



EMPLOYMENT TRIBUNALS

Claimant: Mrs N A Siddique
Respondent: Bramley Elderly Action
Heard at: Leeds **On:** 19 to 27 September 2016
Before: Employment Judge

Representation

Claimant: In person
Respondent: Mr K McNerney, counsel

RESERVED JUDGMENT

1. The Claimant's claims of direct race discrimination, indirect race discrimination, harassment related to race and victimisation are not well founded and are dismissed.
2. The Claimant's claim of unfair dismissal is not well founded and is dismissed.
3. The Claimant's claim for pay in lieu of holiday pay accrued but untaken on termination of her employment is not well founded and is dismissed.

REASONS

Introduction

1. This was the hearing to decide claims of direct race discrimination, indirect race discrimination, harassment related to race, victimisation, unfair dismissal and for pay in lieu of accrued holiday brought by the Claimant Mrs N Siddique against her former employer Bramley Elderly Action.
2. The Claimant very ably represented herself and the Respondent was represented by Mr McNerney of counsel. The Tribunal was provided with two lengthy agreed files of documents and considered those documents to which the parties drew our attention. The Claimant had prepared a detailed schedule setting out 46 allegations of discrimination and/or harassment. We refer to that as the schedule of allegations. In addition at the start of the hearing the Tribunal allowed the Claimant to amend her claim to include three

complaints of victimisation. The Claimant's complaint of victimisation was that she did a protected act on 6 November 2014 by raising a grievance in which she complained of race discrimination. She said that she was subjected to three detriments as a result namely:

1. That Mr Ingam failed her in her annual appraisal in June 2014.
2. That Mr Ingam refused her request for annual leave between October 2014 and January 2015.
3. That she was dismissed.

The Respondent did not object to an amendment in those terms.

3. The Claimant had provided a detailed witness statement and also produced a supplementary statement. The Respondent did not object to the supplementary witness statement and that was admitted by the Tribunal. The Tribunal heard evidence from the Claimant on her own behalf. From the Respondent we heard evidence from Mr E Ingam (general manager of the Respondent), Mr Stuart Quin (chair of the trustees of Bramley Elderly Action), Miss Norah Gibson (former chair of the board of Bramley Elderly Action), Ms Caroline Dixon (HR consultant) and Ms Frances Graham (operations manager of Bramley Elderly Action).
4. At the outset of the hearing the Tribunal discussed with the Claimant the claims for unlawful deductions from wages that she was seeking to pursue. She confirmed that she was seeking payment in lieu of the holiday that she would have accrued during her seven week notice period if she had not been dismissed with pay in lieu of notice. Her schedule of loss referred to a claim for back pay because she had not gone up the pay scale by one increment as a result of failing her annual appraisal for 2013/2014. The claim form did not include such a claim and the Claimant confirmed at the start of the hearing that she was not applying to amend her claim to bring such a complaint. She also identified a third possible complaint saying that she had recently discovered that the Respondent had not made approximately £1,400 worth of payments into her pension fund by way of employer contributions. The Respondent investigated that claim during the course of the hearing and was able to satisfy the Claimant that those payments had in fact been made.
5. The issues to be determined were as follows:

1. **Unfair dismissal**

- 1.1. What was the reason for the Claimant's dismissal? The Respondent contends that it was redundancy.
- 1.2. If the reason was redundancy did the Respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the Claimant having regard in particular to whether:
 - 1.2.1. The Respondent adequately warned and consulted the Claimant;
 - 1.2.2. The Respondent adopted a fair selection process and fairly applied it;

1.2.3. The Respondent took reasonable steps to find the Claimant suitable alternative employment.

1.3. If The Claimant's dismissal was procedurally unfair what is the chance if any that she would have been fairly dismissed in any event if a fair procedure had been followed.

2. Race discrimination preliminary

2.1. Has the Claimant established the detrimental action upon which she relies namely the matters set out and numbered 1 to 46 in the schedule of allegations.

2.2. If so did the acts amount to conduct extending over a period so that the claims relating to acts occurring before 5 September 2015 were brought within three months of the end of that period as required by section 123 Equality Act.

2.3. If not were those claims were brought within such other period as the Tribunal thinks just and equitable pursuant to section 123(1)(b).

3. Direct race discrimination

3.1. With respect to each act of direct race discrimination relied on in the schedule of allegations did the Respondent treat the Claimant less favourably than it treated an actual or hypothetical comparator in whose case there was no material difference in circumstances compared with the Claimant –

If there was less favourable treatment was it because of the Claimant's race.

4. Indirect discrimination

4.1. Did the Respondent apply a provision, criterion or practice ("PCP") to the Claimant namely:

1. A PCP that employees should not ask for more than two weeks annual leave at a time and/or
2. A PCP that employees were not allowed to take 21 consecutive working days annual leave.

If so did the PCP apply to person with whom the Claimant did not share her protected characteristic ie to persons of a different race.

If so did or would the PCP put persons who shared the Claimant's protected characteristic at a particular disadvantage compared with those who did not.

If so did it put the Claimant at a disadvantage.

Can the Respondent show that the PCP was a proportionate means of achieving a legitimate aim.

Note: "The Claimant confirmed that these were the only two claims of indirect discrimination she was advancing".

Further note. The Respondent contended that the legitimate aim of any such PCP was to have an adequate compliment of staff.

5. Harassment

5.1. Did the Respondent engage in unwanted conduct related to race in the ways alleged?

If so did that conduct have the purpose of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her.

If not did it have that effect?

6. Victimization

6.1. Did the Respondent subject the Claimant to a detriment by:

1. Mr Ingam failing her in her annual appraisal in June 2014.
2. Mr Ingam refusing her request for annual leave between October 2014 and February 2015 and/or
3. The Respondent dismissing the Claimant on 29 September 2015.

If so was it because the Claimant did a protected act namely raising a grievance alleging race discrimination on 6 November 2014.

7. Annual leave under the Working Time Regulations

7.1. Did the Respondent fail to pay the Claimant in respect of annual leave accrued but untaken at the time of her dismissal.

The facts

1. The Claimant is Mrs Nadira Siddique. She came to the United Kingdom in 1980 from Bangladesh having graduated in economics from Dacca University. She studied for further qualifications in the United Kingdom achieving among others a BA Hons in Education Studies. She is plainly a highly intelligent and well educated person. She has a very high standard of written English.
2. In June 2008 she started work as a co-ordinator for Older Active People a neighbourhood network scheme designed to improve well being for older people in a particular local area. Older Active People was based at the Cardigan Centre. The Claimant's salary scale was NJC S01 to S02 (SCP 29 to 34). Her terms and conditions of employment included employer's pension contributions of 10% of her gross salary. She received annual salary rises subject to successful completion of her appraisal. At that time

she had some managerial responsibilities including in particular managing a development worker Ms Skyvington who joined Older Active People in October 2009. Ms Skyvington is of white British ethnicity. The Respondent Bramley Elderly Action (“BEA”) is a charity providing a range of services to older people across much of West Leeds. In 2010 BEA was also running a neighbourhood network scheme in that part of Leeds. In 2010 it won the contract to deliver the neighbourhood network service that was then being provided by Older Active People. It set up a department called Older Wiser Local Seniors (“OWLS”) in order to deliver that contract and there was a TUPE transfer of the three staff members from Older Active People to BEA. Meetings took place in 2010 and the transfers took effect from 1 January 2011. There were manifestly shortcomings in the way the TUPE transfer process was handled. In that context the Tribunal noted that the Respondent is a small charity with no human resources function of its own. It was at the time accessing some free legal advice from a corporate sponsor and had some human resources advice from Leeds City Council.

3. At the time of the TUPE transfer the manager at BEA was Mr Ingam. He had previously worked as a manager at Older Active People with the Claimant. When he moved to BEA his role at Older Active People was taken over by the Respondent. It was not disputed that on transfer to BEA the Claimant took on a role with diminished responsibilities. Mr Ingam gave evidence about the reasons for that. Mr Ingam’s evidence was that BEA had prepared a bid to run the new neighbourhood network scheme. He was involved in drawing up the staff structure should they get the contract although that structure was approved by the board. The structure had to deliver the relevant services within the budget. The structure devised by him and proved by the board showed one manager managing both the OWLS and the BEA neighbourhood network schemes with two co-ordinator posts. Mr Ingam explained that the expectation was that the manager would be the existing post holder at BEA ie Mr Ingam himself. He said that it was essentially assumed that the existing BEA manager would carry out the management function. The Tribunal saw what was described as a mobilisation plan prepared by BEA. That referred to BEA’s manager working the equivalent of a day a week for OWLS. The proposed structure was therefore for management across the two neighbourhood network schemes. Within OWLS there would then be two co-ordinators, an information co-ordinator and an activity co-ordinator and a driver. As indicated BEA were successful in winning the contract. Mrs Ingam’s evidence was that they then implemented the structure that had been proposed using the three staff who transferred across. Those staff were put into the posts duplicating the structure that was used at BEA. The Tribunal accepted Mr Ingam’s evidence about the way in which the proposed structure was drawn up. The consequence of that structure was that there was no post within OWLS equivalent to the Claimant’s post at Older Active People. The way the Respondent dealt with it was to offer the Claimant the choice of the new posts of OWLS activity co-ordinator or OWLS information co-ordinator and she chose the latter. Ms Skyvington took on the post of OWLS activity co-ordinator.

4. It is clear that the Claimant protested at the time. The Tribunal saw a letter from her dated 1 October 2010 indicating that she had been informed that she would no longer be working as the co-ordinator of the OWLS team and as she put it would be demoted to the position of one of the development workers. She asked to know why she was being demoted and why her job description was going to change and she referred to the protection to which she was entitled under TUPE. She also contacted Michelle Atkinson in Older People Services at Leeds City Council and Miss Atkinson emailed her on 12 November 2010 to say that she had spoken to Mr Ingam and had been advised that the Claimant's terms and conditions of employment would remain the same. The Claimant attended a meeting on 9 December 2010 at which Mr Ingam was also present. He went through the mobilisation plan and explained how it was proposed to staff OWLS. He handed out draft job descriptions for the activities co-ordinator and the information co-ordinator. The Claimant repeated her concern that she felt she was being demoted. She referred to her pension contributions and it was indicated to her that the arrangement would be honoured. The Claimant also indicated that she also had outstanding a grievance against the Cardigan Centre and because she had not received a successful appraisal in July 2010 she asked whether BEA would consider giving her the increment that had not been approved. The notes of the meeting were signed by the Claimant and by the then chair of the Respondent.
5. The transfer took effect on 1 January 2011. The Claimant was working full-time as the information co-ordinator, Ms Skyvington was working 30 hours a week as the activities co-ordinator and there was also a driver. We note at this stage that Ms Skyvington's rate of pay increased when she transferred to BEA. The Respondent's explanation for that was that the equivalent post holder at BEA was paid at a higher rate and the Respondent felt that it would be unfair for Ms Skyvington to receive a lower rate of pay for the same work. The Tribunal accepted that. There were difficulties regarding the Claimant's pay scale and pension contributions subsequently which we deal with below but we note that the Claimant's first complaint of discrimination is that she was demoted when she transferred across from Older Active People to OWLS as a result of a deliberate decision by Mr Ingam motivated by the Claimant's race. Her belief that this had happened was based on her view that the Respondent knew nothing about her at that stage except the colour of her skin and that she had a name that she said indicated her racial origins. The Tribunal did not agree. We had no hesitation in accepting Mr Ingam's unsurprising evidence that the Respondent had bid for the contract on the basis of a proposed structure. That structure involved the existing BEA manager taking on management of the new neighbourhood network scheme. That meant that the Claimant's managerial responsibilities were no longer required and she therefore was put into a post without managerial responsibilities.
6. It was the reduction in the Claimant's responsibilities which was a consequence of a restructure and was as Mr Ingam said about posts not individuals. There was an equally straightforward explanation for the increase in Ms Skyvington's pay that arose to ensure parity with an existing member of staff in the equivalent role. The Respondent may be

open to criticism so far as the TUPE Regulations are concerned but the Tribunal was quite satisfied that in appointing the Claimant to the role of information co-ordinator without managerial responsibilities it was not motivated or influenced by her race.

7. **Start of Part 2.** Fundamentally the Respondent did not view this as the merger of two organisations but as one organisation BEA taking on an additional piece of work and transferring across staff to do so. For that reason it was simply assumed that BEA's manager would manage the new work. No consideration was ever given to which of two existing managers Mr Ingam and the Claimant should be managing the work.
8. Shortly after she started at BEA the Claimant raised a concern about her pension payments. It appears that there were concerns within BEA at making a 10% pension contribution for the Claimant. We note again that the Tribunal was not concerned with whether the Respondent complied with its obligations under the TUPE Regulations but with whether it discriminated against the Claimant. It is apparent that on 11 January 2011 the Claimant had a discussion with Mr Ingam about her employer's pension contribution. There was evidently some discussion about whether the documents signed on 9 December 2010 by Miss Locket the chair of the BEA board was legally binding. The Claimant's perception was that Mr Ingam tried to convince her that what had been signed was not legally binding because Miss Locket was only a volunteer. Mr Ingam gave a slightly different account. His evidence to the Tribunal was that there was some uncertainty about whether the Respondent was obliged to pay the 10% pension contributions and it took some time to obtain legal advice about that but he said that he made clear throughout to the Claimant that whatever the Respondent was legally obliged to do it would do.
9. The Tribunal accepted that evidence. It was consistent with the events that followed although there was some discussion about whether the Claimant would agree to a lesser pension contribution. In addition to the difficulty with her pension contribution there was also a difficulty with the Claimant's rate of pay. During the course of January Mr Ingam circulated revised job descriptions for the post holders in OWLS. The job description for the information co-ordinator gave the pay scale as NJC Scale S01 with SCP 29 to 31. That of course differed from the pay scale that the Claimant had been on when working at Older Active Persons. Although it did not immediately affect the rate at which she was paid it limited her to the top of scale S01 rather than the top of scale S02. The Claimant raised her concerns about this with Mr Ingam at a one to one meeting and she continued to raise concerns about her pension and pay scale both at meetings and in correspondence. At one stage in February it appears that the legal advice being given to the Respondent was that it could not contribute more than 6% to her pension. Mr Ingam sought to explore with the Claimant a proposal that the Respondent make a 6% employer's contribution and that the Claimant matched that with a 6% employee contribution. The Claimant rejected that. By 28 April 2011 the Claimant received a letter from Miss Locket. She said that the board had met at the end of March to discuss staff terms and conditions. They had received independent advice and benchmarked BEA's conditions against those provided by similar organisations. As a result they had decided to keep

the post of information co-ordinator at the current level NJC Scale S01 point 29 to 31.

10. In regard to pensions the board had decided to continue not to make a contribution towards pensions generally but would meet their legal obligations as outlined in a 2006 guide to TUPE Regulations and make a 6% contribution to the Claimant's contribution. The correspondence and discussion continued. By June Mr Ingam informed the Claimant that BEA had sought further legal advice about her pension contribution and pay scale. He suggested a scenario whereby she agreed to accept an 8% contribution with a pay grade up to Spine Point 34. She wrote a letter to the board members on 14 June 2011. She said she accepted the offer to pay her up to Spinal Column Point 34 but still required the board to pay her 10% pension contributions. Eventually on 15 June 2011 Mr Ingam wrote to the Claimant explaining that the Respondent had not been able to obtain a definitive answer to the question what its legal obligations were. It had therefore decided to make a 10% contribution to the Claimant's pension backdated to the beginning of her employment. Mr Ingam confirmed that a new contract would be provided confirming her terms and conditions. He thanked the Claimant for her patience during the resolution of the issue.
11. That dealt with the Claimant's pension contributions but the issue about her pay scale took much longer to resolve. Eventually in February of 2012 the Claimant made a grievance. By that time the new chair of BEA was Miss Gibson and the grievance was addressed to her. The grievance was passed on to Mr Smith the vice chair to deal with and he met the Claimant on 8 March 2012. Mr Smith apologised to the Claimant for the delay in dealing with the matter. He accepted that errors had been made and that the TUPE transfer had not been dealt with properly. He also gave his opinion that the Claimant should have her original pay grade and assured her that she would be on Spinal Column Point 29 to 34. Mr Smith sent a letter on 14 March 2012 confirming in writing the outcome of the Claimant's grievance. He confirmed that the Claimant would be on Spinal Column Point 29 to 34. She was to note that the post of information co-ordinator would still be at Spinal Column Point 29 to 31 but that there would be an addendum to the contract stating that while the Claimant was the post holder she would be on the pay scale 29 to 34. Mr Smith also indicated that appropriate payments of salary would be made.
12. A fresh contract was issued to the Claimant. It did indeed provide that the agreed scale for the post was 29 to 31 but that while the Claimant was the post holder it would be 29 to 34. The Claimant emailed a request for compensation. She asked for £1500 to cover legal costs, £300 to cover acupuncture and herbal treatment and £200 for miscellaneous expenses. The board of the Respondent did not agree to that request. It was the Claimant's case that she was demoted when transferred to the Respondent in January 2011, had her pay scale deliberately reduced in the fresh job description produced in January 2011, had her employer's pension contributions initially reduced and suffered a delay in the resolution of her grievance about her pay scale because of her race. She said that it was Mr Ingam's idea to demote her. Mr Ingam had deliberately put her on a lower pay scale and had increased Ms Skyvington's pay

scale, that Miss Locket had deliberately decided that her pension contributions should be reduced and that it was mainly Mr Ingam's fault that she had had such a long wait to have her grievance successfully resolved. In cross-examination Mr Ingam accepted that the delay in resolving the issues about the Claimant's pay was partly because of him. He said that at the time the Respondent had no pay roll or human resources and was dealing with a complex TUPE situation. He was the manager and he accepted that he most probably was partly responsible for the time it had taken part of the responsibility he said lay with the board. He said that none of this was driven by the Claimant's race. He said that this was a small organisation. At that time in 2011 for example it was he Mr Ingam who had to do the wages. They were getting some support from a corporate sponsor. He said that they had bid for the contract believing they had enough capacity to deliver the work but he acknowledged that they did not have enough capacity to handle the TUPE transfer that it entailed. As we have already indicated he said that he was clear throughout that the Respondent would meet its legal obligation. He said that the decisions relating to the Claimant's pension had nothing to do with her race. The Respondent did not pay a pension to anyone else and this was new to them. He said that he was not trying to mislead the Claimant about the agreement that had been signed in December 2010. He said that it was difficult for everyone because they were trying to work out what the position was. The Respondent did not know what its legal obligation was. Mr Ingam said throughout that they would meet their legal obligations but they needed to find out what they were. The Claimant asked Mr Ingam about the email from Miss Atkinson to which we have referred above. He said that she most probably did speak to him and he most probably did say yes to her. However it remained the case that he and the Respondent needed to seek advice and clarity about the legal position and that was what they did. Mr Ingam accepted that he had at one stage tried to negotiate with the Claimant and he said that it was now accepted that this shouldn't have been an issue and that the Respondent ended up providing the Claimant with her existing terms and conditions. Throughout Mr Ingam was insistent that the Claimant's race had nothing to do with any of this and that this was to do with issues not individuals.

13. The Tribunal had no hesitation in accepting that evidence. There simply was nothing to suggest that the Claimant's race played any part in this. Rather it was a case of a small and inexperienced charitable organisation with limited resources trying to deal with the legal ramifications of a TUPE transfer.
14. Having dealt with the issues relating to pay and pension that arose at the time of the transfer we return in the chronology to the time when the Claimant started working at OWLS.
15. Her normal place of work was the Heart Centre in Headingly. The Respondent rented desk space there in an open plan office environment where there were other organisations present and renting office space. We note at this stage that to begin with there was one desk top computer and one lap top computer. The Claimant and Ms Skyvington were based at the Heart Centre and Mr Ingam came across one day per week. The Claimant and Mr Ingam would have regular one to one supervision

meetings. The process appeared to be that the Claimant would prepare a draft document setting out issues for discussion following a pro forma and provide it in advance of the meeting to Mr Ingam. They would then discuss it at the meeting and a revised version of the document would generally be produced afterwards. The Tribunal saw a number of such documents.

