Case Number: 2204772/2019

EMPLOYMENT TRIBUNALS

BETWEEN

Claimant		**Respondent**
Mrs S Appleby	**and**	**The Tavistock & Portman NHS Foundation Trust**

HELD AT: London Central (by CVP) **ON: 7 July 2020**
BEFORE: Employment Judge Norris (sitting alone)

REPRESENTATION:
Claimant: Mr J Lewis, Counsel
Respondent: Ms Y Genn, Counsel

RESERVED JUDGMENT – PRELIMINARY HEARING

1. The Claimant's application to amend the claim ("blueline amendments") is granted.
2. The Respondent's stay of proceedings is refused.
3. The Claimant's application to add a Second Respondent is not pursued.
4. The Respondent's application to set aside the Order for disclosure is granted.

REASONS

Background

1. The Claimant, who has been represented throughout by a firm of solicitors, submitted her claim in this matter on 6 November 2019. She had not ticked any of the boxes at section 8.1, but in section 9.1 had ticked that she was claiming compensation and a recommendation. She had ticked at 10.1 to indicate that her claim consists of or includes a claim that she is making a protected disclosure under Employment Rights Act 1996 ("ERA"). By a separate document entitled "Particulars of Claim", she set out that she is bringing a claim of detriment on the ground that she has made protected disclosures. She contended that the detriments began on 22 July 2019.

2. The Particulars of Claim set out "Background Facts" noting that the Claimant has worked for the Respondent since September 2004 and is presently managed by Dr Dinesh Sinha. The Claimant was (and is), the Background Facts indicated, employed as the Named Professional for Safeguarding Children in the Gender Identity Development Service (GIDS). The Claimant then gave details of events starting in or around October 2017. I set out only a limited number of those substantive details in this judgment and reasons, so far as they are relevant to the issues before me, since I am not making findings of fact.

3. The Particulars contained a summary of the protected disclosures on which the Claimant relies. These were: her emails of 13 and 30 October 2017, a meeting between the Claimant and a Dr Carmichael in February 2018 and the forwarding of Supervising Clinical Psychologist Mr Bristow's exit interview to Dr Sinha on an unnamed date. The Claimant explained why she held the belief that these disclosures were in the public interest and that they tended to show the health and safety of any individual had been, was being or was likely to be endangered. The Claimant then detailed the detriments that she has allegedly suffered, starting on an unnamed date by the raising of allegations against her, a meeting which took place on the 22 July 2019 (and the documentation thereof) and Dr Sinha's letter of 25 July 2019 and a threat to investigate the matter formally if there were further reports.

4. The claim was accepted and a notice of hearing issued on 12 November 2019 by the Employment Tribunal provisionally listing the case for a full merits Hearing for five days between 14 and 20 July 2020. Standard directions were given. A case management hearing (PHCM) was listed for 10 March 2020.

5. On 10 December 2019, the Respondent's representatives wrote attaching a "holding" defence and indicating that the Respondent was not in a position to plead fully to the claim. They asserted that standard directions were not appropriate in this case and requested a stay of two months in order to conclude the investigation into the Claimant's internal complaint. They undertook to update the Claimant's representative and the Tribunal by 10 February 2020 as to the progress of the investigation in order that the PHCM on 10 March could be effective to progress the case to the July Hearing.

6. The defence that was submitted indicated that the Claimant had, through her solicitors, written to the Respondent on 26 September 2019 indicating her intention to pursue a complaint under its whistleblowing, bullying and harassment procedures and had submitted a lengthy and detailed letter of complaint on 24 October 2019. It asserted that the contents of the claim form and the contents of the complaint covered substantially the same concerns. The Respondent anticipated at that stage that the complaint investigation would have been concluded and an outcome made available by February 2020. The Respondent accepted that the disclosures relied on by the Claimant had been made by her and that they amounted to qualifying and protected disclosures under section 47B ERA. It did not accept her factual interpretation of events thereafter nor that they amounted to detriments because she had made protected disclosures.

7. On 10 January 2020, the Employment Tribunal wrote refusing the Respondent's request for a stay and requiring a fuller response to the claim, while partially suspending operation of the orders (in respect of preparation of the bundle and of witness statements). The dates for the preliminary and full merits hearings were retained. On 31 January 2020 (erroneously dated 2019) the Respondent's representatives wrote confirming once more that the Respondent accepts the Claimant made the disclosures on which she relied and that they amount to protected disclosures.

