



## EMPLOYMENT TRIBUNALS

**Claimant:** Dr B Parry-Jones

**Respondent:** Betsi Cadwaladr University Local Health Board

**Heard at:** Mold (and by video)      **On:** 8, 9, 10, 11 January 2024 Cardiff (and  
**by video)**      **On:** 21, 22, 23, 24 and 25 October  
2024

**Before:** Employment Judge R Brace

**Representation:**

Claimant: In person

Respondent: Mr J Walters (Counsel)

### RESERVED JUDGMENT

The Claimant was constructively dismissed and the claim of unfair dismissal is well founded.

### REASONS

#### Introduction

1. The Respondent is a large National Health Service local health board with a staffing of over 19,000, delivering health care services across North Wales.
2. The Claimant is a Clinical Psychologist and by 2017 was the substantive Head of Health Psychology Services for the Respondent until, on 19 July 2021, she took up the post of Interim Head of Psychology Services. The Claimant continued in that role until 2 January 2023 when her employment ended following her resignation on notice given on 1 October 2022.

3. The claim is on the question of whether the Claimant was constructively dismissed by the Respondent and, if the Claimant was dismissed, the lawfulness of the dismissal.

January Hearing and evidence

4. The final hearing in this case was listed for four days and commenced on 8 January 2024 as a hybrid in Mold, with two of the Claimant's witnesses participating remotely by video and the remainder of the participants in person ("January Hearing").
5. At that January hearing, I heard live evidence from the Claimant and on behalf of the Claimant,
  - a) Dr Ailsa Mackay, Consultant Clinical Psychologist, who had provided clinical psychologist support to the Claimant arranged by the Association of Clinical Psychologists; and
  - b) Professor Wang, Chair, Association of Clinical Psychologists UK.
6. After completion of the Claimant's evidence, live evidence commenced from Claire Thomas-Hannah, Head of HR, Mental Health and Learning Disabilities was questioned by the Claimant but did not conclude for the reasons already set out in the Case Summary to the case management order made 11 January 2024. I do not propose to repeat in these written reasons. The final hearing was adjourned to further dates to be fixed.

List of issues

7. The last day of the January Hearing had been converted to further case management and, following further case management preliminary hearings on 9 February 2024 and 26 April 2024 [971 and 980], a revised list of issues had been agreed.
8. A copy is attached to the Appendix to this reserved judgment.
9. The adjourned final hearing was eventually relisted as a wholly remote hearing over 5 days on 21-25 October 2024 (the "October hearing").

October hearing and evidence

10. At the October hearing, both the Claimant and Claire Thomas-Hanna were recalled to give evidence, following the clarification of the issues arising from §1.1.1.3 of the list of issues attached to the case management order of Judge Ryan on 1 August 2023. Both were questioned further by the Respondent's representative and the Claimant respectively.
11. The following witnesses then gave evidence on behalf of the Respondent. Their roles denoted were their roles at the relevant time:

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- a) John Martin, Associate Director Peoples Services East, from 1 December 2022;
  - b) Gareth Evans, Executive Director of Therapies and Health Sciences, from 1 March 2022;
  - c) Lesley Hall, Associate Director of HR; and
  - d) Angela Wood, Executive Director for Nursing and Midwifery, from 1 August 2022.
12. All witnesses relied on witness statements that at been prepared for the January hearing and all Respondent witnesses relied on additional and supplemental witness statements that they had been given permission to provide for the October hearing.
  13. At the October hearing, I also had before me an agreed Tribunal bundle of 997 pages (the 'Bundle') consisting of 785 pages of the original final Bundle provided for the January 2024 hearing, together with supplementary documents disclosed and added following the January 2024 hearing.
  14. Those supplementary documents included the unredacted grievance from Dawn Henderson (a redacted copy having been included in the bundle at the January hearing), a colleague of the Claimant's, together with additional grievances from other psychologists that had been alluded to in documents in the original bundle but had not been disclosed and which I had ordered specific disclosure of at subsequent case management as reflected in the various case management orders. They also included the documentation that had been the subject of specific disclosure orders at the case management preliminary hearing in April 2023
  15. All witnesses were asked questions by way of cross examination and questions from the Tribunal and based on this evidence, I made the following findings of fact.

**Findings of Fact**

Employment Terms and history

16. On 1 October 2001, the Claimant commenced employment with the Respondent's predecessor establishments and had continued in that employment in various roles such that by 1 June 2017, she was a band 8d Consultant Clinical Psychologist, appointed Head of Health Psychology Services and employed by the Respondent on terms and conditions set out in an employment contract which also confirmed that disciplinary and grievances procedures applied [78].
17. In July 2021, the Claimant applied for and was appointed to the role of Interim Head of Psychology Services, on a 6 month secondment reporting to the Executive Director of Therapies and Health Sciences, Adrian Thomas.
18. At the relevant times, and by July 2021, the Respondent's All Wales Respect and Resolution Policy, activated in May 2021 ("Respect and Resolution Policy") [179]

and the WP5 Disciplinary Policy of November 2015 (“Disciplinary Policy”) [191], were the applicable policies.

19. The aim of the Respect and Resolution Policy was to ensure that all employees had access to a policy to help deal with any requests for resolution relating to their employment fairly, constructively and without unreasonable delay and to prevent bullying, harassment and any form of unacceptable behaviour, with a focus on resolution for workplace disagreements, conflicts or complaints. It was effectively a grievance policy.
20. In terms of process, section 3 included an informal resolution to grievances (‘Informal Resolution’) which included a ‘Toolkit’ including differing approaches including
  - a) Having a ‘Cuppa Conversation’;
  - b) Taking part in an independently ‘Facilitated Conversation’; and
  - c) Accessing accredited mediation.
21. Those terms were not defined in the policy, but in a ‘Toolkit’ which was not in the bundle but referred to in the policy. A ‘Facilitated Conversation’ was a structured meeting facilitated by someone that was not directly related to the issue between the two parties providing an opportunity for them to speak uninterrupted and each ask questions of each other – similar to mediation.
22. There was also a formal process which constituted a formal grievance [183].
23. The Disciplinary Policy provided for an informal discussion process for immediate line managers to deal with minor conduct/standards of behaviour involving advising on expected standards and that failure to improve may lead to formal proceedings.
24. Paragraph 7.4 provided that where more serious or continued concerns arose on conduct/standards of behaviour, the appropriate manager must consider, having taken advice from Workplace and Organisational Development (“WOD”) i.e. human resources, whether the Disciplinary Policy should be invoked. Likewise, such discussions with WOD were repeated in relation to formal processes (paragraph 9.3.3).
25. Examples of misconduct included:
  - a) Failure to meet required standards of performance and behaviour as expected within the employee’s role and responsibilities; and
  - b) Minor insubordination and/or failure to carry out a reasonable instruction.
26. Both policies contained timeframes within which certain steps should take place but I found that these were indicative, not prescriptive timeframes, with terminology such as ‘*should*’, ‘*normally*’, ‘*usually*’, being used [184, 185, 190].

Previous grievances/concerns raised regarding Psychology

27. It is important to set out some background to the lead up to the Claimant's appointment as Interim Head of Psychological Services, background which was unclear at the January hearing due to the lack of any detailed reference to such matters in the Respondent's witness statements and lack of documentation within the Bundle. Indeed much of this was unclear to the Claimant herself not least until specific disclosure was ordered at the January hearing of:
- a) the various grievances that had taken place without the Claimant's knowledge or involvement in 2021, including a grievance from Dawn Henderson as well as a collective grievance from a variety of other psychologists led by Dawn Henderson's Deputy, Jan Ruddle; and
  - b) unredacted copies of Dawn Henderson's second grievance made in February 2022 [267 (redacted) 824 (unredacted)]
28. Such documentation was clearly relevant as the background to the Claimant's dispute with the Respondent to a significant extent emanates from more historical and long held disagreements within Psychology regarding the termination in 2020 of the post of interim Head of Psychology Services, a post then held by Dawn Henderson, on a secondment basis from her substantive role as Head of Adult Mental Health Psychology ("AMH").
29. In November 2018, following the retirement of the incumbent Head of Psychology Services, Dr Louise Cunliffe, an internal recruitment process took place to recruit an interim Head of Psychology Services. All Heads of Speciality in Psychology, including the Claimant, were invited to apply. The Claimant did not apply. The process had resulted in one of the Claimant's colleagues, Dawn Henderson being appointed as interim Head of Psychology Services on a secondment basis.
30. As a result and from November 2018, the Claimant reported to Dawn Henderson. This reporting line continued until Dawn Henderson's own interim appointment as Head of Psychology Services terminated in March 2020, when that secondment was not renewed.
31. During Dawn Henderson's tenure as Interim Head of Psychology Services, the Claimant attended 1:1 meetings with her as well as met her on an ad-hoc basis to discuss Health Psychological Services. Dawn Henderson conducted the Claimant's Performance Appraisal and Development Review ("PADR") and the Claimant attended Psychology Senior Management Team Meetings. The Claimant has no recall of any difficulties in communicating with Dawn Henderson at this time. There is no suggestion that the relationship between the two was anything other than professional during this period.
32. The termination of the post of Interim Head of Psychology Services in March 2020, and consequent lack of substantive Head of Psychology Services, left the Heads of Speciality in Psychology without line or professional management. It was a decision

that was met by concern by those within the Psychology Services, including the Claimant and Dawn Henderson.

33. As indicated, what then took place appears to have subsequently shaped the Claimant's own difficulties in subsequently managing Dawn Henderson, when she herself was subsequently appointed Interim Head of Psychology Services in the summer of 2021,
34. Whilst I consider it relevant to make findings of fact in relation to that history, in doing so I make it clear that I have no view and make no findings on the relative merits of the various concerns within Psychology.
35. I did find that such concerns provided not just background however, but context to the environment in which the Claimant worked, from the time of the termination of the interim post in March 2020 and particularly during her appointment as Interim Head of Psychology Services in 2021 and context in which the Claimant was seeking and obtaining support from the WOD personnel tasked with advising and supporting her in trying to manage Dawn Henderson.
36. This context was also relevant in establishing whether what the Respondent, as the Claimant's employer did, to support the Claimant. Whilst individuals have been specifically named by the Claimant (see Appendix,) and she has during case management and with reference to her witness statement prepared for the January hearing, been obligated to identify those individuals and specific and discrete points in time where she asserts that the Respondent prevented her from instigating a disciplinary investigation against Dawn Henderson and failed in its duty of care to her, I also consider it important to consider the Claimant's overall claim holistically.
37. That certain individuals, whether they were operational managers or HR support, may not individually have had knowledge of this background, that they did not shaped what support or lack of support the Claimant received regarding her management of Dawn Henderson and fed into my conclusions on whether there was damage to trust and confidence and whether the Respondent had any reasonable and proper cause for their action or inaction.
38. Whilst I found no evidence to suggest that the relationship between the Claimant and Dawn Henderson was anything other than professional in the period leading up to the termination of Dawn Henderson's interim appointment in March 2020, there was later evidence to suggest that after this date the personal relationship had deteriorated as:
  - a) The Claimant contacted Claire Thomas-Hanna seeking HR support to manage Dawn Henderson within just 10 days of her appointment as Interim Head of Psychology Services, a very brief period of time;
  - b) In the Claimant's email of 22 September 2021 to Claire Thomas-Hanna, the Claimant stated that she had felt disrespect from Dawn Henderson stemming back earlier than her gaining the interim post in July 2021 [91]; and

- c) Dawn Henderson, in her own later February 2022 Respect and Resolution complaint, referenced her view of the Claimant's approach towards her, which she described as '*devaluing and maligning*' that she stated had dated from a point in early December 2020/early 2021, well before the Claimant's appointment as the replacement Interim Head of Psychology Services [852].

*JR Collective Grievance*

39. On 22 May 2020, a letter was sent to the then Interim Chief Executive and Chair of the Respondent from a number of Clinical Psychologists from within the Respondent's Clinical Psychology and Psychological Services within the Mental Health Learning Disabilities Directorate ("MHLD"). Psychologists that included Dr Jean Ruddle, Dawn Henderson's Deputy [795]. This has been termed the "JR Grievance" by the parties.
40. The Claimant was not a party to that letter and it appears that the Claimant was not at any time aware of this grievance when she was operating as Interim Head of Psychology and I found that she was not aware of the content of it until specific disclosure was ordered in these proceedings after the January hearing.
41. In essence, that letter raised a general concern regarding the decision made in March 2020 not to renew the Interim Head of Psychology post, gave support to Dawn Henderson personally and referenced a Psychological Therapies Review that had been published in 2019, a review that is not within the Bundle and no findings of fact are made in relation to that review save that the review and its publishing had given rise to significant discontent from a cohort of Psychologists including Dawn Henderson.
42. The letter was dealt with by the most senior people in the organisation at that time as notes of a meeting from July 2020, provided in the subsequent disclosure, indicate that a meeting was held between the then Interim Chief Executive and Executive Medical Director of the Respondent and representatives from AMH to discuss it [797].
43. The notes also reflect that the signatories to that JR Grievance were of the view that Dawn Henderson should be reinstated into the post of Interim Head of Psychology and that the post should be moved out of MHLD due to their concerns and lack of faith in the current MHLD leadership, including Dr Alberto Salmoiraghi (then Medical Director MHLD) and Adrian Thomas (Executive Director of Therapies and Healthcare Sciences). Again, I make no finding as to the merits of those concerns.
44. The letter of 22 May 2020, and subsequent meeting between the Interim Chief Executive and individuals from AMH Psychology, appears not to have resolved matters as, on 1 December 2020, a formal Stage 2 Collective Grievance ("JR Collective Grievance") was submitted, now from a wider pool of 32 clinical

psychologists, again a cohort that included Jean Ruddle but neither the Claimant nor Dawn Henderson [817].

45. Again, this JR Collective Grievance sought that Dawn Henderson be reinstated as Interim Head of Psychology Services, complained about the publishing of the Psychological Therapies Review that had been commissioned by MHLD and of the leadership in the MHLD. They sought an outcome that would reinstate the Interim Head of Psychology Services and address their concerns regarding the MHLD, indicating that as psychologists wished to leave the MHLD division of the Respondent.
46. Again, the Claimant was not a party to or privy to the detail of that JR Collective Grievance during her later tenure as Interim Head of Psychology Services and did not have sight of such a grievance until specific disclosure was ordered in these proceedings.

#### *Heads of Specialty Collective Grievance*

47. By 20 November 2020, the Heads of Speciality in Psychology, including the Claimant and Dawn Henderson, had also put in a formal stage 2 collective grievance ("HoS Collective Grievance"). That HoS Collective Grievance also complained of the lack of professional and line management for the heads in Psychology following the termination of the Interim Head of Psychology post [805].

#### *Dawn Henderson Grievance*

48. On 6 January 2021, Dawn Henderson also and individually submitted her own personal Stage 2 grievance ("DH Grievance"). Although the specific grievance was not in evidence in the January hearing bundle, some reference to its content was made in various documents within that hearing bundle [725, 745]. The full DH Grievance was produced following a specific disclosure order at case management in April 2024 [824].
49. In that DH Grievance, Dawn Henderson also complained about the decision to made by the Interim Director of MHLD which removed the interim arrangements for the Head of Psychology Services and sought a reinstatement of that interim arrangements and appointment of a substantive head. She expressly sought the same outcome as that sought by the HoS Collective Grievance, namely that the interim arrangements be put back in place.
50. She gave her views regarding the role of the MHLD and requested that there was a *'commitment to follow the appropriate procedures with the appropriate people involved to secure the substantive post..'* and that *'Clearly, this should not involve those implicated in the actions to end the post in 2020'*.
51. By that stage and in October 2020, Dawn Henderson had also had a meeting with Gill Harris, Acting Chief Executive and Teresa Owen Director of Public Health and



although I make no positive findings as to what was discussed, it appears likely to cover the same matters as that set out in her grievance.

52. Again, the Claimant was not privy to and was unaware of the individual DH Grievance.
53. Dawn Henderson was however aware of all grievances, including the JR Collective Grievance and of course the HoS Collective Grievance, being a party to that and as reflected and referenced in her own later correspondence to the Respondent.