16. We return to the chronology at June 2011. On 14 June 2011 the Claimant wrote a letter to the BEA board to which we have already referred dealing with her salary and pension contributions. In that letter she also said that she had been concerned about a number of matters since she joined OWLS. She referred to the day to day management at OWLS. She said that she appreciated what Mr Ingam did but that it was not the same as having somebody who was in charge of day to day management. She said that she was concerned about OWLS' capacity to deliver agreed services. She said that when Ms Skyvington transferred across the Respondent only needed to give her what she used to earn at Only Active Persons. There was no need to upgrade her pay scale. The consequence of doing so meant that Ms Skyvington was only working four days a week rather than five. This said the Claimant meant that the service users were denied one day's work from her. She also suggested that OWLS was at financial risk because of the cost of management by Mr Ingam. She suggested a solution which was that that she should be put in charge of day to day management of the OWLS team and that Ms Skyvington should be reinstated as a full time development worker on reduced pay and reporting to the Claimant. Clearly the Claimant's proposal essentially was to return to the way in which she and Ms Skyvington had worked at Older Active People. The Claimant was to regain her managerial responsibilities and Ms Skyvington was to have a reduced pay rate.
17. The Claimant was naturally disappointed to have transferred into a role with less responsibility. She saw it as a demotion. This proposal however was indicative it seemed to the Tribunal of the fact that from the transfer onwards this continued to be an issue for the Claimant. Mr Ingam responded to the Claimant's proposal in a letter dated 15 June 2011. He said that having spoken to the chair of BEA they had no plans to adopt her proposal. The Claimant and Mr Ingam had a supervision or one to one meeting on 11 August 2011. In advance of the meeting the Claimant prepared a detailed document identifying practical issues listing her achievements since her last support and supervision session and dealing with what had gone well and issues arising. The Claimant's list of achievements for the two month period since the previous supervision session included 28 separate bullet points and descended into such detail as took team minutes alternately with Catherine, received phone calls and recorded them, persuaded Mary Osborne to volunteer for Rose's coffee club, got a few signatures for Louise Stewart's petition for Older Peoples Minister and referred three members for smoke/fire alarm. The meeting took place on 11 August 2011. The Tribunal was shown a copy of the Claimant's document prepared in advance of the meeting in which she had written by hand Lee laughed next to the section where she had dealt with what had gone well and why. One of her complaints to the Tribunal was that in this meeting Mr Ingam "ridiculed and humiliated" her by

reading aloud her pro forma and commenting “how you run on ...”. In the pro forma she prepared for the subsequent one to one meeting in October 2011 she referred to this saying that she was unhappy at the way the meeting went. She said that her notes were read aloud by the manager which made her feel uncomfortable. She said that there were comments like how you run on and specific questions regarding my comments on those notes made me feel humiliated and ridiculed. Mr Ingam did not have a particular recollection of this meeting. His evidence was that he did not laugh at the Claimant during this or any meeting and that he would not laugh at someone. He did not accept that he had ridiculed or humiliated the Claimant. The Tribunal noted the slight shift in emphasis from the Claimant’s note in October 2011 suggesting that Mr Ingam’s comments had made her feel humiliated and ridiculed to her complaint to the Tribunal which was simply that Mr Ingam had ridiculed and humiliated her. The Tribunal noted that Mr Ingam had been described in some of the documentation as somewhat brusque and that was indeed our impression of him. He was plain speaking and the Tribunal could sense his irritation at being accused of discrimination. That personality and approach was no doubt reflected in his interactions with the Claimant and other employees. He indicated that he would undoubtedly have gone through the Claimant’s pro forma document with her. It seemed to the Tribunal that in doing so he may well have commented on its length and detail, given the Claimant’s record of it for the October supervision he may indeed have made a comment along the lines of “how you run on” but the Tribunal accepted that what there was was a process of Mr Ingam taking the Claimant through the document and asking questions about certain parts of it or seeking to discuss parts of it with the Claimant. It is possible that during the course of such a discussion Mr Ingam may have laughed. The Tribunal was satisfied that despite his somewhat brusque manner this was not a process of humiliating or ridiculing the Claimant or laughing at her on Mr Ingam’s part. It was it seemed to the Tribunal an example of normal management by a manager of an employee which includes questioning and sometimes challenge.

18. During the course of the hearing and in the evidence there was more than one reference by the Respondent’s employees and board members of the fact that things the Claimant were complaining about were simply normal management of her. We note that on occasion the Claimant seemed to take that as meaning that if something fell within the scope of normal management she could not complain about it regardless of whether it was discriminatory, harassing or otherwise inappropriate. We make absolutely clear that that is not what we are saying. This is about perception. It seemed to us that on this and on a number of subsequent occasions the Claimant perceived what was in fact normal management of her as being discriminatory, harassing or otherwise inappropriate. Our finding is that on this occasion that perception was misplaced. Mr Ingam was not ridiculing, humiliating or laughing at her, he was not discriminating against or harassing her. He was taking her through a supervision pro forma and asking appropriate management questions and engaging in an appropriate management discussion about it. We have referred to the level of detail the Claimant had put in her pro forma document and it may well be that part of that process involved Mr Ingam exploring with the Claimant whether that level of minutia was necessary or appropriate.

19. The Claimant's next complaint related to a meeting between herself and Mr Ingam on 22 December 2011. It was not disputed that during the course of that meeting Mr Ingam raised with her a difficulty that he sometimes had in understanding her particularly over the telephone. The agreed note of the meeting recorded the following:

"Communication – English is Nadira's second language and she explained all the things that she has done over the last 30 years to develop her use of it. Lee explained that he sometimes had difficulty understanding Nadira particularly over the phone. We discussed what could be done and we came up with two suggestions. We agreed to look at whether there were any training opportunities that help in this area".

This issue was also referred to at the Claimant's appraisal meeting on 26 January 2012 just over a month later. The appraisal meeting was attended not only by Mr Ingam and the Claimant but also by a board member called Giulia. The appraisal record includes the following:

"Lee thinks that Nadira needs to improve her communication and that we need to be led by Nadira on how this could be done. Nadira suggested that she spend some sessions with Giulia. This issue was referred to in one further document which was the Claimant's detailed pro forma prepared for her support and supervision meeting to take place on 1 March 2012. She indicated that this was one of a number of events that had made her feel unhappy and poorly treated and she wrote the following: "Lee mentioned in her last support and supervision 22 December 2011 that he found Nadira difficult to understand especially over the phone. Nadira accepted that as she was born in Bangladesh and came to this country as an adult she has a strong accent and also she occasionally speaks too fast. Nadira agreed with Lee that she would work on this. The time scale was not discussed. At her appraisal meeting on 26 January 2012 Lee mentioned it again and there is a record of it in his notes. Nadira feels strongly that Lee should not have mentioned this at the appraisal meeting as there was only a time gap of about four weeks between these meetings. Nadira is aware of this issue and trying her hardest to speak more slowly and clearly on the phone. However habits that have been formed over 50 years cannot be changed over four weeks. It may take years. Nadira does not think Lee's attitude has been reasonably expecting her to improve overnight. Nadira is a fluent speaker of English and worked as an interpreter in the past. This is the second time somebody has made such a comment in an official capacity. The first one happened a long time ago and Nadira believed that that was racially motivated designed to undermine her self confidence. Nadira usually receives a lot of praise about her spoken English. Nadira asks if such requirement from Lee complies with BEA's equality opportunity policy and dignity at work policy. Nadira also wants to mention that Giulia did not commit herself to spending time with Nadira as noted by Lee in the appraisal report"

At that stage the Claimant's complaint appeared to be about Mr Ingam referring to her spoken communication for a second time in her appraisal meeting so soon after he had raised the matter in a support and

supervision session. However in her complaint to the Tribunal she said that by raising the matter at all on 22 December Mr Ingam was directly discriminating against her. In cross-examination Mr Ingam agreed that he had raised the matter with the Claimant on these two occasions. He said that he did have difficulty understanding the Claimant speaking particularly over the phone. The Claimant asked why he had complained and he said it wasn't a complaint it was an observation. It was difficult to make, it was an attempt to improve the service we provide. You were on the phone a lot speaking to older people many of whom were hard of hearing. The Claimant asked whether Mr Ingam thought that she would be hurt or humiliated and he said that it was very sensitive. He thought that it would be difficult for her to hear but he had had people raise with him that they had a problem understanding the Claimant over the phone. He had therefore tried to raise this sensitively and to approach it by considering how the Respondent could help. He said that it was a very difficult thing to do but that it was his responsibility to do it. It was suggested to Mr Ingam that the reason he raised this with the Claimant was because of her race and he said that that was not the reason, it was because she spoke to fast and because he had difficulty understanding her. The Claimant then put to him that the reason he had a difficulty understanding her was because she was from Bangladesh. He acknowledged that he found it difficult to understand the Claimant at times and that "quite possibly" part of it was because she came from Bangladesh. However he was clear that he had raised the matter because it related to the service provided to older people. Mr Ingam said that there was discussion about what could be done to assist the Claimant and that one suggestion that one of the board members who had taught English as a foreign language might assist the Claimant. Mr Ingam was asked about why he had mentioned it again in her appraisal so soon afterwards. He explained that he mentioned it in the appraisal because the Claimant had suggested that Giulia might help him and Giulia was the board member present at the appraisal. In fact Mr Ingam said that the Claimant did start to speak more slowly and therefore things improved. There was not a need for training.

The Tribunal accepted Mr Ingam's evidence about the reasons for raising this

20. The Tribunal accepted Mr Ingam's evidence about the reasons for raising this matter and the way in which that was done. We noted that in her own documentation at the time the Claimant acknowledged that there was a difficulty and that she had been trying to speak more slowly and clearly. The evidence in her witness statement for the Tribunal was different. In her witness statement she said that she did not believe Mr Ingam's comment was fair. She characterised this as a complaint by Mr Ingam or a suggestion by Mr Ingam that she couldn't speak English. That was not what she said at the time. It is right that Mr Ingam acknowledged that the fact that the Claimant comes from Bangladesh may have been part of the reason for the difficulty in understanding her when she spoke. However it does not follow that by raising with the Claimant the fact that he and others had difficulty in understanding her particularly on the telephone he was discriminating against her. Fundamentally this was about the service provided. Mr Ingam was faced with an employee who was difficult to understand and raised that with her. The difficulty was largely because of

the speed at which she spoke. She took steps to slow down and that resolved the problem. As for his reason for raising the matter again at the Claimant's appraisal so soon afterwards the Tribunal accepted Mr Ingam's explanation that it was because Giulia Artuso was present at the appraisal and she was the board member whom it had been thought might be able to help the Claimant. That very suggestion was recorded in the appraisal. Notes indeed the appraisal notes record that it was the Claimant who suggested she spend some sessions with Giulia.

21. The Claimant's next complaint relates to events in May 2012. She said that she had a short meeting with Mr Ingam after a team fundraising meeting on 17 May 2012 where Mr Ingam criticised her for submitting a funding application to the area committee wellbeing grant for the printing costs of the newsletter. She said that Mr Ingam had himself checked the application before she sent it off. She said that she felt humiliated at his rebuke and that this was discriminatory and harassment. She said that Mr Ingam raised the matter again at her support and supervision meeting on 31 May 2012 and berated her for it. She said that he was not happy when she reminded him that he himself had checked the application and approved it. In cross-examination the Claimant said that Mr Ingam should not have raised this with her on either occasion. She said that it shouldn't have happened and that he had a low opinion of her and took every opportunity to criticise her. She was asked why it was that she regarded it as being done because of her race and she said that it didn't happen to anyone else. She was asked how she knew that and she said the grapevine. Mr Ingam's concern was recorded in the notes of the supervision meeting on 31 May 2012. the concern was they had made an application to the area committee well being grants to cover the cost of printing the newsletter when that cost was covered by Headingly Hall who sponsored the newsletter. Mr Ingam said that he would have asked the same questions of any such application in the same circumstances regardless of who had written it. He was simply applying managerial oversight of an important aspect of the Respondent's work.
22. In cross-examination he said that he couldn't remember a conversation about it on 17 May but having seen the notes of the supervision meeting on 31 May he was happy to accept that there had been a discussion about it on that occasion. The Claimant suggested that he had told her off on 17 May and 31 May. Mr Ingam disagreed. It was not a telling off or a rebuke. It was two colleagues in a working environment having a discussion. The Claimant then put to Mr Ingam that he had criticised her, but that he had checked the application first. Again Mr Ingam was happy to accept that he probably had seen the application and told the Claimant it could be sent off. He said that maybe he hadn't noticed the first time he read it that the cost of printing the newsletter was a cost already covered by the sponsor but once he did notice that he brought it to the Claimant's attention. The Tribunal again accepted Mr Ingam's evidence. He was frank in acknowledging that he may have made a mistake by not noticing the duplication when he first checked the newsletter but once he had noticed it he was not only entitled as a manager but obliged to raise the point with the Claimant. The Tribunal was quite satisfied that this was not done to humiliate the Claimant nor was it done to single her out. He would have raised such an issue with any employee had it arisen. Nor was the

Claimant being rebuked or told off. This was the Tribunal accepted a conversation between two colleagues about a fundraising application that duplicated the Respondent had from another source. It seemed to the Tribunal that the Claimant had a tendency to perceive Mr Ingam's legitimate management questioning and discussion as a telling off or a rebuke. Indeed that is reflected elsewhere in the notes of the same supervision meeting. The notes record discussion of a couple of issues and then this "Lee cannot see how he can manage without being able to ask staff why they made a decision and to suggest other possibilities. Lee understands that Nadira's previous post had different responsibilities to her current one but she needs to focus on her current post and recognised the role of the manager. The notes record the Claimant as saying that it was a non issue in regard to accepting her role and the manager's role. But it is evident that it was a point of difficulty.

23. In July 2012 the Claimant took an extended holiday of 23 consecutive working days to Bangladesh. That annual leave had been approved by Mr Ingam. In November 2012 the Respondent was successful in securing from the Lloyds TSB Foundation for a befriending project. The notes of the OWLS' team meeting on 8 November 2012 record "Nadira and Catherine need to share the workload out and look at getting the project up and running ASAP. Publicity needs to go out in the Yorkshire Evening Post, North Leeds Life etc". The Claimant drafted an article to go in North Leeds Life promoting the befriending project. The Tribunal was not shown the Claimant's first draft. However she said that she had a clear recollection of how it started and it was along these lines:

"Life is a continuum with birth, childhood, youth, middle age, old age and death. At every stage of our life we face different challenges. At old age we face social isolation and social exclusion due to factors like loss of mobility some becoming housebound ..."

She showed the article to Mr Ingram on 29 November 2012. He was standing at her desk with her and he wrote down on a piece of paper some comments on the article. The handwritten note said "one sentence; bullet point capture people's interest; bullet point what we are doing where; bullet point what we are asking; bullet point; contact us what to do next.

Take out first three sentences.

If you send me an email I will try and look at it tomorrow".

24. The Claimant took great exception to this. She described it as a tangible piece of evidence of Mr Ingam's racist attitude towards her. She referred to the fact that she had a Grade A in GCSE English which he did not and that she had a 2 1 degree from a Leeds university. She said that it was humiliating to be told how to write an article and that Mr Ingam treated her this way because she was Asian and so could not be expected to know how to write an article.
25. The Claimant wrote a revised article which started:

“Are you lonely, housebound and wishing somebody is out there coming to see you? At old age one of the most common issues is loneliness including social isolation and social exclusion. An Age UK study says that half of all people aged 75 and over lives alone and one in ten people aged 65 or over say they’re always or often feel lonely. That is just over a million people”.

The article went on to describe the befriending scheme and to provide contact details. The Claimant said that Mr Ingam checked and approved that article and that she sent it to North Leeds Life for publishing.

26. Mr Ingam’s evidence was that he would normally sign off written content for example newsletters, posters and fundraising applications and that he did that irrespective of whether it was the information co-ordinator or the activities co-ordinator who had drafted the content. He would normally ask someone to check his own written work. That was deemed best practice in the field. He considered that giving constructive comments on a piece of publicity was within his management remit and was driven by a concern to ensure that the public face of the organisation was seen in the best light. In cross-examination Mr Ingam accepted that the note he had written might not have been the best way to approach the matter and he said he apologised but he said that he was trying to improve an article that their organisation was publishing. He thought that he might have written it down because he was trying to get the message across quickly and also because they were in an open plan office and he was trying to do it a little bit more privately. But he regarded what he had said as being entirely permissible in his role as a manager. He was giving view on an article for publication. The Claimant suggested to him that the reason he had made the comments on her article was because she was Asian and he said that had nothing to do with it and that he was offended by the suggestion.
27. The Tribunal did not accept that the handwritten note with comments on the article was a tangible piece of evidence of Mr Ingam’s “racist attitude” towards “the Claimant”. It seemed to the Tribunal to be entirely legitimate advice on how the article the Claimant had apparently written might be improved.
28. It is clear that the Claimant took and takes great exception. She points to her qualifications and the high standard of her written English. We have already recorded that she does indeed have a very high standard of written English but it seemed to the Tribunal that what the Claimant wholly failed to appreciate was the difference between criticism of someone’s English (which this was not) and comments or advice designed to ensure that the piece of writing is fit for the purpose for which it is intended. This was a piece of writing designed to promote a befriending scheme for older people in a part of North Leeds. It seemed to the Tribunal that the opening of the Claimant’s original version of the article as quoted by her might indeed fail to capture people’s interest and draw them in so as to encourage them to participate in the befriending project. Mr Ingam’s suggestions were designed to improve that and the revised draft reflected those suggestions to some extent.
29. This was one of the matters to which the Claimant referred in a subsequent grievance and the Tribunal noted that in dealing with that

grievance Miss Gibson spoke to Mr Ingam about the article. The notes of their meeting included the following:

“Nadira has included under harassment these comments made about her work and corrections to her work and felt that an outsider assessor would be useful to confirm that her work is of a good quality. Things that Nadira had flagged were a draft for the Hooter which went to three drafts and Nora plans to advise her that the comments Lee made were perfectly valid. The final draft was better than the original, and similarly a funding application that she had submitted, Norah has looked at the before and after and felt the latter was much stronger. However some inconsistency by Lee has been noted in reference to opening words on a document “if you are lonely, isolated, housebound”. Nadira stated that Lee did not want the wording used because it was starting with a negative image but the same wording being used by Catherine on a befriending scheme document Lee had approved. Lee responded by stating he is consistent and explained his view of using the wording in any particular documents. Norah pointed out this is why Nadira is stating he is inconsistent and therefore treating her differently. Lee responded guilty. Norah concluded by stating she felt this is a management issue not harassment”.

30. The Tribunal had some difficulty in understanding the point about inconsistency compared with Ms Skyvington. We have set out above the opening of the revised draft for the North Leeds News that Mr Ingam approved. That included reference to lonely housebound and isolation and was a draft written by the Claimant. If the Claimant was saying that a document drafted by Ms Skyvington with that wording had been approved by Mr Ingam then it appeared to the Claimant that there was no inconsistency because her own article used very similar wording.
31. The Tribunal also accepted that different articles or copy would be intended for different publications and that that might affect the appropriateness of different types of phrasing. It seemed to us that at its highest in his discussion with Miss Gibson Mr Ingam may have been accepting that he had approved the use of particular form of words in some documents but not others and that if that was to be a problem then he was indeed guilty of it. We do not read what he said to Miss Gibson as in any way being an acceptance that he was singling the Claimant out, harassing or treating her differently.
32. The Claimant's next complaint related to some dementia training. The notes of the team meeting on 18 December 2012 record that the Claimant was to change the booking from train the trainers. The Claimant said that she had booked on a course designed to train the trainers in dementia awareness. She said that Mr Ingam had signed the booking form. In the team meeting he then asked her to change the booking from the train the trainer course to the dementia awareness for volunteers course. The Tribunal saw a little information about both courses. The train the trainer course was to last for two full days. It was enable participants to develop their awareness and understanding of the important components of a training course. Participants would leave the course with a toolkit of training methods and tools for use in dementia training. It was appropriate

for people who wanted to develop and use their skills in training other staff and volunteers in dementia awareness. The second course was a half day course aimed at volunteers from third sector organisations including neighbourhood networks. It said that it might be suitable for paid staff in other partner agencies. It aimed to develop a greater understanding of the individual experience of dementia and memory loss and to consider the impact of caring for someone with dementia. The Claimant did indeed change the booking and attended the shorter course for volunteers. The Tribunal noted that Ms Skyvington attended the same course. The Claimant's evidence was that this course did not meet her training needs because one of the key tasks in her job description was to recruit and provide initial training to volunteers. However in her oral evidence she was asked how often she carried out training. She answered never. She said that she might go through some staff with volunteers identifying the things that they might have to think about. It was suggested to the Claimant that alternative training had been put in place and that in Mr Ingam's judgment this was the suitable training for she and Ms Skyvington. She answered "its not what I wanted". He was not looking a person's needs. Also he had signed the form. She was asked what it was that made her think that Mr Ingam's approach was related to her race. She said that it was because he had signed the request the first time and that it was because Mr Ingam had a low opinion of her. She also said that she was requesting the training "that should be the paramount factor. He should have looked at it from my point of view. It was my training not his".

33. Mr Ingam's evidence was that he changed the course because he considered the one she had booked on was not the best fit. As soon as he realised that she had booked on the training that was beyond what he considered her post required he told her of that. He considered that she needed to have an awareness of dementia issues and that the course aimed at volunteers provided a better fit to her duties. In cross-examination he accepted that her job description included recruiting, training and supporting volunteers as one of her roles but he said that she didn't do it a lot. He said that he had mistakenly approved the initial form but when he realised he'd okayed the wrong course he changed it. The other course was too long given the chance the Claimant would have to use the training. The half day course was the appropriate one. The Claimant put to Mr Ingam that he should have thought about her needs and he said that the training had to meet both the staff's needs but also the requirements of the organisations. He did not accept that the two day training the trainer course would have met the needs of the Respondent. He was clear in his evidence that the fact that the Claimant is Asian is irrelevant.
34. The Tribunal accepted Mr Ingam's evidence. The Claimant acknowledged that she never carried out training of this kind with volunteers. This was a small charitable organisation with limited resources. It seemed to the Tribunal entirely appropriate that the Claimant should attend the shorter course which was expressly thought to be suitable for paid staff in certain types of roles rather than the two day course designed to equip her to put on dementia training courses. The Tribunal noted that this was the same course attended on a different day by Ms Skyvington. This part of the

Claimant's complaint seemed to illustrate the Claimant's difficulty in seeing matters from the organisation's perspective. It was another example of her perceiving decisions as being about her and directed at her when they were in fact about the organisation.

