



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mrs V Colaco v

Mercer Limited

Heard at: London Central

On: 9, 10, 11, 12, 16, 17, 18, 19,
23 & 24 October 2017

Before: Employment Judge JL Wade
Mr G Bishop
Mr D Eggmore

Representation

For the Claimant: In person

For the Respondent: Ms A Mayhew - Counsel

RESERVED JUDGMENT

1. The judgment of the tribunal is that:
 - 1.1 The claim that the respondent victimised the claimant is partially upheld;
 - 1.2 The respondent unfairly dismissed the claimant;
 - 1.3 The respondent did not liable harass the claimant.
2. The Tribunal has found that the respondent victimised the claimant in relation to all or part of detriments 5, 18, 19, 20, 21, 23 and 25. A remedy hearing is required. The parties are ordered to confirm whether any of the following dates are suitable: 2, 3 or 4 January 2018 and if not to provide alternatives by 20 November 2017. It may be that a directions hearing is needed as medical evidence may be required and directions will need to be given. If that is the case the parties are to write to the Tribunal with suggested directions.

REASONS

1. Mrs Vanda Colaco worked in a secretarial role for the respondent, a global consulting company “helping clients around the world advance the health, wealth and careers of their most vital asset — their people”.
2. In July 2016, she filed this claim containing 27 allegations of direct discrimination, and victimisation which allegedly occurred because of a previous tribunal claim (2200082/15). This new claim was a protected act and after she had filed it an internal process was conducted concurrently with the Tribunal proceedings leading to her dismissal in January 2017. The original claim was amended to add allegations that the process and the dismissal were victimisation, harassment and unfair dismissal. The total number of allegations is now 25 and direct discrimination is not an issue. The claimant’s final list of allegations is attached to this decision.

The law

Victimisation

- 3.1 Each of the 25 detriments is alleged to be victimisation. Victimisation is unlawful under section 27 of the Equality Act. The respondent concedes that both Tribunal claims were protected acts along with the complaint to ACAS under the early conciliation procedure in 2016. We have identified other protected acts in the claimant’s grievances. The respondent failed to plead that the allegations against secretarial Team Leader Kim Cooper were made in bad faith, an application to amend was made during the hearing which is dealt with at paragraph 127 below. Allegations made in bad faith are not protected acts.
- 3.2 The Tribunal must decide if any of the 25 alleged detriments were (a) detriments and if so (b) whether they took place because the claimant had done a protected act. A detriment need not be physical or economic but an unjustified sense of grievance is not a detriment (*Shamoon*).
- 3.3 In this case the main issue was the extent to which acts by the employer arising from a protected act are separable and can be said not to have been done “because of” the protected act. We considered a number of authorities and highlight the following:
 - 3.3.1 In *Chief Constable of West Yorkshire v Khan* [2002] UKHL, 48, it was established that the reason for a detriment may be close to, but not caused by, the protected act.
 - 3.3.2 This point is made again in *HMPS v Ibimidun* [2008] IRLR, 940 and *Martin v Devonshires* [2011] ICR, 352. In *Ibimidun* the claimant was dismissed after an unsuccessful discrimination claim in which the Tribunal had found that a motive for the litigation was to harass his employer into settlement by a sustained campaign of litigation. The EAT decided that he had been

dismissed not because of the protected act but because, as the earlier tribunal had stated, he was using the proceedings to harass his employer. Thus the dismissal was separable from the protected act.

3.3.3 In *Woodhouse v WNW homes Leeds Ltd* [2013] IRLR 773, however the EAT warned against taking these exceptional cases as a template and that “it is a slippery slope towards neutering the concept of victimisation if the irrationality and multiplicity of grievances can lead, as a matter of routine, to the case being placed outside the scope of section 27....”

3.3.4 The respondent did not include the decision of the House of Lords in *St Helen’s BC v Derbyshire and others* [2007] UKHL 16, in the authorities bundle but we did tell the parties that we were considering it. The case is very relevant because it concerns threats made during existing litigation rather than actions taken after the end. Lord Bingham described the rationale behind the legislation at paragraphs 3 and 4:

“The right not to be discriminated against ... Would be of little value if a victim of proscribed conduct..... could not have recourse to a judicial body competent to rule on the merits of the claim.... The right to seek effective legal redress conferred on a person who is or claims to be the victim of proscribed discriminatory conduct would itself be of limited value, and perhaps no value, if the alleged discriminator were free, otherwise than by defeating the claim on its merits, to frustrate or interfere with the conduct of the proceedings in a way that undermines the integrity of the judicial process to which the claim had given rise”.

Lord Neuberger quoted with approval Mummery LJ in the Court of Appeal as follows:

“The tribunal did not regard the council’s treatment of the applicants as a reasonable means of protecting its interests in the litigation... The council could have protected its legitimate interests in the conduct of its defence to the litigation by seeking to achieve a settlement with those bringing proceedings against them by other means that were reasonable, such as negotiations with the applicants’ union or their legal representatives. The council went further than was reasonable as a means of protecting its interests in the existing litigation and the reason for it doing so was, the tribunal found, that the applicants had brought the equal pay claims against the council and were continuing to bring them”.

Harassment

4.1 Detriments 23, 24 and 25 are alleged to be harassment. The Tribunal must decide if the respondent engaged in unwanted conduct related to the claimant’s protected characteristic which is that she is Portuguese.

4.2 If so, did the conduct have the purpose or effect of violating the claimant’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

4.3 In considering whether the conduct had that effect, the Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

Unfair dismissal

5. The statutory test for fairness is set out in the Employment Rights Act 1996 section 98. We had regard to the ACAS code. According to the famous *Burchell* test the employer must carry out a reasonable investigation, and have a genuine belief on reasonable grounds that the employee is guilty of, in this case, misconduct. The decision to dismiss must fall within the range of reasonable responses.

The evidence

6.1 We heard evidence from the claimant. For the respondent, we heard from Sally Matthews, Senior HR Business Partner, Kim Cooper, Secretarial Team Leader, Nicholas Kripps, Senior Actuarial Consultant, Amy Moore, Senior HR Business Partner, Richard Tuff, Partner and Michael Hill, Partner. We also read an affidavit from John Matthews who was unable to attend and read the claimant's comments on it.

6.2 We read the pages in the bundles to which we were referred.

The facts

We set out below our findings of fact with relevant conclusions on the legal issues.

7. The claimant was first employed on 27 February 2012. She worked in the secretarial team and her team leader was Kim Cooper, a senior secretary a couple of grades above her. There were no known problems in the first few years.

8. The respondent has various policies which emphasise the importance of attempting informal resolution before the formal process is engaged. These include the grievance and complaints policies. However, as the claimant pointed out, there are also policies which encourage staff to raise concerns at any level and say that "we will not tolerate retaliation against any colleague who raises a concern about violation of the law".

9. From 2013 Phil Howard was the claimant's supervisor. It seems that he did not think badly of her or she of him and, although this was raised against her some years later, it does not appear that his moving on was a sign of the claimant "getting through" a number of different supervisors.

2014

10. In June 2014, the claimant moved to work in the Credit Suisse team. This was a fairly unique role and Ms Cooper was not in that team but Mrs Colaco continued to do some general secretarial work so that she was still technically part of the secretarial team. At some point Ms Cooper resumed the role of her people manager.