*Resolutions to various grievances*

54. It appears to be common ground that the relationship between MHLD and Psychology was in difficulties and had been for some time and during Dawn Henderson's own tenure as interim Head of Psychology Services<sup>1</sup>. A meeting was arranged with Dr Theresa Owen, Executive Director of Public Health, to seek to discuss and resolve this but, as a consequence of her inviting members of the senior management team of the MHLD, this was declined.
55. On 11 January 2021, a hearing was held to consider the HoS Collective Grievance, chaired by the Gill Harris as the new Acting Chief Executive Officer. Gill Harris was supported by Leslie Hall, Associate Director of HR, who in turn had knowledge of the detail of the grievance.
56. Indeed Leslie Hall supported Gill Harris in consideration all three grievances, including the JR Collective Grievance and the DH Grievance and was familiar with the content and outcome of each. She also became involved in discussing the Claimant's concerns regarding Dawn Henderson in the latter part of 2021, when Claire Thomas-Hanna was providing the Claimant support and later was involved in the subsequent Respect and Resolution submitted by Dawn Henderson in February 2022 regarding the Claimant.
57. On 12 January 2021, Gill Harris, again supported by Leslie Hall, met with representatives of the JR Collective Grievance to hear their collective grievance as reflected in the letter of 14 January 2021 from the signatories to the JR Collective Grievance [836]. Whilst a copy of the outcome to their collective grievance is not within the Bundle, the letter confirms that their grievance was also upheld.
58. In their response letter, they ask further questions including concerns regarding budgetary responsibilities and ask that the post should not sit under the Executive Director of Therapies.
59. On 13 January 2021, Gill Harris sent a letter confirming her outcome to the HoS Collective Grievance in which an apology was provided for the delay, that expressions of interest would be sought for an Interim Head of Psychology for 6

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<sup>1</sup> CWS§25

months reporting to the Executive Director of Therapies and that there was a commitment to recruiting the substantive Head of Psychology Services post as

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soon as possible [834]. On 29 January 2021, she wrote again [838], this time in response to their own letter of 20 January 2021 (again not in the Bundle,) in which it seems that they too had expressed concerns regarding MHL, the previous line manager of the Interim Head of Psychology having been the Director of MHL as that not all Clinical Psychology posts or line management of that posts sat within LHMD. She confirmed that only Heads of Speciality in Psychology could apply for the post and would be at the same level and management/budgetary responsibilities.

60. It appears that the decision for Adrian Thomas, as the Executive Director of Therapies to remain the line manager for the Interim Head of Psychology Services remained unpalatable for some, with the JR Collective Grievance signatories continuing to write in March 2021 that they remained unhappy and had no faith in Adrian Thomas as he had in their view been '*implicated in the decision to step the head post down..*', a reference to the termination of the Interim Head of Psychology post in March 2020.
61. The Heads of Service were written to by Leslie Hall seeking their views on who the Interim Head of Psychology Services should report to and, on 10 May 2021, it was confirmed that as there had been no consensus, the line management was to remain with the Executive Director of Therapies and Health Sciences, Adrian Thomas [842].
62. On the same day, 10 May 2021, Dawn Henderson received from Gill Harris (Acting CEO,) the written outcome to her DH Grievance acknowledging that the majority of her individual concerns had been addressed in the response to the HoS Collective Grievance. [843]. In relation to her specific concerns that the Executive Director of Therapies had been assigned line manager, Gill Harris again confirmed that he would remain as line manager and that the reporting arrangements for any permanent position would form part of a consultation process. She acknowledged that would be disappointing to Dawn Henderson.
63. Dawn Henderson clearly remained unhappy with that outcome as she wrote a detailed letter to Gill Harris on 12 May 2021 (by that stage Deputy Chief Executive) [844], indicating that a key aspect of her grievance remained unresolved, namely that individuals involved in ending the interim arrangements/not recruiting a substantive head in March 2020, should not be involved in the recruitment process to the new appointment to the interim role, referring specifically Adrian Thomas, as Executive Director of Therapies and Health Sciences as it was her view that he had been consulted on the decision to terminate her interim appointment.
64. Whilst the Claimant now suggests that in that letter, Dawn Henderson highlighted that she was of the view that the Claimant, as Head of Health Psychology was of '*less concern*', I did not consider that was a reasonable interpretation of what had been written. Rather, I found that Dawn Henderson was giving her view that the

Claimant would have less concern than she with agreeing to the Executive Director of Therapies and Health Sciences having line management and recruitment responsibilities to the interim Head of Psychology post.

65. Dawn Henderson indicated that her Stage 2 grievance '*remains unresolved satisfactorily.*'
66. The letter was copied to Leslie Hall, who had knowledge of the content of that letter also, and the incumbent Chief Executive, Jo Whitehead. Lesley Hall says in evidence that she was not aware of the strength of feeling that still persisted after this date. Whilst that might be the case, she was aware as a result of that letter that Dawn Henderson remained aggrieved.

*Recruitment for Interim Head of Psychology Services*

67. Against that backdrop and as a result of the recommendations of Gill Harris, expressions of interest in the Interim Head of Psychology post were requested in March 2021. The Claimant applied for the post.
68. In June 2021, the Claimant was interviewed for that role by Adrian Thomas, Executive Director of Therapies and Mr Iain Wilkie, Interim Director of MHL, Claire Thomas-Hanna, then Head of HR (MHL) and two external assessors. The Claimant was successful in that exercise, a process that Ms Thomas-Hanna considered a fair process.
69. As a result, the Claimant was appointed to the role of Interim Head of Psychology Services on 19 July 2021.
70. Shortly after being informed that she had been successful, the Claimant was informed by Mr Wilkie that Dawn Henderson had been one of the unsuccessful candidates. The Claimant was cognisant that Dawn Henderson might need a period of time to adjust to the effective reversal of roles that in been in place when Dawn Henderson had been in the role.
71. Despite the new appointment of the Claimant to the reinstated post of Interim Head of Psychology Services, it is clear from the disclosure of documents since the January hearing and in particular the subsequent second grievances submitted on 16 and 22 February 2022<sup>2</sup>, that not just Dawn Henderson but a considerable number of Clinical Psychologists (forming the JR Collective Grievance cohort,) remained dissatisfied with the outcome to their respective grievances, with meetings continuing between them and senior management at the Respondent, without the knowledge of the Claimant, during the latter part of 2021 and after she had been appointed as Head of Psychology Services as referred to in those later grievances.

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<sup>2</sup> [848][852 (unredacted)]

*Advice from Claire Thomas-Hanna 24 September 2021*

72. Without the Claimant knowing that background, save for the HoS Collective Grievance, only some 10 days after her appointment and by 30 July 2021 the Claimant felt sufficiently concerned regarding the lack of response from Dawn Henderson to her requests for a 1:1 meeting, a request that she had made to all Psychology Heads, that she emailed Claire Thomas Hanna, HR asking if they could speak about what she termed a '*sensitive workforce issue*' [89].
73. A meeting took place between the two on 3 August 2021.
74. No notes of the meeting have been provided by the Respondent. Indeed no notes have been provided by the Respondent in respect of any of the meetings pertinent to the Claimant's claim. The Claimant on the other hand has disclosed handwritten notes that she says she prepared contemporaneously and accurately for most of her meetings with the Respondent from this time onward, notes which she invites

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me to find set out what was discussed at those meetings. I make no general finding of the accuracy of those notes not least due to the variable nature of them; in some instances being brief, in others containing information the Claimant added at some point after each meeting. Rather I make specific findings from the evidence before me in respect of each meeting where necessary, which included not just the Claimant's notes, but also the other contemporaneous documents that are contained in the Bundle and testimony evidence from the witnesses, both in their written statement and given in live evidence.

75. It is not in dispute that Claire Thomas-Hanna advised the Claimant at that meeting to take an informal approach with Dawn Henderson, encouraging the Claimant to document the support she gave to her. She provided information on the informal approaches set out in the Respondent's Respect and Resolution Policy, as well as confirming that insubordination was appropriate to be dealt with by the Disciplinary Procedure [90].
76. This was reasonable advice in the context of difficulties that the Claimant was experiencing and the early stage in the new management relationship between the Claimant and Dawn Henderson.
77. On 16 August 2021, the Claimant chaired her first Psychology Senior Leadership Team ("SLT") meeting as Interim Head of Psychology, a regular monthly meeting of all the heads of speciality in North Wales, where she shared her Terms of Reference for the Psychology Senior Management Teams meetings to provide clarity for the meeting and aims of the membership. As Interim Head, the Claimant also invited psychologists that Dawn Henderson had not chosen to invite when she was Interim Head. Dawn Henderson did not attend and indeed during the Claimant's tenure as Interim Head of Psychology, consistently did not attend such SLT meetings.
78. By 22 September 2022, some two months after her appointment, the Claimant was still reporting to Claire Thomas-Hanna that she was having difficulties with Dawn

Henderson, and that now Dawn Henderson would only meet with her accompanied by her Deputy or other colleague, and that 1:1 and group meetings had been declined [91]. She requested 'independent facilitation'.

79. On 24 September 2021, the Claimant again met Claire Thomas-Hanna. No notes have been provided by the Respondent, the Claimant's notes were in the Bundle [756] which reflect the agreement between the parties that the advice given to the Claimant was again to take an informal approach. The Claimant was provided with a copy of the Respect and Resolution policy and Claire Thomas-Hanna recommended an informal resolution of any conflict and ensure that she met with Dawn Henderson.
80. The Claimant claims that the advice given, to be firmer in communication with Dawn Henderson and to urge her to attend meeting with more force, led to an escalation in Dawn Henderson's behaviour.
81. It is not in dispute that Claire Thomas-Hanna suggested a 1:1 with Dr Henderson before escalating to a 'Facilitated Conversation' under the Respondent's Respect and Resolution Policy. There also appears to be little dispute that the general tone of the advice from Claire Thomas-Hanna was to be clearer and it was reasonable for the Claimant to interpret that advice that she was to be firmer.
82. That advice in itself was not unreasonable in the context of the significant problems that the Claimant as Interim Head was facing with meeting Dawn Henderson. Without context or clarity as to why Dawn Henderson was refusing to meet, it was a reasonable and proper course of action for the Claimant to be advised to take.
83. Following that meeting and on 28 September 2021, the Claimant emailed Dr Henderson as she was still awaiting a response from her on dates to meet stating '*We need to meet to discuss our professional working relationship*' [96].
84. She also addressed a recent annual leave request however that had been submitted by Dawn Henderson for 11 October, a date when the next Psychology SLT was being held. At that stage, Dawn Henderson had not attended one of the three meetings held since the Claimant's appointment. She explained the importance of Dawn Henderson attending and explained that as a result she had not yet approved the leave. She ended the email '*If you still wish to request leave on that day, please supply a justification.*'
85. This email has been described as a '*tactless*' email by the Respondent during these proceedings and that subsequently the Claimant became belligerent. The Claimant says that her 'firm' email led to an escalation of Dr Henderson's behaviour in that rather than privately responding to that email, Dr Henderson chose to copy in others [95].
86. Whilst the email was firm, save for the manner in which she questioned Dawn Henderson to justify her annual leave, I did not find the content of the email to be tactless or unreasonable. However, neither did I find that the content of the email or

indeed Dawn Henderson's reaction was as a result of any advice given by Claire Thomas-Hanna to be clear or even firm, but resulting from the Claimant's own decision to demand justification of the leave in the blunt terms that she herself chose to adopt.

*Action by Claire Thomas-Hanna December 2021*

87. The Claimant continued to email Dawn Henderson rather than telephone or approach her personally with emails in the Bundle reflecting such exchanges with the Claimant questioning Dawn Henderson, her acceptance of the Claimant in the new role and reminding her of the request for a 1:1 [107].
88. As a result a further meeting took place between the Claimant and Claire ThomasHanna on 15 October 2015, a meeting that Ian Wilkes also attended. The Claimant says that in that meeting, she was encouraged to raise issues with Adrian Thomas, her line manager.
89. Following that meeting and on 18 October 2021, she sent to Claire Thomas-Hanna example emails which she considered demonstrated Dawn Henderson's resistance to her management, refusal to attend meetings and general undermining behaviour [115-160]. She also indicated her view that she believed that Dawn Henderson had broken some of the Health and Care Professions Council ("HCPC") Standards of Conduct and sought Claire Thomas-Hanna's views on her submitting a Fitness to Practice complaint [115].
90. Claire Thomas-Hanna took the view that the emails didn't meet the threshold for disciplinary action. Whilst she did consider that Dawn Henderson's approach was not acceptable, she also took the view that the Claimant's approach and response to her was also unhelpful; that she had expected the Claimant to have personally approached the Claimant and sought to build trust particularly where both were senior employees, whereas she had not. Whilst that is a reasonable view to hold, there was no evidence that she spoke to the Claimant at any time and told her that.
91. The Claimant also continued to have other separate meetings with Ian Wilkie to discuss Psychology Services and at one such meeting, on 19 October 2021, reference was made to a collective grievance that had been raised by Jean Ruddle and Iain Wilkie confirmed that he would speak to Claire Thomas-Hanna, which I found was likely to be a reference to the JR Collective Grievance letter from 22 May 2020. By this stage therefore, the Claimant was aware of such a grievance in the background but again, not the content.
92. On 5 November 2021, the three met again. The Claimant's notes indicate that both Claire Thomas-Hanna and Ian Wilkes agreed that the matter was serious with Claire Thomas-Hanna indicating her view that what had not happened was a conversation between the Claimant and Dawn Henderson [166].
93. Again, why the Claimant made no effort to personally visit or call Dawn Henderson was also not clear to me but the notes further reflect that it was agreed that an

informal meeting was to be arranged with Dawn Henderson, with her union representative Stuart Whittaker present if she wished, the Claimant, Ian Wilkes and Claire Thomas-Hanna and that Claire Thomas-Hanna would draft a letter for Ian Wilkes to send to Dawn Henderson and would liaise for everyone to meet.

94. Rather than draft a letter to invite Dawn Henderson to that meeting, Claire ThomasHanna chose instead to make arrangements to meet with Dawn Henderson to discuss the concerns and propose a way forward and confirmed this approach in an email she sent to Iain Wilkie on 16 November 2021 [173].
95. The Claimant claims that she had not expressly agreed to which a meeting and contents that in doing do this was a breach of the duty of care and was in contrast to the agreed step which was for her to meet.
96. The Claimant was also aware however that Claire Thomas-Hanna was going to do take this step before she did so as, in her own email to Claire Thomas-Hanna of 21 November 2021 [172] she stated *'Appreciate that you will be meeting with DH on Stuart's advice without Iain and I. However, I really do need to speak with DH at some point. When a meeting does finally happen between us, I would like Iain and yourself to be present. It has gone on for too long and I am not happy to meet DH at this point on my own given the way she has behaved and treated me.'*
97. She did not seek to stop Claire Thomas-Hanna making this approach or complain or raise any particular concern about such a step at the time but did end the email confirming that she was seeking her own union guidance and that she was concerned what was best for Dawn Henderson was the focus, rather than what she and the organisation needed.
98. The Claimant further complains that Claire Thomas-Hanna then arranged for mediation to take place through ACAS, rather than an informal or facilitation conversation, without consultation with her. Sha also complains that Claire Thomas-Hanna disclosed to Dawn Henderson and/or her union representative that she and Ian Wilkie were considering disciplinary action against her (which the Claimant contends triggered Dawn Henderson to subsequently submit a Respect and Resolution grievance against the Claimant the following February).
99. Claire Thomas-Hanna subsequently spoke to Stuart Whittaker and what she informed him in that initial discussion with him is to an extent contained in her supplemental statement only, in which she confirms that had shared with him that the Claimant had raised concerns regarding Dawn Henderson's behaviour and that she herself was concerned about escalation if they didn't work on their relationship issues. This conversation, or what he in turn told Dawn Henderson when discussing that conversation, provoked Dawn Henderson to write to Claire Thomas-Hanna.
100. When that initial conversation took place between Claire Thomas-Hanna and Stuart Whittaker is unclear, but it had taken place by 17 November 2021 as reflected in the emails to Claire Thomas-Hanna from Dawn Henderson of 17 and 19 November

2021 [700, 699] which refer to the conversation and that they were arranging to meet.