35. The next matter about which the Claimant raises a complaint is that when the befriending work started Ms Skyvington was asked by Mr Ingam to work an extra day for extra pay and to do about two thirds of the befriending project work. The Claimant was asked to take on about one third of the befriending project work within her existing hours and did not receive any extra pay. The Claimant raised that in a supervision meeting with Mr Ingam on 1 January 2013. She said that she saw Ms Skyvington as being rewarded because she had been given an extra day to do her work and she asked for an reward for the additional work she was doing. She said that that work was her strand of the befriending work but also bank reconciliation, outcome star and reminder service. Mr Ingam suggested that they look what needed doing at the next team meeting and see if they could share the work out more equitably. In his evidence Mr Ingam said that Ms Skyvington was indeed given an extra day's work in 2013 for which she received additional pay at the same hourly rate she already received. That stemmed from the successful application for funding for the befriending project. She was working four days a week and so she increased her hours from 30 to 37. Mr Ingam said that as a new activity the project best fitted with the activities co-ordinator post. Furthermore the Claimant was already working a 37 hour week. He said that the Claimant's involvement in the befriending project was scheduled to be relatively minor and transpired to be so. Mr Ingam's view was that the actions he took were normal management action based on the availability of employee hours and which role was best placed to deliver the required support. He said that it was nothing whatever to do with the Claimant's race.
36. In cross-examination the Claimant asked Mr Ingam whether he had carried out an audit of her workload and Ms Skyvington before deciding how to allocate the work on the befriending project. He said that he had not and that he had a good idea what she and Ms Skyvington were doing because it was her job to know. He knew from working alongside them one day a week, from visiting, looking at monitoring sheet, carrying out one to ones, talking to members and colleagues and knowing the field. He said that the main reason the work was given to Ms Skyvington was because she was not working full-time unlike the Claimant. They had got money to fund extra hours and they offered it to Ms Skyvington because she had capacity. Part of the project had been given to the Claimant because the Respondent had to deliver it. Mr Ingam himself had also taken on additional work but the majority of the work was done by Ms Skyvington.
37. The Tribunal accepted the straightforward explanation given by Mr Ingam. The funding for the befriending project included funding for extra hours. The Claimant was already working full-time and could not do extra hours. Ms Skyvington had capacity to increase her hours. Fundamentally that is why she was given the extra hours. We return to this matter below because it formed part of a grievance the Claimant subsequently raised.

38. One of the other matters the Claimant subsequently raised in her grievance related to Mr Ingam's use of her desk when he came to the Heart Centre on Thursdays. It appears that the Claimant had raised this matter in a document entitled "report to BEA board for the period 15 September 2012 to 8 January 2013". Within that document she said that she did not feel happy about her workspace on Thursdays. As Mr Ingam favoured using the computer on her desk she had to use some other desks. Sometimes she did not have access to a computer. She felt deeply unhappy as if she were a refugee and this had impacted on her moral and health and had affected her work. She wrote that the computer on her desk allowed her to use a bigger font when she needed to do so and said that she was having some problems seeing occasionally as part of the ageing process. Her suggested solution was for Mr Ingam to use her desk and computer after she left for the Caribbean Lunch Club. She should be able to use her desk and computer until then. She wanted Mr Ingam to reflect on this and said that he could use computers in Headingley library until then.
39. Mr Ingam explained in his witness statement that he spent most Thursdays at the OWLS office in Headingley so as to keep abreast of issues at OWLS. The disadvantage was that for the first two to three years there was only one desk top computer and one laptop computer and that in order to fulfil his duties he sometimes needed to use a full size monitor which meant using the desk top computer. That was used by the Claimant and on occasion he asked her to let him use the machine. He said that she generally did so but grudgingly. He said that if it had been another member of staff he would have acted in exactly the same way. Where appropriate he said he used the lap top and eventually they bought a second desk top. In her oral evidence the Claimant said that Mr Ingam would ask her all the time to move so that he could use her desk and computer, that it was not done only occasionally. She said that he knew that she was not happy about it and that he could have used the lap top alternative weeks. In cross-examination Mr Ingam confirmed that one desk top and one lap top was all that the organisation could afford at that time. He said that occasionally he had to use the desk top. He needed to use the larger monitor and also there was an issue with the lap top which would sometimes delete material with no explanation. He said that he tried to work round the issue, sometimes he would work from home, he tried to email in advance if he could. He knew the Claimant was unhappy about it but he didn't have any alternative sometimes but to use her computer. The Claimant suggested to him that he had said to her that he was going to do some fund raising and that that was more important. And he accepted that he has sometimes said to her that the work that he needed to do was more important but he said he did not have any choice but to use her computer and that it was nothing to do with the fact that the Claimant was Asian. He said that the situation was resolved when the organisation had the funding to buy a third computer and did so.
40. The Tribunal accepted that Mr Ingam was not singling the Claimant out because of her race or nationality. The organisation had limited resources and on the occasions when he was working at OWLS he would need to use a computer. It is possible that his handling of the matter was not always as tactful as it might have been for example by suggesting that the

work he was doing was more important but fundamentally there was one desk top and it was used when Mr Ingam was not there by the Claimant. If he needed or wanted to use the desk top it would inevitably be a claimant who was inconvenienced. That was a function of the fact that she worked on the desk top. Normally it was not a function of the fact that she was Asian.

41. We have already referred to the support and supervision meeting that took place between the Claimant and Mr Ingam on 23 January 2013. The Claimant said that after that meeting Mr Ingam wanted to discuss with her something that he had overheard on his way up to the meeting in the open plan office. She refused to have a discussion with Mr Ingam about it and no discussion took place. However the next day as she was leaving the centre Mr Ingam went along with her and asked her to go into an empty room to have a discussion
42. She said in her witness statement “I was too intimidated to say no again. He questioned me if I had discussed work situations with other people and threatened me with retribution if I did. I felt coerced and humiliated”.
43. Mr Ingam explained what this related to. When he had come into the open plan office on 23 January 2013 he thought that he had heard one of the individuals from a different organisation who was using a desk nearer to the Claimants, asked the Claimant whether “Mr Nasty” was in today. The open plan office as the Tribunal understand had a mezzanine arrangement so that Mr Ingam was on a different floor and could not be seen when he overheard what he thought was a conversation between the Claimant and the third party individual. Mr Ingam explained that this was what he wanted to discuss with the Claimant. We start by observing that if he did indeed think he had overheard such a conversation that was plainly something he could legitimately raise with the Claimant. She expressed her unwillingness to discuss it with him on 23 January 2013 and he did not force the issue. However he continued to want to discuss it with her so he asked her into a private meeting room on 24 January 2013. In cross-examination the Claimant was asked whether it was acceptable for a manager to ask for a one to one meeting. She said that it was unscheduled. It was fine if Mr Ingam sent her an agenda. The Claimant was asked what she meant by a threat of retribution. She said that Mr Ingam had said that she had better not discuss her work situation with anybody or she would be in trouble. She said that Mr Ingam told her what he thought he’d heard and that she said she did not hear anything. Mr Ingam told her that the person she was sitting opposite had made the comment and she said that she did not hear it. It was pointed out to the Claimant that she had refused Mr Ingam’s request for a meeting on 23 January and it was suggested to her that she was not intimidated when he asked her the following day. She said that she did feel intimidated. The Tribunal noted that her evidence was that Mr Ingam asked her to come into the private room for the meeting on 24 January 2013 and that she did so. Her own evidence was that she didn’t say no or express any unwillingness. Mr Ingam’s evidence was that his recollection was that he told the Claimant what he thought he’d heard. She said that she couldn’t remember hearing it said and they then went through a discussion about how working in an open space meant that everyone could hear what was

said. As illustrated by what he thought he had heard he said that he asked the Claimant that OWLS' reputation was important and that they needed to do everything possible to prevent it being undermined. He said that he did not threaten the Claimant with retribution.

44. Again it seemed to the Tribunal that this was essentially a matter of perception. It stemmed again from the Claimant's tendency to regard management of her by Mr Ingam as inappropriate or untoward. The Tribunal had no hesitation in accepting Mr Ingam's evidence. It is clear that he thought he had overheard inappropriate discussion about him that could reflect badly on the organisation in the open plan environment. He was entitled to speak to the Claimant about it given his understanding that she was one half of the conversation in question. He sought to do so after their one to one meeting but the Claimant declined and Mr Ingam respected that. He asked her again for a meeting the following day. The Claimant did not complain of the way in which she was asked to speak to Mr Ingam. It was simply the fact of a further request being made. She said that she was too intimidated to say no, that she did not give any evidence of something said or done by Mr Ingam so as to intimidate her. It was the mere fact of the request. The Tribunal considered that Mr Ingam was entitled as a manager to request a private discussion with the Claimant about this matter. Further he was right to seek to have that discussion promptly while the events were still fresh in people's minds. The Tribunal also accepted and finds that Mr Ingam did not threaten the Claimant with retribution. He probably did say words to the effect that the Claimant could get into trouble if she had conversations of this kind in an open plan office. The Claimant's description of this as a threat of retribution may be her perception but it is not an accurate reflection of the objective reality.
45. As we have noted there came a point where the Claimant submitted a grievance. She sent it to Miss Gibson as chair of the BEA board on 28 January 2013. It was a grievance about Mr Ingam and it was said to be on the grounds of harassment and equal treatment and preventing participation in appropriate training. Details of the complaint were set out over five pages and there were a number of complaints in detail about work allocated to the Claimant and to Ms Skyvington. This complaint about unequal treatment included the Claimant's complaint that Ms Skyvington had been given an extra day in which to deliver two strands of the befriending project whereas the Claimant had been given some extra work recently for which she had not been rewarded. Her complaint of harassment included a complaint about the meeting on 24 January 2013. In her grievance the Claimant said that Mr Ingam "forced her" to have the meeting. The Claimant also expressed concerns about confidentiality and Mr Ingam's approach to confidential information. She complained that Mr Ingam slouched when speaking to her at face to face meetings. She complained about being asked to go downstairs to have some feedback about a flyer and then being given the feedback while remaining standing. She complained about Mr Ingam's occupation of "my desk plus computer" which she said was an example of his disrespect towards her. The Claimant did not at the time express any reservation about Miss Gibson dealing with the complaint. Miss Gibson was the chair of the board at that time. The Respondent's grievance procedure was for

a grievance about a manager to be presented to the chair of the board and for the chair or designated officer to deal with it. Miss Gibson was not the subject of the grievance although obviously as chair of the board she would have some involvement with Mr Ingam. She was not in the Tribunal's view directly involved in the matters complained of in such a way as to mean that it was inappropriate for her to deal with the grievance. Miss Gibson met the Claimant on 15 February 2013 with a note taker present to ask her to expand upon her complaints.

46. Fundamentally the Claimant said that there were a lot of little things that altogether she felt amounted to harassment of her by Mr Ingam. She felt that he was giving close attention to everything she did more so than with her colleagues. The Claimant had a file of documents in support of her grievance and she gave a copy to Miss Gibson. The Claimant explained her concern about Miss Skyvington being given extra hours and extra money whereas she felt that she had been given extra work and no extra money. The Claimant complained that she had not been allowed to attend training about pensions. Miss Gibson asked her if she gave pensions or benefits advice and the Claimant told her that she didn't. Enquiries would be signposted. She also discussed the occasion when her booking for the two day dementia training course had to be changed. After the meeting Miss Gibson emailed the Claimant on 19 February 2013 to ask her to clarify what she meant when she said that Mr Ingam had forced her to have a meeting on 24 January 2013. The Claimant replied by email the same day. She said "he did not use force or raised voice (not more than normal). There was no witness to this conversation as he forced me to go with him to this empty room. He did not touch me or anything. However he would not accept my refusal to have this conversation. As I said he wanted to discuss something with me. I refused point blank as I believed a two hour long session the day before was adequate for discussing issues pertaining to both. I had had a blinding headache the day before or after the support and supervision and I had after effects on the day in question eg some pain in my eyes and exhaustion. When I refused to have this meeting with him it looked like he accepted my decision. However when I left the room at home time he went along with me and he told me to go with him to this empty room. I believe that this is coercion. He used his position as a manager to force me to have this discussion knowing that I would not dare to refuse outright".
47. Miss Gibson (**in dictation you say Miss Ingam**) had a meeting with Mr Ingam to ask him about the matters raised by the Claimant. This took place on 4 March 2013 and we have already referred in part to the note of that meeting. Miss Gibson discussed the matters of concern that the Claimant had raised. Among other things Mr Ingam explained his version of what had happened on 23 and 24 January. That was broadly consistent with the account he gave to the Tribunal. There was the discussion about Mr Ingam's comments on the Claimant's work to which we have already referred. There was a discussion about the recruitment policy. There was obviously an ongoing debate about whether members from outside of the catchment area could be recruited or not. The Claimant had been recruiting members from outside the catchment area. That had been the approach at Older Active People but it was not how BEA operated. This had obviously given rise to some tension and was

unresolved. Mr Ingam said that he had “non stop challenging” from the Claimant. He spoke about the Claimant’s approach being draining on the organisation and suggested that a lot of it was based on a refusal to accept her position. He said that he did not tell the Claimant off but that he did raise matters with her when they arose. He had been advised as a manager not to stockpile things but to address them at the time and that is what he did. Miss Gibson suggested that Mr Ingam needed to take note of one aspect which was about attitude and for example lounging in a chair was in the Claimant’s view showing disrespect to her. Miss Gibson asked Mr Ingam about the extra days work given to Ms Skyvington. Mr Ingam said that he was paying a member of staff to work an extra day but that somehow the Claimant thought that she should get something else as well. Miss Gibson noted that the Claimant had said she was not doing extra hours and was accommodating the extra work she had within her existing hours. She raised the question whether the work that Ms Skyvington was doing justified the extra day. Mr Ingam said that he would be very happy to do an analysis of the work. Both did because he thought it did. He said that he was well aware of what the Claimant and Ms Skyvington did and did not need to carry out an analysis before deciding to ask Ms Skyvington to work the extra day. Mr Ingam explained the work that Ms Skyvington was doing and expressed the view that the Claimant was “not doing very much”. After seeing worksheets they were both submitting Mr Ingam said it confirmed that Ms Skyvington was getting the lion’s share.

48. So far as training concerned Mr Ingam accepted that he had mistakenly given approval to the two day dementia course initially but when he realised they had a talk about it because that didn’t seem to be commensurate with what was required for the Claimant’s post. They discussed possible solutions. Those included having a workload analysis to help close the issue of inner quality between the Claimant and Ms Skyvington. Mr Ingam said that he would be glad to do anything to try and improve the situation between him and the Claimant including going through mediation. Miss Gibson’s notes of her meeting with Mr Ingam were not provided to the Claimant during the course of the grievance process. Miss Gibson wrote to the Claimant on 28 March 2013 to inform her of the outcome of the grievance. She explained in her covering letter that she did not uphold the grievance so far as it related to harassment and preventing participation in appropriate training. So far as unequal treatment was concerned she said that an assessment under the staffing review would ascertain whether the Claimant had been treated unfairly. She went on to say that it was obvious that the working relationship between the Claimant and Mr Ingam was strained and that she was suggesting independent mediation to try and improve matters. The letter was accompanied by a three page report setting out Miss Gibson’s conclusions on the grievance. Miss Gibson had concluded in the light of the evidence that so far as the meeting on 24 January 2014 was concerned the use of the word force by the Claimant was misleading. If the manager had concerns about an issue that he felt was urgent he had the right to discuss it.
49. So far as the Claimant’s complaint that her work had been unfairly criticised was concerned Miss Gibson noted that she had looked at the

examples provided by the Claimant and believed that the suggestions made by Mr Ingam were fair and strengthened the final documents. She noted that Mr Ingam had admitted that he was inconsistent about negative introductions to work. She found that there was no justification for a grievance. She recorded that the OWLS' membership policy was not a grievance issue and that the manager would make recommendations to the board. So far as unequal treatment was concerned Miss Gibson concluded that as the Claimant was not working extra hours additional pay could not be justified. She said that the workload of the befriending project should have been discussed before the project began but said that the staff review that BEA was undertaking would give particular attention to that issue. So far as participation in the dementia training was concerned Miss Gibson concluded that this was a management issue and did not justify a grievance. Miss Gibson recommended independent mediation between the Claimant and Mr Ingam.

50. As we have already noted the Tribunal did not consider that there was any reason why Miss Gibson should not have dealt with this grievance. Nor was any basis identified for suggesting that the reason Miss Gibson did deal with it was related in any way to the Claimant's race. She appeared to the Tribunal to have dealt appropriately with the grievance. She discussed it in detail with the Claimant, explored the matters raised with Mr Ingam and gave them careful consideration in a balanced outcome letter. So far as the Claimant's concern about the inner quality between her work and Ms Skyvington's was concerned, it is right that Mr Ingam had not carried out a workload assessment or analysis before allocating the befriending work and that Miss Gibson did not do so either. The Tribunal consider that Miss Gibson was entitled to resolve the grievance without any such assessment. That was in the circumstances where a review of the Respondent's staffing had just begun (see below). In the event a full assessment of the Claimant's workload and Ms Skyvington's did not take place because that would have required a time and motion study expense of which could not be justified. The matter was resolved because the befriending work was taken away from the Claimant. The Claimant put to Miss Gibson that she had asked her if she could drop the befriending work and that Miss Gibson agreed and Miss Gibson accepted that. She said that therefore by April the Claimant was no longer doing the befriending work and no further assessment was carried out. The Claimant pointed out that Miss Gibson hadn't told her that there would not be a detailed assessment of workload. Miss Gibson accepted in her oral evidence that she hadn't and apologised for that. Miss Gibson said that the Claimant's race was nothing to do with her reasons for reaching the findings she did in the grievance and the Tribunal accepted that there was no evidence to suggest that a Claimant's race played any part in the latter.
51. Returning to the chronology after the Claimant had had her grievance meeting with Miss Gibson but before the grievance outcome the Claimant sent an email on March 2013 to Mr Ingam and Miss Gibson. It said that she had asked lots of people ????????? had a child protection policy and that she had been unable to find anything. She said that she had written something simple that needed to be checked by the board. She said that it needed to be done soon because she wasn't happy about promoting the befriending scheme before the board had approved her policy. Then she

wrote "I've checked the Lloyds TSB funding application that you did and you wrote down that BEA has a child protection policy so you can understand why I think it is imperative that we have one for real". Mr Ingam replied the following day. He said if we have not got one we need. Next week I'm meeting someone who will audit our policies and procedures and if needs be I will ask him to provide us with one. This will then need to be adopted by the board and can be done in April.

52. Miss Gibson in her oral evidence said that she had no recollection at all of receiving this email. The Claimant said that Mr Ingam should have been disciplined by Miss Gibson for making a misrepresentation in a funding application and she sought to draw a contrast with the way in which she was subsequently treated. Although Miss Gibson could not recollect receiving the email the Tribunal could well understand in any event that it might not have immediately prompted thoughts of disciplinary action. It was plainly addressed by the Claimant to Mr Ingam because the "you" referred to was plainly him. It was presented as being concerned with the need for the organisation to have a child protection policy and Mr Ingam's response dealt with that. It was not presented as a complaint to Miss Gibson or request for her to consider disciplinary action against Mr Ingam.
53. The Claimant had her annual appraisal on 21 March 2013 to appraise the period from the preceding January 2012 to March 2013. The Claimant completed her own self assessment form and Mr Ingam then completed the manager's form. The Tribunal noted a comment in the manager's form recording that they had discussed how the appraisal system would be more comprehensive next year and that he had explained the expectation that objectives needed to be bigger picture by contrast with for example the objective of organising Christmas distribution. There was also discussion that staff needed to be vigilant about the need for board members not to be pulled into operational issues and that the practice was clear in regard to communication between staff and the board. The Claimant passed her appraisal and as a result went up one increment on the pay scale. Miss Gibson had referred to a staffing review. In fact Mr Williams of Leeds City Council carried out a human resources audit of the Respondent and reported back to the board on 15 April 2013. His audit involved discussions with board members, review of documentation and organisational structure and management arrangements. He had discussions with Mr Ingam and with two members of staff at the BEA staff. He made a number of findings and recommendations. There were detailed recommendations about the contents of the employee handbook, human resources policies and contracts of employment. There was a section dealing with management arrangements. Mr Williams recorded his overall impression that all decisions on the operational running of the organisation went through the manager. Mr Williams considered the appraisal process and expressed some concern about a board member sitting in on appraisal meetings. That was a matter he identified for further discussion. Mr Williams recorded that the salary levels for jobs appeared to be historic and that there were a number of posts at SO1 equivalent level that had little or no management and supervisory role. Changes to job roles had been made but there didn't appear to be any job evaluation to set an appropriate salary level. Mr Williams said that there seemed to

be a view that changes to terms and conditions of employment could not be made but pointed out that this might need to happen due to business or operational changes. If so it would have to be supported by staff consultation. But because of the nature of the work Mr Williams felt that it was difficult to quantify what some staff actually did and if that was consistent with their job role. One example was visiting a BEA member and spending a significant amount of time with them. Some of that time might Mr Williams suggested have been more appropriate for a volunteer. His view was that roles at SO1 level should be given operational management and supervisory responsibilities with the manager operating a strategic level. Mr Williams made a number of recommendations. He said that there needed to be clear lines of communication with management committee and operational unit. Employees and board needed to be clear about their roles. Jobs needed to be evaluated and measured with posts benchmark using a job evaluation method. The management span of control needed to be reviewed and in conjunction with job evaluation management and supervisory roles needed to be allocated to the more senior members of staff.