11. At the end of August, at the claimant's request, Ms Cooper stopped being her supervisor and formal line manager ("also known as her people manager"). However, as she was leader of the secretarial team the two continued to have some direct contact although mainly not face-to-face despite the fact that they will worked physically close to each other. In summary, this contact was:

11.1 Ms Cooper was the claimant's cover if she was absent from work.

11.2 She issued secretarial personnel lists and processed changes of supervisor information on the system.

11.3 She was a point of contact with the claimant about secretarial policies such as filing systems.

11.4 She (not exclusively) issued invitations to leaving events, to training and team meetings.

11.5 She was the central point for collection of promotion application forms.

11.6 She was responsible for general housekeeping, for example running the sickness absence record although not the holiday record.

12. From 1 September 2014, the claimant's people manager was Linda Holcombe.

The first grievance and the first ET1

13. On 23 September 2014, the claimant raised her first grievance which was against Kim Cooper and Audrey Weightman. This was rejected following due process and Tony Pugh, Senior Partner, rejected the appeal.

2015

14. On 19 January 2015, the claimant submitted an ET1 alleging direct race discrimination and harassment. The complaints were mainly against Ms Cooper. This was a protected act. She did not allege victimisation.

15. On 23 January, she requested a new people manager, it seems because Ms Holcombe was in the secretarial team and managed by Ms Cooper. Jan Reynolds was appointed. She was quite senior, being an F grade whereas Kim Cooper is grade D and the claimant B.

Alleged detriment 1

16. On 22 April 2015 the claimant was not invited to a training session about a system used by the secretaries called I-con. She says that this was victimisation by Ms Cooper because she had brought the grievance and the first claim. The

short answer is that the session was not organised by Ms Cooper but by another secretary called Eileen Wood who did not think that the claimant needed the training, which was why she did not invite her. Although it is true that Ms Wood's line manager was Ms Cooper, we found no evidence that Ms Cooper had any actual involvement in withholding an invitation from the claimant. Further, we found that she had invited her to quite a number of other events so there was no discernible pattern of exclusion.

17. There was no exclusion by Ms Cooper and no detriment. The claimant did not complain at the time and in fact complained about none of alleged detriments 1-17 until she started early conciliation in May 2016.

Second grievance

18. On 14 May 2015, the claimant raised a formal grievance against Jan Reynolds, Nick Kripps and Audrey Weightman. The grievance was not directed at Kim Cooper. It was a protected act in that when the claimant provided more details of her complaints on 3 June she said that she believed that she had been targeted because of her tribunal claim so that this was victimisation.

19. The claimant requested a new people manager in place of Jan Reynolds. A bit of a pattern was emerging in terms of her tolerance of her people managers but the respondent did not challenge her and cooperated in finding a new one so she was not alerted to any concern.

20. The grievance hearing with John Matthews, Partner, took place on 4 July.

Alleged detriment 2

21. On 23 June, the claimant told her supervisor she would be taking leave on 24 June "due to unforeseen circumstances". This was in fact because she had to attend her Tribunal hearing. She agrees that holiday had to be pre-approved by a manager and there was no documentary or oral evidence of this happening. We conclude that the claimant announced her imminent holiday without clearance. She missed the point by arguing that she had made cover arrangements so there was not in fact any inconvenience as a result.

22. Audrey Weightman emailed the claimant on 26 June to point out that she was in breach of policy and that this could lead to disciplinary action. The claimant says this was a detriment but fails to recognise that Ms Weightman says she will NOT discipline in the circumstances as this was the week of the claimant's ET hearing.

23. Ms Weightman was correct to raise the problem because taking holiday without prior agreement is disruptive. There was no detriment and as far as we know a complaint about this incident was not added to the current grievance against Ms Weightman.

The claimant's first ET claim fails

24. The tribunal hearing concluded on 6 July and all the claimant's claims were rejected. Ms Cooper was exonerated but she had found the process very distressing and had been diagnosed with mild depression and had to seek psychological support. Her managers were concerned for her welfare as an innocent party who had been through the mill.

Alleged detriment 3

25. Nick Kripps (Grade G) was appointed as the claimant's next people manager. He was appropriate because he had the necessary training and was a member of the Credit Suisse team where the claimant mainly worked.

26. Although she had initially suggested him as a potential supervisor, Mrs Colaco then objected to his appointment by Tony Pugh the senior partner following discussions with Sally Matthews. Her reasons were not clear but she says that her career was threatened when it was explained to her that if she could not accept Mr Kripps her employer might need to consider moving her to another team in order to find a suitable supervisor. This was no detriment as there was no good reason to refuse Mr Kripps and a team move would have been a practical alternative solution.

27. The claimant agreed to Mr Kripps being her supervisor on 13 July 2015. There followed an apparently tranquil period without new grievances or tribunal litigation which lasted until late May the following year.

The outcome of the second grievance

Alleged detriment 4

28. On 30 July 2015 Mr Matthews sent Mrs Colaco the grievance outcome. None of her complaints were upheld. In his 10-page letter Mr Matthews gave full reasons for his decision and provided the following feedback, which she complains about:

"Having made my findings, I feel it is important to look towards the future too. From my independent standpoint, I do believe that your colleagues have acted in a reasonable manner but that you truly believe that you have been treated inappropriately. Your perception of events and what is appropriate does not seem to align with that of your colleagues or mine. This concerns me and I feel it would not be helpful for me to simply ignore this issue..... I am also concerned that this grievance is part of a long-term situation You of course have every right to raise grievances, and indeed you should raise grievances if you have concerns. However, the fact that this is a second grievance relating to working with colleagues, neither of which have been upheld, suggest that there are ongoing issues which need to be addressed. While I appreciate that a grievance procedure does not usually look at the behaviour of the person bringing the grievance, I believe it would be a missed opportunity not, at this stage, to consider why matters have escalated to two unfounded grievances and to consider ways to forward..... I therefore intend to refer this file to HR so they can follow up with you. The"

These comments were most wise and prescient but sadly, given her very firm belief in her own views, the claimant did not heed them. They are the opposite of threatening and did not constitute a detriment.

29. The claimant also complains of delays, misleading information and the inadequacy of the process and the decision generally. We do not agree and find that the process was thorough and efficient. The claimant did not suffer a detriment at the hands of John Matthews or the HR personnel involved, Maureen Albert and Sally Matthews.

30. Mrs Colaco did not complain at the time nor did she appeal; she says that this was because she was unwell.

Alleged detriment 5 – first finding of victimisation

31. On 3 September 2015, the follow-up meeting envisaged by Mr Matthews took place between the claimant and Sally Matthews. The meeting took place with no warning as Ms Matthews said it was “just a gentle check-in”. We did observe that the HR culture was to do quite a bit of unannounced “popping” around the building.

32. Ms Matthews wanted to check that the claimant had not appealed and to discuss relationships with colleagues. There had been warning of this in Mr Matthews’ letter and although the claimant was not receptive, no threats were made and there was no detriment.

33. Then, out of the blue, Ms Matthews started warning the claimant about her absence levels. She admitted in evidence that it might have been better not to have had this conversation until she was sure of her ground because she told the claimant that her absence was “really, really high” and that it could possibly trigger formal conversations. This was alarming and, as it turned out, incorrect.