101. Dawn Henderson opened her email of 19 November 2021, by indicating that what Stuart Whittaker had told her about his own discussion with Claire Thomas-Hanna had left her '*deeply upset and humiliated*' and '*unsafe*' and was '*distressing, undeserved, intimidating*'. She took the opportunity to share with Claire ThomasHanna a brief outline of her own personal grievance from January 2021 which she stated remained unresolved, the JR Collective Grievance which she stated was also unresolved, as well as the HoS Collective Grievance, which she termed ended in a '*questionable outcome*'. She informed her of her unhappiness regarding Adrian Thomas' involvement in both ending her interim post and the appointment of the Claimant. She indicated that she had concerns about the Claimant.
102. Dawn Henderson followed that email up with a very lengthy, more formal 10-page letter to Claire Thomas-Hanna on 22 November 2021 [701]. In that letter, she stated that she had been informed that both the Claimant and Iain Wilkie were considering disciplinary proceedings against her. She took the opportunity to set out her perspective of concerns within Psychology that stated had been ongoing for a number of years. She ended the letter again raising concerns regarding the Claimant, concerns that appear to be rooted in historical differences between the Heads of Speciality regarding the involvement of Adrian Thomas. She requested a change of line management from the Claimant [710].
103. I also found that it more likely than not as a result of the content of the Dawn Henderson letter of 22 November 2021 that Claire Thomas-Hanna had informed Stuart Whittaker that disciplinary proceedings was a possibility being considered and that she had not discussed this course with the Claimant despite the Claimant being the operational manager for Dawn Henderson.
104. Stuart Whittaker in turn had informed Clare Thomas -Hanna that the context of Dawn Henderson's behaviour was linked to the other grievances. Whilst Claire Thomas-Hanna knew of the other grievances, she did not know the detail. Why this was the case, when her own line manager Leslie Hall was aware is unclear and it appears that this conversation and subsequent emails and letters from Dawn Henderson to her were the first indication that Dawn Henderson held had such concerns regarding the Claimant.
105. A few days later, Claire Thomas-Hanna met with Dawn Henderson and Stuart Whittaker. At that meeting Dawn Henderson explained that she felt that there were factions in Psychology and asked if she was being disciplined. Claire ThomasHanna clarified that the purpose of meeting with the Claimant was to avoid escalation to disciplinary to resolve the situation and enable them to work together, but that this was possible if the meeting with the Claimant did not take place. By the end of that meeting, Dawn Henderson agreed in principle to a Facilitated Conversation with the Claimant.



106. It appeared that neither the detail nor the content of these discussions were within the Claimant's knowledge during her employment. She was not privy to them and there is no suggestion that Claire Thomas-Hanna spoke to her in any detail on either what she had said nor the detail of the response from Dawn Henderson.
107. On the basis of the following I also found that Claire Thomas-Hanna had taken steps to arrange a possible mediation without consulting the Claimant.
108. On 30 November 2021, the Claimant signed off work on sick leave, sick leave that continued until 9 February 2022 [169]. Around the same time, the Claimant's line manager the Executive Director of Therapies, Adrian Thomas, also went off on sick. Iain Wilkie, Interim Director of MHL, was asked to act as the Claimant's temporary line manager.
109. At some point, Claire Thomas-Hanna determined that ACAS should be involved in the Facilitated Conversation as she did not consider that Iain Wilkie would be seen as impartial due to Dawn Henderson's outstanding grievances. This was not a step discussed with the Claimant. She contacted David Jones ACAS to facilitate that meeting. In turn, he confirmed that he would contact Dawn Henderson and Claire Thomas-Hanna separately to get an understanding of the situation.
110. Within an email exchange of 2 December 2021, between Claire Thomas-Hanna and Dawn Henderson, Claire Thomas-Hanna confirms that she had already spoken to the Claimant who had agreed to engage with ACAS with a view to resolving the concerns [712].
111. That does not appear to have been the case however as the following day, Claire Thomas-Hanna emailed the Claimant. The email to the Claimant did not read as though the Claimant and Claire Thomas-Hanna had already discussed a change of approach, of contacting ACAS. Rather, the email reads as though this was the first time that Claire Thomas-Hanna was informing the Claimant of this change, despite what she had indicated in her email to Dawn Henderson the day before.
112. In that email Claire Thomas-Hanna confirms that she had met Dawn Henderson the previous week and that from that conversation she believed that the Claimant's concerns could not be separated from an ongoing grievance that Dawn Henderson had raised or the collective grievances [171]. She did not give the Claimant any detail but indicated that she believed that the issues were more complicated than she first understood and that she had changed her view on the best approach.
113. She stated that they use ACAS to '*move this forward*' and that she had already had an initial discussion with David Jones, Senior Adviser at ACAS who had indicated that if the Claimant agreed, the first step would be for the Claimant and Dawn Henderson to contact him separately to discuss their concerns and for him to then make a recommendation as to the next steps '*i.e. a facilitated conversation or mediation*'.

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114. Whilst within that email Claire Thomas-Hanna does not say that she had arranged 'mediation', she does refer to a potential next step of mediation and a reasonable interpretation of that email is that these were potential steps to arranging an ACAS mediation. Further, Dawn Henderson also appears to be of the view that mediation was being discussed (she referenced the same in her later February 2022 Respect and Resolution complaint [868]).
115. I found that a reasonable interpretation of that email was that Claire Thomas-Hanna was informing the Claimant that steps were being taken to arrange a potential mediation or Facilitated Conversation.
116. I also considered the Claimant's own email response, sent a few days later on 7 December 2021, in which the Claimant stated that she did not know how she felt about that step, that she felt let down unsupported and that the matter was becoming 'one-sided' [171]. She repeated that she had felt that Dawn Henderson had been disrespectful and undermining and queried what the organisation was doing to support her.
117. In conjunction with this, I also considered that the Claimant was off sick at that time and had been since 30 November, and unlikely to have spoken to Claire Thomas Hanna in that period. Claire Thomas-Hanna's own supplementary witness statement does not state or suggest that she spoke to the Claimant before contacting ACAS.
118. The Claimant met up with Iain Wilkie on 7 December 2021 and met him again, this time with Claire Thomas-Hanna, on 9 December 2021. Claire Thomas-Hanna found the meeting challenging. The Claimant was angry and frustrated, with the Claimant informing her that she did not trust her, blaming her for her ill-health.
119. The Claimant gave evidence that at that meeting she queried why ACAS mediation was the suggested next step and why she had not been consulted about that change of approach particularly as she had raised concerns initially regarding Dawn Henderson. Claire Thomas-Hanna gave evidence that the Claimant was seeking to understand why she had met Dawn Henderson. I found it likely that both issues were discussed.
120. By the end of that meeting, the Claimant had indicated dissatisfaction with Claire Thomas-Hanna's approach but had agreed to meet with the ACAS mediator. She was concerned that if she did not, it would appear that she was not complying with process. Claire Thomas-Hanna apologised to the Claimant if she had not made it clear that she would discuss her concerns with Dawn Henderson in order to move the process forward and arrange the facilitated conversation (email from Claire Thomas-Hanna to Leslie Hall of 14 January 2021 [224]).
121. A stress-risk assessment and wellness action plan was completed by the Claimant around this time, the Claimant being off work [229].

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122. Claire Thomas-Hanna did not communicate the detail of Dawn Henderson's concerns, reflected in her November emails and letters and in her meeting with her, to the Claimant. The consequence of this was that Dawn Henderson had knowledge of the Claimant's concerns and her proposals to take action against her, leaving the Claimant ignorant of the wider concerns and strength of feeling from Dawn Henderson (or the wider collective,) or that Dawn Henderson had requested a change of management.
123. A few days later, on 13 December 2021, the Claimant emailed Claire ThomasHanna in which she confirmed that whilst she had arranged to speak to ACAS, she was still unclear as to how that discussion had been arrived at. She sought clarification as to which policy was being adopted by the Respondent for the informal meeting between them and which policy ACAS mediation sat [177]. She was directed to the Respect and Resolution Policy Section 3 regarding independent Facilitated Conversation or accessing accredited mediation [182].
124. The following day, on 14 December 2021, in an email the Claimant indicated to Claire Thomas-Hanna that she had spoken to ACAS. She spoke of how they had discussed mediation and that she considered that mediation premature when Dawn Henderson had not met informally with her; that it was unclear if she would. She spoke again of Dawn Henderson's unwillingness to meet and what she considered was unprofessional behaviour. She confirmed that she would not be returning to work until the new year which gave Dawn Henderson the time to meet with ACAS and that if not, it was her intention to begin a disciplinary process against Dawn Henderson and potentially a capability process as well as a fitness to practice referral [209].
125. She confirmed that she would not be pursuing any further conversations until her return to work following her sick leave. The Claimant's sick leave did not end at the beginning of January however, but continued eventually until the middle of February 2022. By the start of that new year, the Claimant sought a referral to occupational health, who in turn advised that management should meet with her to discuss risk assessments and to identify what support could be put in place for her for a planned return to work [213].
126. On 5 January 2022, the Claimant met with Iain Wilkie requesting more senior HR support and later expressed concern by email that Claire Thomas-Hanna was not maintaining confidentiality and was unsure if she was updating Dawn Henderson [228, 224].
127. That later email exchange was forwarded to Claire Thomas-Hanna who in turn sent them onto Leslie Hall, Associate Director of Human Resources and her line manager. Claire Thomas-Hanna sought advice from her [224]. What advice was given to Claire Thomas-Hanna is not before me, despite Lesley Hall being responsible for providing HR support and in turn having knowledge of Dawn Henderson's First Grievance and indeed the JR Collective Grievance.
128. Lesley Hall asked Claire Thomas-Hanna's colleague, John Martin (Associate

Director People Services,) to 'pick the matter up' and after that Claire ThomasHanna's involvement in providing HR support to the Claimant ceased. By the end of January 2022, the Claimant had been informed that John Martin would be providing that HR support [719].

129. Around this time, the Claimant's interim post as Head of Psychology Services was extended following a request made by the Claimant to the Respondent's then Chief Executive, both Iain Wilkie and Adrian Thomas, the Claimant's line managers also being off sick at that time [263].
130. A further Stress Risk Assessment and Wellness Action plan was completed by Teresa Owen, Executive Director of Public Health, in their absence over the latter part of January 2022 [238].
131. The Claimant was still speaking to the ACAS mediator during her sick leave but at some stage a decision was made not to proceed with that ACAS facilitated conversation, although it is not in evidence before me who made that decision or when or when that was communicated to the Claimant.
132. This left the Claimant without a plan in place for managing Dawn Henderson and so progress on any Facilitated Conversation appears to have come to a standstill. Further, it appears on the basis of my following findings, there was no hand-over of information that Claire Thomas-Hanna had received from either the Claimant nor Dawn Henderson regarding the potential basis of the difficulties between the two.

*Meeting with John Martin 3 February 2022*

133. Prior to the Claimant's return to work following her sickness absence on 14 February 2022, a Teams meeting was arranged for the Claimant to meet John Martin on 3 February 2022 in order for him to provide the HR support she had requested.
134. There appears to be little dispute as to what advice was given in that meeting, notes of which were in the Bundle prepared by the Claimant and I accepted as likely representing a summary of matters discussed [245]. No notes were prepared by John Martin who relied on recall in preparing both statements.
135. The Claimant says that at that meeting, John Martin enquired with her why Dawn Henderson would not meet with her. She was unable to give him an answer.
136. John Martin says that he only advised in broad terms, not knowing the 'background', but that he had suggested 'further exploration' as to whether or not Dawn Henderson had submitted a grievance before considering disciplinary action, which he considered was an unnecessary risk. He advised that the Claimant find out if Dawn Henderson had submitted a grievance from an appropriate manager and to speak to Teresa Owen or Iain Wilkie. He agreed that he had never come across a situation like this previously and that, without reason, not meeting a line manager would be unreasonable and could be a low-level disciplinary.

137. The Claimant's notes were not verbatim but the evidence from both was not particularly contradictory.
138. I found that the discussion was likely to have followed the lines of both, with John Martin suggesting line managers meet with Dawn Henderson and the Claimant seeking to find out from her managers more regarding the grievance from Dawn Henderson. John Martin accepted in live evidence that the issues had been going on for a long time for the Claimant at that point and that she told him that it had impacted on her health; that she was distressed in that meeting. He also gave evidence that he had no way of knowing whether Dawn Henderson had any grievance against the Claimant.
139. Why that was the case was less than clear insofar as he had been handed over the responsibility of providing HR support from Claire Thomas-Hanna, through Lesley Hall, both of whom did know of Dawn Henderson's concerns:
- a) In the case of Claire Thomas-Hanna having detailed emails and a letter from her in November 2022 and having met her with Stuart Whittaker; and
  - b) In the case of Lesley Hall, knowledge of the historic and specific grievances and issues within Psychology.
140. He was specifically asked in live evidence what he had been told by Claire ThomasHanna about Dawn Henderson's concern and he had no recall of that. It is clear from John Martin's own evidence that no one saw fit to explain to him that Dawn Henderson had been in the interim role prior to the Claimant, that there were grievances that were still unresolved from that time, or of the concerns that Dawn Henderson had raised with Claire Thomas-Hanna in November 2021.
141. I found that it was likely that neither Claire Thomas-Hanna or Lesley Hall informed him of what they had in their personal knowledge regarding either the background to the Claimant's appointment or Dawn Henderson's more recent concerns regarding the Claimant and as a result, John Martin did not know what he has termed 'the background' or her strength of feeling regard Dawn Henderson's conduct. Whilst Lesley Hall had asked him to provide support to the Claimant following on from Claire Thomas-Hanna but there was no suggestion that either she or Claire Thomas-Hanna provided him with any background or context<sup>3</sup>.
142. The Claimant did not speak to John Martin or seek his support after this meeting.
143. The Claimant having again sought advice and support was advised against disciplinary action due to the potential background and risk. Apart from the suggestion that she should speak to her line management, no steps were put in place to facilitate a discussion with Dawn Henderson.

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<sup>3</sup> LHWS14

*Claimant's Return to work: 14 February 2022*

144. It appears that the Claimant met with Iain Wilkie over the course of the following week who agreed to discuss with Teresa Owen a plan to meet Dawn Henderson and that he would find out from Sue Green, the Executive Director of WOD, what grievance Dawn Henderson had submitted.
145. By 9 February 2022, the Claimant was aware that Gareth Evans had been appointed to acting Executive Director of Therapies and Health Sciences, a role he was to take up from 1 March 2022 from Adrian Thomas. The Claimant wrote to him confirming that Adrian Thomas had been her line and professional manager as Interim Head of Psychology Services and asked for a meeting as early as possible after 1 March 2022 [251].
146. On 14 February 2022, the Claimant returned to work on a phased return with Iain Wilkie confirming to her that he did not believe that there had been a formal grievance from Dawn Henderson, but that he had not met with her to confirm the position. He later also confirmed that there had been an outstanding grievance from 18 months previous, that Dawn Henderson had taken to the Chief Executive.

*Respect and Resolution*

147. The Claimant's return to work coincided with the submission, in quick succession, of two further grievances under the Respect and Resolution policy:

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- a) On 16 February 2022, a second and collective complaint, submitted by a cohort of psychologists and again spearheaded by Jean Ruddle ("Second JR Collective Grievance"), that again referenced the termination of Dawn Henderson's interim post in March 2020, stating that there was '*no reasonable rationale given for why the interim post had ended, a post that Dr Dawn Henderson was recruited into following a fair recruitment process*' and their lack of faith in Adrian Thomas, Executive Director of Therapies [848]; and
  - b) On 22 February 2022, Dr Henderson formally raised a concern to Claire Thomas-Hanna, sending a copy to the Chief Executive under the Respect and Resolution policy regarding the Claimant ("Second DH Grievance") [267 redacted, 852 (unredacted)].

