff meeting on 29 June 2018 and during this meeting her behaviour was that of a petulant child. She also had a spat with Maxine in respect of whether or not the claimant was working long hours. I had stepped in to try and defuse matters.

142. In oral evidence Mrs Greig said: *I told all the staff that I was going to be managing everyone, she challenged that numerous times so therefore I had to respond to say that I was the line manager in response to her saying Mike was her line manager.*

….when I advised all staff had to come through me that was in relation to management. Issues like time recording, annual leave, sickness, those things an office manager would be responsible, I wasn't saying they couldn't go to Mike on other issues.

Mrs Bartholomew responded to a comment made by the claimant that she was working 7 - 6 Monday - Weds and from home on Thursday and Friday. Ms Bartholomew said 'bollocks'. The two of them got into a spat and I said it was not an appropriate time to talk about it, I knew it was getting out of hand and closed the meeting.

What I meant by petulant child is that she sat in her chair with arms folded, no eye contact and I sat in the middle of staff and they sat around and behind, and I found it very difficult, not pleasant for anyone. She continued to challenge me being line manager.

143. We found that in terms of what actually occurred, the accounts were the same in material aspects. Because the claimant and Mrs Greig had been told different things by the respondent about the situation, they both asserted their own positions. Mrs Greig repeatedly asserted she was the claimant's line manager. The claimant was upset and perceived Mrs Greig's insistence as hostile; Mrs Greig perceived the claimant's upset as petulance. It was a tense and unpleasant meeting because the respondent had behaved in a misleading way to both the claimant and Mrs Greig.

144. Ms Bartholomew's remarks were inappropriate and further upset the claimant. The respondent was asked how Ms Bartholomew, who worked in Hartlepool, would know what work the claimant was doing on Thursdays and Fridays. He said that he had not told Ms Bartholomew that the claimant was not working on Thursday and Friday. He speculated that she might have been able to see that from 'IT' – but said that he was not savvy with technology.

145. The claimant came away from the meeting distressed and thinking that the respondent was using Mrs Greig and Ms Bartholomew to force her out of her employment. She sent the respondent a text message which was not retrieved from her provider after her phone was later stolen. She said that in the message she told the respondent that the sexual harassment had to stop as must the lies and his persecution of her because she had refused his sexual advances. She said that she informed the respondent that she would seek legal advice unless he put a stop to the sexual harassment and bullying.

146. The respondent did not recall a reference to legal advice in the text but accepted that the claimant brought legal advice up in conversations. He said that he did not recall a reference to sexual harassment or bullying in the text message.

147. He said in general*:*

She wasn't specific although she raised a number of issues repeatedly – pay award, promises made. She repeated Richard's name knowing I knew he was the solicitor who dealt with her claim against her previous employer…I took these episodes as threats, I could guess the legal advice would be about the situation in relation to her pay in particular not necessarily about accommodation. She did not say what it was.

148. On 30 June 2018, the respondent sent the claimant a text:

I've been busy all day as you would know if you had stayed around, specially the Surgery which you were invited to. To be honest I respect that it was a difficult meeting but you are over reacting. It was a Team meeting about some very basic protocols and nothing more. Team working is important. I'm very upset that you got your family all upset over things but at the end of the day I've stood by you when others wouldn't. Your threat of bringing Richard in really does annoy me but he of all people will know how much I've stood by you over the years. It really is not a big issue for me to want a cohesive and well functioning Team and one that copes together with the removal of Indie and Paige. Martin has made the point that things are different in Parliament in your defence and so has Indiana so when Janet comes up on Wednesday you have a chance to have the chat with her you wanted. We do need to give notice on the flat now however, that can be done on Gas safety grounds, but it is necessary. I've tried my best but you've just threatened me with legal action so I'm going to regretfully have to issue notice, which is one month, but because of the recess I'm happy to make that 3 months so you can clear your desk and

possessions. If you are in work on Monday, which would be nice, then great we can work things out hopefully, but honestly your over reaction and unfair representation of me to your Mum is just not right and is misrepresentative. In light of the loss of both our fathers I find that threat to be shameful. In all honesty.

149. In oral evidence the respondent accepted that he had found the reference to legal advice annoying and that he wrote the text in a state of annoyance. He said that he never intended to follow through with the threat to terminate the claimant's contract; it was an angry reaction to the claimant being argumentative and inappropriate. He said that giving notice on the flat was just something that needed to happen.

150. Mrs Greig's evidence was that the respondent told her that the claimant had sent him an inappropriate text message.

151. Her account of it to Ms McGrath in a 26 June 2018 email was:

I am aware, that following a staff meeting… [A] sent a demanding text to Mike (he told me about it at the time)….Apparently the text was demanding and totally out of order, and I understand that Mike told her that she could have been dismissed for it.

152. The respondent did not recall the conversation with Mrs Greig but accepted it must have occurred. He denied that in his actions he had in some way been poisoning Mrs Greig's mind to set her against the claimant:

I would have informed Mrs Greig that she sent me a text which was out of order and I would have told Mrs Greig the text could have led to dismissal.

I accept that was not constructive, I think what it demonstrates is that I was a rubbish boss…

Mrs Greig makes her own mind up on things, wouldn't have necessarily been influenced, wouldn't have been the catalyst for the two [falling out]. Mrs Greig would have made her own assessments and did try to get everyone working in a harmonious way.

153. Mrs Greig said:

All I can remember about it that she was demanding that he go to her house, by which I understood her mother's house.

154. She did not accept that these incidents set her against the claimant:

I have dealt with difficult situations before. My approach is that things happen, you might have conflict but you move on and try to get over them. The staff meeting was fraught but we would move on and try to build bridges.

155. The claimant did not reply to the respondent's text and she said that the next day in the office and for the rest of that week termination of her employment was not mentioned.

156. In early July 2018, Mrs Greig asked the respondent about the rumours Ms Bartholomew had told her were circulating about the respondent and the claimant having an affair. She said that Ms Bartholomew did not believe the rumours. The respondent told Mrs Greig there was nothing going on and that he and the claimant were friends only. He did not tell her about his romantic interest in the claimant or the flat sharing situation. Mrs Greig said in cross examination about this discussion that he had been 'totally' dishonest with her.

157. On 3 July 2018, Mrs Greig emailed the claimant:

I'm writing to you following your phone call to me on Friday afternoon, (29th June). when you raised some concerns around who was to be your line-manager going forward.

You said that you were very confused about this, as Mike had told you in the middle of the week, "that he would be your line manager and would also carry out your 1-1's", however, I had said something different during the staff meeting. You also said that you felt that I had spoken down to you during the staff meeting and also during our phone conversation the previous week.

I can understand your feeling of confusion around who your line manager is going to be going forward.

l have therefore mentioned this to Mike and suggested that we arrange a meeting to discuss this issue with you, which he has agreed to. The meeting will take place in Mike's Parliamentary office on Thursday 12th June at 9.30 in the morning.

In relation to you feeling that you were spoken down to during the meeting and our phone call, this was never my intention, and like I said during our phone conversation on Friday, I apologise.

158. On 5 July 2018, Ms Greig emailed the claimant:

Hello [A],

Following on from my e-mail on Tuesday, I would appreciate it if you could confirm your core working hours.

159. She forwarded the following email of 3 July 2018, which had been sent to staff generally:

Hello all,

Following of from the staff meeting on Friday, when we discussed the issue of working hours. I need to make sure that no one is working excessive hours and that all staff are receiving their required daily, weekly rest, which are part of WTR.

I have been looking at everyone's contracts of employment and notice that they only say the number of days per week and the hours each day.

I would appreciate if you could all provide me with the following information.

- *Your working week:*

For example, Monday — Friday

Tuesday — Friday

- Your core working hours

For example, 8.30 — 3.30 pm

9.00 - 4.pm

160. On 10 July 2018, there was a conversation between the claimant and the respondent about Mrs Greig as the claimant's line manager which included the following passage:

MH: Because it was – because it, it, it – and because it became patently obvious, and I did say this in the office, that I cou – that I couldn't do your one-to-ones, not because, err, because I physically couldn't do your one-to-ones, but because we have a relationship.

A: No, we don't. We don't…

MH: Well…

A: …anymore, it's gone [traffic].

MH: Exactly, so…

A: You've, you've, you've broken that.

MH: So, there [traffic], there you go, so, so, there's no point.

A: It's broken.

MH: The one-to-ones won't work because we, we, we've got close.

A: Do you really want me to have one-on-one's with Janet, Mike?

MH: [Traffic] Janet is going to run, run the kit and kaboodle.

161. The respondent told the claimant that she would need to find her own accommodation in London and the claimant said that that was not doable on her salary. This part of the conversation included the following passages:

MH: The, err, the obvious is, we can't do this [traffic] [pause]. [R's wife] still thinks that I live in Pimlico, that, err, my, that, that my Landlord has changed Landlords and I'm not happy about it and I'm thinking about moving out, right? It's not about [R's wife][traffic]. The vultures are out there.

…

MH: We cannot live under the same roof.

A: So, what you're saying to me, essentially, is, "[A], get me out of this fucking fix that I got myself into," [traffic], which I advised against. And then, "Once you've done that, good luck with finding somewhere to live," 'cause you know I ain't got a cat in hell's chance to live on, on the money I earn. You know I can't, as a single woman bringing one wage in, in London, there's no way [traffic]. So, that's what you're asking me to do now.

162. The respondent told the claimant she could not take the whole of the summer recess off work and there was also a discussion about the team meeting and the claimant's unhappiness with Ms Bartholomew's remarks.

163. On 12 July 2018**,** the claimant and respondent had a meeting with Mrs Greig. The claimant said she covertly recorded the meeting because she did not trust the respondent and Mrs Greig and thought they were planning to terminate her employment.

164. The claimant found the meeting very hostile. She said that the respondent contributed little to the meeting, which is borne out by the transcript. She said that the respondent sat on the floor with his head in his hands. The respondent said that he sat on a pouffe on the floor and he accepted that it was an uncomfortable meeting.

165. Mrs Greig told the claimant again that she was the claimant's line manager. The claimant said that this was not what had been agreed when she took the position.

166. The respondent in cross examination denied that he allowed Mrs Greig to take the lead to do his 'dirty work'. Mrs Greig said that she asked to take the lead in the meeting: "I think he was happy for me to deal with it."

167. There was a discussion about core hours. Mrs Greig said that the claimant was indicating she got in at 7 am but the respondent said his day started at 11 am. She said that the claimant could choose a start time between 8:30 am and 10 am. The claimant explained that she came in at 7 am because she had to drive because of her PTSD as she had panic attacks on the Tube. She said that she could not drive in later because she could not afford to pay the congestion charge every day. Mrs Greig asked the claimant if she was looking for a reasonable adjustment in that respect. The claimant said that she was 'given that Mike's wanting to log everything now'.

168. Mrs Greig said that she would go away and look at what could be offered the to the claimant but that she would probably require an occupational health report. The claimant pointed out that she was in receipt of PIP. She offered to show Mrs Greig existing medical evidence Mrs Greig said that getting an occupational health report was normal practice before allowing a reasonable adjustment. The claimant asked whether that was necessary when she could prove she had PTSD. She became upset. She told us she was having a panic attack.

JG: Yeah, nobody's checking that. Nobody's saying you don't, but it is normal practice,[A], that an employer would ask for an Occupational Health report.

A: Don't get me into that, Janet, please. I think I'm going to end this meeting [knocks on table], because, shall I tell you what [knocks on table]? There's a lot of things a normal employer would do and wouldn't do and if I open my mouth, I don't think we're going to get through the week…

169. At that point the respondent started speaking and the claimant said that she wished to end the meeting and shortly after left the room.

170. The claimant said that she was surprised that the respondent did not tell Mrs Greig what he knew about her disabilities and the arrangements which had been agreed about her travel to work. She said that the respondent was aware she had had a bad experience with occupational health in her NHS employment. She felt that she was being forced to choose between having an occupational health assessment and travelling on public transport. She said that the respondent should have called time on the discussion but that he allowed it to continue and allowed Mrs Greig to 'attack' her. The claimant said that the respondent would have been well aware that travelling on public transport would trigger her PTSD. She was frightened that an occupational health assessment would be used to suggest that she was unfit for her job.

171. The respondent said that he was leaving it to Mrs Greig to run the team. He had not looked at the issue of core hours 'forensically' before Mrs Greig started. The responsibility for the claimant's reasonable adjustments had been put firmly in Mrs Greig's hands.

172. Mrs Greig said:

I wanted an OH report so I had an understanding of what the condition was and how it would affect her and what advice they could give me about adjustment to help her come into work.

173. After she left the meeting, the claimant was crying on the parliamentary terrace and ran into Ms Hollern MP. She told Ms Hollern that she felt the respondent and Mrs Greig were trying to bully her out of her job.

174. From 12 July until 29 August 2018**,** the claimant was signed off sick from work with depression and PTSD.

175. We record that the claimant's narrative about the significance of this meeting is that in essence the respondent had set her up to be at odds with Mrs Greig. By misleading them both and by not filling in Mrs Greig on the claimant's health and the agreements he had made as to her travel, he had created conflict between the claimant and Mrs Greig and made the claimant seem difficult. Mrs Greig then took charge of sorting out the situation as she perceived it, that perception having been manipulated by the respondent. The respondent allowed Mrs Greig to take control.

176. The respondent's narrative is that the claimant did not want Mrs Greig as a manager because she perceived the respondent to be a 'soft touch'. Mrs Greig was simply introducing necessary rigour into the respondent's systems.

177. Between 16 and 18 July 2018**,** the respondent returned to the Chelsea flat before the summer recess. There were several conversations between the claimant and the respondent on 17 and 18 July which the claimant recorded.

178. During the 17 July 2018 discussion:

- There was a discussion about why the respondent was not the claimant's line manager. He told the claimant he could not be her line manager because she was always accusing him of things. We note that this was not the reason he gave the Tribunal.
- In relation to the arrangements about the claimant's travel he said:

: *You said, you said, and it is true, we've got a reasonable adjustment in place for you to go to work early, because of your PTSD. That's fine, that's a temporary readjustment, which might very well be [traffic] the abso – the, the readjustment that's needed. But any employer would have to refer you to Occupational Health to make sure that you're being looked after. You walked out of that meeting because you didn't like that.*

179. There was the following passage which commenced with the respondent saying that the claimant would not have told her previous NHS manager [M] that he was a 'right bastard' and continued:
A: Well, actually…
MH…and…
A:…M didn't try jumping…
MH: …parasite
A: …in me bed..

MH: Well
A…rubbing himself against me. Actually, M didn't used to touch me up
MH: Yeah
A: Actually M didn't used to cuddle me
MH: Yeah
A: Actually he didn't use to, you know, feed me a load of shit
MH: Yeah
A: …when I was vulnerable
MH: Right
A: M didn't do that

180. The respondent said in his witness statement: "I think looking back that the claimant is trying to imply that I did this". It seemed to the Tribunal that it would have been perfectly obvious at the time that the claimant was contrasting her previous manager's behaviour with what she said was the respondent's behaviour. The respondent also suggested that he just nodded along to things that the claimant accused him of in arguments because he was tired. The claimant said in oral evidence that the respondent was shocked and nervous when she blurted these matters out.

181. During the discussion on 18 July 2018:

- The respondent spoke about the flat sharing arrangement and suggested that there were rumours about it and that people had been 'spying' although he had tried to protect the claimant from the rumours. He went on to suggest that it was the claimant's fault that the rumours had started because she had put up a Facebook post in about January 2018[1]. He said to the claimant's daughter: 'Your mother started the bloody problem **…**The reason why we're, we're under scrutiny is because your mum put a [raises voice] daft thing out on Facebook**.'** He told the claimant it was her fault that she would be homeless.
- He told the claimant's daughter that the claimant had gone off sick because she did not like the fact that he had stopped being her line manager;
- The claimant told him it was cruel to put her through an occupational health assessment and the respondent replied: 'Not cruel, at all. The Occupational Health will tell us it's right that you get that reasonable adjustment that we've already put in place.'

182. The claimant was audibly upset and sometimes angry during these discussions. Her evidence was that because of her PTSD when she felt unsafe or threatened, she became hyper-aroused and angry.

183. On 27 August 2018, the claimant was anticipating a return to work and texted the respondent about a meeting which Mrs Greig had arranged and which she

[1] A relative of the claimant's had suggested that she must have slept with her boss to get her job and the claimant had posted on Facebook to say she was capable of getting a job without having to 'lie on her back'. She deleted the post shortly after she put it up.

thought was a disciplinary meeting relating to her sickness. She said that she felt like she was being forced out of her job and felt threatened.

184. The respondent texted her saying the meeting was not disciplinary and sent a further text:

You do need to understand that Janet is your boss for non personal reasons and you will have to accept that. No need to fret about it but that's the way it is. Will talk to you when I see you. Be good to see you again so I can let you know why new line management is relevant and not about you, but the Team. We have been under pressure lately and it's not been very nice. So we need to have a management system whether you like it or not. Don't forget everybody is in Parliament next week for the Team away day so I expect you will be on top of it all and ready to impress

185. On 29 August 2018, Mrs Greig sent the staff an email saying that 31 August 2018 would be an open day when the newly refurbished constituency office would be officially opened. The claimant's evidence was that the respondent told her she would not be invited to this event as Mrs Hill would be present. The respondent denied he said that or excluded the claimant from the event.

186. On 30 August 2018, the claimant returned to work. She told the Tribunal she was no longer commuting by car: She said that she travelled by public transport and did core hours from this point as she was afraid of losing her job. She had numerous panic attacks on public transport and felt very unwell.

187. Mrs Greig said in evidence that she had been looking into subsidising the congestion charge so that the claimant could travel by car and work core hours but that when the claimant returned to work she said that she was fine and could get public transport. She did not raise with the claimant the possibility that the congestion charge could be subsidised.

188. On 4 September 2018, there was a staff meeting in parliament with Mrs Greig. Other staff based in the constituency office travelled to London for the meeting.

189. The claimant's evidence about this meeting was that:

During this staff meeting, Ms Greig informed me that going forward I would deal with national-based casework). The constituency staff had been provided with external training courses specifically for case work, but this was not offered to me at the staff meeting on 4 September 2018. I asked Ms Greig if Indiana Lamplough could show me how to use the casework management system, which would give me the basic skills to upload constituents' details and their emails on to the system. Ms Greig agreed, and I subsequently had a total of 3 hours training. I felt I had no choice but to agree to Ms Greig's demands and

take on casework. During my appraisal on 19 March 2019, further case work training was suggested, and Ms Greig was to arrange this (at page 489). No training was arranged.