8. The following week, the Respondent's representatives wrote explaining why it was anticipated there would be a delay in the availability of the investigation report. That

report had been undertaken by an external lawyer, Mr Hodge, and the Claimant had reviewed and provided comments on the notes of her meeting with him. It was anticipated that the report would now be available "in the next few days". The Respondent maintained its position that its response was dependent on the findings in the report and reiterated its commitment to the overall case timetable and to the existing full merits hearing date.

9. On 19 February 2020, the Claimant's solicitors wrote to the Tribunal seeking leave to amend the claim and to add an additional Respondent, Dr Carmichael. The amendment requested was to add allegations of a further detriment. The Claimant had obtained an ACAS Early Conciliation (EC) certificate in respect of Dr Carmichael and asserted that she had suffered additional detriments in December 2019. Accordingly, the solicitors asserted that the amendment was in time and/or that it would be in accordance with the overriding objective to permit it to be made.

10. The new EC certificate and amended Particulars of Claim accompanied the letter. The Claimant sought to rely on additional detriments starting in around October 2018 and continuing to date, including by reference to the report produced on 7 February 2020 by Mr Hodge. The disclosures on which she relied remained the four set out in the original claim form. There was a single additional detriment listed. The Claimant averred that the first Respondent was liable for the actions of Dr Carmichael, but also that Dr Carmichael was responsible for her own actions.

11. On 10 March 2020, the matter came before me for the PHCM at which both parties were represented by Counsel. At that hearing, I allowed the amendment sought by the Claimant to her particulars of claim as submitted on 19 February 2020 ("redline"). The Claimant had however produced immediately before the hearing further amendments ("blueline"), on which the Respondent's representative had not had the opportunity to take instructions. At first blush, these blueline amendments appeared to give further details of the Claimant's pleaded case and hence were potentially uncontroversial, but the Respondent's counsel was (in my view, reasonably) reluctant to concede any further amendment without express instructions from his client.

12. In an attempt to further the overriding objective by avoiding delay and dealing with matters in a proportionate manner, I allowed the additional (blueline) amendments as well and made directions for the Respondent to submit its amended substantive response. However, by agreement, I also made provision for a short (30 minutes) telephone PHCM on 8 April 2020, which I reserved to myself, and in which I indicated the Claimant would be permitted to make a formal application to add the blueline amendments and/or to add Dr Carmichael as a second Respondent, if the Respondent indicated its opposition to the former and if the latter course was pursued. It was noted that the Respondent was not at that stage relying on the statutory defence in relation to Dr Carmichael, but in light of the further amendments that stance might change, in which event the case to add her as a named respondent might be more compelling. Finally, the parties having already agreed a provisional list of issues, I indicated that once the above points had been addressed, it might be the list of issues could be fully agreed, but if not this could also be dealt with at the TPHCM.

13. On 19 March 2020, the Employment Tribunal wrote to the parties confirming the listing of the TPHCM on 8 April 2020. However, it appears that my summary and orders from the PHCM of 10 March 2020 were not received for some time (indeed, as late as 2 July), although I was told that they been sent out on 11 March 2020 and that a further letter had been sent to the parties on 19 March 2020. From 23 March 2020, as a result of the restrictions associated with the pandemic, all hearings were converted to case management hearings to be conducted by telephone. Indeed, from 25 March 2020, London Central Employment Tribunal suspended all hearings, whether by telephone or otherwise. Consequently, the TPHCM did not take place as listed on 8 April 2020.

14. In any case, on 24 and 31 March 2020, the Respondent's solicitors had written to the Tribunal applying for a stay of proceedings as a consequence of the Respondent's involvement in dealing with the COVID-19 crisis. They had also confirmed that the Respondent did not rely on the statutory defence and sought to vary other orders as well as objecting to the blueline amendments and seeking costs of attending an extended (two hours) TPHCM, as yet to be relisted. On 15th April, Employment Judge Grewal caused a letter to be sent to the parties noting that the TPHCM would be relisted and the Respondent's application for a stay considered at that time.