34. We find that to raise this point prematurely at the end of what was meant to be “a gentle check-in” about workplace perceptions and relationships was a sting in the tail and threat which would reasonably be experienced as a detriment. The reason for making the threat was that the claimant was perceived as troublesome because of her ET claim and recent grievance, both of which were protected acts.

35. Mrs Colaco did not complain at the time.

Alleged detriment 6

36. On 4 December 2015, the claimant had her year-end meeting with her people manager, Nick Kripps. He gave her a 3 out of 5 rating denoting “meets expectations” which was fully evidence-based and which the claimant ultimately agreed with. She complains that he tried to give her a low rating of 2 and that he did not sign off the performance review. The part of this allegation relating to timekeeping was withdrawn.

37. Having listened to the evidence and read any relevant documents we find that Mr Kripps' methodology was to start discussion with all his reports at level 2 and get them to justify a higher mark so the claimant was not singled out nor did this approach disadvantage her in the final mark.

38. The claimant made no headway at all with this allegation and even ended up arguing that she should have started her review with the lowest of all marks, a 1, as that would be more logical. She also argued that the failure to sign off caused her a disadvantage but was unable to identify what that might be. Mr Kripps pointed out that it would demonstrate his lack of attention to detail as a manager rather than reflecting upon her. We agree and find that there was no detriment.

39. Mrs Colaco did not complain at the time.

2016

Alleged detriment 7

40. The claimant says that she suffered a detriment by being excluded by Kim Cooper from a leaving presentation for one of the secretaries on 12 February 2016. She made a few similar complaints in her statement but these had not been raised in a grievance or in the ET1.

41. There was ample evidence that she had been invited to many social occasions and only found two to complain about. On a balance of probabilities it is likely that there was an innocent explanation for these few omissions. The reason for this particular omission was that because the claimant had not contributed to the leaving present, and seems not to have had a close relationship with the secretary leaving, there was no reason for her to attend. She was invited to the wider leaving event which was open to all irrespective of whether they had contributed to the present.

42. We find that the claimant was not subjected to a detriment and Mrs Colaco did not complain at the time.

Alleged detriment 8

43. The claimant says that Nick Kripps misled her on 25 February 2016 as to when she should submit her goal setting documentation. This allegation was very hard to understand because the claimant did not miss the deadline and so patently did not suffer a detriment. It seems that she was confused when he extended the deadline but he did the same for everybody and there is no hint of an attempt on his part to entice the claimant into missing it as alleged.

44. Mrs Colaco did not complain at the time and we find that the claimant was not subjected to a detriment.

45. In March 2016 Mr Kripps stopped being the claimant's people manager. This was mainly because he had left the Credit Suisse team in December and it does not seem that he parted on bad terms. It cannot be said that this was an example of the claimant "getting through" her supervisors in a troubling way. There is also no evidence that, as alleged by the claimant, he asked to step down because he was under pressure from HR to impact her negatively and he did not like it.

Alleged detriment 9

46. Mrs Colaco alleges that Ms Cooper victimised her by excluding her from a secretarial lunch to which she was not invited on 23 March 2016.

47. It is true that the claimant was not invited but she did not complain at the time or ask to be invited and so there is no evidence of an exclusion as opposed to an omission. Kim Cooper might well have found it awkward if the claimant had attended but on the other hand she invited her to a number of other occasions where she was present so her overall conduct was neutral. In the absence of evidence, we are not able to decide on the possible motive so long after the event and it does not amount to a justified sense of grievance.

Alleged detriment 10

48. Mrs Colaco accuses the senior partner, Tony Pugh, and Kim Cooper of blocking her promotion. It is extraordinary to us that she continued this allegation having read the documents in the bundle. She maintains that she was told she could not go for promotion because there was no form for secretaries to use. Whether or not that was true, it is clear from the contemporaneous documents that management genuinely believed that there was no form because after she raised the point managers worked to produce one. The claimant was then provided with a form which she could use and which she then submitted, so promotion was not blocked and her requests were actioned.

49. Ms Cooper helped to draft the new form and collected all the completed forms and handed them to Mr Pugh, but she was not a decision-maker

50. Mrs Colaco did not complain at the time.

51. She states that this detriment is proof that when she complained in her first ET1 that she was being blocked for promotion she was correct. We find that the claimant was not subjected to a detriment and it is sad to see that she does not accept the findings of the first tribunal and has not reflected on the possibility that she could be misguided.

Alleged detriment 11

52. The claimant complains that she was excluded by Kim Cooper from a number of monthly secretarial meetings in 2016 and that she was added into the invitation list retrospectively at the end of April.

53. It is correct that she was not invited to at least two meetings in March and April. In deciding whether this was victimisation we have looked at the context which was that she was invited to many more meetings than she was omitted from and that she rarely attended when invited, to the extent that both Ms Cooper and a colleague called Leanne Kendall raised this as a problem with Mr Kripps.

54. This leads us to conclude that the occasional failure to invite the claimant was more likely to be because she was an irregular attendee rather than because she had done protected acts. In any event, the claimant suffered no disadvantage and did not feel the need to complain at the time; of course, by not attending she was able to get on with her work as she says she was always very busy. Any omission was de minimis in the circumstances and not a detriment.

Alleged detriment 12

55. Mrs Colaco complains that in May 2016 Ms Cooper and her colleagues tried to set her up to fail by assigning her a huge overload of work which would prevent her meeting her goals.

56. The claimant agrees that she was not required to take on this work, and indeed declined it with no consequences. It was explained during the hearing that the reason why she was asked (but not required) to take on more work than some of the other the secretaries was that they had already agreed to take on more work when asked in March whereas the claimant had again declined.

57. The claimant's wishes were respected even though this meant that she was not cooperating with the rest of the secretarial team, who were all overloaded, and it is hard to understand why she thinks she suffered a detriment, which she did not.

58. Again, she did not complain at the time.

Alleged detriments 13 and 14

59. These were withdrawn at the hearing.

Alleged detriment 15

60. The claimant alleges that on 23 June Kim Cooper subjected her to a detriment by not giving her important work-related information which she had given to the other secretaries. This related to the filing system for bills and Mrs Colaco says she was told too late that the method she was using was out of date.

61. During the hearing Ms Cooper explained, as she had done in her statement, that the system the claimant was using was not wrong although some secretaries were now filing only electronically as opposed to both manual and electronic filing. The claimant may have missed some discussion at one of the secretarial meetings from which she was absent and, whilst this different approach may have saved a little time, there were no other consequences.

62. What happened cannot sensibly be described as a detriment and the claimant did not complain at the time.

Alleged detriment 16

63. Mrs Colaco complains that between July 2015 and June 2016 she was treated detrimentally by Kim Cooper by not being allocated a buddy whereas many of the other secretaries were. Under the buddy system secretaries partnered with one another so that if one was off work the other could pick up her workload

64. This complaint is misconceived in that Ms Cooper made it clear from the start that she herself would cover the claimant's work or make arrangements for it to be covered so there was no lack of support, and indeed it shows that Ms Cooper was personally supportive. Also, the claimant was not the only person in the team who was not allocated a buddy. Finally, since she did not have a buddy she did not have to cover for anyone and so she was actually at an advantage in that way.