190. The claimant had not previously been asked to do case work. The respondent's evidence was that case work increasingly became an obligation of all grades. The case load had massively increased because of Brexit and there needed to be more of a distribution to deal with case work. Mrs Greig agreed that there had been a significant increase in case work and that all staff were sharing the burden including staff who did not have case work in their job descriptions.

191. As to training, Mrs Greig's evidence was that no one had had external case work training. They had had ten minutes of instruction on the case work software and then Mr Lamplough had given them each another ten to fifteen minutes of instruction.

192. The respondent said that he did not take steps to see that the claimant received training but claimant could have made a request for training through Mrs Greig.

193. The claimant told us that the casework she had to do involved answering questions from constituents on particular issues. She said that sometimes she had difficulty progressing the casework because the respondent would not engage with her.

194. On 23 November 2018, the claimant sent the respondent a text saying "Go ahead I'm done with the lies." We were not told what had provoked that text. The respondent replied:

OK. Same here. I have taken that as your resignation which is unwanted and a shame, and will inform the Parliamentary authorities accordingly.

I will inform IPSA tomorrow that you are no longer on the pay roll. I'm very sorry.

195. The claimant sent text messages in response:

I haven't resigned if you are sacking me I want to know why

…

That is disgusting.

…

You have threatened me yet again.

196. The respondent then replied:

You've accused me of making things up about the flat. You've also said 'go ahead I'm done' which to me was your resignation. Which I accepted in good faith. Not a threat at all. If you want to retract that then of course I'm not such a bad employer that I wouldn't listen to that but you just ended the employment relationship yourself.

197. The text conversation continued:

Claimant:

I said I'm done with the lies…I never said I resign…if I was to resign it would be done in a proper manner…what you are doing is really cruel and given you know about my illness even more cruel…go ahead serve notice on the fault I don't care anymore.

Respondent:

To be honest enough is enough. I've stood by you forever and a day….I will always consider you to be important and the reason for wanting you in Parliament was because I trusted you. But it just hasn't worked out and I [end of message missing]

Claimant:

So does that mean I'm sacked??

Respondent:

I am very sorry and I have pulled my tripe out for a long time to help and bring you on and help your family and honour what I said to your Dad to look after you but you've taken advantage of that and made threats (not for the first time tonight). You are taking the piss and need to think about that. Of course you are not sacked because I am not like that but you are very close to it.

198. The respondent described his initial texts as a heat of the moment, kneejerk reaction. He said that the claimant was argumentative and it tested his patience. He denied that he had removing the claimant from her employment at the forefront of his mind or was scheming to get rid of her because of the lack of sexual relationship. He said that the texts were reactions to the claimant's outbursts and threats. He said that some of his and the claimant's texts appeared rather 'childish' but accepted that his were unacceptable coming from an employer.

199. At some point during the autumn of 2018, the claimant confided in Mr Bridgen that the respondent had sexually harassed her. She said that he was making her life hell because she would not have a sexual relationship with him, and that she was sure that the respondent was going to find a way to end her employment.

200. On 28 November 2018, there was another short discussion between the claimant and the respondent which the claimant recorded. The claimant said

that she had accepted having another boss and accepted not receiving a pay rise and that she would do case work but she again raised the problem of the flat. The respondent said: 'None of us will have a job if we carry on sharing a flat'. The claimant said she could not afford her own accommodation

201. Mrs Greig prepared a report dated 17 January 2019 entitled 'Management Report on [A]'.

In an introductory section entitled, 'Aim of this report' Mrs Greig said:

This report has been compiled following concerns raised by myself and Maxine Bartholomew around the behaviour and ability of [A] to carry out her role as a Senior Researcher. The information used to compile this report was taken from Skype for Business, Case Worker MP, the 4 weekly time sheets and my own observations.

202. The concerns were said to be:
- The ability to undertake every aspect of her job description
- Productivity whilst at work
- Time keeping and some inconsistencies in time recording

203. We note that the claimant had no idea this report was being compiled and only ultimately saw it as a result of a Data Subject Access Request.

204. The report went on to analyse the claimant's job description. It was observed that there were some aspects of the job description which the claimant was not required to perform and some which were shared responsibilities. A number of criticisms were then made about the claimant's case work.

205. In relation to the claimant's productivity at work, Mrs Greig said that it was noted that the claimant's productivity on Thursdays and Fridays appeared to be less than expected. Mrs Greig said she noted that the claimant was often away from or logged off her computer and she had prepared tables of some dates in September 2018 to January 2019 and observations of when the claimant was logged on.

206. She said in the report: 'I have made checks to see if she has been allocated or asked to do other work, which could explain her long absences, however there has been no evidence to suggest that she was engaged in other work-related business.'.

207. The report continued: *You can see from the information above that her absences seem to have become a way of life for [A] on the last two working days of each week, therefore the question needs to be asked "Is there a need for a full time Senior Researcher at the Parliamentary Office?" and "Could this resource be better used elsewhere"?*

208. The report concluded with recommendations:

Based on the above, my recommendation are as follows:

1. That a review of the role of Senior Researcher is carried out to see if there continues to be a need for this job to be done on a full-time basis.

2. That the Job Description of a Senior Researcher is re-assessed and that those aspects of the role that are not required are removed.

3. That the future pay for the post of Senior Researcher reflects the new JD.

4. The issues around [A]'s case work are raised with her during a 1-1 and a training plan put in place.

5. That a formal investigation is undertaken around A]s timekeeping and time recording and that while this is ongoing, she is suspended from work.

209. Mrs Greig's evidence was that the report was prompted by Ms Bartholomew, who did not think the claimant was doing her job. She said that she asked the respondent for permission to monitor the claimant's work through Skype and he agreed. Once the report was completed she said that she explained to the respondent that there would need to be further investigation, but he said not to do so but to concentrate on the overspend in the staffing budget. She said that she would have left the report on his desk and that they probably spoke about it within a week and the respondent told her to concentrate on the staffing review instead.

210. The respondent's evidence was that he did not motivate this report. Mrs Greig presented it to him. He meant the things he had said on other occasions about the claimant doing a good job. The issues brought forward in the report were not known to him. The report was superseded by the staffing review.

211. In answer to Tribunal questions, the respondent accepted he had given approval to Mrs Greig monitoring the claimant through Skype 'for the purposes of looking at the activities and performance of the individual because they had concerns so they wanted to be able to see for themselves'.

212. In relation to the reference in the report to Mrs Greig checking whether the claimant was doing other duties, he said that would have involved her checking with him to see if he had given the claimant a project or research to do.

213. Shortly after this document was completed, Mrs Greig began to consult with staff about a staffing review. The background to the staffing review, Mrs Greig told us, was the phone call received from IPSA (prior to Christmas 2018) indicating that there had been a budget overspend on staffing. That had led to Mrs Greig and Ms Bartholomew agreeing to take unpaid leave in early 2019. Mrs Greig's evidence was that it turned out that there was no overspend in the financial year 2018/2019 but there was going to be one the following year. Mrs

Greig said she conducted the staffing review herself without input from anyone else.

214. The respondent said that the claimant's appointment was a mistake, given their background friendship and her salary was probably too high. His concern with the staffing review was to ensure employees were able to receive their standard costs of living salary increase. The details of how this was to be done were for Mrs Greig to make recommendations about.

215. Mrs Greig wrote to staff including the claimant on 29 January 2019:

I am writing to all members of staff, both permanent and casual, to advise that, unfortunately, it appears that there will be a shortfall in the staffing budget for the year 2019 - 2020.

As a result of this expected shortfall steps need to be taken as a matter of urgency to address this unfortunate situation. Following discussions between Mike, Maxine and myself, it has been agreed that Maxine and I will carry out a staffing review.

This review will be carried out during the month of February and will look at the following:

The allocated staffing budget for 2019 -2020.

What resources are needed to cover both the parliamentary and constituency offices during this period of time.

What resources are needed to support Mike while he is in parliament.

What resources are needed to cover case work.

Look at everyone's individual job role and job description.

Look at where these reduced resources are most needed and best allocated.

It is hoped that this review will be completed by the end of February and that all staff will be consulted during March.

Regrettably, I also need to advise you that this review could result in:

1. A possible reduction in the number of staff needed.

2. A possible reduction in hours.

3. A combination of the two.

4. A change to job descriptions.

I fully understand that this situation will be stressful and unsettling for you all, however we will try to carry out the review and the consultation within the timescale stated above. If you wish to discuss this situation with me further, please don't hesitate to call or e-mail.

[Emphasis added]

216. It was the claimant's impression that this review would be focussing on her role and we considered that that was a reasonable view for her to have taken given the parts of the email we have emphasised. Given that Mrs Greig and Ms Bartholomew were said to be conducting the staffing review, that left the following staff:
- Mr Dunbar – case worker in the constituency office
- Paige Johns and Indiana Lamplough, students who worked part time in the constituency office
- Angela Cook, who was a senior secretary working remotely one day per week.

217. The claimant spoke to the respondent after receiving this email. She said that the situation arose because the respondent had kept on Ms Bartholomew. She said that she would not stand a chance of finding her own place to live if her salary was reduced. They discussed whether the claimant could afford separate accommodation in London and she said that she would have to go right outside of London on her current salary. The respondent said to her that the alternative was that she worked out of the office in Hartlepool and could come to London during the week and be put up in a hotel. He repeated this proposal later in the conversation:

MH: I will do, but if you – the, the problem you've got there is, if you can't find anywhere, love, to live in London…

A: But you're going to make it impossible, even more impossible, if you, if you reduce my hours, as well, and reduce my pay. Well, it – I don't live in Hartlepool, Mike. they live in Hartlepool. I live in London. London prices are different.

MH: Yeah, But if, if you can't live in London, then, we'll have to look at an alternative. You'll have to be based in Hartlepool and come up here during the week.

218. In relation to this discussion, the respondent's oral evidence was that he did not want any staff to be made redundant. It was always in his mind that the claimant had a base in the North East (her mother's home). He could not recall who suggested moving the claimant's role to Hartlepool but he said that it arose after the review document had been produced.

219. The respondent denied in cross examination that he implanted the idea of the claimant moving to Hartlepool in Mrs Greig's mind. It was a coincidence that this possibility arose in his discussion with the claimant the same day as Mrs Greig's email announcing the staffing review**:**

T*his was about the accommodation….The staffing review was about basing a job in Hartlepool with different duties… avoid redundancy after appropriate staffing review, something else was about resolving the accommodation issue when I wanted out and she said she could not afford. She could have carried on doing duty in Westminster and stayed in a hotel.*

220. At about this time, the claimant contacted the parliamentary Independent Sexual Misconduct Advisory Service ('ISMA'). She was told that she could lodge a complaint with the police or with ISMA. She told the Tribunal that she did not take either step at the time because she felt that taking action of that sort would end her career.

221. On 31 January 2019, Mrs Greig wrote to staff asking for their home addresses. This was part of an information gathering exercise instigated by the Home Office. The claimant replied giving her mother's address in the North East and her brother's London address. The respondent had told her that Mrs Greig and Ms Bartholomew should not be informed that the claimant was sharing a flat with the respondent.

222. In February 2019 the claimant provided her comments on the staffing review to Mrs Greig in an undated document. She made the point that she had agreed a salary and pay rise and that the latter had not occurred because Ms Bartholomew had stayed on after saying she was going to retire. She said that it seemed unfair that she and Mr Dunbar might be looking at financial loss because of that situation. She said that if her pay was reduced, she would not be able to live in London and would have to resign.

223. Between February and the beginning of March, Mrs Greig had discussions with the respondent about the staffing review. They talked about what support he required in London. He said he did not require a full time person in London but just someone to travel down with him at times.

224. Mrs Greig was cross examined to the effect that once the respondent had told her he dd not require someone in London, that was inevitably going to be the outcome of the staffing review. Mrs Greig said that that was 'not necessarily' so but agreed that the report would probably not have reached a different conclusion after that.

225. The respondent, when asked whose idea it was to remove the London role said that it was 'jointly thrashed out, whether or not it was my idea, it was an idea which was workable'

226. On 6 March 2019, there was a discussion between the claimant and the respondent which the claimant recorded. The transcript contains this important passage:

A: *The root cause is because I think – I, I actually thought we were really, really good friends and we were really, really good friends.*

MH: Yeah.

A: But I, I don't know what was going on in your head when I came down here, but when you tried it on with me, right…

MH: Yeah, well, hang on.

A: …when you jumped in the bed [traffic] at Pimlico, when, when, when, when – before we moved here and you got into the bed and I, I rejected you, like you come up from behind and you were cuddling me and rubbing yourself up against me…

MH: Hmmm hmm.

A: …and the few times that you were touching me up in the office, like, when you'd show – and I know it wasn't coming from a seedy place and I know that you cared about me…

MH: Yeah, yeah.

A: …and it wasn't…

MH: And all of which stopped when you said no.

A: And all of what?

MH: All of that stopped when you said no. You…

A: And I said no.

MH: …you immediately – then I stopped it.

A: And you changed after that.

MH: Yeah.

227. The respondent's evidence to the Tribunal about why he appeared to have been agreeing with the claimant that the events she described happened was that he would have set out his position fully if he had known the claimant was recording:

When I go on to say "all of which stopped when you said no" I was referring to cuddles which we often had and were often instigated by the claimant.

228. In oral evidence he said the claimant *'*asked me to stop cuddles because she had fallen out with me because of the arguments and I stopped. It was no more cuddles.' He said that his response, in which he did not challenge what the claimant was saying had happened was 'browbeaten'; 'here we go again, arguing again, threatening again'. He said that he was being worn down, had had a day at work and was 'battered'.

229. On 9 March 2019, Mrs Greig produced a staffing review document. The document said the review was triggered by an expected budget shortfall. The review had looked not only at pay but at whether allocated resources were being used efficiently.

230. So far as the overspend was concerned, the report said that there had been an identified overspend of £1219.20 for 2018/2019 which was being addressed by Mrs Greig and Ms Bartholomew taking unpaid leave and there was an anticipated overspend for 2019/2020 of £1232.17.

231. The review went on to analyse the existing posts. It was said that the office manager's work covered the full responsibilities of the post but case work had, over the past six months, become a significant part of the office manager work which had an impact on other office manager responsibilities.. The senior secretary was also reported to be carrying out case work although this was not part of the senior secretary role.

232. In respect of the senior research assistant role (the claimant's role its title appears to have changed over time), the report observed:

- There were elements of the role which were not required as they were carried out by the office manager;
- Elements of the role were carried out by the casual parliamentary assistants. Examples of work carried out by the parliamentary assistants were set out.

233. The case worker was said to have too much case work to do. The parliamentary assistants, who were employed during their university holidays, were described in this way: 'they work to a very high standard and are an asset to the MP and the Constituency Office.'

234. There was a section of the report which made the point that the respondent was only working in parliament for around 108 days per years and said 'Therefore, consideration needs to be given as to whether there is a need for a full-time assistant in the Parliamentary Office.'

235. The conclusions of the report included Mrs Greig's recommendations that more resources be allocated to the constituency office and to case work and that the respondent should consider implementing one of two options:

- Deleting the senior research assistant post and creating a role of senior case worker. That role would be based in the parliamentary office when parliament was sitting but in the constituency office during the parliamentary recess. The weeks worked by the parliamentary assistants would be reduced to a maximum of 15. Money saved could be used to employ an additional part-time case worker or paid intern;
- Deleting the senior research assistant post and creating a role of senior case worker based in the constituency office, The post holder would be required to work from the parliamentary office if required. There would be one 18 week per year parliamentary assistant. Money saved could be used to employ and additional part-time case worker or paid intern.

236. Both options deleted the claimant's role. The other members of staff affected were the students who worked as parliamentary assistants.

237. Amongst the appendices to the report was a table of case work done by the various members of staff. Mrs Greig had opened 629 cases and closed 597; Mr Dunbar had opened 622 and closed 389, the claimant had opened 520 and closed 495. Other members of staff had dealt with significantly smaller numbers of cases. We heard evidence that cases varied significantly in complexity and that some of the constituency based cases were more time consuming and complex as they related to constituents' issues such as benefits and immigration.

238. The respondent told the Tribunal that he had no need for a parliamentary assistant in London. He was able to navigate Westminster himself by this point and navigate his own diary. The office managers could sort out his travel for him. He said that he knew of two other MPs who did not have parliamentary staff.

239. He denied that the staffing review was essentially a plan to get the claimant back to Hartlepool or remove her altogether. He said that he did not consider asking all staff to take a small pay cut to deal with the overspend. He said that the claimant would not have responded well to such a request as she was obsessively going on about a pay increase.

240. Mrs Greig said in oral evidence that they needed an extra pair of hands in the constituency because of the numbers of cold callers who attended the constituency office. There needed to be two people in the constituency office at all times to deal with visitors. She said that it was the analysis of what resources were needed where which led to the proposals.

241. Mr Bridgen provided some evidence about what staff other MPs had. He said that he had one colleague who was very hard working and employed no staff but did his own case work from parliament and the constituency. He himself had not had staff based in London but constituency staff travelled to London two days per week; he now had a part-time member of staff in London. He was not aware of any other MPs who had no support in parliament.

242. On 19 March 2019, Mrs Greig and the claimant had a one-to-one discussion. She recorded: *[A] would like more time with Mike she does not need this every day, but 1/2 hour once or twice a week would be welcome*
She Is concerned that sometimes issues come in which she Is not sure about and would like Mike's feedback on these.

243. Mrs Greig raised some issues about mistakes in a number of casework letters sent out by the claimant. An action point arising was for Mrs Greig to arrange further casework training for the claimant.

244. On 26 March 2019 there was another discussion between the claimant and the respondent which the claimant recorded. The claimant raised the staffing review and the respondent said that he was still thinking about it. He told the claimant there was no option in the staffing review which was a redundancy but there was an option which moved a job to Hartlepool. He referred to there being a need to look at the work some other staff were doing – he referred in that respect to Ms Cook. The discussion moved on to the claimant's unhappiness about the situation including the insecurity of the living arrangements. She referred to the respondent breaking the promises which had led her to take the job.

245. The claimant said to the respondent that he would have been happy to continue with the living arrangements if she had agreed to have a sexual relationship with him. The respondent denied that was the case. The respondent said he was not going to make an immediate decision on the staffing review because of 'everything that's going on in Brexit'. He said that he would need to give notice on the Chelsea flat. The claimant asked him to give her a pay rise so she could find somewhere to live for herself and her daughter.

246. On 3 April 2019, there was another recorded discussion between the claimant and the respondent; the claimant asked the respondent if he had made a decision about the staffing review yet. There was a discussion about the claimant working from home on Fridays. The respondent seemed to be suggesting that Mrs Greig might not be aware that the claimant was doing that. The claimant reminded him that they had discussed her working from home in September 2018. He said that he would tell Mrs Greig that was the case and commented 'To be honest, if the work's being done on the computer and the phone's being answered, then you could be in Timbuktu'.