15. On 24 April 2020, the Tribunal wrote to the parties listing the hearing for a 30-minute TPHCM on 15 May 2020. On 29th April, the Respondent's solicitors wrote to the Tribunal asking for an urgent application to be placed before me, both to stay the proceedings and to vacate the TPHCM listed for 15 May 2020. The letter asserted that the Respondent was not in a position to deal with the proceedings effectively whilst its resources were all diverted to addressing the NHS pandemic response, and that 30 minutes would be insufficient time to deal with the issues. It indicated that the Claimant was in agreement with the application. An email was sent on 6 May 2020 confirming that the TPHCM on 15 May had been vacated and that the parties were to await instructions from me.

16. On 24 June 2020, a letter was sent from the Tribunal on my instruction:

    a. refusing the Respondent's application for a general stay;
    b. vacating all the directions that I had made on 10th March to the extent that they had not already been complied with;
    c. indicating that I was minded to revoke the decision to allow the blueline amendments, on the basis that they had been made without the Respondent's Counsel having had the opportunity to take instructions, but making no decision on the point;
    d. listing the matter for a further preliminary hearing on 7 July 2020 and reserving it to myself and making further directions for the progress of the matter in the meantime. I expressly noted that the PH had been listed for three hours and that if the parties did not think it will be long enough to deal with any application already made and/or yet to be made, they should say so within seven days so that consideration could be given to extending it to a whole day.

    No such response was received and therefore the matter came before me via CVP on 7 July 2020.

17. Regrettably, it was quickly apparent that three hours would be insufficient time to deal with the applications. Accordingly, I heard argument as to the blueline amendment issue and reserved my decision on it. I return to that point below. I dealt with the Respondent's renewed application for a stay, which I rejected. On 8 July 2020, the Claimant solicitors emailed an application for specific disclosure to the Tribunal, following it up with additional authorities on which they relied later that day, and on 16 July, the Respondent's solicitors replied to that application. As I have received no further documentation in this regard, I also deal with that below on the papers.

Blueline amendments

18. In relation to the question of whether I should allow the blueline amendments, there was an additional dispute as to whether I should first consider the Respondent's application to revoke my original decision in this regard (or indeed revoke it of my own motion). The Claimant opposed any revocation because of potential prejudice to her regarding time limits. I have had regard to the written submissions (supplemented orally at the PH) from both Counsel in reaching the decision below, but I do not substantially reproduce them here.

19. In summary, Mr Lewis noted[1] that if time was to run from the date the amendment was granted (and if the decision was revoked and remade by me on 7 July), the Claimant would be severely prejudiced, since had it not been for the restrictions in place as a result of the pandemic, consideration would have been given to the amendment by 8 April at the latest and it would be wrong in principle that the amendment should be argued to have taken effect only from 7 July.

20. By contrast, he asserted that the Respondent would not be at all prejudiced by the amendments, given that it is yet to serve a detailed grounds of resistance to the original, redline or blueline version of the claim. This was not a situation where the Respondent had already submitted a detailed defence or had even already pleaded to the redline amendments. He noted that the period between serving the redline and blueline amendments was relatively short, with the redline version served on 19 February, when the Claimant had had Mr Hodges' report for just a week, and the blueline version filed a fairly short time after that (10 March). He took me to the written application, which I have considered in full, and also to the *Selkent* factors.

21. For the Respondent, Ms Genn contended that there were some blueline amendments which could be considered "mere tidying" but that others were wider than that. She made no objection to the former but did object to the latter, for reasons which she set out. Her written submissions also alluded to the fact that the Claimant had referred in the blue line amendments to a "Second Respondent" (in fact referred to in the redline amendments as well), when no such second Respondent had yet been added. She asserted that there was no explanation for the Claimant failing to raise at an earlier stage matters of which she had been aware since around October 2018.

22. My findings and conclusions in relation to the blueline amendments are as follows:

[1] Relying on *Galilee v Commissioner of Police of the Metropolis [2018] ICR 634 EAT*

a. It would clearly be contrary to the overriding objective in dealing with any claim for either party to be prejudiced by another party's delay. Much of the delay in this case has of course not been caused by either party but by pandemic restrictions and all that flows therefrom. In my view, the Claimant should not be prejudiced by the fact that the hearing scheduled for 8 April did not take place until 7 July, particularly where the Respondent has not submitted its substantive pleading and, on the contrary, has repeatedly sought a stay to the proceedings in their entirety. That is why I have set out above a detailed history of the case to date. I made the point that by 7 July in some respects, we were less advanced in the progress of the matter than we were on 10 March, in that whereas on 10 March we had a Hearing listed to take place within four months, the Hearing is now not until next June. There is ample time for the parties to address the issues arising in the claim.