54. That audit was the start of a process that led ultimately to the Claimant's dismissal as part of a redundancy process. We return to that below. We note that the Claimant had 22 consecutive working days annual leave in August 2013. She attended her son's wedding in America.
55. The Claimant did not appeal against the outcome of her grievance by Miss Gibson.
56. The next matter about which the Claimant complained took place in October 2013. The Claimant said that Mr Ingam "told her off" for about 10 minutes because she had asked for information from him "ASAP". She said that this happened at the heart centre. Everybody could hear Mr Ingam because his natural voice was loud. She was told off in front of other people and she said that nobody else was told off in this way. The Claimant said that Mr Ingam did it because of his "innate racial prejudice against me as an Asian". The Claimant had made reference to this in some comments on a support and supervision document relating to the support and supervision meeting on 16 October 2013. She had written that she would like to receive information of meetings attended by the manager as soon as she asked for it. The information required would take a maximum of five minutes from the manager and could never be considered an onerous job. The monitoring work was done by the Claimant and the Claimant needed co-operation from everybody connected to it in a timely manner. She did not wish to send the required information to Jenny on the very last day as had been happening most often. She went on to say that she did not wish to be told off in front of everybody for trying to do her job properly and on time. She said that Mr Ingam had told her off on 10 October because she had asked for information about the above with the words ASAP. He had said "Maureen is happy about receiving this information whenever. I have been busy as I have an important meeting with Norah". ... The manager told her off for ten minutes. The Claimant found the whole experience humiliating and demeaning. The Claimant is confused whether such conduct is allowed at BEA. In cross-examination she repeated more than once her allegation

that Mr Ingam had “told her off” for ten minutes. She was asked what exactly had been said to amount to a telling off. She said that Mr Ingam had asked why she was asking for the information ASAP. He had said that he had been very busy and he had said that if Maureen was happy why shouldn't the Claimant be. She was asked what about it made this a telling off and she said that it was the way she said it and that his voice is quite loud. She said that people could hear him. She said it was clear that he was angry with her and when she was asked why it was clear she said it was the way he looked and the way he was standing. She was asked what she meant by that and she said that he was not standing too close but close enough and she referred to his voice being quite loud. It was put to her that Mr Ingam was simply asking her questions and she answered he didn't ask me. He said why did I say ASAP.

57. In his evidence Mr Ingam said that he did not have a recollection of this particular occasion but that it was perfectly possible that he had made professional challenges on a particular issue. For example he might ask the Claimant whether she thought an action was acceptable and whether she would do things differently next time. He disagreed that being challenged on a particular issue amounted to being told off. He also said that any such challenge had nothing to do with the Claimant's race. In cross-examination he reiterated that he did not tell the Claimant off. He said that it was a discussion.
58. This seemed to the Tribunal to be one of a number of examples of the Claimant's general tendency to use language that the Respondent described as inflammatory to describe particular situations. Here she was repeatedly describing what had happened as her being told off. But when she was pressed on what had actually happened she seemed to describe a discussion between herself and Mr Ingam in which Mr Ingam was questioning her about why she needed information from him ASAP and discussing whether that was appropriate. She didn't say that he had raised his voice. Rather she referred to his voice being loud in any event. She didn't refer to threatening body language or to something that might be described as telling off. She was describing the same thing that Mr Ingam was describing, a discussion between colleagues about a particular issue.
59. The Tribunal did not accept that the Claimant was told off in front of everybody. It accepted Mr Ingam's explanation that he spoke to the Claimant about her insistence on receiving information from him ASAP and about whether it was appropriate for her to insist in that way and whether he could provide the information within that timescale.
60. The Claimant's next supervision meeting was due to take place in December. The Claimant was concerned because she knew there was a staffing review underway. She wanted to be sure that Mr Ingam had a full understanding of the work that she did. In accordance with her usual practice the Claimant sent a pro forma in advance of the meeting to Mr Ingam. In the section about whether there were any issues at work the Claimant wrote that she was not happy at the way the manager ie Mr Ingam had carried out a review of her work at the last support and supervision session. She felt that it was done in a very superficial way. She pointed out that the review would have significant implication for

workers as BEA was going through a restructuring. She said that in view of her difficult relationship with her manager she would be surprised if his review of her work was fair, impartial and comprehensive.

61. Mr Ingam sent the Claimant an email in advance of the support and supervision meeting telling her that if she thought there was a better way of him understanding the work she did she should use the support and supervision meeting to improve his understanding. The meeting itself took place on 19 December 2013. The Claimant's evidence was that at the meeting Mr Ingam made her very upset and reduced her to tears. He had asked her to talk about her work but in the middle of her explanation he in her words demanded that she should stop. She said that "I was not allowed to continue, I was shown no respect by him. I was something to be toyed with. I did not need any dignity. Neither Ms Skyvington nor any BEA staff ???? was treated this way at supervision meetings".
62. The meeting notes record that during her explanation of what she did Mr Ingam provided her with some feedback which led to her becoming concerned. She requested Mr Ingam to note "Nadira felt upset because Lee said that he wanted to have a better understanding of her work but when she started to explain he would not let her continue". In cross-examination Mr Ingam said that he thought the Claimant was going into too much detail. It wasn't helping him to understand her role. She was going into too much minutia. He said I probably did ask you not to do it that way. He accepted that the Claimant had become upset but he said he was entitled to ask her to stop because they weren't achieving what they set out to and it was not the best use of their time. He denied that he had asked the Claimant to stop because she was Asian.
63. The Tribunal accepted that Mr Ingam asked the Claimant to stop her explanation because she was descending into too much detail and this was not helping him to have a proper understanding of her role. That was entirely consistent with the Tribunal's experience of the Claimant but also with all of the voluminous documentation that she produced throughout the course of her employment by the Respondent. Whether in relation to support and supervision meetings, grievances, appraisals, redundancy consultation or otherwise the Claimant wrote extended and highly detailed documents and correspondence in which it was frequently difficult to see the wood for the trees. The Tribunal could well understand that such an approach would not enable Mr Ingam to have a proper understanding in strategic terms of the nature of the Claimant's work as she saw it, and in that context it was appropriate for him to ask her not to continue.
64. The Tribunal accepted that that was the reason for doing so and not the Claimant's race.
65. The Claimant's next complaint related to a document that she found on her computer around about 19 December 2013. On the day in question the Claimant said that she was doing some housekeeping on the desktop computer on her desk deleting old files on downloads. She opened a document that she found in the downloads and she thought that it was the budget document. She went through it and then she realised that it was to do with the ongoing staffing review. The Claimant emailed Christine Butterfield a member of the board and treasurer of the

Respondent on 14 January 2014 she wrote I know the main purpose of the restructuring is for Lee to get a better position for himself at a higher salary where he'll have to do very little and another is to downgrade my position. I feel quite upset. The review he has done about my post is poorly done. There is no specific job for Susan as a finance officer which is what she should have. And he is getting rid of a driver from BEA. I hope the board members will resist the proposed restructuring. Mrs Butterfield evidently contacted Miss Gibson and Miss Gibson held meetings with both Mr Ingam and the Claimant. She met Mr Ingam on 17 January 2014. Mr Ingam said that he hadn't saved any documents relating to the staffing structure review on the desktop computer normally used by the Claimant and he didn't understand how any information relating to the staffing structure review could have been available on that machine until he noticed on his own home computer that open attachments could be saved in downloads. That that is what had happened at OWLS and the file had since been deleted. Miss Gibson's meeting with the Claimant took place on 22 January 2014. Notes were kept of that meeting as well and they record Miss Gibson explaining to the Claimant that the meeting was part of an information gathering exercise about how possibly sensitive documentation had come to be accessible on a computer at the OWLS office, how it was accessed and what happened after it was accessed. The notes of their discussion record the Claimant explaining how she had come across the document and that she had had sent it to Mrs Butterfield. She explained that she had sent it to Mrs Butterfield because Mrs Butterfield was the person with whom she had the most contact because of financial recording at OWLS. She also found Mrs Butterfield a caring person. She was aware that the correct route for any problem was to the chair but she saw Mrs Butterfield on a fairly regular basis.

66. Miss Gibson recorded in her note that she had spoken to the Claimant by telephone herself on 23 December 2013 but that the Claimant had not mentioned any of it to her. The Claimant had confirmed that the notes of the meeting were accurate. Miss Gibson emailed the Claimant on 29 January 2014. She explained that she had considered two aspects to the matter. One was a leak of confidential information and the other was the response of someone who accessed that information. Her conclusions from meeting with the Claimant and Mr Ingam were that she needed an informal word of caution to both of them. Mr Ingam must apply utmost care in handling confidential information and Ms Gibson said that she could share with the Claimant that Mr Ingam was not aware that work could appear in downloads. He had been careless with confidential information previously as the Claimant had mentioned and her word of the caution to him would refer to that. However so far as the second matter was concerned Miss Gibson wrote that the Claimant knew the contact route for matters that concern staff when they felt they could not go through the manager, or had tried to address issues with the manager and not had a satisfactory response. She said that she would remind the Claimant of that. She continued that in her opinion that closed the matter.
67. The Claimant's complaint to the Tribunal was that the discussion with Miss Gibson on 22 January 2014 was a disciplinary hearing conducted by Miss Gibson and that this was because of the Claimant's race. In her

witness statement the Claimant confirmed that she had no doubt that what happened on 22 January 2014 was a disciplinary hearing. The Claimant put to Miss Gibson in cross-examination that this was a disciplinary meeting. Miss Gibson said that it wasn't. Had it been a disciplinary hearing there would have been a formal notice in writing. It was an enquiry to find out what had happened and what had been done. He went on to say that she was struggling to understand what the problem was. There was no disciplinary hearing, an important matter had been raised but it was then closed. The Claimant went on to suggest that she was justified in emailing Mrs Butterfield about the matter because Mrs Butterfield managed her. Miss Gibson answered forcefully that Mrs Butterfield did not manage anyone. She was a member of the board. She worked with the Claimant from time to time in her capacity as treasurer but she did not manage her. Further the Claimant had been told the proper communication channels. Mrs Butterfield had raised with Miss Gibson her concern that the Claimant had contacted her about this matter and Miss Gibson had explored that with the Claimant.

68. Again the Tribunal was quite satisfied that this was not in any way a disciplinary hearing. It was not presented as such and nor did it lead to any disciplinary action formal or informal being taken. It led to Miss Gibson informally reminding the Claimant that she should not be contacting members of the board about matters where she could not go through her manager.
69. We turn at this stage to deal with the staffing review and the restructuring processes to which it led. We deal with those matters altogether so as to have a clear picture of the processes followed. We will return to the chronology of discrimination complaints in due course.
70. The Tribunal has referred above to the human resources audit carried out by Mr Williams. It led to a staffing review about which staff were obviously at least informally aware. Miss Gibson made a formal announcement to the staff in January 2014. She said that the board had met on 10 January 2014 to review progress. A broad organisational structure was emerging but there was a lot of detail to be completed. A draft proposals document could only be circulated to staff for consultation after it had been fully discussed and approved by the board. She hoped to be able to update staff in the next week or two after another board meeting. In the meantime she repeated assurances she had already given verbally that BEA valued its staff and wished to ensure that in any new staff structure priority would be given as far as possible to existing staff in filling new posts, that it was likely there would be an increase in the number of jobs within the organisation and that there would be a full consultation. It appears that it was July 2014 before the board in fact agreed a proposed restructure for consultation. On 8 July 2014 Miss Gibson wrote to staff members providing them with the proposed new staffing structure. The Claimant was told that the post she currently occupied was at risk because the new structure envisaged that this particular post would no longer exist. The letter explained that there were new posts that might be of interest to the Claimant and that subject to the consultation process the intention was for the new posts to be advertised internally in the first instance and that the Claimant's application for one or more of those posts would be welcomed.

If she didn't apply for a post or she was unsuccessful in an application she would remain at risk of redundancy. Staff were invited to comment on their own post and on the wider proposals by 29 August 2014 and were invited to attend individual meetings with the chair or vice chair. The information provided included a list of the existing posts. It showed that of 13 existing posts eight were at risk. Those included the post of manager ie the post currently occupied by Mr Ingam, the post of information co-ordinator at OWLS ie the Claimant's post and the equivalent information co-ordinator post at BEA. The two activity co-ordinator posts were also at risk. One of those was occupied currently by Ms Skyvington. The proposed new structure entailed a new general manager and two new managers beneath him. BEA and OWLS were both to have what was called information and communications co-ordinators as well as activities co-ordinators.

71. In his witness statement Mr Ingam accepted that as manager he had played a significant role in working with the board to develop the proposed structures following the review carried out by Mr Williams in 2013. He said that throughout the process the thinking was about posts and not individuals and that any suggestion that changes had been engineered specifically with the Claimant in mind were incorrect. He noted that the proposed re-structure involved removing the post of information co-ordinator both at OWLS and also at BEA. Further it proposed removing his own post and he himself was put at risk of redundancy.
72. Mr Ingam was asked in cross-examination about why the Claimant's role had been put at risk of redundancy and he said that the organisation had taken advice and had been told that where there was more than a 20% change in a role that was significantly different and such posts were regarded as new posts. The Claimant did not appear to suggest that the assessment that there was more than a 20% change in her post was incorrect. Rather that she was suggesting that the post of activities co-ordinator should also have been put at risk. She drew a contrast between the job description initially provided for that post and the job description envisaged for the post under the restructure. She pointed out that the new post had four additional key tasks listed. That is to say undertaking initial needs assessment visits, membership recruitment and review visits, helping to develop a support programme for carers, developing and managing a work plan and budget and contributing to OWLS' funding. Mr Ingam explained that developing and managing a work plan and budget was a new task but it was not a big piece of work. It was something added to reflect a commitment that had been made. The remaining three additional tasks were already being carried out by the post holders. It was simply the case that they were not reflected in the job descriptions. For that reason there was not a significant difference between the existing and proposed activities co-ordinator roles. The only actual change related to developing and managing a work plan and budget.
73. The proposals were presented to staff at an informal meeting on 9 July 2014. Mr Quin was present on that occasion and it was the first time he had met or communicated with the Claimant. The Claimant approached him and asked him for a one to one meeting which he agreed to. Before

that took place on 10 July 2014 the day after the meeting the Claimant emailed Mr Ingam with an urgent training request. She said that the one job that interested her was the position of information and communication co-ordinator at OWLS. However she had seen the new job descriptions and in order to be able to apply for it she said that she needed knowledge, skills and understanding of how to set up, update and maintain websites. She said that she did not know anything about websites. She had put it as one of her development needs for the last two years. She said that she needed to start this training immediately if she was to have a reasonable chance of securing the new position. She needed Mr Ingam's approval so that she could start finding a course that might meet her development needs. Mr Ingam replied to say that given they would probably set up an OWLS website in the future it would help if her current post could manage or update a website. He suggested that the Claimant identify some training and they could speak about it the next time they met.

74. By this time the Claimant had made a third grievance consideration of which was ongoing. We return to that in due course.
75. At this stage we note that on 11 July 2014 she wrote to Mr Quin asking him to postpone the grievance hearing because of the new restructure proposals. A staff consultation meeting took place on 6 August 2014. It was attended by the Claimant among other staff. A number of points of detail about the proposed new roles and discrepancies between job descriptions and structure charts were discussed. Staff voiced their concerns about the working group and indicated that they wanted their feedback to go to the whole board not just to a working group. Because of the incorrect information and discrepancies staff wanted the consultation period to be put on hold. Points were made about the restructure not addressing issues with needing more full-time workers to provide continuity and stability. It was suggested that there wasn't enough provision for transport. Some BEA staff felt that OWLS and BEA should be treated separately. Mr Quin provided a response to the concerns on 26 August 2014. In writing he clarified the points of discrepancy. He confirmed that any material changes would have to be agreed by the whole board and that the consultation period had been extended to the end of September. He invited proposals and suggestions to address the point about the operational end of the organisation and identified this and other key issues for further discussion. Mr Quin clarified that under the proposed new structure some jobs would change and would be replaced with new jobs. That in itself created a redundancy situation. There did not need to be a downsizing. There was to be a further meeting on 5 September 2014.
76. Mr Quin met the Claimant on a one to one basis on 15 August 2014 at Hearts. At the meeting the Claimant handed him a draft letter that she was proposing to send to two board members namely Mrs Butterfield and a Mrs Dixon. This was a detailed nine page letter setting out concerns about the review and proposed restructure. The Claimant suggested that there was no redundancy situation because the Respondent was not reducing its workforce. She referred to the Respondent's redundancy policy and suggested that the current situation did not fall within it. She said that no fair selection process had been used to select people for

redundancy. She said that her job would continue to exist because the funding from Adult Social Care for the work done was secure until 2018. The same service to be delivered. She sought to compare her existing job description with the proposed new job description for the information and communication co-ordinator. She set out a detailed account of how the work she currently did fitted into the proposed new job description and she said that this analysis clearly showed that there was no significant difference to her current workload compared with the proposed new job description. On the other hand she suggested that the activity co-ordinator's job was significantly changed and should have been put at risk of redundancy. She questioned whether there was a genuine consultation. In summary the Claimant suggested that the proposed restructure was in breach of redundancy law and the Respondent's redundancy policy and could not be considered legal. She said that putting some people at risk of redundancy while keeping others in secure posts without any reasonable ground was decisive and discriminating. She said that there had been no real consultation with staff members in preparing the proposals and that the whole consultation was nothing but a paper exercise and she suggested that nobody from OWLS had been consulted on the staffing review or restructure.

77. Mr Quin gave the Claimant a written response on 18 August 2014. They had discussed these matters at their meeting on 15 August 2014. He recorded that he had urged her not to be selective in sending a letter to only two members of the board. He said that he was not in a position to comment in detail on the contents of the Claimant's letter but reiterated his view about the lawfulness of what was proposed and confirmed that the board had been diligent in taking external legal advice. He made clear that the Claimant's views would be considered by the full board in due course and that the consultation period was to be extended to the end of September. The Claimant was encouraged to participate in the consultation process.

[All text before this has been submitted to Judge Davies to check]

78. In the course of correspondence about a grievance to which we return below the Claimant wrote to Mr Quin on 26 September 2014. In that letter she raised again a number of her concerns about the proposed restructuring at the Respondent and her contention that it was not legal. She also said that the staffing review and current proposals were related to her current grievance. She suggested that the proposal to put her at risk of redundancy and to abolish her current post were part of a course of mistreatment that she had been suffering from BEA management. Mr Quin replied in an undated letter. So far as the Claimant's concerns about the redundancy process were concerned Mr Quin reminded her that the staffing review was still at the consultation stage. He reiterated that the board were keen to hear staff views and possible other proposals and said that BEA would take on board the Claimant's comments at the end of the consultation period. He agreed with the Claimant that it would be sensible to postpone her potential grievance in relation to the staffing review until after the outcome was known but he said that if she wanted to raise matters concerning it at the grievance hearing to which she had already been invited then she could do so. On 30 September 2014 there

was a staff away day as part of the consultation process into the staffing structure review. Both the Claimant and Ms Skyvington attended. This fed into alternative proposals that were submitted to the board. The notes of the BEA team meeting on 28 October 2014 record that a staff structure review report had been approved by the board and that all staff would receive a copy in the next two weeks. The recommendations were for three senior posts.

79. Three board members and three staff members including Mr Ingam formed a working group to look at staffing outside the three senior posts and staff were to let Mr Ingam know if they were interested in being on the working group. Mr Quin's evidence was that the proposal approved by the board in October 2014 envisaged the same senior management structure as had originally been proposed. However a different operational arrangement was envisaged and that was what needed further development to make it viable. A joint staff board working group was established to develop proposals for the operational level. All staff had the opportunity to put themselves forward to be on the working group. The Claimant decided not to put herself forward. In the meantime steps were taken to make appointments into the three senior management posts and those posts were advertised. Both the Claimant and Mr Ingam applied for the post of general manager, the most senior management post. The Respondent's case was that both the Claimant and Mr Ingam went through a selection process involving interview by a full panel. The Claimant gave evidence about the selection process she had been through. However she questioned whether Mr Ingam had in fact been interviewed and assessed in the same way at all. It seemed to the Tribunal that she had no basis for contending that Mr Ingam had not gone through the same process that she had gone through. It was mere assertion.
80. The Tribunal was shown the written assessments of the interview panel of both candidates. Mr Ingam gave evidence that he was interviewed for the post and Mr Quin gave evidence that he was the chair of the selection panel. The Tribunal had no doubt whatsoever that both the Claimant and Mr Ingam had been through the same selection process. However it was perhaps indicative of the Claimant's perception that the Respondent was essentially engaged in an orchestrated campaign of discriminatory treatment towards her that she believed that it had set up a selection process involving four individuals to interview her just for appearances and had not interviewed Mr Ingam but simply appointed him to the role. The panel's overall scores of the two candidates were as follows. The Claimant scored 7 out of 10 for the in tray exercise, 8 out of 10 for the financial exercise. The presentation was not scored. Among the panel's comments recorded in the assessment document were that she had generally a poor grasp of what strategy and vision were but she did not appear to understand the role and significance of the post, thought it could be done part time, seemed to think her holidays were most important, had little understanding of how to manage staff and that she had not really the answered the questions relating to financial acumen except by reference to the proposed staff restructure and that she had no insight as to the strategic significance of sound financial management. In response to questions relating to strengths and weaknesses the panel recorded that

the Claimant considered herself to have good English and maths skills but no mention of creativity, interpersonal skills or other attributes integral to performing a general manager role. The panel recorded that the Claimant did clearly recognise her weakness in being able to gain recognition as a manager but indicated that she had little or self awareness. The panel's overall conclusions were that although academically well qualified none of this translated into a coherent case for being appointed to the post. The standard of understanding and vision of engagement and commitment and of interpersonal skills fell well short of the post requirements.