247. After the respondent talked around the issue for some time, the claimant expressed concern about whether Mrs Greig was aware of the arrangement:

A: Y-yeah, okay, so, could you please, if this issue comes up, or if she says, "Why is [A} working from home?" or whatever, can you please have a conversation with her, so that I don't look like I'm being a dick?

MH: Well, yeah, of course I will.

248. The respondent did not tell the claimant in terms that Mrs Greig did not know she worked form home or that Mrs Greig dd not want her to work from home.

249. From 3 April 2019, Mrs Greig was sending emails to Kim McGrath in House of Commons HR about the proposed restructure. She sent documents including a business case on 3 April 2019 and included a proposed timeline:

24th April 2019 - Meet with [A] and inform her of the proposals

25th April 2019 — Inform the rest of the team about the proposals

1st May 2019 — Meet formally with [A] and her TU

2nd May 2019 — Inform [A] of what decision has been taken

3rd May 2019 — If required, notice is given

6th May 2019 - If required, 8 weeks' notice starts, although there will be no requirement to work it.

30th June 2019 - Notice ends

250. On 4 April 2019, Mrs Greig suggested this timetable to the respondent.

251. On 5 April 2019 Mrs Greig sent an email to Ms McGrath. She said in the email that she thought the respondent was worried about the situation and what the claimant's reaction to it would be:

I believe that [A] is taking the mick and not doing the work she is paid to do. She has clearly lied about a couple of things over the last few week, both to me and Mike. She even lied in writing.

There was an incident with case work, when she clearly ignored a management instruction, and said she had done this because the letters on the system from constituents were old, when it was clear they weren't. In fact, she had many that were older. The result was, that she sent out an obsolete letter, which made Mike look as though he was not up to date on issues around Brexit. I personally believe this was either total incompetence or malicious, but I can't prove either.

Last Friday she worked from home without permission, (but she didn't do any work). Arriving in the HOC after 3pm and only then to it seems, to meet a colleague as they were going out to the theatre.

When Mike asked her about this on the Monday, she blatantly lied and said that we had given her permission to do this when she returned back from sick leave in Sept 18. Therefore my belief that she has not been coming into work on a Friday seem to be confirmed.

I have never given her open ended permission to work from home, if fact I can't even remember her asking and if she had, I would have refused. I don't have any objection to an individual working from home, however, I would need to know the reasons why and discuss with them, what work they would be doing.

252. The respondent's oral evidence on the issue of the claimant's permission to work from home was confused. He said that if the claimant had understood that there was permanent permission to work from home, that was always subject to change:

She did not ask on a week to week basis, I allowed it … I didn't know if she went in sometimes, that was the situation… if she understood that was permanent ok to work at home, that was always subject to change and when Janet wanted to see it differently.

253. So far as the suggestion that the claimant had worked from home without permission the previous Friday was concerned, the claimant produced text messages between herself and the respondent dated 29 March 2019 as follows:

Claimant: *Morning Mike…I'm going to work from home if that's OK…I'm a bit worried about coming in with that huge protest and possible trouble…I'm worried in case I have a panic attack.*

Respondent: OK

254. Mrs Greig was asked about the fact that it appeared from these text messages as if the respondent had misled her into believing the claimant was being dishonest about having permission to work from home. She accepted that the respondent had not been honest with her but was unable to proffer an explanation of why. It was suggested that the respondent was manipulating her and she said, 'I think he was just anything for an easy life.'

255. On 9 April 2019, Mrs Greig sent an email to the respondent:

Back in July 2018 it was agreed that I would manage all your staff and you seemed keen for me to do this. However, it has become clear to me, that I'm wasting my time trying to line-manager [A].

Over the last couple of weeks it has become apparent that she has been working from home on a Friday and most likely on Thursdays as well.

For over 6 month now I have been saying to you, "that I believed this was the case" and even provided you with a report on the issue.

[A}, has never sought my approval to work from home and neither have I given permission for her to do this. Nevertheless, you seemed to be aware that this was happening and despite you saying something to her early last week, I strongly believe that she was not in the office again on Friday 5th April. Over the last couple of weeks she has openly challenged me when I have raised issues with her, saying I was being heavy handed and challenging her judgment. She has even lied about why she sent out letters when instructed not to. She then repeated this same lie to you.

If she is working from home, and I use the word, "working" very loosely, then she must be doing it with your approval and knowledge, as its not with mine. And if its not with your approval and knowledge, then she has taken no notice of what you said to her last week and is doing what she darn well likes. It's got to the stage where I now feel totally ignored and undermined where [A] is concerned and feel I can no longer continue as her line manager, in fact I'm seriously considering whether to continue in the post altogether.

256. The respondent was asked in cross examination whether he had in fact told Mrs Greig the claimant had permission to work from home; he said that he had but 'clearly Mrs Greig wanted to see accountability'.

257. It was quite clear to the Tribunal that the respondent had not told Mrs Greig that the claimant had his permission to work from home.

258. Mrs Greig told the Tribunal that the respondent had been reluctant to get on with staffing review but they had a long discussion on the phone after she sent the 9 April email and he gave her permission to proceed with it.

259. On 24 April 2019, the respondent wrote to the estate agent responsible for the Chelsea flat saying that he wished to terminate the tenancy because the flat was not secure enough.

260. On 1 May 2019, Mrs Greig prepared a document entitled 'office restructure'. The document was written in the first person, as if drafted by the respondent. It said:

I no longer require a London based Senior Research Assistant or the constituency based Parliamentary Assistants posts. These posts will go and will be replaced by a Senior Case Worker (Constituency office) and a Parliamentary Assistant working 18 weeks a year, (Constituency office).

261. In early May 2019, the respondent said he started avoiding the claimant because she was constantly raising the staffing review with him. On 3 May 2019**,** the respondent says he told the claimant that he would not be returning to the Chelsea flat.

262. On 3 May 2019, Mrs Greig sent the claimant a letter informing her that her role was at risk of redundancy. She attached the 'business case' ie the document entitled 'office restructure'. The letter was sent to the addresses the claimant had provided: her mother's address and her brother's address. She was informed that there would be a consultation meeting on 15 May 2019.

263. On 7 May 2019, Indiana Lamplough told Mrs Greig that the respondent and the claimant were sharing a flat. The respondent had told Mr Lamplough. Mrs Greig gave evidence that she told the respondent that the arrangements were ill-advised and put him at risk and that he should get out. She took over communications with the estate agents.

264. On 9 May 2019, Mrs Greig wrote to Ms McGrath. She said that the respondent had brought her up to speed 'and I must say it's a mess'. She said that the respondent had had 'an earful' from her. She now needed to try to resolve 'this' without 'too much fallout'. She then turned to the staffing review letters which had been sent to staff. She said that the claimant's letter had been sent to the

addresses on file for her, which were not the address she was living at. She said that the claimant had 'provided false information to her line manager'.

265. She went on to say:

'Mike was of the understanding that the London address she had given me was the one [in Chelsea], but this only came to light when I was brought up to date Tuesday.' We note that that could not have been the respondent's understanding since he had asked the claimant to conceal the fact that they were sharing a flat.

Mrs Greig then said that in the circumstances it would not be her fault or the respondent's if the claimant did not receive the letter seven days before the meeting.

266. On 9 May 2019, Mrs Greig emailed the documents to the claimant. She said in the email that she now understood that the London address provided by the claimant was not her London address.

267. On 13 May 2019, the claimant says the respondent told her in a telephone call that he would be staying in a hotel and not returning to the Chelsea flat. This is some ten days later than the respondent says he told her but ultimately nothing turned on which date it was.

268. From 14 May 2019, the claimant was on sick leave due to PTSD and work - related stress. She emailed Mrs Greig that morning to say that she was too unwell to come to work. She emailed Mrs Grieg again after midnight to say that she remained unwell and would not be able to attend the consultation meeting. She said that she presumed the meeting had been cancelled but would appreciate a response as to whether the meeting would go ahead in her absence.

269. Mrs Greig told the Tribunal that she arranged for Mr Lamplough to travel to London with the respondent during this period from Monday to Thursday but sometimes less as there was not enough work from Mr Lamplough to do in London.

270. Mrs Greig responded to the claimant's email from after midnight on 15 May at 9:56 am on 15 May 2019. She said that she had seen the claimant's email about being sick the previous afternoon but had not thought it appropriate to contact the claimant when she was poorly. Since the claimant had subsequently asked for a response, she confirmed that the meeting would not be going ahead and she would be sent a date for the rearranged meeting.

271. The claimant replied to that email thanking Mrs Greig for her response but saying that she would have appreciated it if someone had contacted her sooner

as she had left messages with the respondent, Mrs Greig and Ms Bartholomew and the lack of response had exacerbated her anxiety.

272. On 15 May 2019, Mrs Greig sent the claimant a letter rearranging the consultation meeting to 24 May 2019. She said: 'I need to advise that if you are unable to attend on the above date, this meeting may still take place in your absence. Nevertheless, a Trade Union representative can attend to represent you, or we can arrange for you to participate in the meeting by phone or Skype.' On 17 May 2019, she emailed the claimant to say that she had also sent the letter to the other addresses she had on file for the claimant and she attached the letter to the email.

273. On 20 May 2019, the claimant sent a GP fit note to Mrs Grieg. She told Mrs Greig in a covering email: 'My doctor advises that I am unable to attend any meetings at the present time so therefore I request that the meeting be postponed again, until such time that I am considered by my doctor fit to attend. I would appreciate it if you could inform me if you intend to go ahead with the meeting on the 24th of May in my absence. As you are fully aware of my living arrangements in London I would ask that you desist from sending anymore letters to my brother's address in London as you know it is totally unnecessary and is adding to my stress levels'.

274. On 23 May 2019, Mrs Greig wrote to the claimant saying that she was prepared to postpone the consultation meeting until they received a report from the claimant's GP. She said that they would be asking the claimant's GP when she would be fit to attend a meeting and whether there were any reasonable adjustments which would enable her to attend a meeting. Mrs Greig said that if the claimant did not consent to a report or the report was not released, the respondent was likely to have to make a decision on going ahead with the consultation, even if that was in the claimant's absence. She attached a letter signed by the respondent which stated that he wished to obtain a full medical report on the claimant's health and prognosis from her GP or consultant 'in order to obtain further details on how I may best help you.'

275. In late May 2019**,** Mr Bridgen rang the claimant to say that he felt Ms Hollern was trying to warn him off helping the claimant by suggesting there was gossip in the Labour party about the claimant and Mr Bridgen having an affair and saying that it would be a shame if that got in the newspapers.

276. On 29 May 2019, the claimant emailed Mrs Greig to say that although she felt Mrs Greig was putting her 'under more pressure and stress by your requesting a medical report after only 9 days into my sick leave' she was prepared to sign a consent form for a medical report.

277. The claimant also contacted Mr Porter from the PCS union at about this time; she did not wish to use a representative from Unite because of perceived links

to the respondent. She also contacted solicitors for the first time during the period covered by this claim.

278. On 7 June 2019**,** the claimant met with the police to discuss the alleged sexual assaults. She said that she was told she would have to hand over her laptop and phone and they would be in the possession of the police for six months or more. She said that she could not afford to be without these means of communication and so did not pursue the matter with the police.

279. In the second week of June 2019**,** Mrs Greig became aware that the claimant was making allegations of sexual harassment when the claimant's then solicitor contacted the respondent's office. The respondent also became aware of the allegations.

280. On 18 June 2019, the respondent had the claimant's pass to enter the parliamentary estate deactivated. In his witness statement he told the Tribunal that this was because a doorkeeper said that the claimant had made threats against the respondent to another doorkeeper but that he put the official reason for deactivation down as sickness.

281. In oral evidence, the respondent said that putting sickness down as the reason was not a lie. He said that the claimant was on sickness absence leave and the pass was deactivated so that she was not tempted to come not the office.

282. He accepted that neither he nor Mrs Greig told the claimant that her pass had been deactivated. He said that omission was not malicious.

283. Mrs Greig said she had no input into the decision to deactivate the pass but she had intended to let the claimant know it had happened. She had just come back from holiday and had a mountain of stuff to do. The respondent had told her that one of the doorkeepers had said that if she saw the respondent in parliament she would punch (or possibly hit – Mrs Greig was not sure) him.

284. Also on 18 June 2019, Mrs Greig wrote to the claimant to say that if she did not hear from the claimant by 20 June saying she was willing to sign the GP referral, she would rearrange the consultation meeting, which was likely to go ahead in the claimant's absence. There had been a disagreement about what address should be included in the referral form.

285. Mrs Greig wrote to Ms McGrath the same day:

Regardless on what response I get from her, I would like to suggest that we arrange a meeting for the week after next, say Wednesday 3rd July.

I strongly feel, that if [A] can contact and attend meetings with a solicitor and even suggest attending mediation between herself and Mike, then she is well enough to attend a consultation.

She can't say on one hand, that she is not well enough to attend meetings to discuss work issues and then suggest with the other, that she is willing to attend a meeting, along with a third party to discuss work issues. She can't have it both ways.

The claimant denied that she had suggested mediation at this point.

286. On 19 June 2019**,** the claimant went to parliament to meet with Mr Porter and found that her pass did not work. Mr Porter had to take the claimant through security and the claimant's pass was removed. They ran into Mr Bridgen who said he would write a letter in support of the claimant. The claimant told the Tribunal that it was distressing and humiliating to have had her pass cancelled and it also meant she could not access her car in which she had put many of her personal possession in anticipation of being evicted from the Chelsea flat. She felt it confirmed her earlier fears that the respondent and Mrs Greig were planning to terminate her employment.

287. The claimant wrote to Mrs Greig to say that she would sign the referral form and to ask why her pass had been deactivated.

288. Mrs Grieg replied on 21 June 2019 and said with respect to the pass:

'I understand that this was done following Mr Hill taking advice. I had intended to let you know this had been done, unfortunately your visit to parliament happened before I had time to do this, again my apologies for the delay in letting you know that your pass had temporarily been suspended.'

We did not hear any evidence that the respondent had 'taken advice' about deactivating the claimant's pass.

289. On 20 June 2019**,** Mr Bridgen wrote a letter 'to whom it may concern' confirming that the claimant had told him in late 2018 that she was being sexually harassed by the respondent and that in early 2019 she had told him she feared that she was going to be sacked because she would not give in to the respondent's requests for a sexual relationship. He also in the letter recounted his discussion with Ms Hollern.

290. Towards the end of June 2019, the claimant took advice from her current solicitors, Farore Law.

291. On 28 June 2019**,** the respondent wrote to the claimant's GP to request a medical report.

292. On 2 July 2019**,** the claimant's solicitors emailed the respondent in the following terms:

We have been instructed by [A] in relation to serious allegations concerning you and arising from her employment by you and your treatment of her. These include allegations of sexual harassment, sexual abuse and discrimination.

We have advised our client to commence the ACAS early conciliation process in relation to the above matters.

Please ensure that any further communication with our client regarding her ongoing employment situation is dealt with by your office manager(s) and not yourself.

We will be communicating with you in more detail in the near future.

293. On 3 July 2019, Mrs Greig wrote to Ms McGrath. She said in evidence that Mr Lamplough had found a document on the printer in the London office which made reference to the claimant having secret recordings.

294. Mrs Greig's email to Ms McGrath was as follows:

Please see attached, the document which was found on the printer in Mike's office and below, an email which arrived in this office yesterday afternoon.

The document makes for interesting reading and shows that she has been covertly recording meetings between Mike and herself and meetings between myself and her.

At one point during the reading of this document I became so angry I had to leave the office for a short time to calm myself.

She accuses me of micro managing her and a catalogue of other things, which is a total nonsense and she has twisted things to suit her warped version of events.

If Mike has been such a sexual predator before and during the time she has been working for him, then why did she:

.- Accept the job with him in the first place

- *Move into a flat with him and then move in her teenage daughter. What right minded mother would move their daughter into such an environment*
  Why did she stay, why would you want to stay in such an environment.
  Why would she want Mike to continue as her line manager after I became the Office Manager.

  I'm not worried about what the recordings of our meeting might show, as I know I was very careful in what I said to her and her 1-1 notes are signed by her as a true record of the event.

295. The email referred to was the email dated 2 July 2019 from Farore Law. The document left on the printer was not produced in evidence.

296. It was clear to the Tribunal that Mrs Greig had formed a view about the truth or otherwise of the claimant's allegations prior to there having been any investigation of those allegations. Although she knew by this time about the flat sharing arrangements, the respondent had not told her that he had previously been 'in love' with the claimant and that he had hoped to have a sexual relationship with her.

297. On 4 July 2019 in a further email to Ms McGrath, Mrs Greig said that she was going to sit the respondent down and get him to respond to all of the allegations, prepare a statement of case herself and 'pull all my paperwork into one document'. She went on:

I spoke to Mike on Tuesday night and was straight with him, I informed him that he has his head in the sand and that the time has come to inform [respondent's wife], which he did reply yes to. Nevertheless, he has said this before. Anyway, Maxine and I are both going to be in the office on Monday and will ask him to bring [respondent's wife] in, its not going to be easy, but we are prepared to do this

298. We were told that the respondent agreed to allow Mrs Greig and Ms Bartholomew to tell his wife about his living arrangements with the claimant. This was a curious situation - Mrs Greig and Ms Bartholomew were the respondent's employees; they were not close personal friends of the respondent or his wife. It appears that Mrs Greig arrived at this approach because it seemed that otherwise the respondent was not going to tell his wife.

299. On 5 July 2019, Mr Porter wrote to Mrs Greig. He said: 'As you are aware, I act as [A's] trade union representative and she has, owing to her health condition, asked me to manage all further correspondence with you'.

300. He went on to say that the claimant did not agree to an occupational health referral, which had been suggested in correspondence, and that the claimant requested the redundancy consultation process happen by email.

301. Mr Porter said in evidence that he felt that he had made it quite clear that future correspondence should come to him and not to the claimant: 'I don't see how it could be stronger unless bold, capitals and underlined.'

302. In relation to the occupational health issue**,** Mr Porter said that the occupational health referral service offered to members was very limited and that given the claimant's complex medical conditions it was of no use.

303. On 9 July 2019**,** Mr Lamplough hand delivered to the claimant notice to vacate the Chelsea flat by 26 July 2019.

304. On 10 July 2019, Mrs Greig emailed the claimant, copying in Mr Porter, to say that she agreed to consult with the claimant by email. She said that the role of senior caseworker in the constituency office had been ringfenced for the claimant on a salary of £30,000. She acknowledged that the role would not be classified as 'suitable alternative employment', which we understood to be a reference to the redundancy provisions in the Employment Rights Act 1996. She requested that the claimant respond to the proposal and put forward any reasons why her role should not be made redundant by 18 July 2019.