65. If the claimant felt left out she should have raised it but we have seen no sign of her desire to work collaboratively and understand that she preferred to work in a self-contained way so that not having a buddy suited her. We do not find that there was a detriment.

Alleged detriment 17

66. This was withdrawn at the Hearing.

The claimant's second ET claim – Early Conciliation begins

67. Meanwhile, on 28 May 2016, the claimant contacted ACAS and the pre-litigation Early Conciliation period began.

68. Sally Matthews received a call from ACAS in early June and this was the end of what the respondent had considered to be a tranquil period, but which the claimant says was a disappointing accumulation of acts of victimisation. The respondent agrees that the complaint to ACAS was a protected act.

69. Sally Matthews understood that Mrs Colaco was complaining only about Kim Cooper and that complaints from the earlier ET1 were being repeated. The claimant says that this was not what she told ACAS and indeed her ET1 names a wide variety of individuals and refers to incidents which mostly took place after the first ET1 was issued. Suffice to say that there was some room for misunderstanding because ACAS was communicating verbally and in summary. Ms Matthews did not take notes and would have been sensible to make sure she understood the detail before jumping to conclusions about the nature of the claims. Crucially, it is not clear that Ms Matthews understood that the claimant was this time complaining not of direct race discrimination but of victimisation, a

very different beast and one which is not uncommon following on from a protected act.

70. As at early June there were no outstanding complaints against the claimant for bullying Kim Cooper nor was the respondent actively thinking that there was already a general breakdown in working relationships. There is no evidence that, if Sally Matthews did make enquiries after her meeting with Mrs Colaco on 3 September 2015, she found signs of relationship breakdown and no further action had been taken. This means that the one and only source of concern about the claimant's conduct was her complaint to ACAS which, as the respondent well knew, was the precursor to making a tribunal claim unless resolution could be achieved, and a protected act.

71. The discussions with ACAS were not successful and the early conciliation certificate was issued on 28 June. We have seen in the bundle that the claimant was asking for £410,000 plus VAT, a team move, promotion and a pay rise; she says that the respondent was not responsive to mediation.

The second ET1

72. On 26 July, the claimant filed her ET1. The tribunal sent a copy to the respondent but it did not arrive in the HR department.

73. On 1 August Ms Matthews told Kim Cooper about the complaint to ACAS, possibly a premature thing to do since she did not have the detail and relationships on the office floor were tranquil. Ms Cooper was very upset and raised concerns about being bullied; the upset may have been worse than necessary because she thought that she was the only target of complaint which was not the case. Ms Matthews reassured her that they would act quickly to manage the allegations to an inappropriate extent. It was inappropriate because the only person accused of misconduct at the time was Kim Cooper not Mrs Colaco. Of course, Ms Matthews had grounds for thinking that the claimant was "going off on one" again but she had to be careful and fair.

Meetings with HR Alleged detriment 18

74. On 3 August, on her first day back from holiday, the claimant was approached by Ms Matthews for a "catch up". With no notice of the agenda she found herself in a meeting with both Ms Matthews and her boss Siobhan Martin, who was a Partner (she did not come to the tribunal to give evidence). Mrs Colaco told them that she had issued a claim which the respondent had not yet seen but this did not deter them from discussing it, putting her under pressure about her decision to litigate and giving her a pre-prepared letter inviting her to a meeting on 8 August.

75. The letter told the claimant that the respondent wanted to discuss management concerns about:

1. The fact that she had had 6 supervisors in 4 years, including concerns raised by her current supervisor Shona Davies (we heard little or nothing about these particular concerns during the hearing).
2. Her lack of willingness to engage with management.
3. Potential bullying of Kim Cooper.

It did not state that this was a disciplinary investigation but that was the tenor of it. This letter was written because the claimant had complained to ACAS, there was no other trigger for it.

76. At the end of the meeting the claimant was escorted to her desk and then, having collected some items, off the premises. The escort was no doubt polite but the fact is that the claimant was required to leave and was under pressure from both Ms Matthews and Ms Martin to spend time at home reflecting upon the folly of her ways. The respondent says that this was not a formal suspension but nonetheless it was unfair that the claimant was forced to leave work and not trusted to do so without an escort. The respondent also says that it was necessary for the claimant to leave in order to preserve workplace harmony but there was no evidence at all of face-to-face trouble, this was not the claimant's style. Kim Cooper, the alleged victimiser, was neither interviewed nor affected in any way. If there was concern about the two bumping into one another, there is no evidence of thought being given to alternative measures such as a temporary desk move.

77. The claimant complains that the meeting was sprung upon her, that she was given a letter starting a disciplinary process and that she was escorted from the building. These were all detriments.

Alleged detriment 19

78. On 8 August, a further meeting took place, this time involving Sally Matthews and another HR business partner, Donna Webster. The respondent had still not seen the ET1 and asked the claimant to describe her complaints which she was unwilling to do. This meant that her allegations were not discussed in detail but the claimant found the pressure intimidating. No alternative dispute resolution options were discussed.

79. They discussed the possibility of a team move but the claimant refused saying that she would only move if she was promoted and given a pay rise. She says they twisted her answer on this point but we are satisfied from her documented version that this is what she said.

80. Sally Matthews followed the meeting with an email saying that they were trying to find a way forward. The claimant says that she added four more disciplinary points, but she did not. She confirmed that the claimant was formally suspended on full pay "for now". The reason for the suspension was that the respondent assumed that Mrs Colaco was in the wrong and was bullying a colleague although, as Ms Matthews admitted, they did not have the detail. As we have said there was no practical need to suspend the claimant. This was a detriment.

81. On 10 August, the claimant submitted a sick note for acute stress reaction. She says that the respondent's behaviour caused or exacerbated her mental ill health. The claimant did not return to the office and continued on sick leave until she was dismissed. The suspension was thus superseded, but it was never lifted.

82. The respondent finally acquired a copy of the ET1 from the tribunal on about 11 August. From then on, the respondent knew that the claims were against a variety of people and, whilst being of the same genre as the first ET1, related to a later period. Crucially, the claims were of victimisation and not of direct race discrimination.

83. On 15 August Benoit Hudon, Tony Pugh's successor met with Kim Cooper, conducted a short interview about the allegations and reassured her that the company was attentive to her health.

Alleged detriment 20

84. On 12 September, having seen the ET1, Ms Matthews wrote to Mrs Colaco asking her to withdraw the parts of her claim which were against Kim Cooper. If she did not:

“you can choose to continue with these allegations in the tribunal proceedings. In that case we will proceed to issue you with a disciplinary invite letter....”

She went on to say that the claimant could be dismissed for misconduct in the shape of bullying and relationship breakdown and that the allegations against Kim Cooper may be viewed as having been raised in bad faith. The draft invitation to the disciplinary meeting was attached.

85. The respondent says that it was caught between a rock and a hard place in that it had the right to take internal action for misconduct and it was important to be transparent with the claimant and tell her what lay ahead if she did not withdraw her allegations about Kim Cooper. Since there was concern that Kim Cooper was being bullied, that part of the claim, though not the whole, needed to be addressed.