81. Mr Ingam's scores were not significantly better. He scored eight out of ten for the in tray exercise and 8 out of 10 for the financial exercise. The comments relating to his presentation were however much more positive in general. As regards the question and answer session the panel recorded that Mr Ingam had a generally good and solid vision. So far as questions related to management and motivation of staff were concerned the panel recorded that Mr Ingam did not appear fully to appreciate the role of general manager with the board and that his management style would be blunt and a little abrasive and that he could improve his communication skills. The panel's overall conclusions in Mr Ingam's case were that he had the necessary experience skills, vision and attitude to do the job effectively but would require further coaching in modifying his leadership style in communication methods and in developing his skills in board and state colder relationships.
82. Mr Ingam was appointed to the role. Mr Quin's evidence was that Mr Ingam's level of competence was materially superior to the Claimant's. That was reflected in the written assessment scores. There was no evidence before the Tribunal to suggest that the panel's assessment of the two candidates were in any way inappropriate.
83. The Tribunal accepted Mr Quin's evidence that Mr Ingam and the Claimant were interviewed. Mr Ingam performed materially better and sufficiently well to be appointed to the post. We noted that the panel's comments on Mr Ingam were not a ringing endorsement and that the board put in place mentoring support for him subsequently. The interviews for the general manager post took place between 20 and 22 January 2015 and Mr Ingam took up his post from 1 February 2015.
84. Meanwhile work on the operational level of the organisation progressed. At a team meeting on 4 December 2014 Mr Ingam updated the OWLS team on the staff structure review. The meeting notes record the following: "Lee fed back from the working group. The issues emerging from the group include the roles of the two new deputy managers and whether there are enough frontline staff (staff who see older people on a day to day basis) in the new proposed structure. At the moment they are implementing a change proposal to increase the number of frontline staff which includes more responsibility for the minibus drivers and receptionists for both BEA and OWLS. Lee showed a new OWLS structure proposal to the staff and asked for their feedback. He reiterated that this was just an initial idea and nothing had been agreed. The new structure consisted of a co-ordinator, outreach worker, receptionist, publicity manager (based at BEA) and a minibus driver. Nadira's feedback was that she did not agree with the structure as it would leave OWLS

totally fragmented. She also felt it was downgrading the work of the outreach worker and “we are supposed to be reducing isolation and this won’t help”. Nadira thinks the current structure of OWLS works just fine. Nadira also feels that the working group is biased as it only consists of one staff member who is at risk. Lee informed her that the working group cannot pass any new proposals as that is the job of the board. All they can do is put proposals forward. Lee has made note of the feedback given. Lee also asks staff to give feedback back on how we think jobs will be allocated between the new roles. He will circulate the table that we need to fill in. The structure outlined by Mr Ingam did not include an information co-ordinator: the post currently occupied by the Claimant. Following the meeting Mr Ingam forwarded a table listing five proposed posts and setting out a number of job tasks. Staff were invited to indicate which post should complete which job tasks under the proposed structure. It was the Claimant’s case that this proposed operational structure were devised by Mr Ingam and Mr Quin personally and that they had done so deliberately so as to remove the Claimant’s post because of their discriminatory approach. It was the Respondent’s case that these proposals had their origins in the staff consultation and working group. Mr Ingam and Mr Quin plainly had considerable involvement in their development and in taking them forward but this was not about the Claimant it was about the organisation.

85. We deal below with some of the evidence the Claimant relied on but we start by making clear that we did not accept the Claimant’s contention. We were satisfied on the evidence that these restructure proposals were properly formulated in the interests of the organisation and taking into account staff consultation they were not designed to remove the Claimant for discriminatory reasons. Mr Quin’s evidence was that following the board’s agreement in principle in October 2014 the joint staff board working group was established. The staff representatives were decided amongst the staff themselves. The group met on several occasions and that group devised the proposal to which Mr Ingam referred in December and which was subsequently agreed by the board in January 2015. Mr Quin was clear that the proposals had been approved by the board and reflected the work of the staff board working group. In his witness statement Mr Ingam acknowledged that as manager he played a significant role in working with the board and other staff members to develop proposed structures and the structure finally adopted. He made clear that throughout the process the thinking was about posts, not individuals and strongly denied the allegation that changes within the restructure were engineered specifically with the Claimant in mind. He pointed out that the proposed restructure involved removing the post of information co-ordinator at OWLS but also the counterpart information co-ordinator at BEA. He also drew attention to the fact that his own post was put at risk. He said that it was fair to say that the shape devised initially by the board in terms of operational structure and as basis for consultation was based on his assessment as manager of the organisations changing role and service delivery needs.
86. In cross-examination it was put to Mr Ingam that he and Mr Quin had created the new structure in order to get rid of the Claimant’s posts. He said that he and Mr Quin were in the working group and had played a

significant part but they had made changes in response to consultation from staff. For example in relation to reception and administrative staff. He said we played a significant role as you'd expect but everything had to be approved by the board. The suggestion that this massive piece of work was done to get rid of the Claimant was not right. In support of her contention the Claimant relied in particular on correspondence relating to the matrix that Mr Ingam circulated after the 4 December 2014 meeting. On 8 December 2014 the Claimant emailed Mr Rob Cook who was one of the staff members who was on the working group. She explained the new proposal that Mr Ingam had referred to on Thursday and asked Mr Cook who had made that proposal. She asked what Mr Cook's role was and whether he had supported it. She said that it was important for her to know this as Mr Cook was part of the working group and she felt he should represent her interest being at risk of redundancy. Mr Cook gave a very quick reply because he had stopped work. He said that the last structure diagram he had included both activities and information and communications for OWLS. There had been a board meeting since the last restructure group but he had not seen any results of that yet.

87. The following day having discussed the position with Miss Rushworth another staff member on the working group he emailed the Claimant again to confirm that they had not had a more recent structured diagram than the one Mr Quin had produced staff proposal to after the session that both the Claimant and Mr Cook had taken part in. If a new diagram had been produced after the recent board meeting Miss Rushworth and he had not seen it. They did not yet know the result of any relevant discussions at the recent board meeting. By 15 December Mr Cook emailed the Claimant to say that Mr Quin had asked him to tell her that the proposal had no status. It would have to be considered by the working group and if the working group thought it feasible then by the board. In response the Claimant emailed Mr Cook on 17 December 2014 to give him her thoughts on the OWLS' restructure. She wrote "I believe nothing should be done to change anything at OWLS. We are working well as a team. There should not be any change whatsoever. My post should not be put at risk of redundancy. The most recent proposal has obliterated my post completely which I think is very discriminatory and divisive for it is only I who is at risk of redundancy. This new proposal makes it impossible for me to go for any jobs at OWLS that is commensurate with my qualifications and experience. Please pass my comments to other working group members.
88. Meanwhile on 16 December 2014 the Claimant had emailed Mr Quin. She asked him whether the proposal outlined by Mr Ingam at the team meeting on 4 December was Mr Quin's creation. She referred to the matrix and said that Mr Ingam had said that Mr Quin wanted it to be completed. She said that Mr Cook had confirmed that the working group knew nothing about this new restructure proposal. She asked the question was the new restructure proposal created by Mr Ingam and Mr Quin. Mr Quin replied on 17 December 2014. He said that the position on possible changes at OWLS was that when the working group developed the staff proposal it was considered that it might be appropriate for the revised proposed structure which emanated from the staff and was partially developed at a meeting at which the Claimant was present in late September to be

reflected at OWLS. Mr Ingam had put his thoughts to the team on that basis. He was entitled to do so. He was the manager. Any proposed changes would be further considered by the working group. If the Claimant thought there was a better way she should put her thoughts forward for the working group to consider. Any changes would then need to be considered further by the working group and then by the board. The matrix was his creation. He was trying to see what duties and responsibilities needed to be assigned to posts in a way that developed the most cost effective means of providing a client's service to members. In an email on 19 December 2014 dealing in part with other matters the Claimant wrote to Mr Quin. "Thank you very much for clarifying that it is Lee who devised the new restructure proposal for OWLS that has obliterated my post completely. It is also very clear to me you endorsed this proposal completely".

89. In his cross-examination Mr Quin was asked about the matrix document. The Claimant showed him the version circulated by Mr Ingam and asked whether he recognised it. He said that he did not immediately recognise it. He was then shown his email of 17 December 2014 in which he explained to the Claimant that the matrix was his creation. His evidence was that he thought he did a draft that he sent to Lee and he didn't recognise the format.
90. The Tribunal did not consider that Mr Quin's inability to recognise the document circulated in December 2014 was an indication that his evidence lacked credibility. He was talking about events some two years earlier. At the time of those events he had acknowledged that he had created a matrix. The Tribunal accepted that he did not recognise the version or format shown to him at the hearing in September 2016 because it was not draft he had sent to Mr ngham. It was clear to the Tribunal that Mr Ingam and Mr Quin were closely involved in developing the restructure proposals. There is nothing untoward in that. They were it is evident that the working group did not itself draw up the proposed structure outlined by Mr Ingam in December 2014. But as Mr Quin said in evidence it was an iterative process. There was an original proposal. Staff were consulted upon it. The working group discussed it and out of that consultation and those discussions emerged certain strands for example the need to increase the number of frontline operational staff. That it appears led Mr Ingam to propose the structure he outlined to the team in early December 2014 and Mr Quin to devise the matrix for working out who would do which tasks under such a structure. That was a further part of the process on which staff input was again sought and which would again need to go to the board. The Tribunal did not see anything untoward in that approach. It appeared to us that the Respondent was genuinely seeking to consult to take on board views and to reflect those in revised structures. The Claimant's approach was that no change whatsoever was needed at OWLS. The board disagreed. That does not mean that it was not genuinely consulting. Both Mr Ingam and Mr Quin gave clear evidence that the Claimant's race played no part whatsoever in the formulation the restructure. The Tribunal had no hesitation in accepting that evidence. There was nothing to suggest to the contrary. Mr Ingam explained the rationale that led to the removal of the post of information co-ordinated. He said that once they came to look at the operational level they decided

that there was a need for more frontline staff, that is to say staff engaging with older people on a day to day basis within a fixed budget. The old structure at OWLS involved an activities co-ordinator and information co-ordinator and a driver. The new proposed structure involved a co-ordinator, an outreach worker, a driver and a receptionist. That was an increase in frontline staff from three to four.

91. Returning to the chronology of the restructure the Claimant raised her view that what was being done was discriminatory and was also victimising her for expressing opposition to the previous restructure proposal in July 2014. She said as much to Mr Ingam in a one to one supervision meeting on 22 January 2015. The restructure process did not progress quickly. By 19 March 2015 Mr Ingam confirmed at the OWLS team meeting that the general manager had been appointed. He apologised that the OWLS team had not received the board minutes and said that he had asked for them to be circulated. He said that some job descriptions had been changed and that the board would take legal advice about whether a further consultation was needed. The two other managerial posts would be advertised soon. The working group was not scheduled to meet again and any comments should be sent to Mr Ingam and Mr Quin. The Claimant wrote to Mr Quin on 16 April 2015. She asked why the working group was being disbanded, whether the board had approved, what the rationale behind that was and whether Mr Ingam and Mr Quin were passing on individuals' concerns to board members. She expressed concerns about the timescale that had been allowed for applications to the two new managers posts and asked questions about that. She asked questions about changes to posts at BEA. She asked for written feedback on her unsuccessful application for the general manager's post and she asked for confirmation that Mr Ingam was to receive mental support in his new role as general manager. She suggested that if that was true he should have been considered as unsuitable for the role as she was. Mr Quin replied on 24 April 2015. He asked the Claimant to confirm that the points she had raised did not amount to a formal grievance. She said that the first three points should have been raised with the Claimant's line manager. He pointed out to the Claimant that she should not circulate letters such as she had to other members of the board. That was contrary to the policy laid down in the employee handbook. She must in the first instance discuss concerns with her line manager. If she had a grievance against her line manager she should contact him as chair. Mr Quin provided the feedback on her interview and explained that an external advisor had been appointed to help generally with the organisations' adjustments to its new staff structure. Part of the duties included providing advice to Mr Ingam as the general manager an initiative which would have happened whom ever had been appointed to the role.
92. Mr Ingam's evidence was that the operational re-structure plans were finalised and agreed by the board in April 2015. Once the senior managers were in place they continued to consult with staff regarding the remaining re-structure plans that had been approved by the board. One of the two new managers was Miss Graham who was appointed in May 2015. It seemed to the Tribunal that although the board had approved restructure plans in April 2015 it was not until the new managers were in post that further steps were taken to consult about the revised structure

and implemented. The agreed structure was set out in an organogram?? dated June 2015. It showed the senior management level of general manager beneath whom were an operational manager and a business support manager. On the business support side there was then a publicity and communications co-ordinator and an office manager. The office manager was to manage a reception and administrative worker at BEA and one at OWLS. There were two transport workers. On the operational side there were to be activities co-ordinators at OWLS and BEA, outreach workers at both and a volunteer co-ordinator. On 20 July 2015 a further redundancy warning letter was written to the Claimant. The letter confirmed that following the recent consultation process her post remained at risk of redundancy. The reason for that was that a significant part of her duties had been transferred to three new posts. The remainder which was effectively providing a contact front for the organisation consisted of a narrowed range of less complex tasks that would largely be performed by the new post of outreach worker. The Claimant was invited to participate in individual and group consultation and the stated aim was to try and do this over the next two weeks. A group consultation meeting took place on 21 July 2015. The Claimant was one of those who attended. The Claimant saw detailed minutes including the Claimant's comments on the minutes. A number of questions and concerns were raised. Many of them were answered by clarifications inserted into the minutes after the meeting. One of the matters confirmed at the meeting was that the board had approved that the chair and general manager were responsible for leading the process. It was also clarified after the meeting that selection criteria were not being used for putting people at risk of redundancy because each potential redundancy related to a stand alone role. The Claimant sent an email on 27 July 2015 setting out some ideas for the restructure. She suggested that a new activity co-ordinator's post should be created to oversee both BEA and OWLS. Two support workers posts should then be created, one for BEA and one for OWLS to support the co-ordinator and carry out routine or administrative jobs. She said the rationale was the same that applied to the way the information communication co-ordinator's posts had changed.

93. Mr Ingam replied to thank the Claimant for her suggestion and ask whether the creation of two support workers would be funded by losing an activity co-ordinator post. He said that he would make sure her proposal was given consideration although not necessarily at tomorrow's board meeting. The Claimant replied to say that her proposal was to lose one co-ordinator's post and employ two new support workers.
94. When staff had been told of the proposed new structure in July they were given job descriptions for most if not all of the proposed roles. Revised job descriptions were circulated following the questions and clarifications at the group consultation meeting.
95. The Claimant wrote a number of emails to Mr Ingam and others. She suggested that more time was needed to complete applications for alternative jobs and suggested that the Respondent was in breach of its redundancy policy because that did not a requirement of applying formally for a job.

96. The Tribunal saw revised job descriptions dated August 2015 for a number of posts. The Claimant continued to write a number of detailed emails raising concerns and suggestions and asking questions. On 4 August the Claimant among other things suggested that the current process was being carried out in rather a haphazard way and asked for a formal timetable to be set out explaining how the process would work. She wrote a further email on 6 August raising additional questions. She asked whether the board was aware of changes to job descriptions for the BEA activity co-ordinator and she asked whether the activity co-ordinators had been consulted about the change in their job description to include management responsibilities. It appears that Mr Ingam took on board some of the Claimant's suggestions and sent an email clarifying that the consultation process was still carrying on. He indicated that a finalised organisation chart and job descriptions for the newly created posts would be circulated on 26 August 2015 taking into account the consultation responses. He confirmed that corrected job descriptions had been sent out following the group consultation and that Mr Quin had the authority of the board to consider any suggestions raised during the consultation process and implement them where appropriate. He enclosed a revised timetable for this stage of the consultation to help staff in understanding the stages of the process still to be carried out. That document indicated that individual consultation meetings were to take place between 19 and 21 August 2015 with finalised organisation charts and job descriptions being issued on 26 August 2015 and 2 September 2015 as the date for employees to indicate whether they plan to apply for the newly created posts. Recruitment to those posts would take place during September with appointments on 28 September 2015 and notice of redundancy given to any unsuccessful employees.
97. The Claimant gave evidence that she received the clarification document and timetable on 19 August 2015. She attended her individual redundancy meeting with Mr Ingam accompanied by a friend on 21 August 2015. She presented him with a detailed six page letter saying that she was completely against the redundancy scheme as part of the restructure. She said she was baffled by the decision to put her at risk of redundancy. She again made a number of points about ways in which she said the Respondent was not complying with its own redundancy policy and said that it was illegal for BEA to act inconsistently with its current policy. She made detailed comments about particular posts and what she saw as shortcomings in the consultation process and she set out again comments she had made in her emails on 4 and 6 August. She said that she expected the board to receive a copy of her letter.
98. The Claimant had also prepared a document called who will do what. It was a six page document on which the Claimant had drawn up a table with a 128 separate rows setting out all the activities she said she currently carried out as information co-ordinator at OWLS. She asked Mr Ingam to fill in the table indicating which of the new proposed roles would carry out each of those 128 activities. Draft minutes of the meeting were provided to the Claimant and she responded with detailed amendments to the draft. The Tribunal saw that document. The notes record the Claimant asking Mr Ingam to complete the who will do what document. There and then she suggested that it should not take him long.

She asked him to do so because she had some trust issues and would like confidence that the tasks she would be asked to do in a new role were the tasks that the job would involve.

99. Mr Ingam said that the role was outlined in the job description. Mr Ingam said that he was happy to discuss the job description and would review the who will do what document again after the meeting but his initial response was that a discussion should easily provide the Claimant with the information she needed about the role. He pointed out the number of items on the document. The minutes record discussion of the Claimant's letter. They record Mr Ingam inviting the Claimant to ask any questions or make recommendations about ways to avoid risk of redundancy and the Claimant saying that she had made suggestions but would like them to be responded to by the whole board. The Claimant suggested in the meeting that if Mr Ingam did not complete the who will do what document she would not be able to apply for the post of OWLS outreach worker because she did not want to face a situation in which she was expected to do what she was already doing at a much lower salary and with less time.
100. Mr Ingam again asked the Claimant if she had any suggestions about reducing the risk of redundancy and she said that the simple solution was to take her out of the redundancy. Mr Ingam said that the restructure was not about making individuals redundant. It was about restructuring the organisation to make the best use of the resources available. The Claimant said that OWLS worked perfectly well and she didn't understand why it was being changed. Following the one to one meeting on 26 August 2015 Mr Ingam wrote to the Claimant. He suggested that the majority of the points raised in the letter she had given him had either been responded to elsewhere or were being considered as part of the consultation process. He took the opportunity to clarify certain points.
101. In particular he said that the decision to put roles at risk of redundancy was not made on the basis of individuals within the roles but was a business decision made on the basis of the optimum structure for the organisation going forwards. He said that the Respondent was complying with its redundancy policy "as this is a restructure situation as opposed to it being purely a cost cutting exercise it is not appropriate to select employees for redundancy on the basis of selection criteria. As an alternative to this the organisation has invited all employees who are at risk of redundancy to apply to the newly created roles and employees will be selected for these roles by way of interview. He sought to assure the Claimant that the Respondent was complying with its legal obligations and was carrying out a proper consultation process which had begun more than 18 months ago. It is clear that a new organogram and job descriptions were circulated to staff as envisaged in the revised timetable. On 28 August 2015 the Claimant emailed Mr Ingam to thank him for those. She said that she was disappointed that he had not completed her who will do what document and said that this meant that she might not be able to apply for the job of OWLS outreach worker. She asked him to reconsider and send the who will do what document back so that she could make an informed choice. She asked again for confirmation whether the board would receive concerns from the group and individual consultation process.

102. On the same day the Claimant sent a separate email confirming that she wanted to apply for the post of BEA outreach worker. The Claimant reiterated in her oral evidence to the Tribunal that she wanted Mr Ingam to complete the who will do what document to verify that she would not be required to do everything that she had been doing if she applied for it and was accepted. She also said that her other purpose was to show Mr Ingam and the board how hard she had been working with the scope and breadth of her duties so as to avoid being made redundant. She said that she was not able to apply for the post of OWLS outreach worker because Mr Ingam chose not to complete the document. This left her with very little choice of jobs. The Tribunal did not accept that it was necessary for Mr Ingam to complete the who will do what document in order for the Claimant to apply for the role of OWLS outreach worker. There was a job description for the role.
103. Were she successful in being appointed to the role that would be the applicable job description. She did not need and was not entitled to a detailed breakdown of who was to perform each of 128 separate activities in order to apply for the role. The Tribunal considered that the Claimant may genuinely have felt that Mr Ingam's decision not to complete the document was a barrier to applying for the OWLS outreach worker post but in the Tribunal's view it was an artificial barrier. This was a matter of perception on the Claimant's part. The Claimant also gave evidence that she decided not to apply for the post of publicity and communications co-ordinator because she would not have any realistic possibility of obtaining it. If she had had training on developing and maintaining websites which she had asked for when the restructure was first proposed she said she would have felt more equal to the task and hoped for a realistic chance of securing the post. She believed that the post had been created specifically with Mr Cook in mind. We have referred already to the Claimant's request for training and website development in July 2014. She evidently followed that up by showing Mr Ingam a brochure for some training. That was a 10 week course on web building. That would take up approximately 40 hours of the Claimant's time allowing for travelling. On 15 September 2014 the Claimant had emailed Mr Ingam about some training and she asked at that stage for his decision on whether she could attend that course. Mr Ingam replied the same day. He said "as discussed I do not think that attending a 10 week web building course approximately 40 hours allowing for transport time is a good use of time. When OWLS has a website maybe a while you would need to update some of the content, it's pretty straightforward how this is done eg Rob showed me in about 30 minutes. I'm sure that he would be willing to show you". On 3 October 2014 the Claimant emailed Mr Ingam. One of the matters she raised then was her disappointment about Mr Ingam's decision not to allow her to attend that training.
104. The Tribunal did not consider that the Claimant was prevented from applying for the role of publicity and communications co-ordinator in September 2015 because her request for training in September 2014 had been refused. Nor did the Tribunal consider that it was unreasonable for Mr Ingam to refuse that request at that time. The organisation a small charity did not have a need at that time for the Claimant to be proficient in developing and maintaining websites. The cost to the organisation of

having her attend training for about 40 hours was not justified. The fact that a restructure was proposed at that time under which one of the proposed new roles might require such skills did not alter that. The structure was not finalised and the Tribunal could well see that it was not appropriate for the Claimant to undergo such extensive training in those circumstances at that time. It seemed to the Tribunal that it was the Claimant's choice on 28 August 2015 to apply for only one role, that of BEA outreach worker.