305. On 12 July 2019, the claimant's solicitor emailed Mrs Greig. She said that because the claimant's health was deteriorating, she was instructed to deal with the ongoing redundancy situation and all correspondence should now come to her. She asked to see the 'full staffing review' referred to in the 'business case' document which the claimant had been sent.

306. A copy of the staffing review document was never provided to the claimant. The respondent said that this was not his decision. Mrs Greig's evidence was that there was nothing so sensitive in the staffing review that it could not be shown to the claimant but 'it was meant for Mr Hill.' She said that no other staff were shown it, although none had asked. She said that the claimant had enough information from the business case. She said that she had taken HR advice.

307. Mr Porter's evidence was that he felt that the claimant that could not be meaningfully consulted without seeing the staffing review document:

The fact was we requested the staffing review document and it was not forthcoming. We thought it was not prudent to attend without that, not go to a hearing without adequate documentation.

308. On 17 July 2019, Mrs Greig wrote to the claimant's solicitor, saying that it was not necessary or appropriate for the claimant to be legally represented in the redundancy consultation.

309. On 18 July 2019, the claimant's GP sent a letter to the respondent setting out her conditions and saying her symptoms were not likely to improve until her grievance had been resolved.

310. On 19 July 2019, Mrs Grieg emailed the claimant and Mr Porter attaching a letter inviting the claimant to a consultation meeting on 24 July 2019. She said that if the claimant was not well enough to attend her trade union representative could attend on her behalf. The claimant told the Tribunal that she was upset that Mrs Greig continued to correspond with her directly.

311. On 22 July 2019, Mr Porter wrote to Mrs Greig:

You will recall that, both [A's] solicitor and I had requested that you desist in contacting her directly, owing to [A']s health condition. I was disappointed to

learn that despite [A's] health condition, you had chosen to persist in contacting A.

So, I again request, that any and all future correspondence is via myself.

312. He asked for the staffing review document and asked some other questions about the process including whether other staff had been put in the pool for selection.

313. On 24 July 2019, Mrs Greig responded to Mr Porter: 'I don't believe that at any point you have you asked me not to contact [A].'

314. On 24 July 2019, a restructure consultation meeting went ahead in the claimant's absence; the meeting was attended by Mrs Greig, Ms McGrath and a notetaker

315. On the issue of not sharing the staffing review with the claimant, the notes record:

JG explained that this report has not been shared with staff and she is therefore not happy to share this with him. JG explained this document was fully completed around March 2019 and given to Mr Hill, the business case was then developed out of this.

316. There was some discussion about casework allocation and Mrs Greig said that the claimant was allocated case work 'which [A] was best placed to discuss with Mr Hill in parliament to get Mr Hill's view'.

317. On the claimant's role, Mrs Greig is recorded as saying:

JG said it was coming to her attention that [A] was struggling with casework, she was often asking caseworker questions which would be fine, but they would end up taking the case off her or writing letters for her. JG said [A] also contacted Indiana while he was away studying in France. JG was also identifying mistakes [A] had made and she discussed these with her in March. JG said she felt [A] wasn't working to the full remit of her role as some parts she didn't have to do as JG was doing it and some things Mr Hill didn't feel she was able to do.

318. In oral evidence, the respondent said he could not remember having a conversation with Mrs Greig about aspects of the role the claimant 'was not able to do'; he suggested that it could have had something to do with additional portfolio he had acquired.

319. Mrs Greig also made criticisms of the claimant's productivity and time management in the meeting.

320. On 25 July 2019, Mr Greig wrote to Mr Porter attaching the meeting minutes and saying that the offer of the senior caseworker role remained open until 30 July 2019. She also invited the claimant to a further formal consultation meeting on 31 July 2019.

321. On 26 July 2019, Mr Porter complained that the staffing review document was not provided and that questions he had asked about the process had not been answered:

'Given that the next consultation meeting is stated to be solely for the purposes of discussing the alternative role being offered, we see no point in attending.'

322. On 29 July 2019, Mrs Greig emailed the parliamentary pass office from the respondent's email address to ask how many times the claimant had accessed the parliamentary estate from January 2019 on a Thursday and Friday and how frequently the claimant had accessed it in September and October 2018.

323. Mrs Greig said that this was her initiative and that it had nothing to do with determining whether there was a need for full time support in parliament; it was because she did not think the claimant was being honest with her about accessing the estate on Thursdays and Fridays. It did not form part of the decision making about redundancy. 'I did not think she was being honest with me and I wanted to get to the bottom of it. It's just the type of person I am.'

324. On 30 July 2019, the claimant submitted a grievance about her treatment by the respondent, including the acts of sexual harassment. One passage to which the Tribunal was referred read:

I felt trapped and focussed on continuing to try to secure a 2-bedroom flat as I knew that once my daughter was with me, he would not attempt to get into my bed again as myself and my daughter were planning on sharing a room together.

325. The claimant was cross examined to the effect that she had at one point been looking at a three bedroom flat and that was inconsistent with what she said in the grievance and with a suggestion that she was fearful of sexual harassment and required her daughter to be in the bedroom to prevent that from happening. The claimant said in response that the fact that her daughter was in the flat at all would have prevented the respondent from trying anything.

326. The claimant's grievance ended with a request that it be independently investigated.

327. On 31 July 2019, the second restructuring consultation meeting was held in the claimant's absence. The notes record:

JG said that the senior parliamentary researcher role is currently a full-time post however evidence has shown that Mr Hill doesn't require full time support in parliament. During the time HG has been off sick Indiana has been travelling

down with Mr Hill and travelling back at the end of the working week, however on several weeks, Indiana has returned to the constituency several days before Mr Hill as his presence in Westminster wasn't needed.

328. We also noted this section of the minutes:

JG said that when she received KP's email suggesting that the restructure wasn't driven by budget and the need to alter structure and it was a sham, she asked that she be given a copy of how many times HG has accessed the parliamentary estate since September 2018. This was asked for, to support her belief that there was no need for full time support in parliament. This has shown that on a large number of days HG has not attended work when Mr Hill has been absent from parliament which strengthens the argument that there is not the need for full time support in the parliamentary office, if at all.

That was difficult to square with the evidence given by Mrs Greig about her reasons for applying to the pass office for this information.

329. At the end of the meeting, Mrs Greig concluded that there was nothing to suggest that the business decision was flawed and a sham and that she was going to recommend deletion of the claimant's post.

330. On 2 August 2019, the claimant sent an extensive Data Subject Access Request to the respondent with a long list of search terms.

331. That day, Mrs Greig wrote to Mr Porter to say that the respondent would not be dealing with grievance and that the claimant needed to be referred to the Cox Inquiry Hub / ISMA.

332. The respondent's evidence was that he could not hear a grievance against himself and that ISMA seemed the most appropriate place. It was suggested to him in cross examination that he should have appointed an independent third party to hear the grievance; he said that he had never come across such an arrangement in his time as a trade union representative.

333. On 5 August 2019, the claimant presented a complaint to ISMA.

334. On 6 August 2019, Mr Porter wrote to Mrs Greig saying that it was disappointing that the respondent was not dealing with the grievance and that it would be reasonable for him to appoint an independent person.

335. On 15 August 2019, the claimant presented her first claim form.

336. On 21 August 2019, a senior management team meeting was held between the respondent, Mrs Greig and Ms Bartholomew. We saw some handwritten notes of what appears to have been a rather artificial meeting. Mrs Greig made the same recommendations she had previously made as to the restructure and recommended that as the claimant has not accepted the new case worker post,

she should be dismissed. The respondent is recorded as saying: 'Although I'm unhappy to have to go down this route, I believe and support the reasons behind it and agree with the recommendation of my office manager.'

337. The respondent said in evidence that he reluctantly accepted the recommendation to dismiss the claimant. Mrs Greig then prepared the formal document setting out the recommendation and prepared the dismissal letter which was dated 30 August 2019 and provided for a last date of employment of 2 September 2019 with payment in lieu of notice.

338. On 4 September 2019, a response was sent to the claimant's DSAR. We were not provided with a list of the documents disclosed. The claimant said in her witness statement that there were emails missing between the respondent and Mrs Greig and that she knew that because she had previously seen such emails. When cross examined, she said that she thought there were many many emails missing; she identified an email which she said the respondent had sent to a third party. She did not identify any specific emails between Mrs Greig and the respondent.

339. Mrs Greig told us that she had worked hard to provide all of the documents requested and it had taken some time. There were lots of emails put into order; copies were made and couriered to the claimant. There would have been hardly any emails between herself and the respondent; she did not email the respondent because he did not respond to emails. They would usually discuss matters instead. She had not deliberately excluded any emails form the DSAR response.

340. The respondent's evidence was that he saw a huge pile of emails on Mrs Greig's desk and that he knew she would have dealt with the request thoroughly.

<u>Evidence of respondent's performance feedback to the claimant</u>

341. It was relevant for us to consider what evidence we had as to the respondent's perception of the claimant's perfromance in her role and what feedback he provided.

342. There were no formal appraisals carried out.

343. In a recorded discussion on 10 July 2018, the respondent told the claimant:

'I think you're doing brilliant work….You've done great. You've supported me.'

You've done brilliant, you know.'

344. There were a number of other examples of informal feedback. In the discussion recorded on 20 June 2018, the respondent said that the claimant was a good

worker and he was impressed with what she had done. A speech she had written was “100 out of 100”. He could not fault the work she had done that week and the previous week.

345. The respondent confirmed in his oral evidence that he had never told the claimant that she was failing in any part of her role.

Evidence about the respondent ignoring the claimant

346. The claimant’s case was that from about May 2018, after she had rejected the alleged sexual harassment in the office, the respondent would not engage with her so that she could carry out her work properly. We were pointed to a number of pieces of evidence including:
- Part of the recorded discussion on 20 June 2018 in which the claimant told the respondent that she spent time running around looking for the respondent when the respondent did not answer his phone or text messages and then would find him drinking on the parliamentary terrace.
- A text message from May 2018 in which the claimant said:
If you don’t answer txts or the phone how am I suppose to do my job…it’s getting far beyond a joke and to be honest I know if anyone in the office got in touch you get back to them…I am of the opinion you are trying to set me up to fail and I’m getting really fed up of it all.
The respondent in a text message essentially responded by saying what he had been busy doing.
- In the recorded discussion on 8 March 2019, the claimant said to the respondent that when she asked for input on case work, the respondent said to her ‘I don’t need to deal with this shit’. The respondent during the conversation accepted that he had done that once or twice but denied doing it consistently.

347. In oral evidence the claimant described herself running around the Palace of Westminster like a headless chicken trying to track down the respondent if a reporter had been in touch or someone from the constituency office was trying to get hold of the respondent. She said that he provided no input from May 2018 with regards to his diary or response to emails.

348. When the respondent was taken in evidence to some text chains where he did not appear to have responded to the claimant, he said that he never deliberately ignored the claimant. They were in the same building and would have been having conversations. He said that he sometimes did not fully concentrate and appeared to ignore people and that was something which he needed to improve.

Evidence about affordability of a flat:

349. The claimant's net income whilst working for the respondent was approximately £2800 per calendar month. Her outgoings included £200 per month for storage of the possessions which had been in her home in the North East and money spent supporting her daughter whilst she completed her education. She also gave money to her mother and to her son during a period when he had been made redundant.

350. In terms of whether she could have lived independently in London, the claimant told us that travelling on the underground was impossible for her because of her PTSD. She had looked at flats where she could commute by bus an hour and a half or two hours, Rental was just under £2000 pcm in those areas. She would also have had to pay for travel, bills and food. Because of her PTSD, she said that she could not have flat shared with strangers.

351. The respondent said that the claimant could travel independently by bus but accepted that the underground was difficult for her.

352. Neither party adduced any evidence of actual flat rental costs and we accepted the claimant's evidence, which was not out of step with our broad anecdotal impression of the London rental market.

Law

Sexual harassment

353. Section 26(2) of the Equality Act 2010 provides that person A harasses person B in circumstances where:
- A engages in unwanted conduct of a sexual nature, and
- The conduct has the purpose or effect of violating B's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

354. The EHRC Employment Code gives examples of sexual conduct which include unwelcome advances, touching, sexual assaults and sending emails with sexual content.

Less favourable treatment because of rejection or submission to sexual harassment

355. A person A also harasses a person B in circumstances where A has subjected B to sexual harassment and, because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct: section 26(3) Equality Act 2010.

Harassment related to a protected characteristic

356. Under s 26 Equality Act 2010, a person harasses another if he or she engages in unwanted conduct related to a relevant protected characteristic,

and the conduct has the purpose or effect of (i) violating the claimant's dignity, or (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.

357. In deciding whether conduct has such an effect, each of the following must be taken into account: (a) the claimant's perception; (b) the other circumstances of the case; and (c) whether it is reasonable for the conduct to have that effect.

358. In Richmond Pharmacology Ltd v Dhaliwal [2012] IRLR 336, EAT, Underhill J gave this guidance in relation to harassment in the context of a race harassment claim:

> 'an employer should not be held liable merely because his conduct has had the effect of producing a proscribed consequence. It should be reasonable that that consequence has occurred. The claimant must have felt, or perceived, her dignity to have been violated or an adverse environment to have been created, but the tribunal is required to consider whether, if the claimant has experienced those feelings or perceptions, it was reasonable for her to do so……..Not every racially slanted adverse comment or conduct may constitute the violation of a person's dignity. Dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended. While it is very important that employers and tribunals are sensitive to the hurt that can be caused by racially offensive comments or conduct (or indeed comments or conduct on other discriminatory grounds) it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase.'

359. An 'environment' may be created by a single incident, provided the effects are of sufficient duration: Weeks v Newham College of Further Education EAT 0630/11.

360. The necessary relationship with the protected characteristic may derive from the motivation for the treatment or the content of the treatment itself: Unite the Union v Nailard [2018] EWCA Civ 1203.

Victimisation

361. Under s 27 Equality Act 2010 a person victimises another person if they subject that person to a detriment because that person has done a protected act or the person doing the victimising believes that person has done or may do a protected act.

362. The definition of a protected act includes the making of an allegation that the person subsequently subjecting the claimant to a detriment (or another

person) has contravened the Equality Act 2010 or done 'any other thing for the purpose or in connection with' the Equality Act.

363. A detriment is anything which an individual might reasonably consider changed their position for the worse or put them at a disadvantage. It could include a threat which the individual takes seriously and which it is reasonable for them to take seriously. An unjustified sense of grievance alone would not be sufficient to establish detriment: EHRC Employment Code, paras 9.8 and 9.9.

364. The protected act need not be the only or even the primary cause of the detriment, provided it is a significant factor: Pathan v South London Islamic Centre EAT 0312/13.

365. A claim for victimisation will fail where there are no clear circumstances from which knowledge of the protected act on the part of the alleged discriminator can properly be inferred: Essex County Council v Jarrett EAT 0045/15.

366. The influence of the protected act on the alleged discriminator may be conscious or unconscious: Peninsula Business Service v Baker [2017] ICR 714.

367. The protected act need not be the sole reason for the treatment complained of but it must be a significant influence: Villalba v Merrill Lynch and Co Inc and ors 2007 ICR 469, EAT.

Direct discrimination because of disability

368. Direct discrimination under section 13 Equality Act 2010 occurs when a person treats another:
- Less favourably than that person treats a person who does not share that protected characteristic;
- Because of that protected characteristic.

369. In a direct discrimination case, where the treatment of which the claimant complains is not overtly because of the protected characteristic, the key question is the "reason why" the decision or action of the respondent was taken. This involves consideration of mental processes of the individual responsible; see for example the decision of the Employment Appeal Tribunal in Amnesty International v Ahmed [2009] IRLR 884 at paragraphs 31 to 37 and the authorities there discussed. The protected characteristic need not be the main reason for the treatment, so long as it is an 'effective cause': O'Neill v Governors of St Thomas More Roman Catholic Voluntarily Aided Upper School and anor [1996] IRLR 372.

370. This exercise must be approached in accordance with the burden of proof provisions applying to Equality Act claims. This is found in section 136: "(2) if there are facts from which the Court could decide, in the absence of any other explanation, that person (A) contravened the provision concerned, the Court

must hold that the contravention occurred. (3) but subsection (2) does not apply if A shows that A did not contravene the provision."

371. Guidelines were set out by the Court of Appeal in Igen Ltd v Wong [2005] EWCA Civ 142; [2005] IRLR 258 regarding the burden of proof (in the context of cases under the then Sex Discrimination Act 1975). They are as follows:

(1) Pursuant to s.63A of the SDA, it is for the claimant who complains of sex discrimination to prove on the balance of probabilities facts from which the tribunal could conclude, in the absence of an adequate explanation, that the respondent has committed an act of discrimination against the claimant which is unlawful by virtue of Part II or which by virtue of s.41 or s.42 of the SDA is to be treated as having been committed against the claimant. These are referred to below as 'such facts'.

(2) If the claimant does not prove such facts he or she will fail.

(3) It is important to bear in mind in deciding whether the claimant has proved such facts that it is unusual to find direct evidence of sex discrimination. Few employers would be prepared to admit such discrimination, even to themselves. In some cases the discrimination will not be an intention but merely based on the assumption that 'he or she would not have fitted in'.

(4) In deciding whether the claimant has proved such facts, it is important to remember that the outcome at this stage of the analysis by the tribunal will therefore usually depend on what inferences it is proper to draw from the primary facts found by the tribunal.

(5) It is important to note the word 'could' in s.63A(2). At this stage the tribunal does not have to reach a definitive determination that such facts would lead it to the conclusion that there was an act of unlawful discrimination. At this stage a tribunal is looking at the primary facts before it to see what inferences of secondary fact could be drawn from them.

(6) In considering what inferences or conclusions can be drawn from the primary facts, the tribunal must assume that there is no adequate explanation for those facts.

(7) These inferences can include, in appropriate cases, any inferences that it is just and equitable to draw in accordance with s.74(2)(b) of the SDA from an evasive or equivocal reply to a questionnaire or any other questions that fall within s.74(2) of the SDA.

(8) Likewise, the tribunal must decide whether any provision of any relevant code of practice is relevant and if so, take it into account in determining, such facts pursuant to s.56A(10) of the SDA. This means that inferences may also be drawn from any failure to comply with any relevant code of practice.

(9) Where the claimant has proved facts from which conclusions could be drawn that the respondent has treated the claimant less favourably on the ground of sex, then the burden of proof moves to the respondent.

(10) It is then for the respondent to prove that he did not commit, or as the case may be, is not to be treated as having committed, that act.