86. We find that this was a threat. The respondent was not so much caught between a rock and a hard place as putting the cart before the horse. Before the claimant's complaints had been investigated, before interviewing her, and disregarding her right to bring tribunal proceedings the respondent was not only telling her what might happen, it was showing her the draft disciplinary invitation letter.

87. It is of course correct in principle that an employer should be free to investigate, negotiate and discipline, but when the genesis of the perceived problem is a tribunal claim which is yet to be adjudicated there must always be a danger that this is victimisation. In this case Ms Matthews' actions were not borderline as they were in the *St Helens* case where the question was whether

the respondent's attempts to achieve settlement were unreasonably heavy-handed. Here, there was a direct disciplinary threat to the very existence of a large part of the claim.

Grievances against Ms Cooper and Ms Matthews

88. On 20 September, the claimant raised a grievance against Kim Cooper which mirrored much of the claims already lodged in the tribunal. In the final list of issues, numbers 1 to 17 relate to the original ET1 and this grievance which was a protected act.

89. On 20 September, the claimant also raised a formal grievance against Sally Matthews. Numbers 18, 19 and 20 in the final list of detriments, relate to this grievance. The claimant explicitly complained about the threats made by Ms Matthews and although she was a little unclear about the Equality Act definition of the unlawful act, referring to contempt of court and witness intimidation, it is clear that she was alleging victimisation so the respondent was on notice of this protected act.

90. Despite this, Ms Matthews went ahead and asked Richard Tuff to conduct a combined disciplinary and grievance hearing against the claimant. Mr Tuff was essentially presented with a fait accompli although he could have looked at the material and seen the illogicality of disciplining Mrs Colaco before the respondent was in a position to decide whether her complaints were (a) justified in all or part, (b) honest but misguided or (c) vexatious.

Alleged detriment 21

91. On 3 October 2016, the claimant was invited to a disciplinary hearing by Donna Webster of HR. Of course, the disciplinary invitation had already been attached to Sally Matthews' letter of 12 September so it was ready to go. The letter says that they had conducted an investigation but, given that the only investigation had been a short interview with Kim Cooper, there was insufficient to show a reasonable investigation giving grounds to convene a disciplinary hearing. It was a detriment to convene a disciplinary hearing before there had been sufficient investigation.

92. For the same reason, it was also a detriment to decide to investigate the grievances of 20 September alongside the disciplinary; in this case the grievances should have been investigated first.

93. Mrs Colaco responded to the letter asking for the hearing to be postponed because of ill-health and requesting an external companion, Anita Addison, employment adviser and therapist, at the hearing.

Alleged detriment 22

94. Ms Webster replied and agreed to postpone the meeting as requested but refused the request to bring Ms Addison on the basis that the policy clearly

stated that a companion must be a colleague, trade union or ECF representative; this is the statutory position too, see paragraph 99 below.

95. On 25 October Kim Cooper raised a formal grievance against the claimant.

96. As the date for the disciplinary hearing approached the claimant asked to reschedule again because she wanted to take legal advice and the respondent agreed. She did not request a postponement because of her ill-health and we find that she was prepared to go ahead despite her health and that there is no evidence that the respondent was intolerant of her situation. We agree that ultimately it was better (although not ideal) for the process to continue and conclude rather than hang around indefinitely. This was not a detriment.

97. There is no separate detriment in allegation 22.

The disciplinary hearing Alleged detriment 23

98. On 2 November, the day before the rescheduled disciplinary hearing the claimant was given a copy of Ms Cooper's grievance. The delay was apparently caused by the fact that the respondent wanted to check with Ms Cooper that she was prepared for Mrs Colaco to see the grievance, which is rather odd given that it could not otherwise have been fairly investigated. It would of course not have been fair to impose this extra burden on the claimant at the disciplinary hearing at such short notice, and the respondent never really progressed Ms Cooper's grievance, but sending it to Mrs Colaco on the day before the hearing must have been troubling and was a detriment.

99. On 3 November, the disciplinary and grievance hearing began. At the start of the hearing the claimant's health was specifically discussed and she confirmed that she was able to go ahead. A companion was again discussed. Ms Addison was there to offer some emotional support and although the respondent refused to allow her to attend, she was allowed to wait downstairs so that if the claimant needed to take a break to talk to her, she was there. This was a good compromise which the claimant did not in fact take advantage of. Whilst there are exceptions to the rule, we support the principle that the statutory position is correct and Ms Addison's presence in the building was sufficient to support the claimant's health needs. The denial of the chosen companion at the meeting was not a detriment.

100. On 9 November, the claimant emailed Ms Webster and Mr Tuff with a list of points that she felt needed to be followed up following the meeting. Mr Tuff then started to hold some of the investigatory meetings which the respondent should have conducted before it decided to discipline the claimant.

**Without prejudice discussions
Alleged detriment 24**

101. Meanwhile, on 5 December, Amy Moore, Senior HR business partner, initiated a Without Prejudice discussion with the claimant to try to resolve the issues. We do not know the content of the discussion. The claimant says that this was a detriment but we disagree. Such discussions are routine in litigation and to be welcomed as any resolution which avoids a tribunal hearing should be seriously considered. Ms Moore appears to have been polite and we have not identified any potential detriment.

102. As discussed by the House of Lords in *St Helen's BC v Derbyshire* there is a world of difference between threats to call off litigation and reasonable settlement discussions. Ms Moore's attempts fell the right side of the line. We also find that she made the approach to the claimant because the respondent wanted to settle the case and not for a reason related to the claimant's Portuguese nationality, which was irrelevant.

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The draft decision letter

103. Having done some, but not all, of his investigation, Mr Tuff invited the claimant to a second meeting to discuss his findings. She declined to attend on grounds of ill-health but said that she was open to questions, particularly about the grievance against Ms Matthews. Mr Tuff asked none and Mrs Colaco says that it was not properly investigated.

104. The investigatory meetings continued and then Mr Tuff had to decide what to do. He decided to issue the draft decision letter and then give her time to comment on it. She did not in fact respond to the draft letter, sent her on 19 January, because she said the respondent had not supplied her with documents which she had requested.

**The claimant's dismissal
Alleged detriment 25**

105. On 30 January 2017 Mr Tuff warned Mrs Colaco that he had not received any comments and that he was going to send a letter out. She did not respond and so he sent out the dismissal letter. It is troubling that he did not try harder to talk to her as he told us that if he had understood a bit more about her case he might not have made the decision to dismiss. This reinforces our view that following Ms Matthews' decision to initiate a disciplinary against the claimant before her case was understood, he was presented with a decision to discipline the claimant as a fait accompli, and he went along with it.

106. His conclusion was that the claimant was guilty of misconduct and he dismissed her. The misconduct was the bullying of Kim Cooper and he did not decide on the alternative charge of relationship breakdown, although he said that he would lean towards a dismissal for that too.

107. To be precise, his conclusion was that Ms Cooper was the victim of bullying “via speculative tribunal complaints”. This is no surprise given that there was no other form of potential bullying. It was directly and only the tribunal claim with which the respondent took issue.

108. Mr Tuff prided himself on having gone through and analysed each complaint. Unfortunately, when it came to the crucial matter of Sally Matthews’ behaviour in August and September he did not analyse the allegations made in the claimant’s grievance beyond saying that he “did not believe” that it was contempt court and witness intimidation.