148. Both appear to revisit similar or same concerns that had been raised in 2020/early 2021 and addressed by Gill Harris in January 2021.
149. The Second DH Grievance was lengthy (26 pages) and detailed seeking a 12-point resolution in relation to the MHLD Medical Director and the Claimant. The majority of the grievance relates to Dawn Henderson's concerns regarding the MHLD Medical Director and her ongoing concern with the Psychology Services Review,

referencing her January 2021 grievance, the “DH Grievance”, and that it remained unresolved. She continued to express unhappiness at being removed from the interim post.

150. In relation to the Claimant, Dawn Henderson complained that the Claimant’s approach to her had arisen once the decision to reinstate the interim head of Psychology Services post and been made and that it seemed ‘*opportunistic for career advantage*’. It was her view that the Claimant had ‘*linked in*’ with the Director of MHLD and the Executive Director of Therapies. She opined that both and Iain Wilkie had been involved in the recruitment process for the interim post in the July of 2021. She complained of the Claimant’s management of her referencing her letter to Claire Thomas-Hanna of 22 November 2021 and that she did not consider mediation appropriate. She considered the Claimant had been the ‘instigator and aggressor’ and did not have reasonable cause for her allegations against her.
151. She complained that the Claimant’s approach had undermined her own leadership role in AMH and set out concerns regarding operational matters. She complained that the Claimant had shared more widely emails that had been exchanged between them and of the Claimant’s refusal to sign off her annual leave the previous October.
152. She ended the grievance by setting out her ‘Desired Resolution’ which included, but was not limited to, a revisit of her January 2021 grievance and that it was inappropriate for the Claimant to remain as her line manager and that as Iain Wilkie had been involved with the Claimant in attempting to start disciplinary proceedings against her, that it was inappropriate for him to be line manager. She sought to be directly line managed by the Chief Executive of the Health Board and sought to limit the Claimant’s involvement in the development of the job description and recruitment to the substantive Head of Psychology post.
153. What Iain Wilkie knew about this second grievance is not in evidence, but by 24 February 2022, he was still trying to meet Dawn Henderson to ‘*catch up....on a number of issues that have been raised by [the Claimant]*’ [715]. She in turn forwarded the email request for that meeting to Claire Thomas-Hanna, referencing her Second DH Grievance and asked that Claire Thomas-Hanna discuss the issue with Iain Wilkie and let him know that concerns had been ‘raised higher’ so that he was aware [714]. She also confirmed that the Claimant had again sent her a request for a 1:1 meeting about their working relationship but that she did not consider it appropriate given ‘*the allegations she has made about me in November 2021*’, and that she had now raised her formal grievance about the Claimant.

*Instruction to Iain Wilkie not to meet Dawn Henderson*

154. The Claimant claims that on 2 March 2021, Claire Thomas Hanna instructed Iain Wilkie not to meet with Dawn Henderson, that no guidance was provided to her on the next step and that the Respondent failed to inform Claimant of that decision.

155. It is not in dispute that Claire Thomas-Hanna did inform Iain Wilkie that any such meeting should not go ahead with Dawn Henderson at that time [713]. In her supplemental statement, Claire Thomas-Hanna states that she told Iain Wilkie to discuss the matter with John Martin but that she was not aware of whether this conversation had taken place.
156. John Martin did not deal with this in his supplemental witness statement, giving evidence only that he couldn't answer definitely what had happened between the submission of the DH Second Grievance and not giving specific evidence as to what had taken place until from May 2022 onward, when he focussed in his evidence on what he had undertaken to assist in the management of the DH Second Grievance. He says that in this period he was aware of the advice that he had given the Claimant to contact Iain Wilkie and for him to arrange to meet Dawn Henderson whilst at the same time being aware of the communication to Iain Wilkie not to meet Dawn Henderson.
157. The Claimant's evidence is that on 2 March 2022, Iain Wilkie also informed her by email that WOD had advised him to stop attempting to meet Dawn Henderson until such time as the detail of the 2021 DH Grievance were clear [285]. That email makes no reference to the Second DH Grievance that had been submitted the week before and it is likely that at that point that Iain Wilkes was unaware of it, being aware only of the later 2022 grievance.
158. Whilst Iain Wilkie was spoken to, no one it appears spoke to the Claimant or notified her of the second grievance that had been made against her by Dawn Henderson. Despite the Second DH Grievance specifically referencing concerns regarding the Claimant and her interaction in the period running up to December 2021, and despite the Claimant having specifically and repeatedly taken advice and sought support from HR, including Claire Thomas-Hanna in managing Dawn Henderson, no one within the Respondent, whether operational management or HR took the opportunity to address or inform of her this at this point.
159. Further, no one, whether operational management or HR, informed the Claimant's new line manager.

*Appointment of new Director of Therapies and Health*

160. On 1 March 2022, Gareth Evans formally commenced in post as Executive Director of Therapies and Health, replacing Adrian Thomas who had been off sick since November 2021.
161. He had been unable to receive a handover for the role from Adrian Thomas and was unaware that his role included responsibility for line managing the Claimant. He gave evidence that he did not know of the Claimant's concerns or circumstances other than she had recently returned to work in February 2022, that he was aware that Dawn Henderson had applied for the interim Head of Psychology role and had been unsuccessful despite having previously held that role herself when she had line-managed the Claimant.



162. Again, it appears that no-one with knowledge of the historical grievances in Psychology Services and/or the February 2022 grievances, in particular the Second DH Grievance, saw it necessary or appropriate to inform him of that background to enable him to manage the Claimant's concerns.

*Meeting 7 March 2022*

163. Within a week of his commencement in post, a meeting had been arranged with the Claimant for 7 March 2022.
164. Prior to that meeting the Claimant emailed him indicating that she would send an agenda of matters to be discussed and that she wished to prioritise an action plan regarding an HR matter concerning Dawn Henderson, which she referred to as 'non-sustainable position' [285].
165. The Claimant prepared some notes immediately after the meeting [286] but no notes were taken by or on behalf of Gareth Evans.
166. The Claimant gave evidence that at that meeting Gareth Evans deliberately steered the meeting in a way that left insufficient time to air the difficulties and she was left feeling frustrated. That evidence and her notes of that meeting was challenged on cross-examination, particularly as immediately after the meeting, the Claimant had sent Gareth Evans an email thanking him for a '*highly productive meeting*' and that a further meeting had been arranged for 14 March 2022 for the Claimant.
167. Gareth Evans gave evidence that at that meeting, the Claimant told him of her concerns regarding Dawn Henderson's behaviour, which she considered was insubordination but that he had no prior knowledge of any issues between the two prior to that meeting. He does not accept the Claimant's assertion that he failed to prioritise or permit sufficient time to discuss the HR issue but does accept that they did not have enough time in the meeting to cover all the points and so the 14 March 2022 meeting was arranged.
168. I accepted his evidence that he had been content for the Claimant to set the agenda at that meeting for what she had wanted to talk about. I was persuaded that he didn't fully understand the issue at that time and that he had no reason to manipulate the discussion to avoid the topic of Dawn Henderson.
169. I was not persuaded that the Claimant had demonstrated on balance that at that meeting, Gareth Evans failed to prioritise or permit sufficient time to discuss HR issue or ways forward in resolving the Claimant's concerns.
170. Dawn Henderson too appears to be keen to contact Gareth Evans as, on 11 March 2022 she also wrote him with her own concerns and the fact that she had submitted a second grievance on 23 February 2022 [291]. Her letter is detailed and lengthy, some 7 pages long, in which she informs him of her own grievances and concerns regarding the March 2020' termination of her own interim post, also referencing the

Psychological Therapies Review. She spoke of her disagreement with the actions taken by the Claimant in her role as Interim Head of Psychology Services and the Claimant's approach in managing her. She opened her letter by informing him that she had recently received from the Claimant a Terms of Reference for Psychology Heads and ended the letter by opining that now AMH should stand apart from Psychology Services.

171. At this point, the Claimant was therefore also aware of concerns from Dawn Henderson relating to the appointment of the Claimant and her subsequent actions. He came to the view that this was an '*increasingly complex issue with multiple factors*' as he put it in live evidence.

*Meeting 14 March 2022*

172. Prior to meeting Gareth Evans on 14 March 2022, the Claimant again sent him an agenda [297]. At or shortly after that meeting the Claimant prepared notes which relies on in her evidence [298], Gareth Evans did not.
173. The Claimant considered the meeting was for Gareth Evans to obtain more information from the Claimant and that he did not inform her of the letter he had received from Dawn Henderson. Her statement evidence is that at that meeting Gareth Evans indicated that he would speak to Sue Green, Executive Director of WOD, to get clarity on Dawn Henderson's grievance and advised against the Claimant submitting her own grievance, that he acknowledged that the Claimant had been waiting a long time and that she had not had sufficient support from the organisation.
174. Gareth Evans' evidence was that he agreed to review the correspondence and speak to HR and the Claimant did not give him an indication that she was unhappy with that. He gave live evidence which I accepted that the Claimant was frustrated that after nearly 9 months in post her concerns had not been addressed but that this was a complex issue for him in the first few weeks of a new role and that a 'plan' was needed.
175. In that regard, having confirmed to the Claimant that he would speak to HR and reviewed the position, I did not find that it could be said that Gareth Evans personally failed to support the Claimant to address Dawn Henderson's behaviour. Whilst no specific advice was given by him regarding any specific action that the Claimant should or should not take at that stage, there was a proper explanation for that, namely that he would be speaking to HR for a 'plan'. I accepted his evidence that at that stage, the Claimant had not asked for advice on appropriate HR policies save that she had raised again the possibility of disciplining Dawn Henderson and that he had indicated that he would take advice.
176. The Claimant complains that Gareth Evans did not review her Stress Risk Assessment and Wellness Action Plan in accordance with the Respondent's policy "WP33 Staff Mental Health, Wellbeing and Stress Management Procedure" [658]. The policy outlines responsibilities of staff regarding wellbeing, their own and others

and identified resources available. It set out specific responsibilities of line management and referenced principles set out in health and safety legislation. 177. It is accepted that at that meeting Gareth Evans did not review Stress Risk Assessment and Wellness Action Plan. It was not raised at that meeting and it was not on the Claimant's agenda for discussion. At that time, Gareth Evans had been unable to access and review any previous advice on the issue but was aware that the Claimant had been off work for 3 months as a result of the stress of the situation for her [308, 306].

178. Shortly after that meeting and on 24 March 2022 the Claimant was absent from work with a viral infection returning on 7 April 2022 [304].
179. In that period and on 21 March 2022, Gareth Evans contacted Sue Green, sending her the letter he had received on 11 March 2022 from Dawn Henderson and indicating his view that there was a *'clear and deep conflict within the service which relates to a number of, apparently, unresolved grievances and disputes'* [306]. In that email he spoke of the service led by Dawn Henderson *'unilaterally detaching themselves from the leadership of the Director of Psychology and...refusing to legitimise the appointment made in 2020/1 on an acting basis'* i.e. the Claimant's appointment and the Claimant had been advised by WOD not to approach Dawn Henderson to discuss the situation and her behaviour in ignoring the Claimant. He confirmed that the Claimant was *'clearly on edge'* and wanted to deal with the issue by taking disciplinary action against Dawn Henderson, as well as a referral to the HCPC and was clear that she felt she was *'being upwardly bullied by DH'*.
180. He ended the email asking for an appropriate briefing from whoever in WOD was dealing, that he needed to understand the status of the grievances and the plan for management of these issues and wanted to understand why the Claimant was being advised why she could not manage Dawn Henderson as it appeared to him that none of the grievances were about her.
181. On 1 April 2022, Gareth Evans met with Lesley Hall, Associate Director of Human Resources, to discuss Dawn Henderson's letter of 11 March 2022 and it was agreed that WOD would provide him with an action plan for managing those concerns.

#### *Moving line management of Dawn Henderson*

182. On 11 April 2022, the Claimant met again with Gareth Evans who confirmed that he had met with Lesley Hall, that there were unresolved grievances and that he had pushed for a time-frame for an action plan, suggesting that she not communicate with Dawn Henderson for a few weeks.
183. The Claimant remained unhappy at lack of progress. Following that meeting, she sent an email to both Iain Wilkie and Gareth Evans in which she expressed that there was a *'desperate need to find a way forward'* and asked for a joint meeting with them both [309]. She repeated the difficulties stemming from at least early 2021, the impact on her health and her unhappiness with HR advice to not meet Dawn Henderson. She indicated that this had been ongoing for her since July 2021

and impacted on her ability to carry out her role. She stated that she needed a *'rapid resolution'* and that the grievances were still for her *'vague'*. She considered Sue Green to be pivotal and that a wider executive approach was needed.

184. The following day, Gareth Evans emailed Lesley Hall reminding her that such an action plan had not been provided to him, suggesting that the Claimant would need to be supported to take formal action against Dawn Henderson and that if the advice was that the Claimant should not be managing Dawn Henderson, he would suggest directly managing her until a resolution [305].
185. He also responded to the Claimant that day, 12 April 2022, by email acknowledging her frustration but indicated that he did not consider that there was any value in meeting at that stage until he heard from WOD and guidance on how to deal with the situation [308]. He ended the email indicating the following, *'I am minded to put the line management of psychology onto a more recognisable, but still temporary, arrangement pending the outcome of the operating model. As such I've asked that the line management of your post and psychology is updated in ESR to reflect my position and I will then look to align budgets and wider governance. I hope this will allow me to support the role of Director of Psychology further during this difficult period. I appreciate the difficulty you face in undertaking your role.'*
186. Lesley Hall gave evidence that by or on 21 April 2022, she had outlined a way forward in relation to the second grievances from Dawn Henderson and the JR collective as well as the Claimant's concerns. This appeared in redacted format in the original Bundle [312]. An unredacted copy was subsequently provided at the end of the January hearing [877].
187. That plan did not include any support or method for dealing with the Claimant's concerns regarding lack of communication from Dawn Henderson. Rather it implied, and the effect of the plan, was a proposal that nothing be done on the Claimant's concerns pending an outcome to Dawn Henderson's grievance.
188. In that plan, Lesley Hall also supported a temporary move of the line management of Dawn Henderson to Gareth Evans as a form of support to the Claimant pending the outcome of the Second DH Grievance. Lesley Hall gave evidence, which I accepted, that such a move would be normal practice within the Respondent if someone submitted a grievance against their line manager, even if the Claimant did not agree with that approach.
189. On 22 April 2022, the Claimant met Gareth Evans again when he informed her that WOD were developing a plan and told her of the outstanding grievances including the Second DH Grievance.
190. Gareth Evans has given evidence that at that meeting they discussed a temporary change in line management of Dawn Henderson which the Claimant did not consider was appropriate.

191. However, that does not appear within the Claimant's own notes of that meeting [778], nor is it referenced in the lengthy email that the Claimant sent to Sue Green and Lesley Hall (copied to Gareth Evans) later that day in which she provided an outline of how long she had been attempting to deal with Dawn Henderson dating back to July 2021 [314]. I therefore concluded that it was unlikely to have been discussed at that particular meeting.
192. In the Claimant's email she also stated that she suspected that the further grievance had come in from Dawn Henderson, came from the conversation Dawn Henderson had with Claire Thomas-Hanna and possibly because of the attempts by Iain Wilkie to meet Dawn Henderson on the advice of John Martin. She spoke of insubordination and upward bullying as a result that had affected her mental health and well-being. She indicated she would be on annual leave to 9 May 2022 and on return she would be instigating the formal disciplinary process that should have started back in October/November 2021, as well as a fitness to practice referral.
193. The Claimant was then on leave until 9 May 2022 and it appears that over this period Gareth Evans had determined that there would be a change of line management for Dawn Henderson and that he intended to communicate this to them both [317].
194. On the basis of that documented evidence, I consider that it was more likely that they had not discussed a potential change of line management at that specific meeting but had at some point shortly after 9 May 2022.
195. Before Gareth Evans' instructions appear to have been actioned, on 18 May 2022, the Claimant emailed him requesting that any line management transfer be put on hold and that she did not consider that it was necessary for her well-being referencing conversations that she had Gareth Evans had been having over the issue [319]. Therefore whether both had discussed such a move at the meeting on 22 April 2022 or not, they had clearly had had discussions on the issue. She asked that he put a hold on the plan.
196. The Claimant and Gareth Evans met on 10 May 2022 when the Claimant was informed that Chris Stockport would be contacting her regarding the Second DH Grievance. They again discussed a move of line management of Dawn Henderson and the Claimant continued to express her reservations about such a change.