(11) To discharge that burden it is necessary for the respondent to prove, on the balance of probabilities, that the treatment was in no sense whatsoever on the grounds of sex, since 'no discrimination whatsoever' is compatible with the Burden of Proof Directive.

(12) That requires a tribunal to assess not merely whether the respondent has proved an explanation for the facts from which such inferences can be drawn, but further that it is adequate to discharge the burden of proof on the balance of probabilities that sex was not a ground for the treatment in question.

(13) Since the facts necessary to prove an explanation would normally be in the possession of the respondent, a tribunal would normally expect cogent evidence to discharge that burden of proof. In particular, the tribunal will need to examine carefully explanations for failure to deal with the questionnaire procedure and/or code of practice.

372. The tribunal can take into account the respondent's explanation for the alleged discrimination in determining whether the claimant has established a prima facie case so as to shift the burden of proof. (Laing v Manchester City Council and others [2006] IRLR 748; Madarassy v Nomura International plc [2007] IRLR 246, CA.)

373. We bear in mind the guidance of Lord Justice Mummery in Madarassy, where he stated: 'The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a tribunal "could conclude" that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination.' The 'something more' need not be a great deal; in some instances it may be furnished by the context in which the discriminatory act has allegedly occurred: Deman v Commission for Equality and Human Rights and ors 2010 EWCA Civ 1279, CA.

374. The fact that inconsistent explanations are given for conduct may be taken into account in considering whether the burden has shifted; the substance and quality of those explanations are taken into account at the second stage: Veolia Environmental Services UK v Gumbs EAT 0487/12.

375. Although unreasonable treatment without more will not cause the burden of proof to shift (Glasgow City Council v Zafar [1998] ICR 120, HL), unexplained unreasonable treatment may: Bahl v Law Society [2003] IRLR 640, EAT.

376. We remind ourselves that it is important not to approach the burden of proof in a mechanistic way and that our focus must be on whether we can properly and fairly infer discrimination: Laing v Manchester City Council and anor [2006] ICR 1519, EAT. If we can make clear positive findings as to an employer's motivation, we need not revert to the burden of proof at all: Martin v Devonshires Solicitors [2011] ICR 352, EAT.

Discrimination arising from disability

377. In a claim under s 15, a tribunal must consider:

- Whether the claimant has been treated unfavourably;
- Whether the unfavourable treatment is because of something arising in consequence of the employee's disability;
- Whether the employer knew, or could reasonably have been expected to know, that the employee or applicant had the disability relied on.

378. There are two aspects to causation:

- Considering what caused the unfavourable treatment. This involves focussing on the reason in the mind of the alleged discriminator;
- Determining whether that reason was something arising in consequence of the claimant's disability. That is an objective question and does not involve consideration of the mental processes of the alleged discriminator: Pnaiser v NHS England and anor 2016 IRLR 170, EAT.

379. An employer has a defence to a claim under s 15 if it can show that the unfavourable treatment was a proportionate means of achieving a legitimate aim.

380. Assessing proportionality involves an objective balancing of the discriminatory effect of the treatment and the reasonable needs of the party responsible for the treatment: Hampson v Department of Education and Science [1989] ICR 179, CA.

381. If there is a link between reasonable adjustments said to be required and the disadvantages or detriments being considered in the context of indirect discrimination and/or discrimination arising from disability, any failure to comply with the reasonable adjustments duty must be considered 'as part of the balancing exercise in considering questions of justification': Dominique v Toll Global Forwarding Ltd EAT 0308/13. The EAT commented that it was difficult

to see how a disadvantage which could have been alleviated by a reasonable adjustment could be justified.

Failure to comply with a duty to make reasonable adjustments

382. Under s 20 Equality Act 2010, read with schedule 8, an employer who applies a provision, criterion or practice ('PCP') to a disabled person which puts that disabled person at a substantial disadvantage in comparison with persons who are not disabled, is under a duty to take such steps as are reasonable to avoid that disadvantage. Section 21 provides that a failure to comply with a duty to make reasonable adjustments in respect of a disabled person is discrimination against that disabled person.

383. In considering a reasonable adjustments claim, a tribunal must consider:

- The PCP applied by or on behalf of the employer or the relevant physical feature of the premises occupied by the employer;
- The identity of non-disabled comparators (where appropriate) and
- The nature and extent of the substantial disadvantage suffered by the claimant.

Environment Agency v Rowan [2008] ICR 218, EAT.

384. The concept of a PCP does not apply to every act of unfair treatment of a particular employee. A one-off decision can be a practice, but it is not necessarily one; all three words connote a state of affairs indicating how similar cases are generally treated or how a similar case would be treated if it occurred again: Ishola v Transport for London [2020] EWCA Civ 112.

385. A claimant bears the burden of establishing a prima facie case that the duty to make reasonable adjustments has arisen and that there are facts from which it could reasonably be inferred, in the absence of an explanation, that the duty has been breached. There must be evidence of some apparently reasonable adjustment which could be made, at least in broad terms. In some cases the proposed adjustment may not be identified until after the alleged failure to implement it and this may exceptionally be as late as the tribunal hearing itself: Project Management Institute v Latif [2007] IRLR 579, EAT. There is no specific burden of proof on the claimant to do more than raise the reasonable adjustments that he or she suggests should have been made: Jennings v Barts and the London NHS Trust EAT 0056/12. The burden then passes to the respondent to show that the disadvantage would not have been eliminated or reduced by the proposed adjustment and/or that the adjustment was not a reasonable one.

386. By section 212(1) Equality Act 2010, 'substantial' means 'more than minor or trivial'.

387. When considering what adjustments are reasonable, the focus is on the practical result of the measures that can be taken. The test of what is reasonable is an objective one: Smith v Churchills Stairlifts plc [2006] ICR 524, CA. The Tribunal is not concerned with the processes by which the employer reached its decision to make or not make particular adjustments nor with the employer's reasoning: Royal Bank of Scotland v Ashton [2011] ICR 632, EAT.

388. Carrying out an assessment or consulting an employee as to what adjustments might be required is not of itself a reasonable adjustment: Rider v Leeds City Council EAT 0243/11, Tarbuck v Sainsbury's Supermarkets Ltd 2006 IRLR 664, EAT.

389. Although the Equality Act 2010 does not set out a list of factors to be taken into account when determining whether it is reasonable for an employer to take a particular step, the factors previously set out in the Disability Discrimination Act 1995 are matters to which the Tribunal should have regard:

- The extent to which taking the step would prevent the effect in relation to which the duty was imposed
- The extent to which it was practicable for the employer to take the step
- The financial and other costs that would be incurred by the employer in taking the step and the extent to which it would disrupt any of its activities
- The extent of the employer's financial and other resources
- The availability to the employer of financial or other assistance in respect of taking the step
- The nature of the employer's activities and the size of its undertaking
- Where the step would be taken in relation to a private household, the extent to which taking it would (i) disrupt that household or (ii) disturb any person residing there

This is not an exhaustive list.

Time limits

390. Under s 123 Equality Act 2010, discrimination complaints should be presented to the Tribunal within three months of the act complained of (subject to the extension of time for Early Conciliation contained in s 140B) or such other period as the Tribunal considers just and equitable. The onus is on a claimant to convince the tribunal that it is just and equitable to extend the time limit: Robertson v Bexley Community Centre t/a Leisure Link 2003 IRLR 434, CA.

391. Under s 123(3), conduct extending over a period is to be treated as done at the end of the period.

Protected disclosures

392. Section 43B(1) ERA 1996 defines a qualifying disclosure as a disclosure of information which in the reasonable belief of the worker making the disclosure is in the public interest and tends to show one of a number of types of wrongdoing. These include '(b)that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject' and '(d) that the health and safety of any individual has been, is being or is likely to be endangered.'

393. To be a protected disclosure, a qualifying disclosure must be in circumstances prescribed by other sections of the ERA, including, under section 43C, to the worker's employer.

394. Guidelines as to the approach that employment tribunals should take in whistleblowing detriment cases were set out by the EAT in Blackbay Ventures (trading as Chemistree) v Gahir (UKEAT/0449/12/JOJ):

- each disclosure should be identified by reference to date and content

- the basis upon which the disclosure is said to be protected and qualifying should be addressed

- if a breach of a legal obligation is asserted:

    each alleged failure or likely failure to comply with that obligation should be separately identified; and

    the source of each obligation should be identified and capable of verification by reference for example to statute or regulation

- the detriment and the date of the act or deliberate failure to act resulting in that detriment relied upon by the claimant should be identified

- it should then be determined whether or not the claimant reasonably believed that the disclosure tended to show the alleged wrongdoing and, if the disclosure was made on or after 25 June 2013, the claimant reasonably believed that it was made in the public interest.

395. There is a number of authorities on what a disclosure of 'information' is. It must be something more than an allegation; some facts must be conveyed:

Cavendish Munro Professional Risks Management Ltd v Geduld [2010] ICR 325. There is no rigid dichotomy between allegations and facts. A statement must have sufficient factual content and specificity such as is capable of showing one of the matters listed at s 43B(1): Kilraine v Wandsworth LBC [2018] ICR 1850.

396. There is little authority on the issue of what 'likely' means in the various limbs under s 43B(1). In Kraus v Penna plc [2004] IRLR 260, the EAT interpreted 'likely' as meaning 'probable or more probable than not' and said that there must be more than a possibility or risk that an employer might fail to comply with the relevant legal obligation. We note that more recent authorities on the meaning of the word 'likely' in other employment law contexts such as in the context of the definition of disability under the Equality Act 2010 have adopted a lower test for likelihood; in respect of the definition of disability, 'likely' means 'could well happen' but accept that for these purposes we must apply the guidance in Kraus v Penna.

397. The burden of proof is on the worker to show that he or she held the requisite reasonable belief. The tribunal must look at whether the claimant subjectively held the belief in question and objectively at whether that belief could reasonably be held. The allegation need not be true: Babula v Waltham Forest College [2007] IRLR.

398. The reasonableness of the worker's belief is determined on the basis of information known to the worker at the time the decision to disclose is made: Darnton v University of Surrey [2003] IRLR 133.

399. Factors relevant to the issue of whether a worker reasonably believed that a disclosure was in the public interest include:

- the number in the group whose interests the disclosure served (the larger the number, the more likely the disclosure is to be in the public interest)

- the nature of the interests affected (the more important they are, the more likely the disclosure is to be in the public interest)

- the extent to which those interests are affected by the wrongdoing disclosed (the more serious the effect, the more likely the disclosure is to be in the public interest)

- the nature of the wrongdoing disclosed (the disclosure of deliberate wrongdoing is more likely to be in the public interest than the disclosure of inadvertent wrongdoing)

- the identity of the alleged wrongdoer (the larger and more prominent the alleged wrongdoer, the more likely the disclosure is to be in the public interest)

(1) Chesterton Global (2) Verman v Nurmohamed [2017] IRLR 837.

Automatically unfair dismissal for making protected disclosures

400. An employee is automatically unfairly dismissed if the reason or principal reason for his or her dismissal is that the employee made a protected disclosure: section 103A Employment Rights Act 1996.

Submissions

401. We had detailed written and oral submissions from both parties. We have considered them carefully but refer to them below insofar as is necessary to explain our conclusions.

Conclusions

Credibility issues

402. We bore in mind when assessing different accounts of the same events and any inferences about credibility which we might draw, that memory is fluid, memories are rewritten when recalled and the process of reducing them to a witness statement further distorts memory and crystallises the version presented in the witness statement, a version which may have been influenced by reading documents and discussing the events with others. We bore in mind the guidance provided in case law that we should base factual findings on inferences drawn from the documents and known or probable facts where possible. Confidence in recollection is not an indicator of the truth of that recollection. We had regard to the guidance given by Gestmin SGPS SA v Credit Suisse (UK) Ltd [2013] EWHC 3560 (Comm).

Respondent

403. Mr Perry urged us not to form views on the respondent's credibility based on the fact that there were many matters he told us he could not recall. We were very conscious of the difficulties inherent in memory and of the fact that expressed confidence about a memory does not make it any more likely to be a true memory. What was more significant to us in weighing the respondent's credibility in cases where his version of events differed from the claimant's and there was a lack of documentary evidence to guide us was the fact that we had clear evidence that the respondent had misled a number of people during the course of the events the subject of these proceedings; these included the claimant, Mrs Greig and his wife. That had necessarily to carry some weight

with us in instances where there was otherwise no corroboration for either of two conflicting accounts.

404. Inevitably, because there were instances where we found that the respondent's evidence should not be believed on particular matters because there was documentary evidence to support the claimant's account, that also had some effect on our assessment of matters where there was no corroborative evidence either way, although we were careful to assess each matter individually.

Claimant

405. By contrast, we could find no examples of occasions when the claimant had been untruthful, either by her own admission or as evidenced by the account of someone other than the respondent. It was notable to us that cross examination sought to make much of alleged inconsistencies between what the claimant said about alleged assaults in discussions with the respondent and her account to the Tribunal, when in fact the Tribunal majority found no significant difference between the different accounts and Mr Carter found one.

Choice of narratives

406. Both parties presented us with a guiding narrative intended to link the facts of the case. A significant part of each narrative was a characterisation of the respondent and a characterisation of the claimant, together with a thesis about who held the power in their relationship at a given time. To some extent this analysis grew out of the unusual facts of this case; an employment relationship was grafted on to what had been initially a relationship between a trade union official and a trade union member and then became a friendship.

Claimant's narrative

407. The respondent was a highly manipulative man who 'entangled' himself in all aspects of the claimant's life at a time when she was very vulnerable. He manipulated her with a view to establishing a sexual relationship with her.

408. He encouraged the claimant into a situation where she was dependent on him for her job and her accommodation by making promises to her which he then proceeded to break when she declined to enter into a sexual relationship with him. He is a dishonest man who drip feeds information to others to do his dirty work; he planted seeds in the minds of Ms Bartholomew and Mrs Greig which led ultimately to the claimant's redundancy.

409. Once the claimant had definitively rejected the respondent's advance, he made various threats to her and broke the promises he had made. He used Mrs Greig to engineer a situation in which the claimant could be dismissed,

Respondent's narrative:

410. The respondent was good friends with the claimant and supported her through a difficult time in her life, he developed feelings for her. He was in love with the claimant and foolishly and naively offered her a job.

411. The claimant wanted to live with the respondent because she wished to have better accommodation than she could afford. He had only intended that she stayed with him on a temporary basis. She had power because he was then placed in a compromising position and was fearful both of gossip about the situation and of his wife finding out. He was trapped and his attempts to rectify the situation led to arguments with the claimant. She continued to demand that he keep the promises he made to her and the relationship became increasingly argumentative and unpleasant.

412. He would do anything for a quiet life. He got to his position by being a good union rep but did not manage well the managerial aspects which came to be attached to the role. The respondent is a lousy boss and a pushover, a coward, managed by his staff.

413. He installed Mrs Greig as the claimant's line manager for legitimate reasons but the claimant resisted that because she wanted the easier life she had under the respondent's line management and the conditions which she had negotiated with the respondent, including a salary which she did not merit.

414. The respondent's account of his own personality and role is perhaps best captured by oral evidence given by Mrs Greig:

It is difficult to put in a few sentences – I felt extremely disappointed in judgments he had taken and things I found out had happened, I am a very principled person and straight, honest, say things as I see them. Mr Hill has been less than honest with me over the last three years. I still see him as the coward and he does not like conflict, will avoid it and let other make decisions on his behalf. That is shown by us speaking to his wife. Still can't see him as predator because have not witnessed any of that kind of behaviour, a predator is totally different and I can't see him as that but I see him as everything else.

A long time after, I sat him down and had words with him. I was extremely annoyed. I felt that I had been undermined that he hadn't been truthful with me and that rather than be honest with both of us he tried to appease both of us which appeased no one. One thing to one person and opposite to another, result no one left happy. But then again that is totally Mike, I worked with him for 12 years in previous occupation and three years as a manager. He has been same all the way through, a lousy manager, doesn't like conflict, tries to

keep everybody happy, having wherewithal to deliberately deceive and create a situation is beyond him.

415. We had regard to whether either of these narratives or some third narrative was in play only insofar as was of assistance to us in making links and drawing inferences when applying the legal tests to the primary facts we have found.

Harassment

1. Sexual Harassment (s.26(2) EqA)

Issue: Did R engage in unwanted conduct of a sexual nature? C relies on the following alleged incidents of R's conduct:

(a) Telephone call from R on the evening of 22/09/17 in which it is alleged that R told C that he loved her and could not go ahead with sharing a flat with her unless he was able to share a bed with her. [ET1/1 para 10]

416. We accepted the claimant's account of events for the reasons already set out in our findings of fact. It was not argued that if the respondent did indeed say he wanted to share a bed with the claimant, as we found he did, this did not constitute conduct of a sexual nature and it plainly did. We note that, not only was it a sexual advance, it was a sexual advance made in highly charged circumstances, where the claimant had already accepted a very valuable opportunity and begun to make changes to her life to facilitate that opportunity. The respondent in effect then made a sexual relationship a condition of that opportunity since the claimant had no other viable housing option. As he recognised, he had 'put the claimant over a barrel'.

Issue: (b) R getting into bed with C on 11/12/17 and rubbing his erection against her, wrapping his arms around her and attempting to fondle her breasts. [ET1/1 para 14]

417. We were satisfied that this incident occurred as described by the claimant. In particular, and leaving aside the respondent's overall credibility, we were persuaded by the failure on the respondent's part to deny the essentials in the recorded conversations. We did not accept that he could have misunderstood the claimant's references to what 'M did not do' as anything other than a

reference to what he *had done*. We did not accept that someone accused of a serious sexual assault which he had not committed would simply have failed to deny it because he was tired in general or tired of arguments. The suggestion that the respondent was nodding along with allegations might have made sense in relation to repetition of allegations about broken promises. It seemed to us that someone confronted for the first time with a fabricated allegation of this serious nature would have said to the person making the allegation that it was untrue if that had been the case, indeed would have vehemently denied the allegation. We could not conceive of any reason why that would not have happened. We considered that the respondent's account to the Tribunal of entering the claimant's bed on one occasion because he had a bad back was reverse engineered by him because he was conscious that he had not denied 'jumping' in the claimant's bed.

418. We considered with care the respondent's counter arguments. It was suggested that if the assault had happened the claimant would have simply moved out. We accepted the claimant's evidence that this was not financially viable; to have rented a flat would have taken most of her net salary and even then would have posed significant commuting problems because of her PTSD. We accepted that she felt trapped for various reasons; she had given up her existing home and benefits. Her family believed she was pursuing a good opportunity under the care of a good friend, who was known to them and to whom they were grateful; her PTSD limited her ability to pursue other living options. She hoped that the situation could be retrieved by the move to a larger flat with her daughter. We accepted that the situation the respondent put her in was one of extreme vulnerability from which it was no doubt very difficult psychologically and practically for her to extricate herself.