109. The only point which troubled him was that being escorted out of the building might not have been necessary although he did not think it was victimisation. He does not explain why given that this was a direct result of the claimant’s complaint to ACAS although it does not appear that he had been taking legal advice.

110. Mr Tuff struggled to understand why the claimant had brought the complaints. He could not understand her approach but did not conclude that she had acted maliciously/in bad faith. The fact that he dismissed her with notice would indicate that he did not consider that her conduct was in bad faith.

111. As he explained that his statement, Mr Tuff dismissed the claimant for “bullying via the means of the tribunal”. The dismissal was caused by the claim and it forestalled the tribunal process thereby denying the claimant the protection of the Equality Act. Mrs Colaco told us that she had initiated the claim without first raising a grievance because she expected that this would give her a little bit more protection, but she was wrong and it did not.

112. On 30 January, after the dismissal letter had been sent out, Ms Webster sent Mrs Colaco some of the documents which she had requested but only in time for the appeal. Mr Tuff told her in an email that this was not a disadvantage because she could raise any points on these documents in the appeal. It was a disadvantage because by then she had been dismissed and had only the appeal to rely on.

The appeal

113. Mrs Colaco appealed on 6 February. She did not attend an appeal hearing. Mr Hill conducted the appeal as a review rather than a re-hearing. No allegations of victimisation are made specifically against him. He did not make good the unfairness at the dismissal stage because he failed to address the victimisation allegations, not even the allegation that escorting the claimant from the building on 3 August was victimisation. It is rather extraordinary given the allegations of contempt of court and witness intimidation which are loud, clear and serious that he did not grapple with these in his letter rejecting the appeal of 3 April 2017.

114. He did grapple with the problem of the direct connection between the tribunal claim and the dismissal, confirming in his statement that there was a right to access the tribunal and that this was “a very unusual situation in having to choose between Vanda’s rights to raise concerns and the need to protect Ms Cooper from repeated unfounded concerns against her”. Unfortunately, as he did not acknowledge, the respondent made the wrong choice at that time. It would not have had to have made a choice if it had waited until the proceedings concluded when it could then have reflected upon the best course of action. At that point, it would have had the benefit of a finding that the claimant’s perception of her workplace problems was seriously flawed.

Conclusions

115. As is clear from our findings of fact, this was very much a “game of two halves”, the original complaints failed but the way the respondent responded to them was victimisation.

116. Having said that about the first half, whilst the respondent made much of the claimant not raising any concerns until she went to ACAS in support of its argument that she ambushed Kim Cooper and dreamed up the problems, there can be legitimate reasons for this reticence. The claimant gave two, first that she did not complain until she had identified a systemic problem and, second, that she felt she needed the protection of a tribunal claim because of the threats she suffered when she brought her last grievance.

117. Of course, in this second complaint the claimant was alleging victimisation which is very different in nature from direct race discrimination as alleged in the first ET1 of 2015. Given that she was still employed and working in the same team the circumstances which could potentially lead to victimisation were all there and, as recorded in paragraph 11, Ms Cooper continued to play an active part in her working life. Therefore, although with the benefit of hindsight the first half of the claimant’s claims failed, this did not mean that they did not deserve serious investigation.

118. In addition, although the individual allegations appear petty, if you stand back and look at them as examples of victimisation by managers who had power over the claimant there could have been a pattern of victimisation. It was surprising that any thought that anyone other than the claimant might be behaving unlawfully was brushed aside. For example, the closest the respondent came to investigating Kim Cooper’s conduct was an amicable interview with her manager on 15 August accompanied by reassurance that her well-being was of the highest importance.

119. It is also strange to us that the respondent persisted in identifying the claimant’s allegations against Kim Cooper as bullying; the word does not fit with the circumstances. These were that there was no face-to-face or person-to-person difficulty following the conclusion of the first tribunal claim and that, although they were wrong and misguided, the complaints in the ET1 were not particularly personal or, frankly, damning.

Victimisation: were the detriments separable from the protected act?

120. We recognise that the respondent would have been angry with the claimant for raising what it saw, and we have found, to be groundless claims which upset Kim Cooper and it may not seem right that they should be punished for their reaction. However, the response was premature and intended to restrict the claimant's access to the Tribunal. The words attributed to Voltaire spring to mind: "I wholly disapprove of what you say and will defend to the death your right to say it".

121. The respondent has argued that it disciplined and dismissed the claimant not because she brought her tribunal claim but because of the bullying nature of the allegations. However, the means it used to protect Ms Cooper were not reasonable because:

1. The respondent was attempting to stop a sizeable part of the ET claim from proceeding at all, thus fundamentally undermining the integrity of the judicial process;
2. The sole reason for the detriments was the protected acts and there were no other extant concerns about the claimant's conduct;
3. It was disproportionate, particularly given that there has been no face to face bullying and the workplace had been tranquil for nearly a year;
4. Ms Cooper was distressed but partly because she had been given premature and inaccurate information that the claims were all against her;
5. The tone of the allegations was upsetting but not vindictive;
6. Victimisation following earlier litigation is always a possibility and yet there had been no investigation;
7. The first claim had been rejected but the first Tribunal had not found that the claim was vexatious and costs were not awarded.

122. For these reasons, we conclude that in this case the reason why the claimant was subjected to the detriments identified in allegations 5, 18, 19, 20, 21, 23 and 25 was her protected acts.

Unfair dismissal

123. We also conclude that the claimant was unfairly dismissed because:

1. The respondent had not done sufficient investigation before convening the disciplinary hearing. Once the hearing is convened an individual is much closer to being dismissed which is why it is necessary to investigate before making that decision rather than after. This was not a reasonable investigation.

2. The claimant was dismissed before she had the chance to see documents and/or interview notes as requested.
3. The reason for the dismissal was victimisation.

124. The respondent argues in closing submissions that the reason for dismissal was misconduct or in the alternative for some other substantial reason. However, the reason given by Mr Tuff was misconduct and he did not reach a final decision on relationship breakdown.

125. The respondent is a very large and there is no doubt that its size and administrative resources enabled it to conduct a thorough and fair disciplinary process.

Harassment

126. This is alleged in allegations 23, 24 and 25. We have decided that the reason for the disciplinary hearing and dismissal was the protected acts but found no trace in any of these allegations of their being connected to the claimant's Portuguese nationality. Allegation 24 was neither harassment nor victimisation. Therefore these claims fail.

The application to amend

127. Although the disciplinary invitation letter refers to a concern that the allegations against Kim Cooper might have been made in bad faith the respondent did not plead this in the ET3. Indeed, it was only when the question was raised by the tribunal that the respondent realised that bad faith had not been pleaded. This was a surprising oversight and in terms of the need to create a level playing field between litigant in person and respondent we were not inclined to allow a late amendment because it would put the claimant at a substantial disadvantage in terms of how she presented her case.

128. However, the issue does not arise because there is no evidence of bad faith. The claimant was clearly wrong about many of her claims and we have not supported a single one of her allegations against Kim Cooper, but we do not doubt the sincerity of her allegations. We agree with both John Matthews and Richard Tuff that the claimant was "on a different planet" and we do not understand how her mind works, but we do not see bad faith.