b. Further, overall, I accept the Claimant's assertion that the Respondent is not substantially prejudiced by the amendments. Firstly, while of course Ms Genn is quite right when she says that pleading a case is not an exercise in "slow reveal", it is also true as the Claimant notes that the Respondent has yet to serve its substantive grounds of resistance. In my view it is better for the Respondent to have to plead once substantively, to the full claim, than to plead more than once to a number of different claims or revised versions thereof.

c. Secondly, as I note above and in the Summary and Orders aside, the Hearing in this matter will now not take place until June 2021; no part of the delay in that hearing taking place results from the Claimant's amendment applications.

d. Thirdly, I accept the Claimant's submission that in substantial part the amendments are phrased as alternative ways of putting those matters already pleaded in the original and the redline versions of the claim and as such are mere re-labelling. It is notable that the redline and blueline versions of the claim were submitted very closely in time (within a month of each other) and that if it is the Respondent's case that amendments could have been put in the redline version and would potentially have been acceptable at that point, there appears to be no logic to the argument that they should not now be allowed in the blueline version, given that no progress had been made to the case in the time between the two versions being produced.

e. Fourthly, the timings are such that the Claimant would arguably have been in time (by 10 March) to bring these matters as a new claim from when she became aware of them and/or to advance the argument that they form part of a continuing act; I expressly make no findings in that regard (see also g) below), but I observe that such new claim would almost inevitably have been consolidated with this one so that we would have been in the same position by this stage but with two sets of pleadings from each side (and assuming that the Respondent had lodged ET3s in the conventional timeframe) instead of a single consolidated version from the Claimant.

f. To the extent that the Respondent contends the Claimant's arguments are out

of time (e.g. in relation to matters it says were known to the Claimant since October 2018), and if the Claimant is unable to show that the conduct relied on does not form part of a continuing act on a *Hendricks* basis, it is open to the full panel at the Hearing to decide that it does not have jurisdiction to deal with that complaint or complaints.

g. It is through that lens that I have considered the proposed amendments. Taking each one in turn:

   i. New paragraph 9A is, I accept, an alternative interpretation from that set out in the redline version at paragraph 8. It concerns the assertion that there was a widely disseminated but unwritten rule that safeguarding concerns should be diverted away from the Claimant. It raises no new facts and, as I understand it, is said to be based on facts which only came to the Claimant's knowledge in December 2019.

   ii. Paragraphs 11 and 14 contain minor corrections of a typographical nature which are not opposed by the Respondent.

   iii. Paragraph 19 contains further details of the meeting that took place on 5 February 2018 between the Claimant and Dr Carmichael and refers to an email sent by the Claimant three days later. The fact of the meeting and the broad content thereof was already in the original claim form.

   iv. Paragraph 21 now expands from the Claimant's perspective on a report that the Respondent's Board of Governors tasked Dr Bell with producing. It adds detail that was not previously in the claim form; but such detail could just as easily be contained in a witness statement by the Claimant and therefore it does not prejudice the Respondent to have it included at this early stage. The same points apply to paragraphs 23 and 25.

   v. Paragraphs 26 and 30 correct typographical errors or omissions.

   vi. Paragraph 35 and new paragraph 35A, like paragraph 21, expand on matters from the Claimant's perspective and/or make observations on facts that are either not in dispute or already pleaded.

   vii. The amendment to paragraph 37b is said to arise from material discovered by the Claimant in December 2019 and cross refers to another existing (albeit blueline amended) paragraph (46).

   viii. Paragraph 39 raises further contentions on behalf of the Claimant arising from the same factual matrix as was set out in the original claim form.

   ix. Paragraphs 41 to 43 and 45 contain minor amendments or corrections. They are not opposed by the Respondent.

x. Paragraph 46 adds a further allegation against Dr Carmichael to the one already contained in this paragraph as a result of the redline amendments. Since Dr Carmichael is, according to the Respondent, already going to give evidence, it requires no additional witnesses to be called it will be open to the Respondent to deny the factual basis of this allegation (or to make submissions thereon if Dr Carmichael accepts partly or wholly the factual circumstances behind the complaint).

xi. Paragraph 47A is said to arise from the report produced by Mr Hodge and hence could not have been known to the Claimant prior to her receipt of that report.