419. We did not consider that the claimant's willingness to introduce her daughter into the living situation was evidence that the assault did not happen. The claimant's evidence, borne out by the evidence of text messages and the respondent's behaviour, was that the respondent was obsessed with her. He was not a general predator who was a risk to women generally.

Issue: (c) R getting into bed with C on 08/01/18 and rubbing his erection against her, wrapping his arms around her and attempting to fondle her breasts. [ET1/1 para 14]

420. The Tribunal was divided on this issue. The majority (the Employment Judge and Ms Bond) accepted that this incident happened as described by the claimant. Our reasons for accepting it were the same reasons we accepted the earlier incident and also what we found to be the claimant's overall greater credibility. It seemed to us likely that with time running out before the move to a larger flat with the claimant's daughter, the respondent was probably making concerted efforts to try and move the situation on in the direction he wished it to go. We did not consider that the fact that the claimant did not, for example, say in the transcript 'you jumped in my bed twice', 'you rubbed up against me twice' in any way undermined that conclusion. The claimant was making a difficult allegation to someone who knew exactly what had happened; we did not consider that a person in those circumstances would be likely to itemise each occasion and the detail of each such occasion. It would be unnecessary and potentially more inflammatory to do so when communicating with someone who was fully aware of the facts.

421. The minority view (Mr Carter) was that if this type of assault (the getting into bed and the sexual contact) had happened more than once, the claimant would have said so in the course of the discussions where she made the allegation. Mr Carter considered that the claimant had 'beefed up' her case in this one respect. In answer to Mr Carter's questions, the claimant had indicated that she had not taken any steps to prevent a repeat of the earlier incident and shortly after the incident she had acceded to the respondent's request to conceal her existence from the respondent's wife.

Issue (d) R informing C in relation to the incident on 08/01/18 that she was "overreacting"; that she must be "frigid or something"; that he could not understand how someone could be celibate for so many years; consequently there must be "something wrong" with C. [ET1/1 para 14]

422. The Tribunal accepted that these remarks were made by the respondent. We considered that they reflected a kind of bitterness about the claimant's rejection of the respondent as a romantic or sexual prospect which had been apparent in earlier text messages and were consistent with the respondent's earlier behaviour. Those text messages and indeed the recordings also revealed that the respondent's mood and attitude towards the claimant shifted at different times and he had moments when he was resentful about being rejected.

423. The minority (Mr Carter) considered that the remarks must have been made in relation to the earlier incident.

Issue: (e) R entering C's bedroom in the night on many occasions throughout 12/17 to 02/18. [ET1/1 para 15]

424. We accepted the claimant's account. The claimant was more credible than the respondent and the behaviour seemed to us to be consistent with the other behaviour of the respondent we have found proven, against the background of his sustained romantic and sexual hopes in relation to the claimant. He several times, on our findings, continued to press for a romantic / sexual relationship after it was made clear his attentions were not welcome. To take a documented example – his apparent acceptance in June 2017 that there would be no sexual relationship did not stop him from trying again in September 2017.

425. The fact that we found that the respondent's evidence in relation to the sexual assaults was untrue has a consequential effect on our assessment of his credibility overall

Issue: (f) Sexual assaults by R on C on occasions at the Westminster office: by approaching C from behind putting his arms round her; rubbing his penis against C's bottom and attempting to fondle C's breasts; touching C's bottom. [ET1/1 para 21]

426. We accepted the claimant's account. Again the respondent did not deny that there had been 'touching up' in the office during the 6 March 2019 discussion.

Again, we think it inconceivable that he would not have challenged what she said had the accusation been untrue.

427. We did not accept that when he referred to 'all of which stopped' he was referring to consensual cuddles which were often instigated by the claimant. 'Touching up' is plainly an allegation of sexual touching, not an allegation about friendly hugs, and the respondent would have understood that.

428. It was submitted on the respondent's behalf that the claimant's case was undermined by the claimant's failure to refer in the discussion to the graphic details of the touching she gave in evidence. Again we consider that there was no need for the claimant to provide the detail; both she and the respondent knew exactly what she was talking about. Itemising the complaints was likely to be inflammatory; it was certainly unnecessary. Her reference to the 'touching up' 'not coming from a seedy place' was, we accepted, a reference to the fact that the respondent had said he was in love with the claimant and did not just want a sexual relationship with her; it was also an effort to appease a man who held considerable power over her. As she said in evidence:

I tried to minimise it. I tried to block it out. I wanted a safe roof for my daughter. If I pushed too much I would be out on streets. I had to minimise everything. I didn't go into the specifics I tried to not think about it. I tried to get on with getting on with the day to day. I felt shamed for not packing my bags.

429. The claimant's account was also consistent with her rearrangement of the office to avoid opportunities for further harassment.

430. All of the conduct we have found was clearly unwanted; the claimant told us so in evidence and she told the respondent so on the various occasions we have recorded in our findings of fact.

Issue: i. If so, did the conduct have the purpose or effect of violating C's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for C?

431. We considered that the unwanted sexual behaviour we have described certainly had the effect of violating the claimant's dignity and creating the proscribed environment for her. She gave ample evidence of the effects on her. At the time of these incidents the respondent's purpose appears to have been to persuade, cajole or pressure the claimant into a sexual relationship rather than to create the proscribed effects.

432. We should note that there was no argument by the respondent that the fact that a number of the incidents took place in the flat meant that they were outside the course of employment. If there had been such an argument we would have rejected it on the facts of this case; the claimant and respondent ended up living together in order to facilitate the claimant working for the respondent. It was

apparent that work matters were discussed at the flats and there was no clear divide between the work relationship and the personal relationship and between what happened at the parliamentary estate and what happened at the flats.

433. For all these reasons, we upheld all of the claimant's claims of sexual harassment under s 26(2).

2. Less Favourable Treatment for Rejecting Sexual Harassment (s.26(3) EqA)

Issue: i. Did R engage in unwanted conduct of a sexual nature? [see above]

434. We have found above that the respondent did engage in such conduct.

Issue ii. If so, did the conduct have the purpose or effect of violating C's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for C?

435. We have also found that the conduct had the proscribed effect.

Issue: iii. Was any proven conduct because of C's rejection of, or submission to, the conduct, R treated C less favourably that R would treat C if she had not rejected or submitted to the conduct? C relies on the following alleged conduct as amounting to less favourable conduct:

(a) R allegedly informing C in relation to the incident on 08/01/18 that she was "overreacting"; that she must be "frigid or something"; that he could not understand how someone could be celibate for so many years; consequently there must be "something wrong" with C. [ET1/1 para 14]

436. We found as a fact that the respondent made these remarks. They are so clearly linked to the rejection of the sexual advances and so obviously a response to that rejection that we had no difficulty making a positive finding that the remarks were 'because of' the rejection of the harassment.

Issue: (b) Between 05/02/18 and 07/02/18 R reacting sharply to C and expressing his upset about C not booking a double hotel room. [ET1/1 para 19]

437. The allegation as more precisely formulated in evidence was that the respondent reacted 'sharply' and said that the claimant should have booked a room with a double bed rather than twin beds.

438. We accepted that claimant's evidence about this incident; it was consistent with her account of the preceding events, which we accepted.

439. The respondent at best allowed a situation to arise where the claimant had to share a hotel room with him. He could easily have avoided it by simply paying for a separate room for himself or by asking someone else he knew in London to put him up for a few days. The fact that he did not is consistent with the view that he hoped to use it as an opportunity to further his sexual approaches to the claimant and responded with bitterness when the opportunity was impeded.

440. This was a final opportunity before the move to the larger flat for the respondent to try and share a bed with the claimant. We accepted that he reacted with disappointment and anger to the arrangements just as he had previously reacted to sexual rejection. For these reasons we upheld this claim.

Issue: (c) R's text to C at 00.23 on 13/05/18 to inform her that her probation would be extended by a further 6 months. [ET1/1 para 24]

441. There was no dispute that the respondent sent this text. The argument on his behalf was that it was an empty threat made in the course of an ongoing argument about a number of issues including the claimant's unhappiness about broken promises.

442. We looked at the timing of this message – it was sent at a point when the claimant had rejected the respondent's sexual advances in the flat and also in the office. She was also complaining about broken promises and we accept that there was increasing conflict between the parties. However we found that the refusal to submit to the respondent's advances formed a material part of the reasons for the respondent's threat in this email. We asked ourselves what would have happened had the claimant acceded to the respondent's advances; had she done so, we think it inconceivable that this text message would have been sent. The respondent would not have begun to resile from his promises

and the relationship would not have become so confrontational. The claimant would not have had reason to be seeking to 'bring everyone down'.

443. In effect, we felt able to make a positive finding that the claimant's rejection of the harassment played a material role in the motivation for the respondent to send this text message. In the alternative, there were facts from which we could reasonably conclude that it played such a role and the respondent has not satisfied us that the rejection of the advances was not a material part of his motivation for sending the text message. We upheld this claim.

Issue (d) Failing to give C a promised pay rise. [ET1/1 para 26]

444. The respondent accepted that he had undertaken to give the claimant a pay rise and that he did not give her a pay rise in April 2018 or thereafter.

445. It was submitted on the respondent's behalf that he made this promise when his judgment was clouded by his feelings for the claimant and we certainly accepted that this, alongside other inducements, was part of the respondent's campaign to get the claimant to take the job. We also accepted that there came a point when the respondent became aware that his budget for staffing was not balancing. However the evidence we heard on that issue suggested that the budget shortfall came to light significantly later than the pay rise due date of April 2018, apparently around Christmas 2018. In the spring of 2018 the respondent had certainly increased his costs because he acceded to Ms Bartholomew's desire to stay on one day per week after he appointed Mrs Greig and Mrs Cook to replace her. However, we had no reason to reject the claimant's evidence that at this time Ms Bartholomew told her the pay rise was within budget.

446. We considered there were facts from which we could reasonably conclude that the respondent was motivated to a material degree by the claimant's rejection of the sexual harassment; these facts included his bitter remarks to her when she rejected the harassment, the emerging pattern of poor treatment resulting from the rejection of the sexual harassment and, significantly, the lack of

evidence that budget issues were the reason for the lack of pay rise at the point when it was due.

447. The burden therefore moved to the respondent to satisfy us that the claimant's rejection of the sexual harassment was no part of the reason for the lack of pay rise. The evidence we saw failed to satisfy us to that effect. In particular there was no good evidence, based on the chronology we have set out in our findings of fact, that there was a budgetary reason for not providing the claimant with the proposed pay rise at this point. We upheld this claim.

Issue: (e) Insisting that C work in the constituency during the summer recess in breach of a prior promise. [ET1/1 para 27]

448. The respondent accepted that he had told the claimant she could do her floristry work in London during the summer recess and that he had resiled from that promise. His explanation, or the explanation put forward on his behalf, was that Mrs Greig was taking over as the claimant's line manager so it was up to her to determine what the claimant did during the summer recess. That did not seem to us to provide any sort of explanation.

449. It may be that the offer was an inappropriate one in the first place, but it was part of a package of inducements put together by the respondent to get the claimant to take the job in London. At least part of the respondent's motive in persuading the claimant to take the job was his hope that the claimant would commence a sexual relationship with him. That seemed to us to be the natural inference to be drawn from the text messages preceding the start of employment and the various sexual assaults which took place after the employment started.

450. Looking at the same facts we considered in relation to the non provision of the pay rise and the other promises broken, it seemed to us that we could reasonably conclude that, once it became clear that the claimant was not going to accede to any of the respondent's sexual advances, whether in the flat or the office, he no longer saw any reason to keep his promises. So the burden passed

to the respondent and his explanation was no real explanation, particularly in view of the findings we make in relation to the role of Mrs Greig below.

451. Looking at it another way, we asked ourselves the question, would the respondent have broken this promise to the claimant had she acceded to his sexual advances? It seemed clear to us that he would not have done so. We upheld this claim.

Issue: (f) Repeated threats to put notice on the flat C shared with him. [ET1/1 para 27]

452. It was common ground that the respondent repeatedly said that he wanted to give notice on the flat and stop living with the claimant. This was one of the themes of the conversations the claimant recorded.

453. The respondent's case in submissions was that a toxic environment grew up between the claimant and the respondent because the claimant complained about the broken promises and she and the respondent had arguments. In any event, he had never intended the arrangement to be a permanent one, and had been persuaded against his better judgment to take on the two bedroom flat on a three year lease. He was worried that his wife would find out about the arrangement or that it would become public and this would damage his political career.

454. We accepted that the respondent had promised he would share a flat with the claimant for the reasons set out in our findings above. It was part of the package of inducements to her to accept the job.

455. Looking at the facts we have found in relation to other broken promises and the changes to the respondent's behaviour after the claimant made clear she was not going to accede to his sexual advances, it seemed to us that there were facts from which we could reasonably conclude that the claimant's rejection of the harassment played a role in the respondent's desire to remove her from his living accommodation.

456. We rejected the primary explanation put forward by the respondent in evidence – that he had only intended the arrangement to be temporary and that he knew it was intrinsically wrong for them to be living together because it was inappropriate for an employer to share a flat with an employee - for the reasons outlined above. That left explanations which did not arise from his witness statement but from things he had said to the claimant in the course of recorded conversations – these were largely vague and hyperbolic statements about alleged gossip. During the course of these discussions the respondent suggested that it was the claimant's fault she would be homeless, because of the Facebook post described above. We were entirely unsatisfied that this was the explanation for the respondent telling the claimant he was going to give notice on the flat – both because of the fact that the respondent had not suggested this was the reason in his evidence in chief but also because there was simply no clear evidence of any gossip or particulars of who was gossiping when.

457. Standing back, we asked ourselves the question, would the respondent have wanted the claimant to move out of his flat if she had commenced a sexual relationship with him? It was clear to us that the answer was no. We upheld this claim.

Issue: (g) R ignoring all of C's work-related texts, telephone calls and emails, and neglecting to provide C with input for his diary. [ET1/1 para 27]

458. It was accepted by the respondent that he was not always responsive to the claimant whether in person or correspondence. His explanation was that he was not good at correspondence generally; Mrs Greig said it was pointless to email him.

459. We accepted the claimant's evidence that she would have to chase around looking for the respondent when she needed to get his input into case work or his diary for example. We also accepted that there was a change over time.

When the claimant started in her role, the respondent appears to have been treating the relationship more as the professional 'partnership' which he had promised.

460. It seemed to us that there was at least a partial explanation which was unrelated to the claimant's rejection of the respondent's advances. The respondent was poor at responding to correspondence generally and he was a new MP no doubt finding his feet and forming relationships – hence the claimant looking for him and finding him drinking with colleagues on the terrace. There were no doubt also matters which at times would keep him very busy – such as Brexit.

461. However when we looked at the picture as a whole, the change to the level of the responsiveness, the serial broken promises and other behaviour which we have found stemmed from the rejection of the advances, including the professional distancing involved in interposing Mrs Greig as the claimant's line manager, it seemed to us that there were ample facts from which we could reasonably conclude that the claimant's rejection of the advances played a material role in the respondent's elusiveness professionally and no explanation from the respondent which satisfied us that the rejection of the sexual advances had not played a part. We upheld this claim.

Issue: (h) C having to report to JG as her line manager. [ET1/1 para 28]

462. There were a number of matters which taken together seemed to us to shift the burden of proof. There were again the other examples of detrimental treatment which we have found was connected with the rejection of the respondent's sexual advances. There was, perhaps most compellingly, the respondent's misleading behaviour towards the claimant and Mrs Greig. He told the claimant that Mrs Greig was not her line manager; he told Mrs Greig she was the claimant's line manager. This was bound to and did create conflict between the two. This was another promise from the suite of inducements which the respondent was resiling from.

463. Looking at the respondent's explanations, we were not satisfied that he had demonstrated that the rejection of the advances did not play a material role in the decision to make Mrs Greig the claimant's line manager. In his statement the respondent had described it as essentially a business decision. Mrs Greig wanted to standardise office procedures and he, the respondent, was hopeless at that kind of thing.

464. However the evidence we had from the transcripts of conversations was that he told the claimant that Mrs Greig would be her line manager because of the nature of his relationship with the claimant and because the claimant was always accusing him of things. The respondent's behaviour and evidence in relation to this matter were so thoroughly unsatisfactory he did not satisfy us that the claimant's rejection of his advances had not played a role in this decision.

465. Looking in particular at the fact that the respondent deliberately created conflict between the claimant and the person he was appointing as her line manager, it seemed to us that once it was clear that there would be no sexual relationship between them and the claimant had become upset and angry about the erosion of promises, the respondent was beginning to look for a way out of the situation. It may well be at this stage that he was simply trying to make the role uncomfortable enough that the claimant would decide to leave, without any very clear idea of how he was going to achieve her departure from his employment. We upheld this claim.

Issue (i) R instructing JG and MB to treat C in an inappropriate manner at a meeting on 29/06/18. [ET1/1 para 29]

466. We did not conclude that the respondent had 'instructed' Mrs Greig and Ms Bartholomew to behave in a particular manner towards the claimant; there was no evidence that he had done so and we accepted Mrs Greig's account that there was no instruction. He did however create the conditions in which the conflict occurred. In particular he told Mrs Greig that she was the claimant's line manager and led the claimant to believe the opposite. That led to the difficult

and confrontational encounter between the two at their first meeting. We do not have any real evidence to explain Ms Bartholomew's inappropriate behaviour but we did not consider there was sufficient evidence from which we could reasonably infer that she acted as she did because she had received an 'instruction' to do so from the respondent. There may have been any number of reasons for ill feeling between Ms Bartholomew and the claimant. By this point the claimant had challenged the respondent on his decision to let Ms Bartholomew stay on after her decision to retire; we do not know what Ms Bartholomew knew about that.

467. Looking at how the respondent set up conflict between the claimant and Mrs Greig, it did not seem to us to be his modus operandi to issue instructions of that sort.

468. The case as pleaded and defined in the list of issues which we revisited at the outset of the hearing was that the respondent had instructed Mrs Greig and Ms Bartholomew to behave in a particular way. Without being too precious about the pleadings, it did not seem to us that the word 'instructed' could properly be stretched to cover the facts we found. There was no application to amend and we have not found this complaint made out.

Issue: (j) R terminating C's employment and stating that he would put notice on the shared flat in a text message on 30/06/18. [ET1/1 para 30]

469. We accepted that the gist of the claimant's missing text message was much as she described it; it was clear from the response that the message had referred to taking legal advice and other complaints the claimant was making about her treatment by the respondent. We accepted that there was a reference to sexual harassment in some form, although there may also have been complaints about broken promises and the situation with Mrs Greig, which was no doubt on the claimant's mind after the meeting the previous day.