129. Since the bad faith argument fails the allegations against Kim Cooper were protected acts so cannot be defended on the basis that they were not. Also, the fact that the 12 September threat was only made about part of the claim makes no difference to the conclusions.

Time

130. The respondent argues that allegations 1-8 and 16 are out of time. Had the claimant been successful in establishing that these claims were victimisation

they could have been part of a continuing act or it might have been just and equitable to extend time, but since she was not, we dismiss any out of time claims.

Final conclusions

131. We do not support the contention that this claim was a cynical attempt to harass the employer in general and Kim Cooper in particular, nor in context was it a sustained campaign. However, there is a problem which is that the claimant's world view was plain wrong and as such destructive to her working relationship with her managers (there was no evidence of difficult relationships with colleagues). Across two claims and two formal grievances she has shown herself to be unable to understand when she was overreacting to innocent incidents and to sort them out in a proportionate and collegiate way. The claimant did not learn any lessons from the first claim's failure, from John Matthews's wise comments and from Richard Tuff and Michael Hill's similar comments. Had she remained in employment it is very likely that she would have raised further formal complaints and that, following the conclusion of the current tribunal case, the employment relationship would have been very difficult.

Employment Judge Wade
26 October 2017

Claim

I have been suffering victimisation and retaliation for having brought proceedings to the Employment Tribunal on race discrimination, bullying and harassment on grounds of nationality against Mercer Ltd. (19/01/2015 to 06/07/2015)

I have suffered further victimisation and retaliation for having contacted ACAS directly on the 28/05/2016 regarding this matter. The respondent raised a disciplinary action against me and acted without any consideration or care for my wellbeing and the mental illness I have developed due to its actions. I was unfairly dismissed on the 30 January 2017. I wish to clear my name and professional reputation. I am bringing a victimisation, harassment (points 23 to 25) and unfair dismissal claim and I request the Employment Tribunal to issue a recommendation so that the Respondent takes steps to insure that these practices are stopped and the statutory rights of its Employees are lawfully respected, I am requesting for an apology from the Respondent for the treatment inflicted upon me and a compensation (schedule of loss to be presented).

***Jurisdiction**

Victimisation – there is no time limit within which the victimisation must happen after a complaint or any another protected act is made.

Points of claim

No	Date	Incident	Person	Jurisdiction*
1	22 Apr 2015	Detrimental treatment - excluded from training session – Icon of which I had knowledge only around the second week of October 2015;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
2	07 Jul 2015	Intimidation/threat of disciplinary procedures - Audrey Weightman accused me of having taken a week off unilaterally implying that I was not following company policies, and that it would bring a big impact on the team. She went further saying they would be bringing in a formal process against me had it not happened in the week of the hearing;	Audrey Weightman (business manager)	Victimisation
3	13 Jul 2015	Intimidation/threat to job security - I had been told by Sally Matthews that either Helen Thomas or Terri Rajagopalan would be my supervisor and that Nick Kripps couldn't because he was too senior; this suddenly changes and I am told that Nick Kripps has to be my supervisor otherwise they would review my position on the team which was a threat to my job security;	Sally Matthews (senior HR business partner)	Victimisation

4	From 04 June to 30 Jul 2015	<p>Detrimental treatment/unfair treatment - Internal Grievance on victimisation - during this process I noted delays, confusing and misleading information, my request to provide extra information not met, investigation not properly conducted and not enough information about it received with the decision;</p> <p>Intimidation/threat of disciplinary procedures - Letter with the result of the 2nd internal grievance. Grievance not upheld and mentioning several points against me, saying that I am the one not acting in a reasonable manner towards my colleagues, that I am not responding to authority in the appropriate way and that this situation is going to be referred to my file and HR will follow it up with me;</p>	John Matthews (Partner, chairman of the grievance hearing), Maureen Albert (senior HR business partner), Sally Matthews (senior HR business partner)	Victimisation
5	03 Sep 2015	Intimidation/threat of disciplinary procedures and job security - Sally Matthews took me to a room to talk about that I had not appealed to the result of the 2nd grievance and that my absence record was very high and so I would be contacted by someone for a meeting to review this with the presence of my supervisor;	Sally Matthews (senior HR business partner)	Victimisation
6	02 Dec 2015	Detrimental treatment - PfS end-year meeting - My supervisor tries to give me a low rating of 2 saying that all employees come from a rating of 2 every year when it is not so, reduces the importance of my efforts to show and document all my work for the PfS process, mentions that he had been seeing me arriving after 9 am to my desk and queries my relationship with the other secretaries; later he did not signed my PfS review;	Nick Kripps (supervisor from July 2015 to April 2016)	Victimisation
7	12 Feb 2016	Detrimental treatment - Excluded from leaving presentation for secretary;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
8	25 Feb 2016	Detrimental treatment - I am told by my supervisor that the goal setting deadline had been pushed to a different date when in fact it wasn't, the information given to all employees was one date and it had not changed; I therefore haven't submitted my goals in time on the system which it's harmful to my career progression;	Nick Kripps (supervisor from July 2015 to April 2016)	Victimisation
9	23 Mar 2016	Detrimental treatment - Excluded from secretarial team lunch;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation

10	06 Apr 2016	Detrimental treatment/Blocked from promotion - when I asked why I was not informed of the promotion process before, I was told that I could not participate because there were no forms for my position, but there are and other secretaries had access to them and followed the process and were promoted; on the ET case no 2200082/2015 the company defended that I had not been discriminated against on promotions, however this information is evidence of the contrary;	Tony Pugh (RET consulting leader), Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
11	29 Apr 2016	Detrimental treatment/exclusion - I was not included on the monthly meetings for 2016. I was only added in April therefore I missed meetings;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
12	04 May 2016	Detrimental treatment/set me up to fail - The secretaries' management tried to assign me a huge overload of work which would prevent me to meet my year goals therefore setting me up to fail with my team and client;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator), Linda Holcombe (deputy secretary to Kim Cooper, supervisor for 5 secretaries and local HR co-ordinator), Leanne Kendall (secretary, local HR co-ordinator and supervisor of 2 secretaries)	Victimisation
13	05 May 2016	Detrimental treatment - when I asked for my case for promotion to be considered at mid-year 2016 my current supervisor told me she would find out how she would put that forward for me and after having discussed with Kim Cooper (secretaries' team leader) she was told the Company has not done that for many years and they would not do it now;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
14	20 May 2016	Detrimental treatment/Excluded from social event - leaving lunch for secretary;	Leanne Kendall (secretary, local HR co-ordinator and supervisor of 2 secretaries) / Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
15	23 Jun 2016	Detrimental treatment / exclusion - I have not been receiving important work related information that is shared with the other secretaries;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
16	July 2015 to Jun 2016	Detrimental treatment - whilst there is a cover/buddy assigned for the other secretaries I don't have one; since I have raised the 1st internal grievance;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation

17	July 2015 to Jun 2016	Detrimental treatment - I was demoted on the secretarial structure that is circulated with the secretaries from a consultant assistant to an admin assistant, which represents a lower lever for a secretary; since I raised the 1st internal grievance;	Kim Cooper (secretaries' team leader, supervisor for 4 secretaries and local HR co-ordinator)	Victimisation
18	03 Aug 2016	Victimisation / retaliation / intimidation - I am called into a meeting on my first day back from holidays with two HR representatives and am not told the matter to be discussed prior to the meeting. At this meeting I inform that I have submitted a claim to the ET on the 26 July. I am confronted with questions about my claim, to which I respond in good faith. I am given a letter to read at home which is a disciplinary process against me of possible bullying against Kim Cooper, lack of engagement with the company and raises supposed issues with my current supervisor, with a date and time set-up for a next meeting. I am told to go home and I am escorted to my desk to get my stuff and escorted to the exit of the building, being therefore taken away from my work with my team for our client.	Sally Matthews (senior HR business partner) and Siobhan Martin (senior HR business partner)	Victimisation
19	08 Aug 2016	<p>Victimisation / retaliation /threat / intimidation - I attend a meeting to discuss the letter regarding a disciplinary process against me, I inform that all the points in the letter are to be discussed at the ET that my claim was accepted on the 02 August, I am told that the Company has not received the ET1 form yet and suffer insistence to disclose information about my claim, bullying because after the latest set of occurrences I have decided to go directly to the ET and I am told to go home until the Company decides what to do, being therefore taken away from my work with my team for our client.</p> <p>Later on that day I receive an email from Sally Matthews with an intimidating and threatening tone demanding that I send my ET1 form to the Company until the 10 August and implying that I was to remain at home with full payment for now, being therefore taken away from my work with my team for our client for an undetermined period of time. The email also twists the answers I gave regarding when questioned about a possible move of department at the meeting of 08 August, and raises 4 more points against me from this meeting to add to the disciplinary process. I have been in complete shock and suffering since the 03 August. I had a stress acute reaction to this situation that left me feeling very badly, and barely sleeping and eating for more than a week. At the meeting on the 10 August I was shaking and I had to take strong medication for headaches. The GP gave me a sick note on the 10 August</p>	Sally Matthews (senior HR business partner) and Donna Webster (senior HR business partner)	Victimisation

20	14 Sep 2016	<p>Witness intimidation – I received a letter from Sally Matthews on the 14 September dated 12 September. This letter has clear threats and intimidation as follows:</p> <ul style="list-style-type: none"> - Sally Matthews is trying to persuade me to drop my claim to the Employment Tribunal when she says on paragraph 4: "If you formally withdraw your allegations against Kim Cooper, by 23 September 2016..." - Sally Matthews is frightening me with a possible disciplinary hearing if I don't do what she asks when she says on paragraph 4: "So we would not, at this stage pursue either ground set out in the attached letter, to a disciplinary hearing." - Sally Matthews is threatening me with a possible dismissal with no payment of severance monies if I don't chose to drop my claim to the Employment Tribunal when she says on paragraph 5: "Alternatively you can choose to continue with these allegations in the Tribunal proceedings. In that case we will proceed to issue with a disciplinary invite letter in the form attached (...) However we would ask you to note that one potential outcome for the hearing could be your dismissal without notice, or payment of severance monies." 	Sally Matthews (senior HR business partner)	Victimisation
21	03 Oct 2016	<p>Witness intimidation / detrimental treatment – I receive a letter from Donna Webster on the 03 October via email at 17:54pm summoning me to attend a disciplinary/grievance hearing on the 7 October whilst I am signed off from work with a work related stress and depression illness. The letter informs that the grievances I have raised and the disciplinary are to be dealt with concurrently, which in the circumstances of my case will not allow for the process to be fair and just which is against the best practice recommendations from ACAS.</p>	Donna Webster (senior HR business partner)	Victimisation
22	10 Oct 2016	<p>Witness intimidation / detrimental treatment – I receive a letter from Donna Webster reiterating that:</p> <ol style="list-style-type: none"> 1 - the Respondent will go forward with the disciplinary/grievance hearings whilst I am signed off from work with a work related stress and depression illness after I specifically requested for it to be postponed for when I am fit for work as it would be greatly detrimental to my recovery and wellbeing; 2- the disciplinary/grievance hearings are to be dealt with in concurrency even though there are worrying circumstances that point that this decision of procedure won't allow for a fair and just result and therefore will be against ACAS best practice recommendations; 3 – the Respondent have rejected my chosen companion after I have explained my health situation and the role of the person that I chose would be just to support me emotionally and observe. 	Donna Webster (senior HR business partner)	Victimisation

23	3 Nov 2016	<p>Victimisation / harassment – I attend the disciplinary/grievance hearing. My request to postpone the meeting because I was of sick with stress and depression is rejected; my request to have the disciplinary and grievance processes in separate and to deal with my grievances first is rejected which creates a situation of inherent partiality and unfairness that is against ACAS recommendations; my request for companion is rejected; on the morning of the day of this meeting, I receive an email with a grievance from KC (manager) against me, and I am told they will be making me questions later at the hearing about, which again, did not give me enough time of preparation which is against process rules. No consideration or care for my mental illness is showed during this process, and these actions brought me much suffering and distress. This whole process is another victimisation and harassment act against me.</p>	Rich Tuff (senior business partner), Donna Webster (senior HR business partner)	Victimisation and/or harassment
24	19 Dec 2016	<p>Victimisation / harassment – During this disciplinary/grievance process, without prior warning or agreement with me and whilst I was off sick, someone that I don't know that works for the employer contacted me to have a quick chat with me leaving me a number to call back. I then had the added stress to have to query to know if this person was legitimate to contact me, which created unnecessary worrying and confusion for me. I then find out from Amy Moore that her contact is to have a without prejudice conversation discuss a possible agreement to settle all claims. During this process I suffer undue influence – when they did make a proposal to me they made it in such a way as to make it clear as if I didn't accept it they would proceed with disciplinary actions that could lead to my dismissal; and pressure – they give me a very limited amount of time of 2 days to decide. Besides being an illegitimate proposal to settle the claims it was another victimisation and harassment act against me putting pressure on me to accept a settle proposal whilst I was of sick with stress and depression.</p>	Amy Moore (HR Mercer)	Victimisation and/or harassment

25	30 Jan 2017	<p>Unfair dismissal, victimisation and/or harassment – I receive the decision letter for disciplinary/grievance process with the result to dismiss me with notice on the grounds of having bullied the manager for having raised concerns with ACAS and later a grievance against her, and breakdown of relationship with the management. This had an enormous negative impact on my recovery and wellbeing with my symptoms of stress and depression getting much worse.</p> <p>I firmly disagree with this result and I have appealed this decision. My grievance was legitimate and was based upon genuine concerns on my part regarding the way I was being treated by this manager and HR as I have outlined in my grievances. I should not have suffered a disciplinary action for this in the first place much less to have been dismissed because of it. The penalty that was imposed was grossly disproportionate. The employer did not explore any other option to deal with me. This whole process is another victimisation and harassment act against me, one that further harms my mental health and grievously harms my professional reputation. It causes me mental and emotional suffering which compromises and continuously undermines my ability to be functional and have a normal work life. This is happening at this present time, and I don't have any way of knowing when this condition will have an end and no guarantees whatsoever that even after I do manage to get better, in any time in the future this condition doesn't return with the same terrible consequences.</p>	Rich Tuff (senior business partner), Donna Webster (senior HR business partner)	Unfair dismissal, victimisation and/or harassment
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