105. Mr Ingam's evidence was that he took the Claimant's suggestions about the proposed restructure to the board at its meeting in September 2015. The Tribunal accepted that evidence. The Tribunal saw the Claimant's application for the post of BEA outreach worker. Her application included two pages setting out her employment history dating right back to 1979 and summarising for each post she had occupied the key tasks in that role. There was then a section for her to include a statement in support of her application. She began "I am applying for the post of BEA's outreach worker because my current post of OWLS information co-ordinator is being abolished as part of BEA's restructure programme so unless I want to be unemployed I have no other alternative but to apply for a job within the organisation. I chose this one for reasons known to Lee Ingam general manager".
106. She then went on to set out over a page and a half information about her experience in outreach work and her attributes for the job. Miss Graham emailed the Claimant on 16 September 2015 inviting her to attend an interview on 22 September 2015 for the role. She was to give a presentation describing the steps she would take to recruit more older people in the relevant catchment area and would then be questioned and interviewed by a panel. The Claimant said that she was not happy that a full selection process was used because she was the only candidate for the role. Her evidence was that it was Mr Ingam who had decided on using the full selection process for her interview and she said that Miss Durrant and Mr Cook had not faced such interviews. Mr Ingam disagreed. He pointed out that he had been subjected to a full interview process in applying for the post of general manager. Miss Graham was also asked about this. It was suggested to her that she had been asked to set up an interview for the Claimant because it had already been decided that the Claimant was not going to get the job. Miss Graham disagreed. She said that they were careful, that everyone went through the same process. The questions changed according to the role and responsibility but everyone had to complete a full form, go through an interview and give a presentation. There were clear scoring criteria and individuals were scored against the criteria. Miss Graham said that she personally was involved in the interviews of Mr Cook and Miss Durrant as well as the Claimant and others. She was clear in her evidence that she had not colluded with Mr Ingam because of the Claimant's race so that the Claimant could be dismissed.
107. The Tribunal found Miss Graham to be a compelling witness. She was clearly concerned to see fairness and transparency in the selection process. There was simply no basis for the suggestion that other people had not been subjected to the same process and the Tribunal accepted

Miss Graham's evidence that the Claimant was not treated differently in this regard. Miss Graham gave evidence that it was her job to assemble the interview panel, prepare the interview tasks, questions and scoring framework. The panel comprised Miss Graham herself as the member of leadership team responsible for the role of outreach worker, Miss Thorthorpe the BEA activities co-ordinator who was to line manage the relevant outreach worker and a board member. Mr Charken was chosen because he had good experience managing staff in third sector organisations and had not been directly involved with any internal procedures. The Claimant's interview scores were shown to the Tribunal. The Claimant's scores were weak. Miss Graham explained in detail the basis for those scores. For example in questioning about what attracted her to the post she didn't give any constructive or positive reasons for wanting to do the role. There was a question about how the Claimant would reach as many older people as possible in the large geographical area that was covered. Her response was that she would need support from BEA because she is not a driver and she asked how many people at BEA would want her to see. Mr Charken invited her to expand on her answer to give her a chance to improve her performance and her response was that she had already answered. Miss Graham pointed out that she had not suggested any solutions for example visiting groups of people or attending community events. Miss Graham gave similar detail in respect of all the other questions and scores. The Tribunal noted the Claimant's own evidence was that she did not do well at the interview and was not able to show much enthusiasm for the job. The Claimant's total score was 71.5 out of a possible 210. This was a score that was quite some way below 50% and Miss Graham explained that it raised concerns about whether she could deliver the role to the standard the Respondent was seeking. In addition the Claimant had not demonstrated at any point that she wanted to undertake the role. Based on its objective assessment the panel was not confident about the standard to which the Claimant would carry out the requirements of the role and work within a team to deliver an excellent service to BEA members or accept any guidance to develop into the role and as a result her application for the position of BEA outreach worker was not successful.

108. The Tribunal accepted Miss Graham's careful and detailed evidence about the quality of the Claimant's performance at interview and the reasons why she was not successful in securing the post. Given the Claimant's own acknowledgement that she had not performed well at interview and had been unable to summon enthusiasm for the job the Tribunal accepted that the Claimant's performance did not demonstrate objectively the qualities required for the role.
109. It is clear that at the interview for the post of BEA outreach worker Miss Thorthorpe BEA's activity co-ordinator and one of the panel members was introduced to the Claimant as the manager of the outreach worker. In the course of her interview for the post the Claimant asked Miss Thorthorpe if she had known that she would be managing the outreach worker as the job description as activity co-ordinator had not been amended to include this responsibility. This related to a question that the Claimant had been raising in correspondence with respect to the restructure process.

110. After the interview Mr Ingam emailed the Claimant on 23 September 2015. He said that he understood that she asked whether Miss Thorthorpe knew she would be managing the outreach worker. Mr Ingam said in short that was why she was on the interview panel. With regard to whether co-ordinated job descriptions needed to include management responsibilities he said that the situation would be reviewed but that for some time BEA co-ordinators had had a loose management responsibility for other BEA staff. As the Claimant was aware from her days at the Cardigan Centre the salary paid to co-ordinators was commensurate with management responsibility. The Claimant replied by email the following day asking her whether there had been any consultation with activities co-ordinators about management responsibility, whether there had been training given, why other co-ordinators weren't given the opportunity, why the job descriptions of the activities co-ordinators didn't reflect the responsibility, why the job descriptions hadn't been updated and why they hadn't been put at risk of redundancy. The Claimant said that addition of management responsibility made the job substantially different from the original job description so that the activities co-ordinators should have been put at risk of redundancy.
111. A meeting then took place with the Claimant on 29 September 2015. That was the final meeting in the redundancy consultation process. The Claimant was present with Miss Tasker a colleague to support her. Mr Ingam conducted the meeting for the Respondent and Miss Graham was present as a note taker. The meeting started at 10.30 and the Tribunal heard evidence that it lasted four hours or more. Miss Graham's notes in that context plainly were not verbatim. She said that she was typing as she went along and trying to capture what was being said. The notes were not sent to the Claimant for her comments.
112. Nonetheless the Tribunal found Miss Graham to be a straightforward witness. She was someone who had come relatively late to the process and we found her to be entirely straightforward. The Tribunal accepted that albeit sometimes in summary form Miss Graham's notes captured the topics that were covered in discussion and the order in which they were covered. The meeting started with the Claimant being told that she hadn't been successful in her application for BEA outreach worker. Miss Graham then with the Claimant's agreement explained the panel's reasons. The Claimant asked for written feedback and Miss Graham agreed to that. The Claimant began by saying that she had been subjected to an external interview process rather than a re-deployment interview and that this was in breach of BEA's redundancy policy. Mr Ingam disagreed. Mr Ingam then told the Claimant that the Respondent had a role available that she would be able to apply for which was to cover the maternity leave from January of the activities co-ordinator at OWLS ie Ms Skyvington. He told the Claimant she would have to apply for the maternity cover role externally but explained that if she applied and there was no more than a four week break between the end of her current role and the start of that role her continuity of employment would remain.
113. In cross-examination Mr Ingam explained that he had been advised about the process to be followed with the maternity role. He thought he had been told that if there was a ten week break between the end of one post

and the start of the next the candidate would have to apply externally rather than as an internal candidate. The notes do not record the Claimant questioning why she had to apply for the post as an external candidate. Rather she asked questions about who would be doing particular aspects of the work. She asked whether the activities co-ordinator would be doing the finance work and which member of staff would be doing monitoring. Mr Ingam gave some explanation and the Claimant then said that she could not consider applying for the role until she had seen a current job description in its updated form with details of line management and any other duties not included yet. The Claimant then went on to say that the job description should define what tasks were undertaken. She said that the activities co-ordinator job description hadn't been updated to show that the activities co-ordinator would be line managing the outreach worker. Unless it showed that the Claimant said that she did not feel able to make a decision about whether to apply for the role. Mr Ingam asked her to let the Respondent that week if she was interested in applying and she repeated that unless the job description was updated she could not answer. Mr Ingam said that the activities co-ordinator would be line managing the outreach worker. Mr Ingam is then recorded as seeking to clarify the position. He noted that she had not applied for the role of OWLS outreach worker. She had not been successful in her application for the role of BEA outreach worker. She was eligible to apply for the role of activities co-ordinator at OWLS by way of maternity cover and would be applying as an external candidate. It seemed to the Tribunal that the Claimant was again putting up barriers to making an application for the maternity cover role. Far from expressing interest or willingness she was identifying reasons that she said would prevent her from applying for the role. It did not seem to the Tribunal that the Claimant objectively required an updated job description before she could decide whether to apply for the activities co-ordinator maternity cover role.

114. Mr Ingam made quite clear that the activities co-ordinator would be line managing the outreach worker. Mr Ingam asked the Claimant whether she had any other suggestions for the Respondent to consider. At that point she referred to her outstanding grievance which she noted might if successful give rise to an increase in her salary. She said that that should be taken into account in any redundancy payment. Mr Ingam then clarified the process. He told the Claimant that her notice period was seven weeks from the date of the letter. The redundancy notice would be sent out that day. The Claimant said that she was owed some annual leave and Mr Ingam clarified that ideally the Claimant should take any holiday owing to her within her seven week notice period. The Claimant objected and Mr Ingam said that he thought it was a reasonable request. Mr Ingam said that he would check the legal position. The notes then record if staff could not take their annual leave in that period BEA would have to pay for it. It was Mr Ingam's evidence that more than once during the course of the meeting he left to seek advice from Ellis Whitam who by that stage giving legal advice to the Respondent. It appears to the Tribunal that this may be one of the moments when he stepped out of the meeting to take such advice. Mr Ingam then told the Claimant that the Respondent was inviting her to take garden leave during her notice period. They were suggesting that she work until that Friday 3 October. The

Claimant asked whether she would be able to attend her appraisal if she took gardening leave. Mr Ingam said that she would still be an employee during the notice leave but not at work so she could come in to her appraisal and the Claimant indicated her wish to do so. The Claimant then asked if she was allowed to appeal against the redundancy decision and said that based on the redundancy policy she had 10 days to inform the Respondent if she was appealing. She raised her objection to the way she was being treated and she said that she was not being allowed to exercise her rights to object and appeal the redundancy position. Mr Ingam said that the respondent had followed procedure and that the Claimant was entitled to appeal the redundancy decision during a period of garden leave. She wasn't obliged to take garden leave but the Respondent was recommending that she did. The Claimant then said that the approach being taken was because of Mr Ingam's personal prejudice towards her and Mr Ingam again clarified that nobody was saying that she couldn't appeal the decision. The Claimant said that she was entitled to be in the post until she was made redundant and that she could not be made redundant until had confirmed whether or not she would be making an appeal. The Claimant then asked if everyone had been asked to take garden leave or was it just her. She suggested that Mr Ingam was discriminating against her. She asked Miss Tasker if she had been asked to go on garden leave and Miss Tasker confirmed that she had been offered garden leave.

115. Miss Graham asked for the meeting to pause at 11am and there was evidently a half hour break then.

[All text before this has been submitted to Judge Davies to check]

116. It seems likely that Mr Ingam took advice at that stage. When the meeting reconvened the Claimant expressed her view that she was not redundant until she received her letter of notice. She then raised a number of concerns about the restructure process relating for example to the involvement of the board and whether Mr Ingam and Mr Quin had been responsible for the decisions and had properly reported them to the board. She went on to express the view that the Respondent was acting illegally because it wasn't following its redundancy policy. The notes record Mr Ingam asking the Claimant if she would wait 20 minutes so that he could supply her with the redundancy notice and discuss it with her. The Claimant said that she couldn't stay and needed to go back to work and Mr Ingam said that did not need to go back to work and that OWLS would be covered by other staff. Mr Ingam clarified that the Claimant would be paid for outstanding holiday entitlement if she couldn't take it during her notice period.
117. The discussion then moved again to the Respondent's redundancy policy. The Claimant contended that the 10 days allowed for an appeal under the policy should be added on to her garden leave. A little later she said that the Respondent was forcing her to take garden leave. Mr Ingam said at that point that the Respondent did not have a contractual right to put her on garden leave. It did have a contractual right to terminate her contract with immediate effect but Mr Ingam said that he would prefer for her benefit and well being for her to consider garden leave, to go through her appraisal and to have an opportunity to say goodbye to her colleagues.

The Claimant objected to the use of the word well being because she felt that her well being had been disregarded.

118. Mr Ingam said that he was suggesting that the Claimant consider garden leave and that the alternative would be for her to leave work with immediate effect. He said that the reason she was being offered garden leave was because he was concerned that she would damage the reputation of OWLS. The Claimant asked why that was and Mr Ingam said that he had received comments from individuals and funder saying that she had been making negative comments about the organisation. The Claimant then asked for it to be noted that she had been threatened with termination. At that stage she requested everything in writing and she said that she was happy to take garden leave. The Claimant then asked how could she be given her last day of employment before her appeal had been heard. Mr Ingam explained that the appeal happened within the process and would not delay the rest of the process. She would receive her redundancy notification that day and her notice period would begin. The Claimant said that the appeal period of 10 days should be added as additional time to her seven weeks notice period as should her accrued holiday which would mean that she should be paid for nine weeks plus her redundancy process. She suggested that she would consider garden leave and completing work this week if that were done. She suggested that an appeal hearing should take place on 15 October 2015. There was evidently a break in the meeting at that stage which reconvened at about 1.30pm. At that stage the Claimant raised a concern that Mr Ingam had brought the organisation into disrepute by incorrectly indicating in a funding application that the Respondent had a child protection policy. The Claimant was given a copy of her redundancy notice letter and a document outlining her redundancy entitlement.
119. The Claimant made a number of complaints about that meeting. In particular she said that during the meeting Mr Ingam had made an allegation against her of bringing the organisation into disrepute. That was the reason he had given for the immediate termination of her post on that day, that Mr Ingam had become angry about it and had in effect turned the redundancy meeting into a disciplinary hearing. The Claimant said that Mr Ingam had found the Claimant guilty of gross misconduct and had instantly dismissed her as a result.
120. Mr Ingam's evidence was that the concerns raised by a funder about the Claimant bringing the organisation into a disrepute had been raised with her, that her dismissal was by reason of redundancy and that at no point had she been given the impression that she was being dismissed for gross misconduct. He explained there was a long and complicated discussion. He started with the clear idea that he would suggest to the Claimant that she work until Friday and then be paid for the rest but not attend work. However at the end of the discussion it ended up with a decision that she would simply be paid in lieu of notice. He said that as things unfolded in the meeting he didn't feel that he could offer garden leave and he did what was best for the business. The Claimant had requested an extra 10 days on to the redundancy process and her holidays. The Respondent didn't feel that they could honour that and therefore they decided to exercise their right to pay in lieu of notice. Mr Ingam said that he knew before the

meeting that the funder had raised concerns about something the Claimant had said and that despite knowing that the starting point in the meeting had been that the Claimant was to work until Friday. This was not the reason why he decided to exercise the Respondent's right to terminate the Claimant's employment with pay in lieu of notice. He thought that it probably had been a consideration in why garden leave was offered. Mr Ingam did not have a precise recollection of the meeting but he did recall a long and difficult discussion at the end of which the decision was taken to exercise the right to pay the Claimant in lieu of notice. He confirmed that he had seen Miss Graham's notes of the meeting at the time and considered them to be accurate at the time. The Tribunal was quite satisfied again that there was no purported disciplinary process nor was the Claimant dismissed for gross misconduct.

121. Further the Tribunal was satisfied that concerns about the Claimant bringing the organisation into disrepute were not the reason why Mr Ingam exercised the Respondent's right to pay her in lieu of notice. We have noted that those concerns were known before the meeting started yet the starting point it was not disputed was that the Claimant was to be allowed to work until the Friday. This is seemed to the Tribunal was another example of the Claimant's tendency to use exaggerated language to describe events that did not reflect the objective reality. We were satisfied that the concerns about the Claimant bringing the organisation into disrepute were raised with her in the context recorded by Miss Graham. That is to say they formed part of the explanation given as to why she was being offered garden leave.
122. It was evident that an external funder had indeed raised with the Respondent concerns about comments made by the Claimant to her regarding the restructure process and the Tribunal could well see that that might reasonably form a basis for inviting an employee to take a period of garden leave during their notice period.
123. Another of the Claimant's complaints was that she was required to remain in the meeting room and indeed that when she tried to leave the room Miss Graham put her hand out and said that she could not leave. She said that Miss Graham said that she would organise lunch but told the Claimant that she must not leave the room. In her oral evidence Miss Graham was plainly taken aback by that suggestion and emphatically denied that she had put a hand out to stop the Claimant leaving the room. She said that what had happened was that she had offered to buy lunch and had done so. She had bought lunch for everybody present and she had done so because she could see that everyone's energy was flagging. They were in the middle of a complicated process and she suggested a break and went to buy some lunch. It is clear that the Claimant was reluctant to be given notice of her redundancy in writing on that day and expressed her unwillingness to wait for it. She was no doubt asked to wait for the letter and Mr Ingam left the meeting at some point in order to prepare the documentation. However the Tribunal was satisfied that Miss Graham had not physically or forcibly prevented the Claimant from leaving the room. She was asked to wait for the redundancy letter rather than returning to work. The Claimant was given a redundancy dismissal letter which incorrectly said that she was required to work a contractual

notice period of seven weeks and gave 17 November 2015 as her last day at work. The letter also informed her of her right to appeal to Mr Quin within 10 working days. A revised letter was sent to the Claimant on 1 October 2015 confirming that she was not required to work her contractual notice and would instead be paid in lieu of notice. Her termination date and last day of work were therefore 29 September 2015. A financial statement setting out her redundancy entitlement was attached and the Claimant was also told that because it had not been possible to hold her appraisal and decide whether she would have been awarded an incremental pay rise or not she was to receive back pay for a period of 14 weeks on the assumption that her appraisal would have been successful. That was by way of a goodwill gesture.

124. When the meeting had concluded the Claimant returned to the Heart Centre. It had been arranged that Miss Graham would go to finalise the handover process. The Claimant said that when Miss Graham she gave her the cheque books and keys. Her evidence was that Miss Graham “made me show her everything I had in my bags”. She said that Miss Graham got her to photocopy pages from her diary and then escorted her from the building. She felt that she was treating her as if she were a thief but she couldn’t find anything. She believed it was Mr Ingam who had asked her to do all these humiliating and demeaning things to her. Miss Graham was asked about this in her oral evidence. She said that she did not ask to see what was in the Claimant’s bag. She went to the Heart Centre to ensure that the Claimant was leaving in an appropriate fashion. She did ask the Claimant to tell her what she was taking because when she arrived the Claimant had some paperwork that she was putting into her bag. The Claimant showed her the papers which were personal papers and Miss Graham said that that was fine. She said that the Claimant then offered her to look in her bag. Miss Graham did not want to look in the bag but the Claimant showed her. She then walked out with the Claimant. Miss Graham agreed that Miss Ingam had asked her to be there when the Claimant left and said that she thought that was appropriate. Mr Ingam in his oral evidence agreed that he had asked Miss Graham to go across. He said that he couldn’t remember asking her to look in the Claimant’s bag and he didn’t think that he would have asked for a bag check. In his written evidence he had said that the Claimant was escorted from the OWLS office by Miss Graham. He said that she was subject to a bag check for the simple reason that she had been a difficult and argumentative employee and he wished to ensure that her departure from the premises was carried out in an effective manner and did not result in loss any material or confidential information. This was a precautionary measure which he understood was common practice. That was plainly somewhat different from his oral evidence and he was asked about that. He said that he remembered saying they had to be careful about information leaving the premises and he said that he must have said check the Claimant’s bag. He was asked whether he remembered doing so and he said that he did not remember saying it. It seemed to the Tribunal that Miss Graham’s evidence was entirely convincing. She had a clear recollection of the Claimant inviting her to look in the bag after Miss Graham questioned what paperwork the Claimant was taking with her. The Tribunal could well imagine the Claimant responding in that way.