xii. At paragraph 49, the dates of the first and second disclosures are corrected, and the Claimant seeks additionally to rely, as protected disclosures, on an email that she sent following the meeting with Dr Carmichael in February 2018 and information that she provided to Dr Bell for his report. It has not been suggested by the Respondent that these disclosures were not made or that they did not constitute qualifying and therefore protected disclosures.

xiii. Paragraphs 52 and 53 generally make minor amendments/clarifications again, I gather, arising from the Hodge report, although it is fair to say that 53g adds a new allegation about Dr Carmichael (cross referring to paragraph 46). Similarly, at paragraphs 54, 54A-C and 55, new assertions are made arising from the Hodge report. It may be a matter of legal argument at the full Hearing as to the applicability or otherwise of the *Bilsborough* case (a first instance decision) to which Counsel referred in their submissions before me

23. In the circumstances, it is my decision that the blueline amendments should be permitted in their entirety. As I have noted above, that does not imply that the Claimant should not face any jurisdictional issues in relation to some of their content. That is a matter for submission by the parties as appropriate.

24. I note for completeness that although part of the redline amendments, it was agreed that paragraph 56 should now be deleted in consequence of the Claimant no longer seeking to add Dr Carmichael as a named Respondent. I return to this point below.

Reconsideration

25. To the extent that Rules 70-73 (Schedule 1, Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013) are relevant, in light of my conclusions following legal argument from both parties as to the blueline amendments, and in order to avoid potentially placing the Claimant in the position where through no fault of her own those amendments take effect not on 10 March or even 8 April but on 7 July or 30 August, I do not revoke or vary but confirm my original decision.

The Second Respondent

26. During the PH, the Claimant made it clear that she greatly desired the retention of the listing of the full merits Hearing in November. Whilst I had sympathy for that position, and I have no doubt the situation remains difficult for both parties while the

issues remain unresolved, it was clear to me that it should not be a factor in the question of whether or not Dr Carmichael should be added as a second Respondent.

27. Mr Lewis then confirmed that he had received an email instructing him that the application to add Dr Carmichael as a second Respondent was not being pursued. I note that judicial (or other) mediation remains available if the parties are interested; if so, they should let the Tribunal know at once so that a date can be offered.

Stay

28. We addressed the application by the Respondent for a stay of proceedings generally. A lengthy witness statement had been submitted on the Respondent's behalf by a Mr Craig De Sousa, Director of Human Resources and Corporate Governance. I had regard to that statement, which I had had the opportunity to read shortly before the PH, and I heard argument from both Counsel on the point.

29. Ms Genn emphasised in her oral submissions that the challenge for the Respondent is not just on the frontline dealing with the tragedy of the pandemic and acute illness but what she described as the impact on "marginal" (by contrast with "acute") hospitals. She emphasised also the impact on the mental health of those who take up the Respondent's services, in particular children and young people and as a result those who are at milestone stages of their development. The service had already been very oversubscribed when lockdown began. She thought that a listing from April 2021 onwards would give the Respondent time to deal with the immediate and unprecedented issues being encountered.

30. Mr Lewis responded that in opposing the stay, he was not downplaying what had been done by NHS providers and those delivering clinical services. He observed that he only received Mr De Sousa's evidence and the Respondent's detailed application the previous day. For his part, he relied on the very considerable prejudice to the Claimant of the delay, which he said was all the more acute while the Claimant was living with the litigation whilst still employed by the Respondent. She is suffering from poor health herself. The stay has already been refused on more than one occasion and there have been no material changes to the circumstances put forward previously. The budget available to the Respondent must include financial assistance to meet HR requirements and contribute to litigation. Mr De Sousa himself would not necessarily be required to spend time away from the office since his lawyers could travel to see him or his witnesses or documents could be provided to them in order for them to carry out the exercise of disclosure. There could be no guarantee that granting a stay would result in the pressures being different or reduced for the Respondent in future.

31. Ms Genn replied that the Respondent recognises that it is unhelpful to have litigation hanging over anyone, while noting that the Claimant does remain employed and is thereby in a better position (at least financially) than others might be. The Respondent would adapt and once they were through the autumn/winter cycle, with new ways of working and space for staff to be able to manage different parts of the portfolio, she was hopeful that the litigation could be progressed after the first quarter next year.