470. This matter is also pleaded as victimisation and it is clear from the respondent's text itself that he found the claimant's expression of an intention to take legal advice itself very inflammatory.

471. We therefore had to ask ourselves whether we concluded that the rejection of the sexual advances was still an operative cause. For reasons we have largely set out already in relation to other claims, we found that it was; the situation we found was that, as the respondent's hopes of a sexual relationship with the claimant dwindled, it was no longer expedient for him to honour the undertakings he had made to her, including as to accommodation. The threat of taking legal advice no doubt increased the strength of the backlash represented by this email, but the still operative background was the rejection of the advances. We upheld this claim.

Issues: (k) Refusing to allow C to travel to work by car unless she submitted to an OH assessment. [ET1/1 para 32]

(l) Removal of an agreement to allow C to travel to work by car. [ET1/1 para 32]

472. These claims were essentially different formulations of the same allegation. The facts we have found are that the respondent had agreed an adjustment that the claimant could travel in by car early and leave late so as to avoid the congestion charge. He was well aware of the claimant's limited ability to use public transport because of her PTSD and he also, we find, would have known about her anxiety about occupational health.

473. We accepted that Mrs Greig was seeking an OH assessment because that was how she considered things should be properly done. She was seeking to impose some order and process on the respondent's arrangements.

474. What we had to consider carefully was the reason why the respondent simply let Mrs Greig get on with it and dd not intervene to explain that he had agreed the adjustment and explain why he had felt it was appropriate.

475. In assessing his motivation we bore in mind the contextual facts, including in particular the fact the respondent had already told the claimant and Mrs Greig different stories about their relationship and set them up for conflict. We also bore in mind what seemed to us to be the evasiveness of the respondent in evidence when he tried to suggest that what was in place was not a reasonable adjustment which was 'formal'.

476. It seemed to us that there was ample evidence from which we could reasonably conclude that this was another act of retaliation by the respondent for the rejection of the sexual advances, the stripping of another perk that was intended to go with a package in which the claimant and the respondent had a relationship.

477. The respondent's explanation for the treatment is that he was handing over line management to Mrs Greig and she had a desire to do things properly and in accordance with procedure. We did not find that the respondent had satisfied us that this his behaviour was not materially influenced by the claimant's rejection of his advances.

478. The respondent's non intervention in this respect was of a piece with the other treatment of the claimant. Installing Mrs Greig as the claimant's line manager and allowing her to make the claimant's situation uncomfortable seemed to us to be part of a process by which the respondent was seeking to extricate himself from an arrangement which had not worked out as he had hoped. He may well not have had any firm plan as to how he would achieve the outcome.

479. For those reasons we upheld this claim.

Issue: (m) Changing C's role at a meeting on 04/09/18 by informing her that she would need to undertake case work. [ET1/1 para 31]

480. In submissions, Mr Nicholls focussed on what was said to be a lack of training and support for the claimant to perform the case work and criticisms of her

performance of the case work. The allegation as pleaded however was specifically the requirement at the meeting to carry out the casework at all.

481. We accepted that there was a lot of case work to do and that the respondent and Mrs Greig wanted the claimant to do case work (which fell within her job description) because it needed to be done and they felt it needed to be more fairly distributed amongst staff.

482. The claimant herself seems to have accepted at the time that it was reasonable for her to do casework. Her issues were with what she saw as a lack of training and the difficulty she had getting the respondent to provide appropriate input into the casework when she had queries.

483. When we looked at the specific facts of this allegation we were not satisfied that there were facts from which we could reasonably conclude that the rejection of sexual advances played a role. If we are wrong about that and our other findings shifted the burden of proof, we are satisfied that there was simply a need for more case work to be done and that was why the claimant was asked to carry it out.

Issue: (n)Informing C by text message that R would notify IPSA that C was no longer on his payroll. [ET1/1 para 36]

484. We looked at this text message in the context of the chain of text messages it formed part of. What had not 'worked out' as per the respondent's subsequent text message was the professional and personal partnership he had envisaged with the claimant. Without rehearsing all of our previous findings, it was clear to us that this text message was part of the cycle which had emerged of the respondent withdrawing promises due to the fact that the sexual relationship has not materialised and the claimant complaining, leading to acrimonious exchanges. The sheer unreasonableness of the threats made - "Of course you are not sacked because I am not like that but you are very close to it", in conjunction with the respondent's background as a trade union representative, which would have made him aware of how inappropriate his behaviour as an

employer was, was more than sufficient of itself to provide material from which we could reasonably conclude that the rejection of sexual advances was playing a role in the respondent's treatment of the claimant.

485. Looking at the respondent's explanation that this was a kneejerk reaction to the claimant being argumentative and issuing threats, we were not satisfied that he had proved that the rejection of sexual advances did not play a role. As we have discussed above, the arguments emerged from the rejection of sexual advances and the respondent's conduct in response to that rejection. The respondent did not modify his position in subsequent texts when the heat of the moment might seem to have passed. He held over the claimant's head that she was very close to dismissal.

486. For those reasons we upheld this claim.

Issue: (o) Conduct of the redundancy consultation:

487. When we considered Mrs Greig's conduct of the redundancy consultation process, we had to consider carefully what aspects of her treatment may have been influenced by a negative view of the claimant which the respondent had engendered. We note how he had fostered conflict between the two over the line management issue but also by not informing Mrs Greig he had authorised the claimant's working from home arrangements. We accepted that Mrs Greig honestly believed that she was forming her own views and taking the action she thought was appropriate, but we also considered that to an extent the respondent was manipulating her impressions of the claimant because it suited him to do so.

- *Sending redundancy consultation letter to C's mother and brother's address. [ET1/1 para 41]*

488. Mrs Greig sent the letter to the addresses she had on file for the claimant. She did not know the claimant lived at the respondent's address so would have had no reason to send correspondence there.

489. The submission on behalf of the claimant was that the respondent had provided no explanation as to why he allowed this to happen. However when we look at what inferences we can draw from primary facts, we are obliged to look at obvious explanations which arise from those facts. The overwhelming evidence was that the respondent was reluctant for anyone, including his other employees, to know that he lived with the claimant. He did not want his wife to find out; he did not want other people in parliament to find out because it was an inappropriate situation and potentially compromising. That seemed to us such an obvious and overwhelming reason why he would not have stopped Mrs Greig and volunteered his own address that we felt able to make a positive finding on this issue to that effect.

490. We therefore did not uphold this claim.

- *Pressuring C to attend consultation meetings. [ET1/1 paras 43, 55]*

491. The detail of the alleged pressure was that Mrs Greig did not tell the claimant that the planned meeting on 15 May 2019 would not go ahead until four minutes before the meeting was due to start, that she then rescheduled and said that the meeting might go ahead in the claimant's absence although the claimant was signed off sick and later told the claimant that if she did not sign a consent form for a report from her GP, she would arrange a formal consultation meeting which could go ahead in the claimant's absence.

492. We considered this allegation with the four allegations about the consultation which followed in the list of issues as they seemed to use to be similar in kind.

- *Requiring C to agree to agree to her GP providing a medical report after only 9 days of sickness absence. [ET1/1 para 45]*

- *Contacting C directly by letter on 19/07/19 contrary to two previous requests that JG not contact C directly. [ET1/1 para 53]*
- *Failing to provide C the full staffing review document, the rationale for the redundancy or details of the pooling for the redundancy. [ET1/1 para 53]*
- *Comments made in the notes of the meeting of 24/05/19 by JG. [ET1/56]*

493. These were all actions of Mrs Greig's which were to some extent and to varying degrees unsympathetic or unfair to the claimant. Mrs Greig's behaviour in relation to setting up the consultation meeting was just somewhat lacking in sensitivity. The demand for a medical report so soon after the claimant's absence seems to reflect what elsewhere appears as Mrs Greig's scepticism about the claimant's ill health. The continued contact directly with the claimant seems to be based on a wilful misreading of the emails from the claimant's trade union representative and solicitor. There was no good or consistent reason given for not providing the claimant with the full staffing review document. Views Mrs Greig expressed in the consultation meeting flowed from her poor opinion of the claimant which was materially affected by the respondent's behaviour.

494. We were satisfied that we could reasonably conclude that much of Mrs Greig's ongoing negativity towards the claimant arose from the conflict which the respondent set up between Ms Greig and the claimant from the outset for reasons we have already discussed. That negativity influenced her handling of the redundancy process. We were not satisfied by any of the explanations given or the evidence we heard from Mrs Greig that the animosity towards the claimant stoked by the respondent did not play a material role in her treatment of the claimant during the redundancy process in these respects.

495. For these reasons we upheld the claims about these aspects of the redundancy process.

Issue: (p) R deactivating C's security pass on or about 18/06/19. [ET1/1 para 47]

496. The respondent's inconsistent evidence about his reasons for this and what seemed to us to be an unexplained failure to inform the claimant it was going to happen or had happened seemed to us ample evidence from which we could reasonably conclude that this was a further spiteful or retaliatory act against the claimant stemming ultimately from her rejection of the respondent's advances.

497. The quality of the respondent's explanations was not such as to discharge the burden of proof. The story about the threat made to the doorkeeper was vague and unsubstantiated by any independent evidence. Mrs Greig made no reference to it in correspondence with the claimant at the time. It was different from the reason the respondent gave officially at the time – that the claimant was on sick leave. Although he said in his statement this was just the 'official reason' he put down, he then suggested in cross examination that he did not want the claimant to be tempted to come into the office when she was unwell. It seemed to us that at this stage the respondent had simply lost track of what he was putting forward as the 'real reason' for his actions.

498. For these reasons we upheld this claim.

Issue: (q) Refusing to appoint someone independent to internally investigate C's grievance. [ET1/1 para 58]

499. In relation to this allegation, the Tribunal was very aware that small employers faced with grievances against the employer or the person highest up in an organisation face difficulties in how to hear those grievances. A small employer may well find it has no option but to appoint an external person. However in the context of MPs and their employees, there was a mechanism provided for complaints of the type the claimant was making to be independently investigated. It was put to the respondent that he wanted to go down the ISMA route because the ISMA process would be cloaked in parliamentary privilege. This was a suggestion made for the first time at the hearing and even if we had

been persuaded it featured in the respondent's thinking, it would not logically have supported the claimant's case as to the respondent's motivation.

500. It did not seem to us that there were facts from which we could reasonably conclude that the respondent and Mrs Greig suggested referring the complaint to ISMA rather than appointing an independent investigator because the claimant resisted the respondent's sexual advances. It seemed to us that Mrs Greig and the respondent took the action which the system in place prompted them to take rather than taking the counter-intuitive and no doubt expensive course of seeking to appoint an investigator.

501. For these reasons this claim is not upheld.

Issue: (r) A failure to properly respond to C's DSAR in that no emails between R and JG were disclosed. [ET1/2 para 10a]

502. We found that this claim failed because we were not able to conclude on the balance of probabilities that there was any suppression of emails. Mrs Greig's evidence was that she and the respondent did not deal with one another much by email and in any event the respondent's inbox was accessible to other employees, so the claimant would have been able to see emails passing between Mrs Greig and the respondent. The piles of emails Mrs Greig found were not, she said, emails between herself and the respondent.

503. The claimant gave evidence about missing emails which did not include reference to any particular emails between the respondent and Mrs Greig. We were in any event not provided with any clear account of what the DSAR produced and we also accepted that Mrs Greig wanted to and did perform a conscientious search. Nothing in the evidence we heard reflected materially on Mrs Greig's honesty or probity.

504. For these reasons this claim is not upheld.

Issue: (s) The production of a Management Report about C. [ET1/2 para 10b]

505. The following features of the management report and the circumstances of its production seemed to us, in the factual context which we have found, sufficient to shift the burden of proof:

- The fact that the respondent had deliberately stoked conflict between the claimant and Mrs Greig at the inception of their professional relationship;
- The fact that he continued to foster Mrs Greig's negative view of the claimant by misleading Mrs Greig as to the arrangements agreed for the claimant to work at home;
- The fact that he did not tell Mrs Greig that the claimant was performing her work well;
- The fact that by his own actions he was impeding the claimant's effective performance of her duties;
- The fact that the respondent was more involved in the production of the report than he sought to persuade the Tribunal – for example in authorising monitoring of the claimant but also in feeding back to Mrs Greig about what work the claimant was doing.

506. It seemed to us that there was ample evidence that the respondent's involvement in souring Mrs Greig's view of the claimant and encouraging actions which the respondent hoped would lead to the removal of the claimant one way or another was materially caused by the situation we have now outlined a number of times in this Judgment relating to the defeat of the respondent's sexual and romantic hopes.

507. We were not satisfied by the respondent's explanation, which was effectively a submission that the report was all the responsibility of Mrs Greig and her wish to regularise matters such as attendance. That explanation was undermined by the fact that the respondent had had an involvement with the report despite his

denials and had acted to stoke Mrs Greig's concerns over the claimant's attendance at work and performance.

508. For these reasons, we upheld this claim.

Issue (t) The allegation by JG that C went off on sick leave because she wanted R to remain as her line manager. [ET1/2 para 10b]

509. This suggestion was made by Mrs Greig in the course of an email in which she was expressing dubiety about the claimant's claims of sexual harassment. Her negative view of the claimant and her behaviour during and after the July 2018 meeting was significantly influenced by the respondent's misleading behaviour as described above. The reasoning we have set out above in relation to aspects of the consultation process seemed to us to apply equally to this allegation and for those reasons we upheld this claim.

Issue: (u) C's dismissal. [ET1/2: 7]

510. The claimant's case was that although the staffing review which eliminated her role was drawn up by Mrs Greig, the respondent manipulated the initiation of the review and its conclusions so that the outcome of the review was in effect a choice for the claimant between relocation to Hartlepool or dismissal. Since the claimant had not acceded to his demands, the respondent no longer wished to have her employed in London or living in his flat. The offer of a role in Hartlepool enabled the respondent to appear to comply with redundancy law. If the claimant accepted the role, she would be out of his hair in London but still to a useful degree in his power or control; it seemed to us clear on the evidence that the respondent would have known the claimant would not accept the role in Hartlepool.

511. The respondent's case was that the redundancy situation arose from a genuine business need. There was an overspend in the budget which had to be addressed. There was also an increased need for case work to be done and to be carried out from the constituency office. Although the respondent had played

a role in commissioning the staffing review, its proposals were entirely logical. The respondent did not require the claimant's role; he did not require full time support in Parliament.

512. The following matters seemed to us to be particularly relevant:

- The fact that the respondent misled Mrs Greig about whether the claimant was authorised to work from home in general and on a particular occasion;
- The fact that the respondent had told Mrs Greig (as evidenced by the notes of the redundancy consultation meeting on 24 July 2019) that there were aspects of the role the claimant was not doing or was not able to do. The respondent denied he had said that and gave no clear account in evidence of what aspects of the role the claimant could not do;
- The disconnect between what the respondent told the claimant about her performance and what he appeared to have told Mrs Greig;
- The fact that the respondent was suggesting that the claimant move back to Hartlepool on the same day as Mrs Greig wrote to staff to say a staffing review was being conducted;
- The fact that the respondent accepted in a discussion with the claimant that case work could be done 'in Timbuktu' and did not need to be conducted from the constituency office;
- The fact that the overspend which resulted in the staffing review was some £1200 and could have been addressed by staff taking modest pay cuts or by less extreme measures than deleting the claimant's post;
- The fact that the respondent had threatened the claimant with dismissal in text messages;
- The fact that the respondent informed Mrs Greig early in the process that he did not require an employee in London, just someone to travel down with him at times;

- The respondent's often expressed desire to give notice on the two bedroom flat and cease living with the claimant in conjunction with her assertions that she could not afford to live independently in London.

513. Looking at the evidence in the round, it seemed to us that there was ample evidence from which we could reasonably conclude that the respondent had influenced the staffing review both directly and indirectly to arrive at a conclusion which deleted the claimant's post and ultimately left her with a choice between redundancy or the alternative post in Hartlepool. The respondent led Mrs Greig to the view that the claimant was not doing much of her role, was doing other aspects of it badly and that the role she was doing was in any event not required. There was also ample evidence from which we could conclude that the respondent's reasons for influencing the outcome in that way were the culmination of his extended reaction to the claimant's rejection of his advances. When she did not comply, he ceased to honour his promises to her and made her job and her life in London increasingly difficult for her. When she did not simply leave of her own accord, he began to try to find ways she could be removed.

514. There may well have been good arguments for a review of the respondent's staffing structure and we accept that Mrs Greig was working in good faith with the information which the respondent was feeding her. However, when we look at the inconsistencies and evasions in the respondent's evidence and the ways in which he misled Mrs Greig, we cannot be satisfied with the respondent's explanation for the claimant's redundancy and, in particular, we are not satisfied that his influence over the process was not significantly motivated by the claimant's rejection of his advances.

515. For these reasons we upheld this complaint.

Summary of findings under this head.

516. The complaints we have found proven under this head of claim are the claims lettered: (a), (b), (c), (d), (e) (f), (g), (h), (j), (k), (l), (n), (o) – in the respects we have set out above, (p), (s), (t) and (u).

3. Gender Harassment (s.26(1) EqA)

Issue: Did R engage in unwanted conduct related to C's gender[2]? The alleged conduct relied on is:

(a) In or around 01/18 R asking C to walk ahead of him and pretend she did not know him, and pretending he did not know C, when R's wife met him at the station. [ET1/1 para 17]

517. In essentials the facts of this allegation were agreed. The respondent did not want to be seen with the claimant by his wife. His explanation in oral evidence was that his wife would have disapproved of the claimant's salary as she disapproved of the wages being paid in Hartlepool. In his witness statement he had said that the reason for getting off the train separately was that 'we kept quiet about the fact that she was sharing my flat'.

518. We concluded that the conduct was unwanted. It was at the respondent's instigation and his apology showed that he was aware that the claimant had not welcomed the treatment and that it was treatment he was responsible for, not something she was 'complicit' in as he suggested in his witness statement.

519. It was submitted on behalf of the respondent that a man would have been treated in the same way and there was no relationship with sex. We considered the fact that the explanation proffered in oral evidence differed materially from the explanation provided in the witness statement. We concluded that, having regard to the respondent's manifest reluctance to tell his wife about sharing a flat with the claimant, a reluctance so profound it resulted in the bizarre arrangement whereby his employees ultimately told his

[2] This was the parties' formulation. The protected characteristic is 'sex' and that is the protected characteristic we had regard to.

wife about the arrangement, what he was seeking to hide from his wife was the flat sharing.