#### *Second DH Grievance*

197. Dawn Henderson's grievance of 22 February 2022 appeared to progress slowly, with Lesley Hall not confirming to Dawn Henderson until 12 May 2022 that Chris Stockport, Executive Director of Transformation and Planning had been appointed to Chair and consider her concerns [891].
198. Despite having confirmation of the fact of the February 2022 Second DH Grievance against her at the meeting on 22 April 2022, still no one within the Respondent had communicated the content of that grievance to the Claimant.

199. Lesley Hall however was aware from the fact of the grievance as well as a letter Dawn Henderson subsequently sent her on 20 May 2022 in which she expressed that she still remained unhappy with a number of issues including that her Stage 2 Grievance from 8 January 2021 in relation to her first grievance, the DH Grievance, still had no 'reasonable resolution' in her opinion and that her letter of 12 May 2021 to Gill Harris had not been responded to [884]. She copied in the Chief Executive, as well as Chris Stockport, Gareth Evans and Claire Thomas-Hanna.
200. The Claimant received confirmation that the recruitment to the substantive post of Head of Psychology Services would 'go live' on 1 July 2022.

*Meeting 16 May 2022*

201. A further meeting took place again on 16 May 2022 and the Claimant complains that there was again a failure to act to support her at this point to address Dawn Henderson's behaviour. Again, the Claimant took notes at or shortly after that meeting [783], Gareth Evans did not.
202. The meeting appears to have covered many operational matters as well as the Second DH Grievance. The Claimant was informed that she would be written to by Chris Stockport as Chair of that process but that timelines were unclear at that point.
203. The Claimant's notes and Gareth Evans' evidence are not contradictory. The Claimant asked him to consider putting in a case for Dawn Henderson to be disciplined. Gareth Evans gave evidence that this was discussed and that it was clear to him that the action the Claimant wanted to be undertaken was for Dawn Henderson to be disciplined. He was clear that he would not have taken that action but that if they had they got to the point whereby such action was appropriate, he would have supported her.
204. Therefore, I did find that there was no support for the Claimant to take disciplinary action at this point, but I also found that no other support or plan for the Claimant to address her interaction with Dawn Henderson either was in place. The only proposal was that she should wait until the outcome of Dawn Henderson's own Respect and Resolution process.
205. They again discussed the temporary move of line management of Dawn Henderson, an issue that was further reflected in the Claimant's later email that day outlining her concerns [319].

*Email: 7 June 2022 Movement of Budgets*

206. On 7 June 2022, Iain Wilkie sent to the Claimant an email he had received from Teresa Owen, in which she confirmed that she had met Gareth Evans and had agreed for Psychology budgets to be moved to him 'temporarily' as he was continuing to line manage the Claimant [346]. This upset the Claimant as she was the budget holder for all MHLD Psychology budgets and that she had not been

included in the discussion. She emailed Gareth Evans with her concerns regarding the movement with the budgets and sought clarification [321].

207. A meeting was arranged for 8 June 2022.

*Meeting: 8 June 2022 and subsequent action*

208. On 8 June 2022, the Claimant again met Gareth Evans. Again, the Claimant prepared notes [328], Gareth Evans did not. The Claimant brings a number of specific allegations in relation to this meeting: that Gareth Evans: that he failed to support her to find an acceptable way forward with the HR issue and that bullying behaviour was in evidence where he was disrespectful, minimizing/invalidating her concerns. She accuses him of laughing at 'gas lighting' her which she asserts demonstrated a culture of bullying within the organisation.
209. Gareth Evans' evidence is that there was a plan to support the Claimant, namely that to allow the Second DH Grievance to be heard prior to consideration of disciplinary action against her and for there to be a change of line management to prevent issues occurring in the meant time and that the issue was that the Claimant did not agree to that plan.
210. By this time, whilst there had been and still was no support for the Claimant to discipline Dawn Henderson at that stage, there was a plan was for the Second DH Grievance to be heard before considering such disciplinary. The Claimant was clearly unhappy with that plan to address the 'HR issue' i.e. her concerns regarding Dawn Henderson's behaviour and did not agree with, or find acceptable the proposal for that grievance to be concluded before considering whether disciplinary action was appropriate.
211. The Claimant had referenced in her evidence that Gareth Evans had laughed in that meeting and she had felt gaslighted and disempowered. Whilst that might have been how the Claimant felt, I did not find that she has proven that at that meeting she had been laughed at.
212. Despite the Claimant relying heavily on her hand-written notes, notes that she prepared either during the meetings or immediately after, there was no reference to this behaviour reflected in her notes of that meeting. I found that if the Claimant had been upset by Gareth Evans' behaviour towards her at that meeting she would have reflected that in her notes. She had not.
213. Gareth Evans could not recall laughing at her and gave evidence that he did not consider this was a laughing matter, that his actions show a different story and that within weeks of his new appointment he had taken time to understand the issue, having a number of lengthy meetings with the Claimant, albeit he did not move to support the Claimant to take disciplinary action. I accepted his evidence and did not find that the Claimant had proven any behaviour from him that could reasonably be described as bullying or disrespectful, or that he minimized or invalidated her concerns. I did not find that he laughed at her and the emails in the Bundle, already

referred to, do not support any suggestion of him 'gas-lighting' the Claimant (which I took to mean manipulating her into questioning her own perception of reality). What he was not prepared to do was support the Claimant's desire to discipline Dawn Henderson at that stage.

214. Rather, I found that he simply did not agree or accept the Claimant's stance that Dawn Henderson should be disciplined leaving the Claimant feeling that she had been permitted to pursue her grievances whilst the Claimant felt unable to pursue her concerns.

*Email of 9 June 2022 and Transfer of Budgets*

215. The Claimant sent a lengthy email to Gareth Evans the following day, 9 June 2022, at 20.18 [339]. In doing so, she forwarded an email that had been sent to her from a finance officer from the MHLD in which it is recorded Gareth Evans had asked how Psychology from the MHLD could be transferred so that they reported to him as Executive Director of Therapies, that such a decision had been made by the Executive team the year before but that the prime objective was to ensure that Psychology was '*disaggregated into two work streams... reporting directly to [him] and not to the [Claimant] or Teresa Owen.*' He further recorded that it was his expectation that budgets would follow and come within his remit with associated governance arrangements to reflect that.
216. The tone and content of the email reflects the Claimant's upset. She was critical of Gareth Evans and accused him of not being transparent and open with her, suggesting that she did not know about the transfer of budgets and line management, and that he had not listened to her advice not to transfer psychology budgets and removing Dawn Henderson's line management from her. She considered the change would result in creating two interim Head of Psychology Services positions. She ended the email asking if they could meet again the following day to speak again.
217. Gareth Evans replied by lunchtime the following day, a Friday, confirming that he would take some time to read the email in full again later and reflect on it [339]. He confirmed that he would speak to her further the following week. He too was disappointed by some of her comments particularly the accusation of lack of transparency. He immediately forwarded both the Claimant's email and his response to Lesley Hall and asked whether there was any progress with moving ahead with the issues for Dawn Henderson but noting that it was not correct for the Claimant to suggest that she did not know anything about the change of line management.
218. Again, he did not review the Claimant's stress risk assessment and wellness action plan at this stage. Again the Claimant had not raised it although she did refer in her email on a number of occasions to 'bullying' albeit not referencing any impact on her health.



219. On 13 June 2022, the Claimant also emailed the senior leadership team of MHL, including Iain Wilkie, setting out her opposition to the transfer of Psychology staff and budgets and forwarded it to Gareth Evans and Teresa Owen and asked them to stop the transfer. She repeated that she had been subjected to bullying and insubordination by Dawn Henderson and that HR had failed to support her [343].

*Gareth Evans letter of 15 June 2022*

220. He responded more fully by the Wednesday of that week, by way of letter dated 15 June 2022, sent to her by email on 16 June 2022 [349] which she contends was an inappropriate formal response.

221. In that letter, he set out his position and rationale for the temporary removal of Dawn Henderson, being for the protection of all parties whilst the DH Second Grievance was being managed. He also corrected the Claimant in her assertion that she was not aware of this change and reminded her of his email of 12 April 2022 in which he indicated then that he was looking to align budgets and wider governance and that this should have taken place in 2021 when the decision for the Executive Director of Therapies and Health Science to line manage the Head of Psychology was taken [349].

222. He confirmed his view that he did not consider it appropriate to take disciplinary action against Dawn Henderson whilst the Respect and Resolution was ongoing and that this would be reviewed once that process had concluded. He ended the letter confirming he would like to meet to review her objectives in the interim role and that he would be happy to meet to discuss any other points she had raised.

223. Again, whilst I accept none of the content was what the Claimant desired, it could not be said that this was an inappropriately formal response. The Claimant's own email was detailed and formal and Gareth Evans' response continued in the same vein. Further, Gareth Evans had indicated that he wished to meet to discuss both her objectives and that he was happy to meet her again to discuss any other points.

224. Gareth Evans' evidence was that there were elements of her email of 13 June 2022 that may have required discussion of her health but there was no other trigger, by way of self-referral to occupational health or sick leave that would have promoted a health and safety or stress assessment at that stage.

225. By the end of June Dawn Henderson's second February 2022 grievance was being progressed, albeit slowly with her first meeting with Chris Stockport being arranged for 23 June 2022 [888].

226. A further meeting was scheduled for 27 June 2022, which the Claimant cancelled. A 'catch-up' was arranged for 12 July. Gareth Evans suggested to the Claimant that her performance appraisal and development review ("PADR") be arranged for that meeting [361] and the Claimant asked if they could have a catch up prior to the PADR and to defer that to later in July.

227. On 29 June 2022, Gareth Evans agreed to the Claimant's request to keep 12 July 2022 as a catch up [360]. That meeting did not take place as on that day the Claimant again went on sick leave that day and subsequently requested that Gareth Evans no longer manage her.

*Email from Lesley Hall: 17 June 2022*

228. In the interim and again on 13 June 2022, the Claimant also wrote to Lesley Hall, again reiterating her historic concerns regarding Dawn Henderson's behaviour and providing her view that irrespective of the previous grievances, some of which had pre-dated her appointment as interim Head of Psychology Services, she considered Dawn Henderson's behaviour needed addressing and that she was in breach of her contract of employment [354].
229. She complained that she was still awaiting advice from her and Sue Green. She complained that she had discovered the previous week that there was a plan to remove line management from her to Gareth Evans and that this included all budgets in her delegated portfolio.
230. She stated that the organisation had failed to support her to manage Dawn Henderson and that the behaviour as a result had been permitted to continue. She requested support again to begin formal disciplinary action and that Dawn Henderson be suspended. She asked that her request be treated as urgent.
231. On 17 June 2022, Lesley Hall responded by email, after the Claimant had prompted her for a reply to her letter earlier that week [352].
232. In that email, Lesley Hall confirmed that she had discussed her request with Gareth Evans and that in view of the concerns raised by Dawn Henderson it would not be appropriate to take action at that point but that once that had been concluded, she would be happy to agree HR support with regard to issues that needed to be addressed. She acknowledged that this was not the response that the Claimant had requested. She confirmed that she would be on leave until 27 June 2022.
233. In that regard, Lesley Hall did refuse to support any decision to discipline Dawn Henderson at that point or at all until the outcome of the Second DH Grievance.
234. Despite knowing Lesley Hall was on leave, the Claimant took the opportunity to write to her again in response on 20 June 2022 [357]. She questioned how preventing the disciplinary process was protecting her and asked for clarity. She also confirmed that she was yet still to receive any formal communication from either the investigating officer or HR regarding the grievance from Dawn Henderson. She asked for a time-frame for that.
235. Lesley Hall did not respond to that email. As Lesley Hall had indicated in her email of 17 June 2022, she was not in work to receive that email, not returning until 27 June 2022. In evidence, she indicated that she did not see that email explaining that it was possible that, due to the amount of emails he received particularly as it

was received when she was on leave, it was missed and that it was not her intention not to reply to the Claimant. I accepted that evidence as likely.

*Claimant's Grievance*

236. On 28 June 2022, the Claimant received confirmation that the process of transferring Psychology budget was about to be actioned [371].
237. On the following day on 29 June 2022, she emailed the Respondent's Chief Executive, Jo Whitehead, copying Sue Green, (and Lesley Hall's manager) reporting that she was going off sick from that day, sick leave that continued until 1 October 2022 [371]. In that email, she complained of Gareth Evans' behaviour towards her in particular in relation to the transfer of cost codes and staff in MHLD to himself. She confirmed to Sue Green that she was seeking for her own management to be moved temporarily from Gareth Evans to Iain Wilkie as Interim Director of MHLD, to ensure that the proposed move of budget and line management to Gareth Evans was stopped and because she did not consider that Gareth Evans was capable of managing her in a compassionate way. She proposed that Teresa Owen act as her manager.
238. The Claimant subsequently started preparing her own Respect and Resolution grievance ("Claimant's Grievance",) which albeit dated 29 June 2022, was submitted on 11 July 2022 [762]. Again, the document is lengthy, some 16 pages long and detailed. The contents are incorporated by reference in these reasons. In summary, the Claimant complained of:
- a) The behaviour of Dawn Henderson;
  - b) The lack of sufficient support from HR, including Lesley Hall, following her own intention in November to begin formal disciplinary proceedings against Dawn Henderson;
  - c) Failures in management from Gareth Evans;
  - d) Overall lack of support and duty of care by the organisation towards her.
239. She sought for her management be transferred to the Director of MHLD, that a disciplinary process was instigated against Dawn Henderson, that all action to transfer Psychology Services budgets and staff from HMLD be halted. She also sought some operational issues including that her secondment as interim Head of Psychology Services be extended by the length of any sick leave, her current secondment ending on 30 October 2022.
240. On the same day, the Claimant's Grievance was acknowledged by Sue Green [368] and the Claimant's line management was temporarily changed to Chris Lynes on 25 July 2022 [375].
241. The Claimant asserts that at this point Sue Green failed to enact the Respect & Resolution Policy according to timeline. Sue Green has not been called to give evidence by the Respondent. She is no longer employed by them having left their

employment on 30 April 2023. Chris Stockport is still employed by the Respondent but has not been called to assist the Tribunal. Any fact-finding has been based on a review of the documents and live evidence from the Claimant and, to an extent the evidence that Lesley Hall can give from an HR perspective.

242. By email on 11 July 2024, Sue Green acknowledged the Claimant's Grievance and indicated that she would endeavour to consider who would be a Chair within 7 days and that the next step would be for the Chair to meet with the Claimant, if further information was required, which '*should be within 14 days*'. The Claimant thanked her and asked for a response on the temporary change of manager and sought that the Chair be neutral [367].
243. Two weeks later and on 25 July 2022, Sue Green had notified Gareth Evans that the Claimant's Grievance had referenced him, that she had asked Chris Stockport to chair the Claimant's Grievance (as he was also chairing the Second DH Grievance) and that she had asked Chris Lynes to act as temporary line manager instead of Gareth Evans [375].
244. The Claimant objected at some point to Chris Stockport considering her grievance. She did not consider him independent and she considered that there was a conflict of interest in that he was also chair of the Second DH Grievance. Whilst such a conflict was not apparent to me, and indeed it appeared to be an eminently reasonable suggestion for one individual to consider both grievances at the same time in terms of time, resources and having full sight of all issues from both the Claimant and Dawn Henderson, this was agreed to by the Respondent.
245. By the end of that month, Gareth Evans approved the Claimant's interim secondment to interim Head of Psychology Services be extended [376].
246. On 2 August 2022, the Claimant had an appointment with an independent therapist as she did not feel able to refer herself to the Respondent's Wellbeing Support Service<sup>4</sup>.
247. At around the same time, the Claimant was informed that Angela Wood, Executive Director of Nursing and Midwifery, who had started that employment with the Respondent in that role the day before, on 1 August 2022, would be chair of her Respect and Resolution and that Cris Lynes, Deputy Director of Nursing would be the Claimant's temporary line manager.