32. In the event, we were able to list a nine-day Hearing from 14 June 2021, and whilst I

could see that this delay caused the Claimant considerable distress, in my view it balances the need for the Respondent to be able to deal with the pandemic and issues arising therefrom with progressing the matter without undue delay. Much of the preparation for the full Hearing will not be required until early 2021, with witness statements not to be exchanged until the end of March. As I indicated I would at the PH, I have given the Respondent 28 days within which to serve its substantive response to the fully-pleaded claim incorporating both red and blueline amendments; I do not the Claimant's assertion that permission to amend a response cannot be given without having sight of the pleading. *Kovacevic*[2] was a case involving an application to amend particulars of claim, not grounds of resistance. It seems to me that once an amendment to an ET3 has been permitted in principle (e.g. where it is submitted after the original deadline has passed), the Tribunal cannot refuse to accept the contents of an amended response.

33. The parties are encouraged to observe the deadlines set out in my Orders (a separate document), but are of course at liberty to apply to vary them in the usual manner. Minor delays to the Orders (save in relation to the pleadings) can be agreed between the parties without application to the Tribunal.

Disclosure

34. At the PHCM on 10 March and by consent I ordered the Respondent to disclose to the Claimant by 31 March 2020 the documents and any cipher relating to the investigations of Dr Sinha and Mr Hodge. I observe that this was not done and instead the Respondent has sought to argue it does not have to comply, effectively by default as a result of the interruption to the proceedings because of the pandemic, because of the letter of 24 June when all Orders not yet complied with were vacated. It is fair to note that on the date initially set for compliance, 31 March, the Respondent had written to the Tribunal seeking to vary the Order.

35. I have noted both parties' submissions in relation to this application to vary the Order. The Claimant contends that the evidence sought in relation to Dr Sinha's review is both relevant and necessary for her to advance her case. The Respondent denies this. It says that those participating in Dr Sinha's investigation did so under assurances of strict confidentiality, and (in terms) that the anonymity of both interviewees and service users is paramount. It says that in terms of the cipher used (and in relation to the specific identity of "X"), its Counsel was unaware at the PHCM in March that this was not, in fact, solely used in relation to one person but more than one. It says that the information sought is not relevant to the Claimant's pleaded case.

36. The Respondent also says that it has complied with the Order so far as Mr Hodge's investigation is concerned.

37. I accept the Respondent's submissions in this regard and set aside the Order. It seems to me that the position in relation to Dr Sinha's investigation and report is more nuanced than it might have appeared at the earlier hearing. A blanket Order for disclosure (applying, as it transpires, potentially to multiple employees of the Respondent and not only to a single individual) is too wide. Nonetheless, I consider

[2] *Chief Constable of Essex Police v Kovacevic UKEAT /0126/13/RN*

that it will be necessary for the Claimant to be given names of those colleagues involved, if she needs to ask them to provide evidence relevant to the issues in the case – i.e. if they can potentially give evidence as to any detriment suffered by the Claimant as a result of having made protected disclosures.

38. Accordingly, I have concluded that the better way to proceed with this issue is for the Claimant to identify any specific elements of Dr Sinha's report where anonymity means she is unable to deal adequately with an issue in the claim and to seek the agreement of the Respondent to disclose an individual's identity (or more than one). If the Respondent, having first sought the agreement of that individual, continues to refuse to disclose their identity, the Claimant may apply to the Tribunal for a further Order. I observe that any further Order for the disclosure of a person's identity, where that person had previously been assured of anonymity, would be made only on the basis that disclosure would be to the Claimant and her representatives for the purpose of these proceedings; and that save in unforeseen circumstances, I can think of no reason why they should not continue to be referred to by way of cipher (though using different letters for different people to avoid confusion) in the Employment Tribunal.

39. Similarly, in relation to the documents associated with Dr Sinha's report, where the Claimant asserts that the provision of a particular item is relevant to the claim as it is now pleaded (in that it goes to an issue to be considered by the Employment Tribunal at the Hearing), the Claimant must first liaise with the Respondent to establish whether that item can be provided (in a suitably redacted form if necessary) and if not, make a focused application to the Tribunal. It will be of assistance if any and all such applications can be made at the same time, rather than in piecemeal fashion, so that a single further PHCM can be arranged to consider it/them if required. If the parties seek such further PHCM, they are encouraged to be realistic about the length of time they require to make their arguments on any issue.

40. Both parties are still subject to the standard Order for disclosure, which must be completed by 15 January 2021.

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EMPLOYMENT JUDGE NORRIS
30 August 2020

Sent to the parties on

01/09/2020.

for Office of the Tribunals