125. The Tribunal considered Mr Ingam's oral evidence to be the more accurate. He had asked Miss Graham to be there when the Claimant left and to make sure that she departed in an appropriate way. We considered that his written evidence was unclear. It could certainly be read as suggesting that Mr Ingam had instructed Miss Graham to check the Claimant's bag. We were satisfied that that was not what he intended to say. The Tribunal was entirely satisfied that Miss Graham came to look in the Claimant's bag in the circumstances she described.
126. Returning to Mr Ingam's written evidence the Claimant asked why he described her as a difficult and argumentative employee. He said that it was self explanatory. She was difficult, she had raised three grievances against him, they had just had a long discussion and had not been able to come to a satisfactory conclusion. A charitable trust had contacted him to raise a concern about a grant which was the only time that had happened in 25 years. They had had differences of opinion. The Claimant then put to Mr Ingam that he regarded her as difficult because she raised grievances. He said not at all, that was an example but there were lots more.
127. The Claimant then put to Mr Ingam that he got rid of her because she raised grievances and he said no, there has been a problem with yourself, our organisation and myself. The Claimant asked Mr Ingam whether he thought about how she would feel being escorted from the premises. He said I bet you felt horrible and I'm sorry. The whole redundancy is horrible. The Claimant put to him that the reason this had happened was because she was Asian. He said that he knew she thought that and that he was sorry. He found it offensive and it wasn't the reason.
128. One of the other matters the Claimant complained about was that she wasn't at the meeting on 29 September, offered a trial period in any role. Plainly she was not offered a trial period but the Tribunal noted that this was not a traditional downsizing type redundancy situation but was a restructure with appointments into new roles. There was no request from the Claimant on 29 September 2015 for any further information about any of her job. On 12 October 2015 the Claimant emailed Mr Quin to inform her that she intended to appeal her redundancy. Mr Ingam responded on 20 October 2015 to set out the process that would be followed. He explained that a meeting would be arranged at which the Claimant could attend with an appropriate representative. Mr Ingam said that the Claimant's appeal should have set out the grounds on which her appeal was based but said that they would be accepted 24 hours prior to the meeting. He proposed 5 November 2015 as the meeting time to be chaired by Mr Quin with Miss Graham as a note taker. The Claimant set out her grounds of appeal in a letter forwarded to Mr Quin on 2 November 2015. That was a detailed 11 page document. It reiterated many of the points the Claimant had made throughout the process including that there was no real redundancy situation, that she had been singled out to be got rid of and that the Respondent was in breach of its policy. She complained at having to go through a full selection process for the BEA outreach worker post and said that everybody who had applied for a job within the redundancy scheme had been successfully redeployed. She asked why she had not been offered the OWLS activity co-ordinator

maternity cover post automatically. Throughout her letter the Claimant complained that her treatment arose because of the racist attitudes of Mr Ingam and others. The Claimant set out a series of complaints of race and age discrimination, that she said the Respondent's management had inflicted on her over the years. The appeal meeting took place on 4 November 2015. The Tribunal was shown the notes of it.

129. Mr Quin wrote to the Claimant on 23 November 2015 with the outcome of her redundancy appeal. He had sought to identify the grounds of appeal raised and set out a numbered list of 24 points that he had identified. He said in the appeal outcome letter that he considered only the first seven to be specific grounds relating to her selection for redundancy and the termination of her employment. He considered that the remaining points did not relate to the termination of her employment and that some of them were an attempt to have her grievance re-heard or to re-hear or bring back to the forefront issues that had previously been dealt with. He summarised what the Claimant had said about her grounds of appeal and then set out his findings in relation to the points that he considered properly fell within the ambit of the redundancy appeal. This was a careful letter going through point by point the Claimant's concerns and addressing them. He explained that sometimes an organisation would have a reduced requirement for a particular role but an increased requirement for a different type of role. That did not make a redundancy process unlawful. He explained that the Claimant's role had ceased to exist so her position was at risk of redundancy. He did not accept that the Respondent had breached its recruitment policy during the redundancy. He explained that particular criteria were not used in the selection process because those criteria would fit a situation where an organisation was looking to downsize or lose staff. Here it was essential that in moving employees into some of the vacant roles the board could be confident that they would actually be able to carry out the role properly. So the relevant criteria were adopted in relation to the interviews and application. He said that the Respondent could not give roles to candidates whom it did not believe would be able to fulfil the role against the requirements. He said that he could find no evidence that the Claimant had been discriminated against. He said that the Respondent was not in breach of redundancy laws by not giving the Claimant the maternity cover role automatically. He said that the maternity cover did not even start until mid December. There was nothing in the redundancy policy to require the Respondent automatically to give the role to anyone during a redundancy process. The Claimant was free to apply for the role if she wished and had had the opportunity to apply for any of the vacancies as they had arisen.
130. Mr Quin set out some corrections to the Claimant's redundancy and other associated payments. Mr Quin did not accept that the Claimant had been forced to stay in the room during the redundancy meeting. He recorded that she had been asked to stay so that the figures could be calculated and had been offered lunch, that she was free to leave at any time. One of the other matters raised by the Claimant in her redundancy appeal was that Mr Quin should not have heard the appeal. Mr Quin said that he did not consider it inappropriate for him to hear the appeal. In the appeal outcome letter he explained that he had not been involved in the selection process for the outreach worker vacancy, nor had any involvement in the

decision to make the Claimant redundant. He did not feel that it was inappropriate for him to have dealt with the Claimant's appeal.

131. Having dealt with the restructuring process leading eventually to the termination of the Claimant's employment we return now to the chronology and deal with other matters that were occurring alongside that process.
132. We start with the Claimant's appraisal for the period April 2013 to March 2014. In accordance with the usual process the Claimant completed a self assessment form in advance of the appraisal meeting. The pro forma itself encouraged the appraiser not to waste their time by writing too much, rather to keep their entries brief and to the point. Employees were to give themselves a performance rating against each objective in their performance plan. The Claimant set out her agreed objectives and had rated herself as met against all those objectives. The Claimant added three further objectives and rated herself as met against those objectives as well. Against the value of always seeking excellence she rated herself as met and she set out just over two pages listing her normal work activities. On the section on strength and weaknesses the Claimant said that she believed she had done very well in all aspects of her work. The form prompted the appraiser to identify three to four main areas where improvement was needed. The Claimant said that she had identified the need to learn how to save a document as a PDF file and how to add or take away background colour from the newsletter but could not do it. No other areas for improvement were identified. She had suggested seven performance objectives for the common year and identified areas where she felt her skills weren't being fully utilised. The Claimant emailed her document to Mr Ingam on 13 March 2014. The appraisal took place on 18 March 2014 at the Heart Centre. As was the Respondent's then practice Miss Dean a board member was observing. Mr Ingam carried out the appraisal. Following the meeting he amended the appraisal form to add his comments and ratings. For two of the objectives Mr Ingam rated the Claimant as part met. Firstly in relation to an objective that she raise additional funds for OWLS by completing external funding applications if necessary.
133. Mr Ingam's addition to the form said that he had re-emphasised the importance of good communication around fundraising, something that had been discussed many times. For example until reading the Claimant's appraisal report he did not know that she had submitted five applications. Objective six was rated as not met by Mr Ingam. The objective was opening a bank account for the Wednesday lunch club. Mr Ingam's notes on the appraisal form recorded that the Claimant's version of what had happened did not fit with his recollection of events. The Claimant had said that this had been additional work set by Mr Ingam to comply with the requirement of the grant application but that it had been abandoned by Mr Ingam in the middle of it. Mr Ingam's record said that it had been the Claimant's suggestion to open a bank account. That was a big piece of work which was why he had been reluctant to do so. He had managed to organise a way where the funder's requirements could be met without having to open a separate bank account. Mr Ingam was unsure why the Claimant had introduced this piece of work into her appraisal. Against the value always seeking excellence Mr Ingam had put a question mark

before the rating. Mr Ingam's notes recorded that the Claimant's list of her duties provided comprehensive evidence that her operational work had been undertaken, but that he did not think that items like covering for team member during her sickness and holiday were examples of always seeking excellence. The information provided made it difficult to assess whether the value had been achieved. Mr Ingam referred to the guidance for completing the form and suggested that at last year's appraisal the Claimant had also provided too much information. This observation was shared with the Claimant and Mr Ingam's comments recorded that in his opinion her response was unsatisfactory. The notes also record that Mr Ingam requested the Claimant to identify areas for improvement to be included in her performance plan for the following year. The appraisal form then included the following. Lee's comment. At the appraisal meeting I stated that I needed time to consider my recommendation to the board. Having further considered Nadira's performance and recommending an unsatisfactory appraisal to the board. Although Nadira has met the majority of the identified objectives ... there is evidence that she has not used staff resources efficiently and the appraisal has not provided evidence of the required changes that were identified in her last appraisal. Nadira's practice has led to continued inefficient use of the manager's time. Eg the lunch club application and this appraisal process. Nadira also fails to follow the organisation's working practices eg communication with board members and holiday requests. Further I am concerned that Nadira's assessment of her performance continues to be significantly different from the managers. Nadira also appears to have no plans to improve her performance, eg she has not identified one area for improvement in her appraisal. In my opinion Nadira's performance plan includes to include objectives that lead to more efficient use of staff time, eg improved internal communication and compliance with the organisation's working practice. I plan to provide Nadira with the support needed for her performance to become satisfactory. To this end I have produced a pre-report letter and arranged to meet with her to start this process.

134. It seemed to the Tribunal that there were areas for improvement in the appraisal process. The Claimant's performance objectives to some extent seem to relate to relatively minor parts of her work but the Tribunal noted that Mr Ingam had set out his reasons on reflection for recommending an unsatisfactory appraisal on this occasion. Those reasons were not confined to the narrow identified objectives but were rather more cross cutting. Mr Ingam was asked about the reference to the Claimant's holiday requests as an example of her failure to follow the Respondent's working practices. In his written evidence Mr Ingam had said that every year the Claimant requested an extended holiday usually of a month despite an explanation of the capacity issues that this caused. He said that she was not marked down for the actual request to take leave and that any request by a member of staff to take an extended period of leave would have gone through the same process. He was asked about this in his oral evidence and he said that his concern was that the Claimant was not following working practice by repeatedly asking for long holidays year after year. The Tribunal questioned whether there was an annual leave policy governing the length of leave requests. Mr Ingam said that it was an unwritten practice, people didn't do it, it was difficult to cover.

135. In the light of that evidence it seemed to the Tribunal that part of the reason for negatively marking the Claimant was indeed the fact that she regularly made a request for an extended period of annual leave. It did not appear to the Tribunal that that was in fact in breach of any policy or procedure. Plainly it was for the manager to approve requests for annual leave. The Tribunal noted that this was one example Mr Ingam gave of the Claimant's failure to follow working practices. We return to the Claimant's annual leave requests below as well as to the follow up to the appraisal meeting.
136. However in the meantime immediately after the appraisal meeting Mr Ingam raised an unrelated matter with the Claimant. Some time before the meeting he had been using the PC computer that the Claimant also used. In the course of doing so he had noticed by chance that the machine had been using the BBC website for two to three hours a day during normal working hours. He mentioned this to the Claimant after the appraisal meeting. His evidence was that at that point she became very agitated and accused him of singling her out and asked if she was being disciplined. He confirmed that he was just investigating the issue. He said that the Claimant admitted to using the internet in this way and that subsequently he issued a reminder to all staff about BEA policy on internet usage.
137. In due course he wrote to the Claimant on 7 August 2014 informing her that any repetition would result in disciplinary action. In her witness statement the Claimant again described this as a disciplinary hearing. She said that the appraisal meeting was followed by a disciplinary hearing when Mr Ingam brought an allegation of internet misuse. She said that she admitted that she had looked at other websites that were not connected to her work but she said that Ms Skyvington and Mr Ingam did so as well because she had seen them doing it. She said that Mr Ingam and Ms Skyvington did not face investigations or disciplinary hearings and that this was discriminatory. The Claimant also accepted in her evidence to the Tribunal that she had looked at websites that were not related to work for lengthy periods during working hours. Again this plainly was not a disciplinary hearing. Mr Ingam had identified that the computer used by the Claimant appeared to have been used for extended periods to look at websites that were not related to work. It was entirely appropriate for him as a manager to ask her about that. In the event when he did so he accepted that she was responsible. This did not lead to any disciplinary sanction at the time, nor indeed to the instigation of any disciplinary proceedings. It was a further example of Mr Ingam seeking to raise a matter with the Claimant in his role as manager and the Claimant seeking to characterise it in a way that did not reflect what had taken place. There was no evidence that the Claimant was being singled out. The Claimant says that neither Mr Ingam nor Ms Skyvington faced investigations or disciplinary hearings but neither did she. Mr Ingam was simply asking her about something he had discovered and in fact found that the person responsible was the Claimant. There was nothing to suggest that the Claimant was being singled. Still less that her race or nationality played any part.

138. The day after the appraisal meeting the Claimant emailed Mr Ingam with details of the five funding applications she had made set out in a table. He replied thanking her and asking her to add in any further applications and a further column with details of what had happened. He said that everybody needed to know where the table was kept and they needed to use it in team meetings. He asked the Claimant to bring up an updated version to the next team meeting. The Claimant sent a further email asking Mr Ingam to know what his decision was on her appraisal and his reasons. On or about 24 March 2014 the Claimant emailed Miss Gibson. She said “we have established a line of communication now and I am hoping that the contents of this letter are appropriately sent to you as part of this. If this is not appropriate please tell me”. She then went on to set out her worries about the meetings that took place on 18 March 2014. She asked for clarification about the criteria for passing an appraisal and she asked to be informed whether the other matter that had been raised was a disciplinary, part of the appraisal or just general conversation. That she asked to be reminded if there was an exceptional use policy regarding the internet. Miss Gibson replied by email on 25 March 2014. She said let us be clear. The lines of communication are the same for all staff. The first line of communication is with the line manager. Only when matters cannot be resolved are they brought to the chair. I have to tell you that it is highly improper for you to contact me or any board member about your appraisal before the manager has discussed the outcome with you. If any employee is not satisfied with the outcome of his or her appraisal that employee can then contact the chair. Similarly the matter of internet use has been dealt with by the manager and you should not have contacted me about it unless you wished to make a formal complaint. The Claimant responded thanking Miss Gibson for her message. She said that she was a little confused and that her understanding of their meeting on 22 January 2014 was that she should approach Miss Gibson if she was worried about something concerning the behaviour of her manager. She said that she would send the relevant documents to Mr Ingam for his attention. Miss Gibson sent a further message to the Claimant later in the day. She said that she had met with the Claimant on 22 January to get a better understanding of the reasons that a continuing difficulties between her and Mr Ingam. She reminded the Claimant that they had discussed counselling and a health or stress risk assessment and that the Claimant had said that she would not go for counselling. They had discussed issues relating to management and Miss Gibson had pointed out that management was there to support and help her and that was the Respondent’s obligation. She had also reminded the Claimant that in the course of her grievance in 2013 she had submitted pieces of work as evidence of the quality of her work and that Miss Gibson had found and put in writing that the manager was totally justified in his comments for improvement. This showed that management could help and support the Claimant. Her feeling from the meeting was that the Claimant took constructive comment meant to be helpful as being unsupportive. Miss Gibson said that that was not the case. She said that she left the Claimant at the end of the meeting to consider how she herself could find solutions to this chronic problem. She did not say that the Claimant was free to contact her or any board member any time the manager behaved in a way that she did not like. Miss Gibson sent a follow up email to clarify that she had meant 14 February 2014 not 22nd.

139. On 2 April 2014 Mr Ingam emailed the Claimant a document setting out his reasons for recommending an unsatisfactory appraisal to the board. He said that she would soon receive a copy of the completed appraisal form which would include further information (the form to which we have already referred). He wrote the reasoning for this recommendation is that your performance over the last year has resulted in significantly inefficient use of staff resources. Further your appraisal shows again a failure to identify areas where your performance could improve. This suggests that you continue to fail to see a need for your improvement. In my opinion your appraisal does not provide evidence of the required changes that were identified at your last appraisal and in the mediation process. I will be suggesting to the board that we draw up a personal improvement plan with a view to working with you to get to the level that is required ...”
140. On 25 April 2014 the Claimant wrote Mr Ingam in response to that letter. She went through each of his reasons for recommending an unsatisfactory appraisal setting out why she disputed them. She said that she did not understand the reference to inefficient use of staff resources. If it referred to his taking four hours dealing with her appraisal document she questioned whether that was relevant. She also said that this amounted to an unfair practice and to Mr Ingam telling people to shut up. She said that there was a need to review his role and his treatment of her. So far as a failure to identify areas where her performance could improve was concerned she had referred to the handbook on performance appraisal and said that not identifying areas of improvement was not a legitimate reason for failing an appraisal. She said that there had not been major issues in relation to the targets identified at her last appraisal and that she had not been provided with an action plan or performance targets. She suggested that she should pass her appraisal because she had met all her objectives. She said that if he did not change his mind she would have no alternative but to start a grievance against him. On 13 May 2014 the Claimant wrote to Miss Gibson. She said that she had concerns about her appraisal. She raised concerns about her ability to bring a grievance regarding this if the board as a whole had discussed Mr Ingam’s recommendation. She explained some of her reasons for disagreeing with Mr Ingam’s assessment and some of her concerns about it and she raised a number of questions.
141. The Claimant was off work on annual leave from 31 March 2014 to 2 April 2014. She was then off sick until 22 April 2014. During that time there was a period of four days when both Ms Skyvington and Mr Ingam were on annual leave. That left nobody to cover the office because of the Claimant’s sickness absence. The Claimant made clear that she only wanted her letter to be treated as a grievance if Mr Ingam’s recommendation that she failed her appraisal was accepted by the board. The Tribunal saw some emails relating to attempts to arrange a meeting with the Claimant and Mr Ingam to discuss the appraisal. Miss Gibson became involved and was encouraging the Claimant to meet with Mr Ingam. The Tribunal also saw an email dated 23 May 2014 to which Mr Ingam attached his version of the appraisal report (referred to above). The content of the email makes clear that there had been some confusion about whether or not the Claimant had received the report or not. Mr Ingam suggested that they met again after he got back from his holiday

to go through the report and for Mr Ingam to clarify any further questions the Claimant may have. On 3 June 2014 the Claimant sent back a further version of the report with her further comments added. She said that she hoped that Mr Ingam would change his mind and give her a satisfactory appraisal and if not she wanted him to inform Miss Gibson. It would then be up to the board to make a decision and if the board confirmed that she failed her appraisal she would start a formal grievance. The Claimant's comments included detailed responses to particular issues and events. As regards Mr Ingam's comment that he had been unaware that the Claimant had applied for five grants on 13 February 2014 the Claimant said that she had done what her manager required because she had been told to create a table within the fundraising folder and had done so. She said that Mr Ingam had access to the document in question. The Claimant disagreed with what Mr Ingam had said about the evidence in support of the value always seeking excellence. She said that covering sickness and holiday were examples of always seeking excellence and she disputed Mr Ingam's suggestion that the detailed list of her normal workload was not relevant.

142. So as regards Mr Ingam's comment that the Claimant failed to follow the organisation's working practices as regards communication with the board the Claimant addressed in detail the occasion when she had contacted Mrs Butterfield. She focused on why the confidential document had been left on the computer in the first place and did not really address the underlying point about whether she should be communicating with board members rather than with her line manager.
143. As regards holiday requests the Claimant said that she didn't understand what the issue was. She had always followed the relevant policy. She then set out an accusation that Mr Ingam and Ms Skyvington had taken annual leave on the same days and that Mr Ingam had she said therefore contravened the policy.
144. As regards Mr Ingam's comments that the Claimant's assessment of her performance was significantly different from her managers and that she had not identified areas for improvement in her appraisal the Claimant focused on the question of training rather than objectives for improvement. She said that she had had with her a training programme at the appraisal meeting and had wanted to discuss training but she wished to attend but had not had the opportunity to do so. It seemed to the Tribunal that the Claimant's response tended to focus on particular points of detail and on seeking to show that others had not performed well rather than engaging with the question whether any of the overall concerns identified Mr Ingam might be well founded.
145. The Claimant had a further appraisal meeting on 5 June 2014 with Mr Ingam. The board member present was Ms Artuso. Mr Ingam prepared minutes of the meeting and the Claimant added detailed comments both by way of corrections to the minutes and to add things that she had not said but wanted to be taken into account. The minutes record among other things Mr Ingam saying that the co-ordinators were expected to be compliant and self improving. In the Claimant's corrections to the minutes she said that she wanted to understand what that meant with some examples and that these were new criteria that had been added at

the meeting on 9 June and had not been mentioned before. The Claimant said that Mr Ingam made lots of assertions but didn't provide valid evidence in support of them. She went on to suggest that Mr Ingam had been particularly unhappy that the board had upheld her grievance about her pay scale and she suggested that he was giving her an unsatisfactory appraisal because she would then be denied the increment and prevented from enjoying the benefits of an increased salary scale. On 20 June 2014 Mr Ingam wrote to the Claimant to confirm that he was maintaining his decision to give her an unsatisfactory appraisal. The Claimant wrote to Miss Gibson on 27 June 2014 to initiate a formal grievance about that. She said that the grounds of her grievance were the result of her appraisal and the process used, unfair and mistreatment by BEA management. She said that she reserved the right to include any other detriment that she might suffer as a result of the current staffing review that she knew was to be announced on 8 and 9 July 2014. On 30 June 2014 Miss Gibson replied telling the Claimant that Mr Quin was the officer designated to deal with her grievance. Her evidence to the Tribunal was that because parts of the grievance concerned her own conduct it was not appropriate for her to deal with it herself. She said that Mr Quin would be in touch with the Claimant to arrange a meeting. Miss Gibson went on to outline the process for the ongoing staffing review. She said that the announcement of the agreed proposed new structure was to be made on 8 and 9 July 2014. That would be the start of a consultation period. The staffing review would not be completed till after the consultation period and during the consultation period any staff member could request a one to one meeting with Miss Gibson or Mr Quin. Any comments provided by staff would be taken into account in the finalisation of the proposals which would go to the board for final approval. Until the approvals were finalised Miss Gibson said there could be no grounds for a grievance by any member of staff.