*Chris Stockport letter 4 August 2022*

248. On 4 August 2022, an email was sent to the Claimant on behalf of Chris Stockport attaching the Second DH Grievance [382]. This was the first formal contact that had been made with the Claimant regarding the Second DH Grievance.

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<sup>4</sup> CWS192

249. The grievance was referenced in the body of the email and he stated that Dawn Henderson believed that the actions from the Claimant had been damaging for her both professionally and personally.
250. The Claimant was asked to read and review the document attached and was asked to provide her '*views and experiences*' in writing by 31 August 2022. The email ended that he wished her to have suitable support in place and that he had not discussed that with her line manager or trade union representative and that if she wished him to do so, he would be happy to. He reminded her of the services of occupational health and well-being.

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251. The Claimant was shocked to receive the email without warning despite having waited a long time particularly when she was off work with work-related stress, She felt unable to open the attachment and explained that to Chris Lynes the following day [384].

*Determination to resign*

252. On 8 August 2022, the Claimant was informed that the interim secondment would not be extended further as Gareth Evans had been asked to progress the permanent appointment as a matter of priority [385].
253. The Claimant explained that this was a '*pivotal moment*'. In her evidence<sup>5</sup>, she states that this led to her to start to search for another job outside of the Respondent albeit receiving the Second DH Grievance on 4 August 2022 '*played a significant part*' in that decision.
254. She concluded that for the sake of her mental health that there was no other option other than to leave the Respondent's employment. She did not consider that she could resign at that point without securing alternative employment due to her financial circumstances and lack of any other financial support. She also believed that any 'gap' in employment would have an adverse impact on both her future employability and her own mental health. She concluded that she had to secure alternative work prior to leaving but that if she was not able to do so she determined to resign. She hoped that she would receive a positive outcome to her own grievances.
255. By 9 August 2022, the Claimant was looking for alternative employment and had applied for a role a few days later with another NHS Trust local to her home.
256. On 11 August 2022, the Claimant met with Chris Lynes who reviewed her stress risk assessment (which she completed on 23 August 2022 [393]) and suggested that she contact Sue Green about the non-extension of her secondment [389].

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<sup>5</sup> CWS206-207

257. On 24 August 2022, the Claimant attended OH again in which she reported to OH that she considered that her role was untenable, that she did not know if it was realistic to expect she might be able to return to her role [405].
258. The following day, she read the attachment to the Chris Stockport email i.e. the Second DH Grievance.

*Initial Claimant Grievance Meeting*

259. On 2 September 2022, the Claimant attended her own first meeting with Angela Wood as part of her own grievance [413]. The Claimant found the experience distressing and overwhelming. The Claimant was supported by her union representative. The meeting was lengthy, lasting over 5 hours but there is no dispute between the parties that the Claimant was asked if she wanted a break and a break was taken.
260. Angela Woods did not consider that an independent investigator was required but identified that she wanted to explore further and investigate herself.

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261. Following that meeting, the Claimant having been shortlisted for the Professional Lead post, attended a job interview on 5 September 2022. Later that evening, she was conditionally offered the post and verbally accepted it

262. Angela Wood, also sent the Claimant a letter on 7 October 2022, outlining the content of what had been discussed in their 2 September meeting [431] which included, but was not limited to:

- a) Confirming that it would not be possible for the Claimant's line management to move to MHLD on an interim basis but would remain with Chris Lynes;
- b) That she would be speaking to Lesley Hall and John Martin to better understand the HR support and advice that had been given;
- c) That she would discuss with Gareth Evans about the Claimant speaking to him regarding the temporary transfer of budgets

263. Angela Words confirmed that she had agreed to arrange a Facilitated Conversation with Gareth Evans to discuss budgets and for mediation to enable the longer term relationship to develop subject to Gareth Evans' agreement. The letter also confirmed that she and the Claimant had discussed a return to work.

264. Before a second meeting had been arranged for Angela Woods to provide an outcome once she had taken the opportunity to take such steps, the Claimant wrote raising a number of points regarding that letter and her experience of the meeting [438].

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265. She complained of the lack of acknowledgement of her distress at that meeting, of the impact on her mental health of her experiences and of the impact of retelling of them. She agreed only in part with the letter in terms of what had been agreed at the meeting. She expressed concerned that Angela Woods felt unable to ask an Executive Director to change their mind regarding the change of management or that she had thought it reasonable for an Executive to move budgets. The Claimant also expressed concern that she had not had any assurances that her request for a disciplinary process against Dawn Henderson would be supported, only that Angela Wood would speak to Lesley Hall as to why a decision on that issue had been placed on hold. She did not agree that Lesley Hall be spoken to, only Sue Green and was unhappy that no reference to her request for an extension to her secondment to the interim post was made.
266. She considered that her meeting should be a continuation of the first as they had been unable to discuss some of her concerns. She ended the letter asking for a copy of the notes of the first meeting.
267. The Claimant at that point lost faith in her Respect and Resolution process.
268. On 21 September 2021, the Claimant attended an OH appointment with her potential new employer when the Claimant explained the number of sickness absence days she had taken in the previous two years. That OH consultant indicated that they would need to speak to the manager of the new post before they saw the OH Report. The Claimant spoke to that manager later that day explaining briefly the reasons and they confirmed to her that the offer of employment still stood. The Claimant remained disbelieving that she would offered the post until she received formal notification.
269. On 22 September 2022, Angela Woods wrote clarifying the process that her letter of 7 September 2022 was an initial response and not a final outcome letter [466].
270. On 29 September 2022 the Claimant and Chris Lynes discussed a possible return to work for the Claimant and was informed that Gareth Evans was open to extending the interim secondment to November. The Claimant informed her that she had been offered an Professional post elsewhere with a possible January start date.

*Claimant's return to work and resignation*

271. On 1 October 2022, the Claimant returned to work for the first time since 29 June 2022 and tendered her resignation [488, 496]. The letter was brief confirming her final day would be 2 January 2023. She returned to work following her sick leave absence from 29 June 2022 [488].
272. On 13 October 2022, an agreement to extend her secondment to 2 January 2023 was made [518].
273. For completeness on 19 October 2022, the Claimant's Grievance/Respect and Resolution hearing took place with an outcome being provided to the Claimant by

way of letter dated 26 October 2022 [547]. In brief, Angela Wood confirmed that until the termination of her employment:

- a) Line management would not move to the Director of MHL D but that line management would continue with Chris Lynes;
- b) all Psychology Service budgets had remained with the Claimant and would continue to do so;
- c) Her secondment would continue until her employment ended.

274. She also confirmed that she was appointing a case manager to review the information regarding a disciplinary case and would ask for a formal review of the HR processes. She apologised on behalf of the organisation for the failings in the process and the harm that this had caused the Claimant. In live evidence, Angela Woods confirmed that she apologised for the length of time that she had taken to conduct the Respect and Resolution process for the Claimant

275. On 20 December 2022, the Claimant submitted her appeal to that outcome [572]. On the penultimate day of her employment with the Respondent, the Claimant submitted evidence for the case manager to consider potential disciplinary action against Dr Henderson [649] and on the following day, 2 January 2023 the Claimant's employment ended.

276. On 27 January 2023, the Claimant's Grievance appeal hearing was conducted [662].

277. On 5 March 2023, the Claimant commenced ACAS early conciliation [1] filing her ET1 on 6 April 2023 [2].

278. On 25 September 2023, Mandy Jones review of disciplinary concerns completed [682].

### **Submissions**

279. The Respondent relied on detailed written submissions and did not add to those submissions at the final hearing. There are incorporated by reference into these written reasons.

280. The Claimant relied on oral submissions only. Having raised with her the principle of the 'last straw' doctrine, the Claimant confirmed that she was not relying on last straw doctrine but did indicate that on top of the series of acts that she relied on as establishing the breakdown of trust and confidence, that there were a couple of distinct matters that did lead her to seek work elsewhere which she contended was set out in her witness statement<sup>6</sup> and that the following were significant:

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<sup>6</sup> CWS§199-201, 204-207, 226-229



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- a) On 4 August 2022, she received the 'unfiltered words' of Dawn Henderson from the Chair of Dawn Henderson's Respect and Resolution process, despite knowing that the Claimant had repeatedly reported insubordination and bullying, that she was off sick with work stress and had submitted her own Respect & Resolution complaint;
- b) On 8 August 2022<sup>7</sup>, she received news that her secondment was not being extended, an issue that she had requested in her own Request & Resolution complaint and which had arisen before the first meeting in that process; and
- c) On 10 Aug 2022, Chris Stockport had emailed her and declined a request to permit her to speak to her temporary line Manager, Chris Lynes about Dawn Henderson's allegations [937,] a manager who was responsible for helping look after the Claimant's wellbeing; that priority was instead given to maintaining confidentiality for Dawn Henderson.

281. The Claimant made detailed submissions on the conduct of Gareth Evans, in requesting cost codes to be moved and seeking movement of Dawn Henderson's line management together with her delegated budgets and service lines. She spoke of the cumulative impact on her mental health and well-being of such decisions, inviting me to find supporting evidence of that in the sickness absence records, including occupational health. She invites me to find the impact on her health is outlined in her witness statement<sup>8</sup>.

282. In relation to arguments that she had affirmed any breach/ delayed in resigning, the Claimant submitted that she lost hope that there would be resolution to her own Respect and Resolution as evidenced in her letter to Angela Wood of 13 September 2022 and invited me to recognise that she had to take time to leave the Respondent's service after 21 years of employment; that she needed to prioritise her mental health and recover and accept that she could not return to work for the Respondent as Head of Speciality, 'let alone apply for the substantive head post' reporting to Dawn Henderson and Gareth Evans. She accepted that she started to look for work when secondment was not extended but that she needed to attend the first hearing on her Respect and Resolution. She knew she had been successful

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on her new appointment on 5 September 2022 but she waited until her occupational health assessment on 21 September 2022 as she was anxious regarding her sick leave over the previous year.

283. The Claimant reminded me of the fallibility of recall and that the Respondent had no contemporary notes of meetings, inviting me to accept her own notes of such meetings as reliable. The Claimant also made some specific challenges to the evidence from the Respondent's witnesses, inviting me to accept her evidence.

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<sup>7</sup> CWS§188

<sup>8</sup> CWS§226-229

284. In terms of issues regarding health and safety and risk assessments, the Claimant accepted that she did not make reference to such matters in her own witness statement but submitted that they were in the amended List of Issues that had been admitted.

### **The Law**

285. Section 95 ERA 1996 provides that for the purposes of unfair dismissal, an employee is dismissed by his employer if the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate without notice by reason of the employer's conduct.

286. In those circumstances, if the claimant was dismissed, considerations has to be given as to what was the principal reason for dismissal and was it a potentially fair one in accordance with Sections 98(1) and (2) of the Employment Rights Act 1996 ("ERA"); and, if so, was the dismissal fair or unfair in accordance with Section 98(4) ERA, and, in particular, did the respondent in all respects act within the "band of reasonable responses".

287. In relation to the breaches I have to consider the following

a) Did the respondent breach the implied term of mutual trust and confidence i.e. did it, without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence between it and the claimant?

b) If so, did the claimant "affirm" the contract of employment before resigning (i.e. act in a manner that indicates the claimant remains bound by the terms of the contract.) as if I concluded that he did, this would waive the breach

c) If not, did the claimant resign in response to the breach of contract (was the breach a reason for the claimant's resignation – it need not be the only reason for the resignation)?

288. The burden of proof is on the employee to demonstrate that the employer's actions have destroyed or seriously damaged trust and confidence or were calculated or likely to do so and that the employer had no proper cause for the actions in question.

289. Lord Denning, in **Western Excavating (ECC) Ltd v Sharp** [1978] 1 All ER 713 sets out the approach to constructive dismissal as follows: '*If the employer is guilty of conduct which is a significant breach going to the root of the contract of employment; or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract, then the employee is entitled to treat himself as discharged from any further performance. If he does so, then he terminates the contract by reason of the employer's conduct. he is constructively dismissed.*'

290. Lord Steyn in **Malik v Bank of Credit; Mahmud v Bank of Credit** [1998] AC 20 gave guidance for determining if there has been a breach of trust and confidence, when he said that an employer shall not: *'...without reasonable and proper cause, conduct itself in a matter calculated (or) likely to destroy or seriously damage the relationship of confidence and trust between employer and employee.'*
291. Whilst conduct of the employer must be more than unreasonable, breach of trust and confidence will invariably be a fundamental breach.
292. The claimant needs to establish his decision to resign, on the basis of the 'last straw', which need not in itself be a breach of contract. Dyson LJ in **Omilaju v Waltham Forest London BC** [2005] All ER75 said that: *'If the final straw is not capable of contributing to a series of earlier acts which cumulatively amount to a breach of the implied term of trust and confidence, there is no need to examine the earlier history to see whether the alleged final straw does in fact have that effect. Suppose that an employer has committed a series of acts which amount to a breach of the implied term of trust and confidence, but the employee does not resign his employment. Instead, he soldiers on and affirms the contract. He cannot subsequently rely on these acts to justify a constructive dismissal unless he can point to a later act which enables him to do so. If the later act on which he seeks to rely is entirely innocuous, it is not necessary to examine the earlier conduct in order to determine that the later act does not permit the employee to invoke the final straw principle.'*
293. The tribunal is therefore required to decide whether the respondent's conduct in this case could objectively be said to be calculated, or in the alternative likely, to *seriously* damage confidence and trust between the claimant and the respondent. Thereafter we are required to examine whether the claimant resigned in response to that conduct, and that conduct must include a final event which contributes to earlier actions so as to make the entirety of the conduct, taken together, sufficiently serious so as to damage the relationship of confidence and trust between employer and employee.
294. Finally, the breach must cause the employee to resign which is a question of fact for the tribunal based on the evidence before it.
295. If the claimant was unfairly dismissed and the remedy is compensation:

### **Conclusions**

296. This has been a lengthy and difficult case, with the January hearing being aborted due to lack of clarity on the specific allegations that the Claimant was relying on to mount her complaint of 'breach of duty of care', documents being significantly redacted without permission despite some redacted extracts being relevant to the complaint, and a lack of disclosure of other documents which eventually proved not just relevant, but necessary for a fair disposal of this claim.

297. Whilst I take into account that the Respondent is an NHS body, and the period in question has spanned a period from the beginning of Covid-19 pandemic in March 2020, and again critically from October 2021 when the UK was still in the grips of managing the pandemic, that the concerns from the Claimant were first voiced in October 2021 and over a year later had still not been addressed, underpins her allegations of failing to be protected and failing in its duty of care when the Respondent repeatedly prevented her, she says, of utilising procedures to support her or against Dawn Henderson.
298. I concluded that in part the context of the communication issues that the Claimant says she experienced with Dawn Henderson, were rooted with her obvious discontent from 2020 relating to the management of the Psychology Services, in part with the subsequent appointment of the Claimant. Whatever the reason, the Claimant was not getting Dawn Henderson to engage with her and that issue was the issue that the Claimant sought support for managing from HR.
299. I make it clear however that I make no findings on the rights and wrongs of the various perspectives in such matters and I am conscious that individuals, such as Dawn Henderson as well as other clinicians named have not been given a voice in these proceedings. However, that has been unnecessary as the core issue is the treatment that the Claimant was subjected to over such a period, where she complains of the conduct of HR personnel in their advice and support to her as well as the conduct of operational managers.
300. Rather than deal with the treatment that the Claimant relies on in the order as set out in the list of issues, I deal with the issues chronologically, dealing with the specific allegations regarding Gareth Evans' request for both Psychology Services budgets/cost codes and line management of Dawn Henderson to be moved to him as well as the alleged refusal to meet with her (instead offering to undertake a PADR,) within the body of the more detailed allegations that the Claimant makes to support her general complaint that she had been prevented from instigating a disciplinary investigation against Dawn Henderson but instead concerns had been explored under the Respect and Resolution Policy.
301. The start of the Claimant's concerns are with regard to the advice given at the meeting with Claire Thomas-Hanna on 24 September 2021, to be firmer in communication with Dawn Henderson and to urge her to attend meeting with more force.
302. I concluded that the advice given at this early stage, weeks into the life of the Claimant's new interim post, was reasonable and appropriate and I did not find that it could be said that this advice was either calculated or likely to impact on the trust and relationship. Claire Thomas-Hanna had proper cause for giving that advice at that stage and how the Claimant chose to interpret and manifest that advice in her email to Dawn Henderson, lay with the Claimant. Whilst understandably the Claimant would have been unhappy with the escalation of Dawn Henderson's behaviour, not least in copying others to subsequent emails, I did not find that this was the result of the advice given by Claire Thomas-Hanna but, if anything, likely

to be the result of the tone that the Claimant chose to adopt regarding the annual leave request and the on-going grievances Dawn Henderson was nursing regarding the termination of the interim appointment in 2020 and the management by the MHLD.