520. We also had no hesitation in concluding that his desire to hide the flat sharing arrangement was related to the claimant's sex. In a context where the respondent had used the flat sharing as an opportunity to try and start a sexual relationship with the claimant, it is obvious that what he was concerned about his wife suspecting was his attempted infidelity. Had the respondent been sharing a flat with a man, we concluded that he would not have behaved as he did towards the claimant.

Issue: b) C not being invited to the opening of R's constituency office. [ET1/1 para 17]

521. We accepted the claimant's account that the respondent asked her not to attend the opening of the constituency office because Mrs Hill would be attending. It was consistent with various undisputed facts which showed the respondent was anxious to hide the fact of the claimant's existence from his wife, including the train incident.

522. The treatment was unwanted by the claimant who found it degrading she was being kept a secret. We found it was related to sex in the same way as the train incident.

Issue: (c) On 18/03/19 R informing C that he was prefer her not to attend a meeting between himself and two of his constituents because they knew his wife he did not want gossip to reach her. [ET1/1 para 17]

523. This incident again is entirely consistent with the two incidents we have just described and with the respondent's behaviour generally in relation to his wife. We accepted the claimant's account and we found the conduct was unwanted and was related to sex in the same way as the other incidents where the respondent avoided the claimant encountering his wife.

Issues: (d) Insisting that C work in the constituency during the summer recess in breach of a prior promise. [ET1/1 para 27]

(e) Repeated threats to put notice on the flat C shared with him. [ET1/1 para 27]

(f) R ignoring all of C's work-related texts, telephone calls and emails, and neglecting to provide C with input for his diary. [ET1/1 para 27]

(g) C having to report to JG as her line manager rather than R directly. [ET1/1 para 28]

524. These allegations were a subset of the complaints which had been presented as complaints under s 26(3). There was nothing in the claimant's submissions which clarified for us why these complaints had been repeated under this head whereas other similar claims had not. It seemed to us that this was an example of the unnecessary proliferation of heads of claim we identified.

525. We have already found in effect that this treatment was unwanted by the claimant. The relationship with the claimant's sex amounts to this: a man would not have been subject to similar treatment because, if the respondent is heterosexual, a man would not have been in a position where the respondent mistreated him because he had not acquiesced to the respondent's sexual advances.

526. Is such treatment 'related to sex' within the meaning of section 26(1)? We are aware that different employment tribunals at first instance have reached different conclusions on whether conduct which flows from sexual jealousy is related to sex within the meaning of s 26(1) but are aware of no appellate authority on that issue. In this case the treatment was not because of sexual jealousy but because of the rejection of sexual approaches. The fact that special provision has been made for conduct of this kind suggests to us that it was not considered by the draftsperson to be encompassed by section 26(1). By including conduct of this kind as its own category, the draftsperson obviated the need for debate about whether conduct which relates to sexual activity or the absence of it relates to the protected characteristic of sex. We concluded that conduct of this kind is not 'related to sex' within the meaning of s 26(1).

527. For these reasons we did not uphold these claims.

Issue: If so, did the conduct have the purpose or effect of violating C's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for C?

528. We applied this test to the conduct which we found was related to sex (items (a), (b) and (c) above). We concluded that the respondent's purpose was to prevent his wife from becoming aware of the claimant's existence but the effect was to violate the claimant's dignity and create a degrading and humiliating environment for her. She was made to feel like a 'dirty little secret', the worst incident being the train incident where she had to participate in the charade in front of another MP, which we accepted would have been thoroughly humiliating for the claimant. We accordingly upheld the claims in respect of items (a), (b) and (c).

4. Victimisation (s.27 EqA)

Issue: Did C do a protected act, as defined in s.27(2)? The alleged protected acts are:

(a) In 05/18 C complaining to R that he had to stop touching C and that if he did not stop touching her she would need to get some advice. [ET1/1 para 23]

529. It was clear that the claimant was telling the respondent that she was going to speak to someone 'about this situation'. She said so explicitly in a text message. The respondent accepted that the claimant 'threatened' to get advice but told the Tribunal he thought it was about matters such as the lack of pay rise.

530. We did not accept the respondent's evidence. We concluded that the claimant made explicit reference to seeking advice in relation to the respondent's unwanted touching and that in any event, it would have been obvious to him that that was what she was proposing to take advice about since it was by far the most unreasonable and unacceptable thing which had occurred in the employment relationship.

531. This was a protected act: it was an allegation of a contravention by the respondent of the Equality Act and an indication that the claimant intended to take advice about that contravention.

Issue: (b) C's text to R on 29/06/18 informing him that she would seek legal advice unless he stopped the sexual harassment and bullying. [ET1/1 para 29]

532. We did not have the claimant's text but we had the respondent's text in response. From his evidence to the Tribunal and from his text message, it was clear that he fully understood that she was proposing to speak with the solicitor she had used for her previous employment claims, Richard, and that he perceived that proposal as a threat. We did not accept his suggestion in evidence that he assumed that advice sought would relate to the pay issue. We accepted that it was clear from the claimant's text message that the advice would be sought about the unwanted touching.

533. This was a protected act: it was an indication that the claimant intended to take advice about matters including matters which were contraventions of the Equality Act.

Issues: (c) C's solicitor emailing R on 02/07/19. [ET1/1 para 49]
(d) 30/07/19 grievance [ET1/1 para 58]
(e) Issuing proceedings in the ET from breaches of the EqA (i.e. the first ET1). [ET1/2 para 7]
(f) C's complaint to ISMA on 05/08/19. [ET1/2 para 7]

534. These were all protected acts because they made explicit reference to contraventions by the respondent of the Equality Act.

Issue i. Did R subject C to a detriment?

535. The alleged detriments are (as per the List of Issues):

(a) R's text to C at 00.23 on 13/05/18 to inform her that her probation would be extended by a further 6 months. [ET1/1 para 24]

(b) Failing to give C a promised pay rise. [ET1/1 para 26]

(c) Insisting that C work in the constituency during the summer recess in breach of a prior promise. [ET1/1 para 27]

(d) Repeated threats to put notice on the flat C shared with him. [ET1/1 para 27]

(e) R ignoring all of C's work-related texts, telephone calls and emails, and neglecting to provide C with input for his diary. [ET1/1 para 27]

(f) C having to report to JG as her line manager. [ET1/1 para 28]

(g) R terminating C's employment and stating that he would put notice on the shared flat in a text message on 30/06/18. [ET1/1 para 30]

(h) Refusing to allow C to travel to work by car unless she submitted to an OH assessment. [ET1/1 para 32]

(i) Removal of an agreement to allow C to travel to work by car. [ET1/1 para 32]

(j) Changing C's role at a meeting on 04/09/18 by informing her that she would need to undertake case work. [ET1/1 para 31]

(k) Informing C by text message that R would notify IPSA that C was no longer on his payroll. [ET1/1 para 36]

(l) Conduct of the redundancy consultation:

- Sending redundancy consultation letter to C's mother and brother's address. [ET1/1 para 41]
- Pressuring C to attend consultation meetings. [ET1/1 paras 43, 55]
- Requiring C to agree to agree to her GP providing a medical report after only 9 days of sickness absence. [ET1/1 para 45]
- Contacting C directly by letter on 19/07/19 contrary to two previous requests that JG not contact C directly. [ET1/1 para 53]

- Failing to provide C the full staffing review document, the rationale for the redundancy or details of the pooling for the redundancy. [ET1/1 para 53]
- Comments made in the notes of the meeting of 24/05/19 by JG [ET1/56]

(m) R deactivating C's security pass on or about 18/06/19. [ET1/1 para 47]

(n) A refusal of R to appoint someone independent to internally investigate C's grievance. [ET1/1 para 58]

(o) A failure to properly respond to C's DSAR in that no emails between R and JG were disclosed. [ET1/2 para 10a]

(p) The production of a Management Report [ET1/2 para 10b]

(q) The allegation by JG that C went off on sick leave because she wanted R to remain as her line manager [ET1/2 para 10b]

(r) Dismissing C [ET1/2 para 7(b)]

536. In terms of whether these matters were detriments, it seemed clear to us that almost all were matters which a reasonable employee could consider put her at a disadvantage. The exceptions were j), which seemed to us to be a reasonable request, (n), which was an appropriate response by the respondent, and o) where we found that there had not in fact been a failure in relation to the DSAR.

i. <u>If so, was C subject to the detriment because C did a protected act or R believed that C had done or may do a protected act?</u>

537. We have already found in relation to these complaints with the exclusion of (j), the first bullet point under (l), (n) and (o), that the claimant's rejection of the sexual advances was an operative cause of the treatment. What role did the claimant's threats to take legal advice, the respondent's apprehension that she would take such advice and the later protected acts when she had taken such advice, play in the respondent's actions? We considered it was appropriate to look at the allegations in the round under this head. In relation to some of the detriments it appeared on the face of the documents that the threat of taking

legal advice was a trigger for the respondent's behaviour. This was the case in respect of (a), (g) and(k) in particular.

538. Looking at the whole factual matrix, it seemed to us that the 'threats' to take legal advice were part of the whole poisonous dynamic between the claimant and the respondent which had developed over the time period we looked at. Other aspects of the dynamic were the rejection of the sexual advances, the subsequent retraction of promises and the confrontations which arose from the claimant's unhappiness about the retraction of promises. It seemed to us that we could reasonably conclude from the facts we found that the protected acts had a material influence on the respondent's behaviour. Ultimately his desire to be rid of the claimant as an employee appeared to be motivated by this noxious brew of disappointment about the relationship and fear that the claimant would 'bring them all down' by disclosing his sexual assaults. For the same reasons we were not satisfied that the respondent had discharged the burden of proving that the rejection of the sexual advances played no material part in the behaviours, we were not satisfied that he had proven the protected acts played no material part. It must of course be the case that only protected acts which had occurred by the time of a particular detriment were causative of that detriment.

539. We uphold the following claims under this head: (a), (b), (c), (d) (e), (f), (g),(h), (i), (k), (l)[3], (m), (p), (q), and (r).

Disability Discrimination

*Issue: Disability***:**

[3] In respect of the first bullet point under this head, we concluded that the respondent's concern about the claimant revealing the sexual assaults was part of his reason for not wanting anyone to know that he and the claimant were sharing a flat. What was potentially compromising was not just the false rumour of an affair but also the possibility that the true facts might emerge if the living arrangements became known.

540. The respondent accepted that the claimant was at relevant times a disabled person for the purposes of s.6 Equality Act 2010 by reasons of her PTSD and depression.

5. Direct Discrimination (s.13 EqA)

Issues: i. Did R treat C less favourably than he treats or would treat others by: [acts set out]

ii Was any less favourable treatment because C was disabled?

541. No actual comparators were cited for these complaints and it seemed to us appropriate to consider the 'less favourable treatment' and 'reason why' issues together, consistently with Shamoon v Chief Constable of the Royal Ulster Constabulary. [2003] IRLR 285.

Issue (a) Refusing to allow C to use her car to travel to work [ET1/1 para 36]

542. This was a head of claim which we considered could and should have been pruned from the list of issues at an earlier stage. It was in any event poorly expressed and did not reflect the factual situation. The factual situation was that Mrs Greig indicated that the respondent would require occupational health advice to consider the adjustment which the claimant had had of being allowed to drive in early and leave late in order to use her car without paying the congestion charge.

543. There was simply no evidence from which we could reasonably conclude that a hypothetical comparator without PTSD and depression would have been treated more favourably and allowed to drive in early and leave late in order to use her car without paying the congestion charge.

544. Someone without the claimant's disability would probably not have required this adjustment in the first place. We accepted that Mrs Greig had a genuine desire to ensure that employees were working core hours and not exceeding limits under the Working Time Regulations. We could see no reason at all why she

would have taken a different attitude to an employee without the claimant's disability. Indeed it seemed to us that she would have had even less reason to entertain the arrangement.

545. In terms of the respondent's behaviour in not intervening to prevent Mrs Greig making the adjustment contingent on an occupational health assessment, we found ample facts which pointed to the motivations we have found above but no facts at all which suggested he was in any way motivated by the fact of the claimant's disability.

546. We did not uphold this complaint.

Issues: (b) Targeting C for removal because of her disabilities [ET1/1 para 57]
(c) Dismissing C [ET1/2 para 8]

547. We heard very little evidence or argument in support of the contention that the claimant's dismissal was in any causative sense related to her disabilities. It was suggested in submissions that Mrs Greig's hostility to the claimant was connected to her disabilities and that she targeted the claimant for dismissal as a result.

548. There was simply nothing in the evidence which we heard which seemed to substantiate any such connection. Had there been unexplained hostility and unreasonable treatment, that might have been material from which we drew an inference that there was a relationship with disability. However, we considered that Mrs Greig's negative attitude towards the claimant was amply accounted for by the matters which we have set out above. Similarly we have made findings as to the respondent's motivation which relate to the rejection of his advances and the claimant's threats to take legal advice.

549. We were not able to find facts on the basis of which the burden of proof would shift and we accordingly did not uphold these claims.

6. Discrimination Arising From Disability (s.15 EqA)

Issue: i. Did R treat C unfavourably?

C relies on her dismissal. [ET1/2 para 8]

550. Clearly dismissal is unfavourable treatment.

Issue: ii. Was any unfavourable treatment because of something arising in consequence of C's disability?

C avers that her long term absence from work arose as a consequence of her disability and this absence had a material influence on the decision to dismiss her.

551. Although we readily accepted that the claimant's two periods of absence arose from her disabilities, there was simply no evidence from which we could reasonably conclude that the claimant's absence played a material role in the decision to dismiss her. This claim fits poorly in any event with the narrative which we have accepted which was that the respondent wanted the claimant's employment to terminate in one way or another before either of her absences. The staffing review which eliminated her post was completed before her final absence.

552. We did not uphold this claim.

Issue iii) Was any proven treatment a proportionate means of achieving a legitimate aim?

553. There was no need for us to consider this issue given our findings and we in any event heard no real evidence or argument on the issue.

7. Failure to Make Reasonable Adjustments (ss.20 & 21 EqA)

Issue i. Was there a PCP?

(a) That staff were only permitted to travel to work on public transport and / or not use private transport;

554. There was no evidence that the respondent had any such PCP and the argument was not pursued by the claimant in submissions.

Issue (b) That staff were required to work core hours.

555. The respondent accepted in submissions that there was such a PCP.

Issue ii. Did that PCP place C at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled?

556. The requirement to start work no earlier than 8:30 meant that the claimant could not travel in by car unless she paid the congestion charge, which was unaffordable for her on a daily basis. That meant she had to take public transport which exacerbated the symptoms of PTSD.

Issue: iv. Did R fail to take all reasonable steps to avoid the PCP having that effect?

557. The only adjustment put forward in argument by the claimant was not requiring the claimant to work core hours so she could drive to work without paying the congestion charge.

558. The difficulty with that adjustment is that to avoid the congestion charge, the claimant would have had to arrive at work before 7 am and leave after 10 pm. That would be a regular breach of the daily rest provisions in regulation 10 of the Working Time Regulations 1998. We are unable to conclude that such a step was objectively reasonable.

559. It may be that there were reasonable steps which could have been taken, for example the respondent paying the congestion charge or providing taxis for the claimant, but these were not explored fully in evidence or at all in argument and we are therefore not able to reach conclusions on these potential steps.

560. For these reasons we do not uphold the claim under this head.

8. Whistle Blowing: detriment

Issue: i) Did C make a protected disclosure?

- *C relies on: (a) her complaint to ISMA on 05/08/19 and (b) her grievance of 30/07/19.*

561. We saw the grievance but not the complaint to ISMA.

Issue: ii. Was any disclosure made by C made in the reasonable belief that she was making it in the public interest?

562. We had no hesitation in concluding that the claimant had a reasonable belief that her disclosure was in the public interest. It seemed to us beyond argument that the public has an interest in misconduct by an elected representative.

Issue: iii. Was any disclosure made by C made in the reasonable belief that it tended to show any of the matters set out at s.43B(1)(a) and/or (b).

563. The claimant revealed inter alia in the grievance the sexual assaults by the respondent. She reasonably believed that those assaults were criminal offences and breaches by the respondent of his legal obligations to her as her employer. We have found that the assaults occurred and were breaches of the Equality Act 2010. If found proven to a criminal standard, they would also be criminal offences.

Issue: iv. In respect of the disclosure made by C to ISMA did C reasonably believe that the information disclosed and the allegations contained therein were substantially true per s.43F(1)(b) / or s.43G of the ERA 96?

564. Our understanding is that the same allegations were made in the complaint to ISMA as in the grievance. We have found the allegations were true so it follows that the claimant's belief that they were true was a reasonable one.

Issue: v. Was C subjected to a detriment by any act, or any deliberate failure to act, by R (or by another worker of R) done on the ground that the worker made the protected disclosure? C relies on the following alleged detriments:

(a) A failure to properly respond to C's DSAR in that no emails between R and JG were disclosed. [ET1/2 para 10a]

565. We did not find on the balance of probabilities on the evidence before us that there was any such failure.

566. We therefore did not uphold this complaint.

9. Whistleblowing: Automatic Unfair Dismissal (s.103A ERA)

Issue: i. Did C make a protected disclosure?

567. We found that the claimant did make a protected disclosure.

Issue: ii. If so, was the reason (or if more than one reason the principal reason) for the dismissal that C made a protected disclosure?

568. On our findings, the decision to eliminate the claimant's post with a view to dismissing her significantly predated the protected disclosure. The protected disclosure cannot logically have been the sole or principal reason for dismissal.

569. We did not uphold this claim.

10. Jurisdiction - Time

Issue: i. Are the claims under the EqA brought in time?

570. The first claim form was presented on 14 August 2019, after a period of Early Conciliation between 2 and 17 July 2019. The complaint about the dismissal itself was presented in time as were various of the acts complained of towards the end of the period. The earliest allegations were significantly out of time if regarded as discrete acts.

Issue: ii. If not, do they constitute a continuing act?

571. We had no hesitation in finding that the matters we found proven all formed part of a continuing course of conduct on the part of the respondent. The rejection of the harassment led to retribution towards the claimant which led to her protected acts and further retribution by the respondent. The whole course of events was one tapestry of which the harassment and victimisation formed interwoven strands.

Issue iii. If not, is it just and equitable to extend time?

572. Because of our finding that there was a continuing act we did not need to decide this issue.

Conclusion

573. There will be a remedy hearing in the successful claims on 4 and 5 November 2021 unless the parties are able to agree the remedies. There will be a telephone case management hearing to give any necessary directions for that hearing.

07/07/2021
Employment Judge Joffe
London Central Region

Sent to the parties on:
07/07/21

For the Tribunals Office