303. Matters did not progress and the Claimant complains of the advice given again by Claire Thomas-Hanna in December that year.
304. Whilst I accepted that the Claimant had agreed to a 'Facilitated Conversation', Claire Thomas- Hanna meeting, as opposed to writing to Dawn Henderson in December 2021 was not a step that the Claimant had expressly agreed to, and a course that did cause the Claimant to be concerned. Notwithstanding that, I concluded that in isolation, such a change in method of contact was clearly not behaviour that was calculated to destroy/seriously damage trust and confidence in itself. As the Respondent has submitted, Claire Thomas-Hanna used her judgement as an HR professional to try to ensure a meeting could take place and this was a sensible course of action. The Claimant also knew that such a step was being taken, even if the Claimant was unhappy with that (as reflected in the tone and content of the Claimant's email of 21 November [172]).
305. I was satisfied that Claire Thomas-Hanna had reasonable and proper cause to take such a step, accepting that there was little difference in writing or speaking to them both.
306. However, I considered what then followed and the Claimant's specific concerns that Claire Thomas-Hanna then informed Dawn Henderson about taking steps to introduce ACAS as a mediator without the Claimant's agreement and disclosing to her potential disciplinary.
307. I had found that the Claimant had evidenced the impact of being informed of Claire Thomas-Hanna's decision to involve ACAS within her statement (§75) and I did conclude that such a decision, to include that third party to facilitate discussion between the two by way of facilitated discussion or mediation and without agreement or even discussion with the Claimant as the operational manager responsible for managing the Claimant, was a step that reasonably did damage the Claimant's trust and confidence.
308. The Respondents have put to the Claimant, and have submitted that it was for the Claimant, as manager to invoke disciplinary, not HR. Despite this position, Claire Thomas-Hanna as HR, involved ACAS as a third party and did not leave it for the Claimant as manager to be party to or make that decision. I concluded that Claire Thomas-Hanna had no reasonable or proper cause for doing so.
309. The Claimant does not complain in her statement that Claire Thomas-Hanna had disclosed to Dawn Henderson that the Claimant and Iain Wilkie had been considering disciplinary but that, coupled with drawing in ACAS did likely escalate the subsequent and adverse reaction that then resulted from Dawn Henderson – she referred to both in her February 2022 grievance.

310. What I did not conclude that these were steps that were calculated to destroy/damage trust or confidence, Rather, I took the view that Claire ThomasHanna was seeking to ensure that Dawn Henderson understood the consequences of failing to meet bring resolution for and assist the Claimant.
311. As a general conclusion at this juncture, I would also make clear that at no stage did I consider that any of the Respondent witnesses had taken any steps in a way that was *calculated* to destroy the relationship of trust and confidence, even if that was eventually a potential consequence.
312. By February 2022, the Claimant's requests for guidance and clarity had resulted in her being no further forward with how best to address her concerns, a Facilitated Conversation (with or without ACAS) was no longer being progressed and Claire Thomas-Hanna no longer providing HR support. New HR support, in the form of John Martin, a colleague of Claire Thomas-Hanna was provided by Lesley Hall to discuss the Claimant's concerns but despite both Claire Thomas-Hanna and Lesley Hall having by this stage detailed knowledge of Dawn Henderson's concerns and the historical background to the Psychology Services disputes, neither provided him with that information in order to equip him to support the Claimant.
313. This left the Claimant starting afresh effectively in seeking support and advice.
314. The Claimant asserts that John Martin's failure on 3 February 2022 to appropriately address her concerns regarding Dawn Henderson was a breach of duty of care. I found it difficult to concluded that that the generic advice that John Martin did give that day, on that basis of what he in fact knew could be said to be calculated to destroy/damage the trust of the Claimant, nor did I consider that again in isolation it did. The advice to the Claimant to check with her line managers on whether there was an ongoing grievance against her which may have provided a reason why Dawn Henderson was not meeting with her, was appropriate and reasonable advice.
315. I say in isolation however as whilst John Martin did not personally know of the wider issues and views held by Dawn Henderson, other HR managers did and it was reasonable to conclude that he should have known what those issues/views were order to give proper HR support to the Claimant when she was seeking it (and had been seeking it since September 2021). He did not and that he had not been given such information and did not know, gave rise in my view to a lack of proper HR support to the Claimant at this point. I further concluded that the resulting effect of this was that there was no real guidance at that point from John Martin on how to appropriately address the Claimant's concerns or any reasonable and proper cause for that in all the circumstances.
316. Whilst it has been argued that as a senior manager, she did not need permission of HR to invoke the disciplinary procedure, it would not be reasonable for her to do so in light of the advice she was receiving from HR persuading her not to. To an extent it is trite to say that the Claimant could have taken disciplinary action without HR

support but the Respondent's own Disciplinary Policy makes it clear (§7.4 [197]) that action was to be taken after taking HR advice and it would not be reasonable to expect the Claimant having taken HR advice when seeking support, to have ignored it.

317. The consequences of the lack of any definitive plan from him/HR at that point to support the Claimant, despite her deep-rooted concerns regarding Dawn Henderson's behaviour that she had been bringing to HR at that point for nearly 5 months was, in my mind, sufficient to significantly impact on the Claimant's trust and confidence. The Claimant was effectively no further forward than she was in September 2021 when she first approached HR and there was no reasonable or proper cause for such a situation.
318. The Claimant claims that on 2 March 2021, Claire Thomas Hanna instructed Iain Wilkie not to meet with Dawn Henderson and that no guidance was provided to her on the next step and that the Respondent failed to inform Claimant of that decision. To an extent this followed on and cut across the generic advice that had been given by John Martin for the Claimant to contact her line managers and, with Adrian Thomas being off sick, this meant Iain Wilkie.
319. Despite Claire Thomas-Hanna having been tasked with providing HR support to the Claimant and involving herself to stop the meeting between Iain Wilkie and Dawn Henderson, neither she nor John Martin appeared to communicate or contact the Claimant regarding this or ensure that appropriate support was put in place for the Claimant to discuss next steps.
320. This lack of communication, when they both knew that the Claimant had been off work with stress and had been since October 2021 and reaching out for HR support, and no alternative plan for the Claimant was seriously damaging to the Claimant's trust and confidence. There was no reasonable or proper cause for doing so particularly as by this stage John Martin was also aware of Dawn Henderson's concerns, having been tasked with providing HR support to the Chair of that Second DH Grievance and that the Claimant had been repeatedly reaching out to HR for support and guidance.
321. By the 1 March 2022, when Gareth Evans takes over line-management responsibility as Executive Director of Therapies from Adrian Thomas, the Claimant is still no further forward in resolving her communication with Dawn Henderson but he is now the effective line manager for her to speak to and to understand what background there is to Dawn Henderson not meeting her.
322. By this point of course, Dawn Henderson has submitted her formal grievance against the Claimant (Second DH Grievance). In marked contrast to the management of the Claimant's Grievance against Gareth Evans, sent to him within weeks of the Claimant making such a grievance, nothing has yet been sent to the Claimant despite HR knowing that the Claimant has been aware since December

2021 that there are 'grievances' in the background shaping their advice not to pursue disciplinary. No one has informed Gareth Evans despite him being responsible for line management of the Claimant and the Psychology Services.

323. The Claimant complains of Gareth Evans failure to prioritise or permit sufficient time to discuss HR issues and ways forward at the meeting on 7 March 2021. As I made clear in my findings, I accepted Gareth Evans' evidence that he had been content for the Claimant to set the agenda at that meeting for what she had wanted to talk about, was persuaded that he had no reason to manipulate the discussion to avoid the topic of Dawn Henderson and had not found that Gareth Evans had failed to prioritise or permit sufficient time to discuss HR issue or ways forward in resolving the Claimant's concerns. I therefore concluded that he had not personally behaved in any way at that meeting that could reasonably have impacted on the Claimant's trust and confidence at that meeting.
324. The Claimant makes a number of specific allegations in relation to the subsequent meeting she then had with Gareth Evans on 14 March 2022, alleging that he failed to act to support her to address Dawn Henderson's behaviour, or advise her regarding appropriate action she could take and that he failed to guide her regarding an appropriate HR. Effectively she complains that he disabled her from acting, albeit that terminology was not reflected in her own witness statement.
325. Having made findings that Gareth Evans had confirmed that he would speak to HR and review the position, I did not find that it could be said that Gareth Evans, either at or after that meeting, personally failed to support the Claimant to address Dawn Henderson's behaviour. Likewise, whilst I accept and had found that no advice had been given regarding any specific action that the Claimant should or should not take at that stage, or which appropriate HR policy was being used, there was an explanation for that, namely that he would be speaking to HR for a 'plan'.
326. Again, there was nothing in Gareth Evans' personal approach at this second meeting that led me to conclude that his specific conduct that day could be said to breach trust and confidence. In isolation, on the basis that he had just been appointed and was taking steps to get advice and understand the position, he had reasonable and proper cause for seeking further advice and clarity.
327. I concluded again that as the Claimant was no further forward in obtaining any support for how to manage Dawn Henderson and was experiencing a further delay and subsequent lack of advice regarding what appropriate could be taken, this led to further and serious erosion in her trust and confidence in the Respondent. Again, looking at this claim holistically, I concluded that the Respondent had again at this point failed to provide the Claimant with support and guidance on how to manage her concerns regarding Dawn Henderson and that this was a further erosion of her trust and confidence.
328. Taking into account that senior individuals in the Respondent were aware of the detailed grievance submitted by Dawn Henderson, (including those in HR of Claire Thomas-Hanna, John Martin and Lesley Hall as well as operational managers in



the Respondent,) who were also aware of the Claimant's own concerns and repeated requests for assistance and support, in light of the Respondent's corporate knowledge, the Respondent had no reasonable or proper cause for the Claimant being in that position. The overall effect was that it did disable or prevent the Claimant from using any procedures to manage Dawn Henderson, whether by informal resolution or otherwise.

329. The Claimant also complains that Gareth Evans failed to review her Stress Risk Assessment and Wellness Action Plan with her or assess her wellbeing at that stage, whilst I had found he had not, I was not persuaded that the Claimant had demonstrated that this was conduct that did or was likely to destroy her trust and confidence. The Claimant had not raise the issue in her witness statement and had not raised this specifically with him; it was not in her agenda and was not raised by her at that meeting. In any event, Gareth Evans had reasonable and proper cause for not reviewing the plan as I had found that had been unable to access and review any previous advice on the issue.
330. This remained my conclusion in relation to similar allegations made on 10 June and 15 June 2022 that there had been no review on the Stress Risk Assessment and Wellness Action Plan and are repeated. Failure to review such plans when the Claimant was in work could not be said to be conduct that viewed objectively destroy or damage trust. If it did, the Respondent had reasonable and proper cause for the same reasons.
331. The Claimant claims that at or following her meeting with Gareth Evans on 16 May 2022, he failed to support her to address Dawn Henderson's behaviour, that he disabled her from acting, which I construed as not just preventing her from disciplining Dawn Henderson but taking any steps to manage the impasse in communication. She also complains of the move of the line management of Dawn Henderson from her to Gareth Evans, a matter I found had first been communicated to her by 9 May 2022.
332. In terms of context to these allegations, in the period since the meeting on 14 March 2022, Gareth Evans had:
- a) confirmed to the Claimant on 22 April 2022 that there was an outstanding grievance against her;
  - b) had received a 'plan' from HR (Lesley Hall) which included that the line management of Dawn Henderson should be removed from the Claimant Gareth Evans having indicated to them that the Claimant had expressed that there was a 'desperate need to find a way forward' and had determined that this should be put in place; and
  - c) had (by 9 May 2022) informed the Claimant of the line management change and that Chris Stockport would be contacting the Claimant regarding the Second DH Grievance.

333. By this stage, the Claimant too had renewed her intent to discipline Dawn Henderson.
334. Whilst I had made findings that there was no support for the Claimant to take disciplinary action, I also concluded that save for now awaiting the outcome of the Respect and Resolution process into Dawn Henderson's grievance, and the suggestion of a move in line management, there was no action to support the Claimant to address her concerns. The advice given, not to take any action other than to await the outcome of Dawn Henderson's grievance remained in place for the duration of the remainder of the Claimant's employment and as a result that remains my conclusion in respect of the allegations that the Claimant makes in respect of the advice given at or after the meetings that followed on 8 June, 10 June and 13 June 2022 with Gareth Evans.
335. Whilst, I concluded that it could not be said that Gareth Evans personally failed to support the Claimant to address Dawn Henderson's behaviour at or following those meetings, again stepping back and looking at the matter holistically, the complaints behind the repeated complaint that Gareth Evans failed to support her to progress action against Dawn Henderson reflects that the Claimant's underlying concern that there was no support for her to discipline Dawn Henderson and no plan for the Claimant other than to wait for the resolution of Dawn Henderson's second grievance to be conducted through the Respect and Resolution process, a process that was moving forward at an achingly slow pace, and for responsibility to manage Dawn Henderson to be removed from her.
336. Again, in the context of the efforts that the Claimant had been making in the previous 8 months to get support and advice on how to manage Dawn Henderson, the failure to support the Claimant to discipline Dawn Henderson, or indeed provide any support on how to get a conversation going with her, and the move in the line management from her would have seriously damaged the trust held by the Claimant,
337. I accepted however the Respondent's submissions that at that stage, the Respondent did have reasonable and proper cause for removing line management from the Claimant, namely to allow the Respect and Resolution complaint to be heard and for the protection of both the Claimant and Dawn Henderson despite this not having been suggested as part of the support for the Claimant when she raised allegations of bullying. That it should have come to this point was not reasonable.
338. The practical effect of HR not providing clear advice and support to the Claimant from the point in time when the Facilitated Conversation was no longer being progressed, was that the Claimant was now effectively disabled and prevented from taking disciplinary action or indeed utilising any formal procedures including the informal procedures of the Respect and Resolution against Dawn Henderson.
339. This did lead to a serious damage and breakdown in the Claimant's trust and confidence in the Respondent and, taking into account the Claimant had been

reaching out for support since September 2022, I concluded that the Respondent had no reasonable or proper cause for this position.

340. The Claimant complains of the decision to transfer the budgets. By 7 June 2022, the Claimant was aware of Gareth Evans proposal to action the move of the Psychology budgets from MHLD to the division headed by him as Executive Director of Therapies.
341. Further, I had made positive findings that the Claimant was unhappy with the move of the costs and budgets had found that the Claimant was clearly aggrieved with this proposal and argued against such a move repeatedly, not agreeing with it and aligning this issue with her own concern. I concluded that this did led to a further erosion of her trust in the Respondent.
342. I did conclude however that the Respondent had proven that they had reasonable and proper cause for doing so. The evidence before me indicated that this had been a decision taken in 2021 so that he would have overall responsibility for the budgets in his division and the move was to make it clear which executive within the Respondent, the budgets sat I concluded that Gareth Evans had reasonable and proper cause for doing so, namely aligning and transferring governance arrangements for Psychology out of Mental Health and to align it with the division headed by him as Executive Director of Therapies, a decision that had been made in 2021.
343. In relation to additional and specific allegations in relation to those June meetings with Gareth Evans, I had made positive findings in relation to Gareth Evans conduct on 8 June 2022 and had found that the Claimant had not proven the conduct alleged of bullying or disrespectful behaviour and so could not rely on such matters to establish a breakdown in trust and confidence.
344. I accepted that Gareth Evan's sent only a holding email to the Claimant on 10 June 2022, a Friday, to the Claimant's concerns raised in her email of 9 June 2022, but I had found that he was clear that it was such and was an appropriate response to a very lengthy email from the Claimant and confirmed that he would meet with her the following week. Moreover he had provided a formal response only three working days later on 15 June 2022, which I had found was an appropriate response. The Claimant had not proven that this would or could have led to a loss in trust and confidence. I had not found that Gareth Evans had refused to meet with the Claimant in a timely manner, quite the contrary. Despite being in post for only a matter of months, I concluded that he had made repeated efforts to meet with the Claimant. This could not reasonably have led the Claimant to lose trust and confidence
345. Neither did I concluded that there was any merit in the complaint that Gareth Evans had refused to meet the Claimant, instead offering to under a PADR (§1.1.14 List of Issues). I had made positive findings that Gareth Evans had in fact agreed to the Claimant's request to keep 12 July as a 'catch-up' after an exchange of emails regarding the Claimant's PADR and 'catch-up'; that he had not refused to meet with

her offering her a PADR instead, that such conduct had not been proven and in turn could not be relied on to demonstrate a breakdown in trust and confidence.

346. However I would repeat that looking holistically at the Claimant's claim, by now the failure to provide the Claimant with support on how to manage and deal with Dawn Henderson at this stage, other than to await the outcome of Dawn Henderson's own Respect and Resolution, understandably resulted in serious damage to the Claimant's trust and confidence in the Respondent. Taking into account the Claimant had been reaching out for support since September 2022, I concluded that the Respondent had no reasonable or proper cause for this position.
347. As matters moved forward, the focus of responsibility for HR shifted with John Martin being tasked with supporting Chris Stockport on the Second DH grievance and the Claimant making a number of specific complaints regarding Leslie Hall's failure to support her to address Dawn Henderson's behaviour. At around this time, the Claimant reached out to Lesley Hall, now the HR manager responsible for providing the 'plan' for the Claimant to await the outcome of Dawn Henderson's grievance. The Claimant complains that there was still a failure to support her to address Dawn Henderson's behaviour.
348. Whilst Lesley Hall had given evidence that she had concluded that the Psychology department was dysfunctional, had split into factions and struggled to agree, and that it was this that had caused difficulties in resolving such grievances and she felt that the subsequent issues between the Claimant and Dawn Henderson '*was the embodiment of that*', she had also opined that whilst she understood that Dawn Henderson would be unhappy with the interim line management arrangements, this would not automatically mean that she had a problem with the Claimant. There evidently was an issue and that, I concluded, was the specific issue that the Claimant had been seeking support and advice on, namely Dawn Henderson's failure to engage with the Claimant after her appointment.
349. In light of this and in light of the lack of knowledge that the Claimant had in relation to the specific concerns being raised by Dawn Henderson about her (knowledge that the Respondent and in particular, Lesley Hall and others in the organisation at senior level did have,) I did accept that the Claimant did reasonably believe that HR were not providing support for her to discipline or manage the situation with Dawn Henderson and that this did result in an erosion of her trust and confidence.
350. At this point (or indeed at any point prior to this,) it appears that Lesley Hall made no assessment of whether the Respondent should be looking at matters holistically and whether independently, or even in conjunction with Dawn Henderson's concerns, the Claimant's concerns regarding Dawn Henderson's behaviour should be investigated, either as a standalone investigation or a disciplinary one. For those reasons I did not consider that the Respondent had any reasonable or proper cause for behaving in this way.
351. Whilst I had accepted Lesley Hall's evidence as to why she had failed to respond to request the Claimant's emailed request on 20 June 2022 for further information

and a timeframe regarding Dawn Henderson's Second DH Grievance, and that this was the reason, in the context of what was a obviously a very difficult emotive case, this failure cannot be said to be reasonable and I found that this did further and again serve to undermine and further erode the Claimant's trust and confidence.

352. The Claimant asserts that at this point Sue Green also failed to enact the Respect & Resolution Policy according to timeline in policy. I had found that the timelines reflected in the Respect and Resolution Policy were indicative only and in any event by 25 July 2022, Sue Green had asked Chris Stockport to undertake an investigation. Whilst this was outside the indicative timelines, the grievance was lengthy and it was not such a delay that it could be said to be without reasonable or proper cause.
353. The Claimant claims that that Chris Stockport and/or Sue Green failed to protect her from exposure to written allegations by Dawn Henderson when she was off sick with related work stress when they sent them to her on 4 August 2022. She further claims that there was a failure to provide appropriate support to manage the emotional impact of exposure to Dawn Henderson's words.
354. The Claimant had been off with stress, related to her experiences in work since her appointment as interim Head of Psychology Services, she had been waiting to respond to the DH Second Grievance since being aware of it formally in April, yet knowing of a hidden background of concerns since much earlier, from December 2021, something that was well-known by John Martin who was supporting Chris Stockport, as well as Lesley Hall and Sue Green.
355. Whilst the Respect and Resolution timeline was indicative only, I consider that the delay in complying with the indicative timelines, not just for the complainant but also for those knowing that they were the subject of an internal complaint, was conduct that was likely to destroy or seriously damage trust and confidence.
356. To send notification of the allegations to the Claimant, without warning in such circumstances and after such a considerable delay, which I viewed as not being within any reasonable timeframe however complicated the grievance and was unacceptable, was likely to seriously damage the Claimant's trust and confidence, particularly coming immediately after being informed that her secondment was not being extended any further. This was my conclusion even though I had also found that the Claimant had not in fact read the attachment until later that month.
357. This was not an innocuous act, but one which anyone who had been involved in assisting the Claimant to manage her concerns, and knew how long the Claimant had been prevented from progressing her own concerns, would have or should reasonably have been aware. It was a culmination of months of the Claimant waiting.
358. In my view, knowing the background to the Claimant's own concerns with Dawn Henderson, her repeated requests for support, there was no reasonable and proper cause for such action. This in isolation and on the back of the cumulative other

breaches of trust and confidence, amounted to a fundamental breach of contract entitling the Claimant to resign.

359. I had further found that the Claimant at that point determined to resign. Whilst I did conclude that the email from George Roberts of 8 August 2022, confirming to the Claimant her secondment would not be extended and her concerns regarding the consequences for her of the appointment to the permanent position as Head of Psychology Services, was a 'pivotal moment' for her and did factor into the reason for the Claimant's subsequent resignation, I concluded that this was not the only reason for her resignation.
360. As the Claimant confirmed in cross-examination, there were cumulative reasons which taken together were why she resigned and did not undermine my conclusion that the Claimant resigned because of and in response to the breach of the implied term of trust and confidence.
361. I agree that subsequent issues relied on by the Claimant were not, in my view, reasons why the Claimant resigned and I did not consider them relevant to my determination of the Claimant's constructive unfair dismissal claim.
362. Finally, I further concluded that the Claimant did not affirm the contract before resigning. The Claimant immediately took steps to secure alternative employment and I had found that by 9 August 2022, she had applied for a role which she subsequently secured by way of a formal written offer after discussions regarding her sickness absence over the previous 12 months, by the end of September.
363. Whilst did not resign in the first weeks in August, she was off sick until she returned to the workplace on 1 October 2022, when she resigned, no more than a few weeks later. Taking into account the Claimant's length of service and given the pressure on the Claimant regarding her concerns on her financial position and future employability, I did not accept that the Claimant had delayed to the extent that it could be said that she had affirmed the contract.
364. The Claimant was therefore constructively dismissed and the dismissal was unfair, no fair reason being put forward by the Respondent for the dismissal.
365. A case management hearing will be listed to consider directions for any remedy hearing.

**Employment Judge R Brace** 13  
November 2024:

JUDGMENT SENT TO THE  
PARTIES ON

02 December 2024  
FOR THE SECRETARY OF  
EMPLOYMENT TRIBUNALS  
Adam Holborn

**Appendix  
List of Issues**

The issues the Tribunal will decide are set out below.

**1. Constructive Unfair dismissal**

**1.1 Was the Claimant dismissed?**

1.1.1 Did the Respondent do the following things, which the claimant says amounts to bullying and a breach of duty of care owed to her:

1.1.1.1 Request that all adult Psychology Services budgets and costs codes be moved from the Claimant to under Mr Gareth Evans without explanation, or without agreement; this includes removal of governance and development of psychologists and psychology services and the claimant's role as line manager, such that she had no oversight of adult psychology services and its workforce.

1.1.1.2 Move the line management of DH, Head of Adult Mental Health Services from the Claimant to Mr Gareth Evans without agreement;

1.1.1.3 Prevent the Claimant from instigating a Disciplinary Investigation against DH by instead exploring the concerns under the All-Wales Respect and Resolution Policy; this includes failing to protect the claimant from bullying and an allegation that HR failed in its duty of care\* to the claimant who was repeatedly prevented from utilising internal procedures in her support or against DH (for example it had been arranged that upon their return from sick leave she was to join in a discussion with DH, but that was then counselled, and from such cancellation the claimant says HR failed to provide any support whatsoever to her).

1.1.1.4 Did Mr Evans refuse to meet with the Claimant, instead offering to undertake a PADR (Appraisal)

1.1.2 Did that breach the implied term of trust and confidence? The Tribunal will need to decide:

1.1.2.1 whether the Respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent; and

1.1.2.2 whether it had reasonable and proper cause for doing so.

1.1.3 Was the breach a fundamental one? The Tribunal will need to decide whether the breach was so serious that the Claimant was entitled to treat the contract as being at an end.

1.1.4 Did the Claimant resign in response to the breach? The Tribunal will need to decide whether the breach of contract was a reason for the Claimant's resignation.

1.1.5 Did the Claimant affirm the contract before resigning? The Tribunal will need to decide whether the Claimant's words or actions showed that they chose to keep the contract alive even after the breach.

\*The matters that the Claimant relies on as being the 'breach of duty of care' in §1.1.1.3 List of Issues, are set out in the following Schedule (see case management order of 9 February 2024 [971]).

	<b>Act/Omission</b>	<b>Ref to C Statement</b>
1.	The advice given, to be firmer in communication with DH, and to urge DH to attend meeting with more force. The Claimant contends that this led to an escalation in DH behaviour <b>CTH – 24/9/21</b>	49
2.	CTH meeting DH and her union representative without agreeing such a step with the Claimant.  The Claimant contends that this was in contrast to agreed step which was to meet – <b>CTH 3/12/21 (9/12/21)</b>	75 - 77 (79)
3.	CTH arranging ACAS mediation without consultation with the Claimant <b>CTH 3/12/21 (9/12/21)</b>	
4.	CTH disclosure to DH and/or her union representative about Claimant and Ian Wilkie ("IW") considering disciplinary procedure.  The Claimant contends that this triggered DH to submit a Respect and Resolution grievance against the Claimant <b>3/12/21 (9/12/21)</b>	
5.	Failure to appropriately address the Claimant's concerns regarding DH behaviour – <b>JM 3/2/22</b>	115
6.	HR instructed IW not to meet with DH. No guidance was provided on next step and failed to inform Claimant of that decision – <b>CTH 2/3/22</b>	125-127
7.	Failed to prioritise or permit sufficient time to discuss HR issue and ways forward <b>GE 7/3/22</b>	130



8.	Failure to act to support Claimant to address DH's behaviour.  Failure to advise regarding appropriate action Claimant could take;	133
	Failure to guide regarding an appropriate HR policy – Claimant disabled from acting <b>GE 14/3/22</b>	
9.	Failure to review Stress Risk Assessment and Wellness Action Plan with Claimant; failure to assess wellbeing with Claimant as per “WP33 Staff Mental Health, Wellbeing and Stress Management Procedure” (p.658-664 - incomplete) – <b>GE 14/3/22</b>	
10.	Failure to act to support Claimant to address DH's behaviour <b>GE 16/05/22</b>	147
11.	Failure to support Claimant to find an acceptable way forward with HR issue <b>GE 8/6/22</b>	160-162
12.	Bullying behaviour in evidence – disrespect, minimizing/invalidation of concerns, laughing at/gas lighting (clearly demonstrates a culture of bullying within the organisation) <b>GE 8/6/22</b>	[161][162]
13.	Failure to respond to Claimant's request to urgently address DH's behaviour <b>GE 9/6/22</b>	164
14.	Failure to address Claimant's concerns regarding feeling dismissed and undermined by the organisation, including by HR and GE <b>GE 10/6/22</b>	166
15.	Failure to meet in a timely manner	[166]

16.	Failure to review Stress Risk Assessment and Wellness Action Plan with Claimant; failure to engage with and assess wellbeing with Claimant as per “WP33 Staff Mental Health, Wellbeing and Stress Management Procedure” (p.658-664 - incomplete), “HS01 Occupational Health and Safety Policy” (p.668), the Health and Safety at Work Act 1974 (p.666), and Management of Health and Safety at Work Regulations 1999 (p.666-667) <b>GE 10/6/22</b>	
17.	Failure to support Claimant to progress action <b>GE 13/6/22</b>	
18.	Failure to meet in a timely manner to consider concerns and impact on wellbeing and role (Neglect); failure to engage with and assess wellbeing with Claimant as per “WP33 Staff Mental Health, Wellbeing and Stress Management Procedure” (p.658-664 -	172
	incomplete), “HS01 Occupational Health and Safety Policy” (p.668), the Health and Safety at Work Act 1974 (p.666), and Management of Health and Safety at Work Regulations 1999 (p.666-667) <b>GE 15/6/22</b>	
19.	Inappropriate formal response when informal meeting had been requested by Claimant – failure to consider impact on Claimant <b>GE 15/6/22</b>	174
20.	Failure to support Claimant (LH), as requested, to enact an HR Policy to address DH’s behaviour <b>17/6/22</b>	
21.	Failure by HR (LH) to take any action, including a failure to advise on options for addressing DH’s behaviour <b>17/6/22</b>	[176]
22.	Failure to respond to request for further information and a timeframe re. DH’s alleged Respect & Resolution <b>LH 20/6/22</b>	177
23.	Failure to enact the Respect & Resolution Policy according to timeline in policy <b>SG 25/7/22</b>	190

24.	Failure to protect Claimant from exposure to written allegations by DH when Claimant off sick with related work stress <b>CS/SG 4/8/22</b>	199/200]
25.	Failure to adhere to timeline specified in Respect & Resolution Policy <b>CS/SG 4/8/22</b>	
26.	Failure to enact formal steps (i.e. investigation) in Respect & Resolution Policy; failure to adhere to Flowchart – failure to abide by ACAS Code of Practice on Grievance and Disciplinary Procedures (p.671) <b>CS/SG 4/8/22</b>	
27.	Failure to provide appropriate support to manage the emotional impact of exposure to DH's words, as per "WP33 Staff Mental Health, Wellbeing and Stress Management Procedure" (p.658-664 - incomplete), the Health and Safety at Work Act 1974 (p.666), and Management of Health and Safety at Work Regulations 1999 (p.666-667) <b>CS/SG 4/8/22</b>	
28.	Failure to adhere to timeline specified in Respect & Resolution Policy <b>AW 2/9/22</b>	223
29.	Failure to enact formal steps (e.g. investigation) in Respect & Resolution Policy; failure to adhere to Flowchart – failure to abide by ACAS Code of Practice on Grievance and Disciplinary Procedures (p.671) <b>AW 2/9/22</b>	
30.	Failure to undertake a health and safety risk assessment, as per Health and Safety at Work Act 1974 (p.666), and Management of Health and Safety at Work Regulations 1999 (p.666667) <b>AW 2/9/22</b>	