146. We have referred above to the consultation on the restructure that was happening at this time.
147. On 11 July 2014 the Claimant wrote to Mr Quin asking him to postpone the grievance hearing because concerns about her duties and the restructure formed part of her grievance of unfair treatment and she wanted to have her grievance heard after the proposals were finalised and approved by the board. Mr Quin agreed to do so. As noted above the structure review announcement was made on 9 July 2014 and we have referred to the events that followed. We note that on 7 August 2014 Mr Ingam wrote to the Claimant to inform her of the outcome of the investigation into her internet use during work hours. He said that he had mentioned this to her on 18 March 2014 and that since then he had investigated the use of the internet on all of BEA's and OWLS' PCs. He had sent out an email to all staff reminding people to make sure that they were complying with procedures on use of emails and the internet. He said that his investigation had focused on the period 3 to 18 March 2014 and had shown unacceptably high levels of personal use by the Claimant over 12 working days. He had also looked at internet use for the three months prior to 13 February and this had also shown an excessive level of personal use of the computer by the Claimant between 14 December 2013 and 13 February 2014. He said that this showed a significant misuse of

staff time and that efficient use of staff time was essential to what the organisation was trying to achieve. Consequently he informed the Claimant that any such repetition would result in disciplinary action. He told her that the use of the internet on all of BEA's and OWLS' PCs had come under the identical scrutiny. The Claimant replied the following day asking for a copy of the email that had been sent to all staff. She sent a further letter on 12 August 2014 acknowledging receipt of the email that had been forwarded. She went on to make a number of further points including alleging that Mr Ingam had conducted a disciplinary hearing on 18 March 2014. She asked Mr Ingam to tell her whether his discovery had been accidental or whether he was trying to find something, if so what, why he'd targeted her computer. She asked a detailed series of questions about what Mr Ingam had investigated and how and she asked for a response to those questions before Mr Ingam went on annual leave that Friday. She said that she needed them to prepare her case for the hearing on her grievance. Mr Ingam replied on 15 August 2014. He said that in light of the fact that she wanted this matter to be considered as part of her grievance he would pass her letter of 12 August to the grievance investigating officer. He confirmed that the letter issued to her on 7 August 2014 was an informal sanction and that there was no right of appeal.

148. In his oral evidence Mr Ingam explained that following their discussion in March he had issued a reminder to all staff about the BEA policy and he provided the Claimant with the letter of 7 August 2014. He didn't explain the delay in doing so though he did refer to the fact that the chair had decided not to take any formal action on this occasion and there may have some time involved in that.
149. We have referred above to the fact that Mr Quin met the Claimant on 15 August 2014 as part of the restructure process after she requested a one to one meeting with him. At that meeting there was a brief discussion of the Claimant's grievance. Mr Quin told the Tribunal that the Claimant seemed to him to be expecting him to act on her behalf with the board in relation to her points of grievance.
150. In his letter to the Claimant on 18 August 2014 he dealt in part with the Claimant's grievance. He said that the Claimant had indicated that her grievance was more against the Respondent as an organisation than just about the manager and that Mr Quin had suggested that in those circumstances it might not be appropriate for him to hear the grievance. However he wrote that he had since taken independent advice and that if the Claimant was content for him to hear the grievance he would continue to do so. He made a general response to some of the Claimant's points from her letter of 11 July 2014 but said that his responses must not be construed as giving any suggestion that he supported her grievance or otherwise. ???? was concerned he made clear that the Claimant could include any view on job descriptions in her response to the staff consultation. If any job descriptions as currently drafted were materially changed they might be re-evaluated but the salary assigned for each evaluation was not challengeable. Mr Quin said that the Claimant had asked him to provide answers to 17 points to help her prepare a case. He said that in general he could not do so, he was not her agent and she must make her own enquiries. He had answered some of the questions

but again none of this should be construed in any way as an indication of support or otherwise. The Claimant wrote to Mr Quin on 26 August 2014. She referred to what Mr Quin had said about challenges to the job description and salary. She suggested that when he had written the salary assigned for each evaluation was not challengeable. What he meant was that the salary assigned for each post or job was not challengeable. She said that if that was so she did not consider he was the right person to hear her grievance because a lower salary was an impediment that she was to suffer as a result of the staffing review and that this was part of her grievance. She suggested that it looked like Mr Quin had come to a definite view and was trying to impose conditions on what she might do as part of her grievance. She asked for someone else to hear it. Mr Quin replied on 11 September 2014. He pointed out that the Respondent was a small organisation. He said that he had not played a part in managing the Claimant and deemed that he was the most appropriate person to hear her grievance. He said that as a charity it was not appropriate for the Respondent to pay for an external party to hear the grievance where this was unnecessary. On the matter of job descriptions and salaries he repeated what had been said. That is that the salary scale attached to each proposed post was not challengeable. Each proposed job description had been evaluated by independent people. Only if the job description materially changed would the post be re-valuated. The Claimant wrote a detailed letter on 26 September 2014 continuing to object to Mr Quin hearing her grievance. Mr Quin responded in an undated letter. Among other things he indicated that he would hear the Claimant's grievance and assured her that he would deal with it in a fair and objective manner. He concluded by suggesting that in the interests of both parties no further written correspondence ensued but that they proceeded to a grievance hearing. A letter inviting the Claimant to such a hearing was enclosed.

151. The next matter that the Claimant complained about related to a request for annual leave. That appears to have its origins in a team meeting on 9 October 2014. The notes of that team meeting record a discussion of annual leave. Ms Skyvington had requested four days over the Christmas period and the Claimant had indicated that she wished to take 21 working days during February and March 2015. Mr Ingam asked the Claimant to put her request in writing and the Claimant did so in a lengthy email dated 24 October 2014. She said that she had explained that she intended to visit her mother and relatives in Bangladesh and wanted to take the 21 annual leave that she had outstanding for that purpose. She said that she had given the required 12 weeks notice and she referred to a conversation that she and Mr Ingam had had the previous day 23 October 2014 where Mr Ingam had apparently told her that he had taken advice and would not approve of the Claimant taking a month's holiday. He said that she could take only two consecutive weeks and the reason that he had given her was that if Catherine had become ill there would be no one to cover the office. The Claimant said that the policy in the employee handbook did not restrict an employee to taking only two weeks holiday at a time and said that she was being treated differently. She said that she had always taken more than two weeks consecutive holiday since she started working for OWLS. She said that Brian had taken more than two weeks holiday only this month and that had been approved. She dealt in detail with the

suggestion that Ms Skyvington might be ill and said that she was not asking for a favour, she was asking for her right as determined by the holiday she pointed out that she was going to visit her elderly mother and suggested that she was being indirectly discriminated against by being refused more than two weeks holiday.

152. Mr Ingam replied by email on 27 October 2014. He said that the Respondent could not meet the Claimant's request for 21 days consecutive holiday because they lacked the capacity. He pointed out that Ms Skyvington would soon be working four days a week and said that in his opinion there was a significant risk in running in effect on half of the staff time for a month that it would place too much strain on the organisation. He suggested that they meet the following Thursday to go through the Claimant's questions. The Claimant's doctor wrote a letter on 27 October 2014. He said that she was suffering from stress at work in relation to her grievance procedure. She had told him that she was distressed by the decision not to allow her three weeks of annual leave to visit her family in Bangladesh. The doctor said that the Claimant was fit and well enough to work but needed support and help with regard to her grievances.
153. The Tribunal noted that in or around October 2014 Mr Quin took over as chair of the Respondent's board of trustees. The question of the Claimant's annual leave remained unresolved at this stage and we return to it further below.
154. Meanwhile on 4 November 2015 the Claimant met with a Miss Marshall who was the funding manager for an external body. This was the individual who subsequently raised concerns about discussions with the Claimant that were referred to at the Claimant's dismissal meeting in September 2015. The Claimant said that on this occasion they had applied for some funding for an exercise class and Miss Marshall came to see how the exercise was run. In the course of their discussion the Claimant said that Miss Marshall had praised her writing skills and that the Claimant had told Miss Marshall that it was not viewed that way by the Respondent and she told Miss Marshall about her being at risk of redundancy.
155. The Tribunal did not hear any evidence from Miss Marshall and we do not need to decide what in fact what was said during the course of the conversation. We refer to it by way of context for the discussions that subsequently took place in particular at the meeting at which the Claimant was told that her redundancy was confirmed.
156. On 6 November 2014 the Claimant handed Mr Quin a detailed grievance letter. It was 14 pages long and among other complaints it complained expressly of race and age discrimination. This was the document the Claimant relied on as a protected act in her claim of victimisation. The Respondent did not dispute that this was indeed a protected act. The Tribunal noted that this was not the only occasion on which the Claimant complained either expressly or implicitly of discrimination. A number of her emails, letters and grievances did so. However this was the only letter on which she relied in her complaint of victimisation to the Tribunal. The grievance letter started with the complaint about the Claimant's appraisal.

She went through each of the points Mr Ingam had raised by detailed reference to particular points as she had done previously. For example she gave a detailed explanation or justification for why she had contacted Mrs Butterfield and of the occasions on which she had contacted Miss Gibson. She again made criticisms of Mr Ingam for breach of confidentiality. The Claimant gave a detailed account of why she should not have failed her appraisal for not including a training request in the appraisal document. That seemed to the Tribunal did not quite address the point raised by Mr Ingam which was that the Claimant had not identified objectives for improvement over the coming appraisal period. The Claimant also suggested that the reasons given by Mr Ingam had changed from those given originally at the appraisal and following it to those reflected in the manager's report prepared by Mr Ingam. The Claimant made detailed complaints about the appraisal process. She complained that there was pressure on her to meet Mr Ingam and pressure on her to put in a formal grievance and she had complained that Miss Gibson had tried to influence the process and its outcome. She then set out detailed concerns about the Respondent's proposed restructure. She as the Tribunal has already noted maintained her assertion that the scheme proposed was illegal and she set out a detailed explanation for why the activity co-ordinator's role should have been put at risk of redundancy rather than her own role.

157. She then set out a complaint of unfair treatment and mistreatment by BEA management. That complaint started with her complaint about being demoted on TUPE transfer and the assertion that this was done as an act of age and race discrimination. The complaint also included being put under pressure to accept a lower salary scale and pension contribution and complaints about being mistreated by Mr Ingam. Her complaint included a number of the complaints that the Tribunal has dealt with above for example about the supervision where the Claimant said that Mr Ingam had ridiculed and humiliated her and the occasion on which she said he had told her off in front of everybody because she had asked him to provide some information to be included in a monitoring report. There was the complaint about having to change her dementia training and the complaint about Mr Ingam using her desk on Thursdays. There were a number of such complaints. She also complained about Mr Ingam's comments on her verbal communication skills which she said was because of his innate prejudice against her and she complained about Mr Ingam's comments on her article for the North Leeds News. She said she had received many compliments on the quality of her writing and was not an empty vessel. Mr Ingam was not her teacher. She complained of the allocation of extra work to her regarding the befriending project without any extra payment and compared her treatment with that of Ms Skyvington. She said that she had faced a formal hearing and been disciplined by Miss Gibson for an alleged breach of information security and had been subjected to a disciplinary hearing on 18 March 2014 for an allegation of internet misuse.
158. She included a section headed race discrimination and set out a number of complaints including that she had been failed in her appraisal for taking more than two weeks consecutive holiday whereas Miss Tasker, Miss Rushworth and Miss O'Malley had not been failed when they had

taken two consecutive weeks holiday. She complained that she had not been allowed to take 21 consecutive days holiday to visit her mother in Bangladesh in 2015 pointing out that she had been allowed to do so for the last three years. She said that this was indirect discrimination and was done with the tacit approval of Mr Quin. She also said that it was victimisation.

159. The Claimant included a range of other complaints including that Miss Gibson had put her under undue pressure to allow access to her medical records in the name of carrying out a risk assessment when the Claimant's belief was that this was in fact being done to prevent her from seeking justice as evidenced by the fact that Miss Gibson had told her that she would ask her to sign the simple note for the record to confirm that they had made the suggestion of a stress risk assessment and the Claimant had declined. **([All text before this has been submitted to Judge Davies to check] (draft 3) (27/10/16))**The Claimant maintained her objections and Mr Quin dealing with the grievance and she said that the remedies she was seeking was to have her appraisal for 2013/2014 passed with an appropriate backdating of her salary increment, to have her post removed from being at risk of redundancy and to have an independent review of her workload and to have an end to unequal treatment and persecution in particular with regard to her holiday request she also was seeking compensation and an apology. The Claimant had written by hand at the end of her letter that this was a saga of sex discrimination and that she would not have been treated in this way if she had been a man. Mr Quin conducted a grievance hearing on 11 November 2015. His evidence to the Tribunal was that he regarded it as unnecessary to appoint an external advisor. He thought it would be unconscionable for a charity with such limited resources to do so straightaway. He said that he was coming afresh to the Claimant's grievance and had no fixed opinion either way on the validity of her claims. The staff restructure was still a work in progress at that point. The Tribunal saw a detailed transcript of the grievance hearing. The Claimant went through her grievance in detail. In the course of the grievance meeting Miss Tasker was present. The Claimant asked her whether she had had any conversations with board members. Miss Tasker said that she had. The Claimant asked her whether she had ever been disciplined for speaking with board members on board matters and Miss Tasker that she hadn't and nor had any concerns been raised about it in her appraisal. Miss Tasker confirmed that on one occasion she had taken more than two consecutive weeks holiday because she had been to New Zealand in 2012/2013 and Miss Tasker confirmed that she had not had her request for annual leave refused and had not been marked down in her appraisal because of it. Miss Tasker explained that a few people had by now been to New Zealand. She named Gail, Maureen and Susan each of whom had gone at different times. Later in the interview Miss Tasker confirmed that she had also had a longer period of annual leave to go to Disneyland on a different occasion.
160. Following the grievance meeting Mr Quin met Mr Ingam, Miss Dean, Miss Gibson and Ms Skyvington separately and held interviews with them. In his interview with Mr Ingam on 21 November 2014 Mr Quin asked him why he had told the Claimant that he might not be able to recommend a

successful appraisal if she appeared to have met all of her objectives. Mr Ingam explained that the appraisal was about more than just meeting targets. It was a tool to be able to assess the appraisee's understanding of their role and responsibilities, their judicious use of staff resources were appropriate and so on. Mr Ingam was of the view that these wider issues needed to be included in assessing the Claimant's performance and he drew Mr Quin's attention to the introduction to the appraisal form that laid those matters out. Mr Quin identified six points that the Claimant had said were the reasons given at various times for failing her appraisal and asked Mr Ingam about them. Mr Ingam gave an explanation in relation to each matter. They were as follows:-

- a. First of all wasting time by giving too much detail. Mr Ingam told Mr Quin that he had told the Claimant in a previous appraisal that she needed to be more succinct and he pointed out that in her own appraisal form she had said that she found it too long and that it had taken her too much time away from her real work. Mr Ingam's estimate was that he spent the same amount of time dealing with the Claimant's appraisal as he did dealing with all the other staff members put together;
- b. Failure to follow procedure in respect of holidays. Mr Ingam said that in three of the past four years the Claimant had taken four consecutive weeks annual leave. He had tried to accommodate her wishes as he did for all staff wherever possible. The Claimant's current proposal for 2015 was the subject of disagreement because Mr Ingam told Mr Quin he considered that changes to staffing levels at OWLS would make it extremely difficult to agree to four weeks. Mr Ingam also said to Mr Quin that no other member of staff had consistently asked for more than two weeks off at any one time. Several staff had asked for such holidays as a one off. Mr Ingam did not think that he had given this as a reason for failing the Claimant's appraisal although he had remarked on it;
- c. Membership figures for OWLS could not be correct. Mr Ingam accepted that he had spoken to the Claimant about this on a number of occasions but he pointed out that it was not a reason for failing the appraisal;
- d. Inadequate communication skills. Mr Ingam gave two examples to Mr Quin. The first was that the Claimant had failed to discuss a number of operational matters with Ms Skyvington before discussing them with Mr Ingam. The second was that the Claimant had submitted a number of grant applications without prior reference to Mr Ingam and he was concerned that the organisation needed to be joined up;
- e. Unauthorised contact with a board member. Mr Ingam told Mr Quin that this related to the Claimant contacting a board member when it had been explained to all staff that such contact should normally be through the manager;
- f. Lack of training opportunities. Mr Ingam denied that he did not want the Claimant to have training. He pointed out that her appraisal form didn't contain any reference to training courses and that she had stated

that she did not require much support with the technicalities of her job. He referred to occasions on which the Claimant had asked to complete training courses that were not directly relevant such as a course on how to build a website.

161. Mr Quin then asked Mr Ingam about whether the reasons given in his note to the Claimant on 2 April were different. Mr Ingam's explanation was that the reasons given on 2 April were summaries of the range of specific performance gaps identified at the time of the appraisal. He accepted that the delay between the date of the appraisal and the formal notification was unacceptably long. Mr Quin then went through the appraisal itself with Mr Ingam objective by objective. Mr Quin also went through the Claimant's allegations of discriminatory behaviour and mistreatment with Mr Ingam. Turning to Mr Quin's interview with Miss Dean the Tribunal was struck by what she said about the Claimant's appraisal in March 2014. She said that she had seen the appraisal papers and that she personally thought that the Claimant's comments and narrative were not what she would have expected from the Claimant's level in the organisation. The expression substantial piece of work came up seven times in the appraisal form. For example when the work set was completing an application form Miss Dean did not see that as substantial. The appraisal was in minutia about work tasks rather than the bigger picture overview for the year and any small additional piece of work that most people take in their stride was raised to be substantial. Miss Dean also said that it was unusual in the voluntary sector for someone to have rigid roles with no additional ad hoc work throughout the year. Miss Dean's view was that the appraisal meeting was conducted in a reasonable manner. She said that Mr Ingam had allowed the Claimant to speak to her written submission and that she had done so in depth line by line verbatim. Miss Dean had made notes. The Claimant had refused to look at Mr Ingam and wouldn't let him speak. Miss Dean said that at the end of most sections Mr Ingam made enthusiastic positive comments about the work achieved during the year. Miss Dean's view was that Mr Ingam had been very polite despite the Claimant being openly agitated and pretty hostile towards him. He congratulated her on good work through the year on targets that had been met and even that was met with hostility.
162. Miss Dean was also asked about the conversation after the appraisal meeting about internet use. She said that Mr Ingam had ended the appraisal session clearly and drawn a clear line before raising the internet issue. He had drawn attention to the fact that the Claimant's machine had a high level of internet usage and she had immediately cut in that if she was being singled out so should the manager. She had then said "so your saying there is criminal activity". Miss Dean said that Mr Ingam did not respond as she wouldn't give him the opportunity to speak. Mr Ingam had not at any point hinted that there was anything criminal. Miss Dean said that the Claimant had accepted that she did use the internet and had held her hands up. Miss Dean was asked if she had thought the issue was being conducted as if it were a disciplinary hearing. She said no, it was discussed openly and frankly with no hint of antagonism as any line manager would have should the matter have arisen with anyone I line managed. Miss Dean was asked if there was anything else she had wanted to add and she said that while the Claimant was so agitated and

hostile and claiming that Mr Ingam had said there was criminal activity she reiterated what Mr Ingam had actually said. The Claimant had been polite to her. The Claimant said that Miss Dean shouldn't have had to hear this and that she had had no lunch and was leaving. She got up and left.

163. Miss Dean said that during the meeting the Claimant directed her speaking to Miss Dean and not to Mr Ingam. She was very polite to Miss Dean and openly hostile to Mr Ingam. Miss Dean said that Mr Ingam maintained a calm and professional manner throughout. She said that it was clear to her at the start that there was much hostility from the Claimant directed to Mr Ingam so she took detailed notes for her record. The Tribunal found the notes of the interview with Miss Dean instructive in suggesting the view of an apparently neutral party at the time, as the Tribunal understood it the notes of the interviews Mr Quin carried out were not provided to the Claimant at the time.
164. We have referred above to the team meeting on 4 December 2014 when a revised proposed structure for the operations staff was outlined by Mr Ingam.
165. The next incident in the chronology took place on 10 December 2014 when the Claimant carried out a home visit on an older person. She had a frightening experience. At one point the individual suggested that he had locked her in. Thankfully the Claimant was able to leave without coming to any harm but it was undoubtedly a frightening experience for her. The Claimant tried to contact Miss Tasker to find out what she should do. Miss Tasker wasn't available but she called her back the following day. She told the Claimant to speak to Mr Ingam and she also mentioned "purple folder". She asked the Claimant if she knew anything about it and said that it was a procedure that had been in place before January 2011. the Claimant met Mr Ingam that day 11 December and told him what had happened. Ms Skyvington joined them. They discussed what the Claimant should do on future visits and after that the Claimant was always accompanied by someone else when she went to visit an unknown man. The purple folder to which Miss Tasker referred was a code word system by which a worker could alert members of staff in the office to the fact that they were in danger or needed assistance. The idea was the individual phoned the office and said that they needed some information from the purple folder. That alerted the office to the fact that there was an issue that didn't alert the individual who was the cause of the difficulty. One of the Claimant's complaints to the Tribunal was that Mr Ingam had deliberately not informed her of the purple folder system when she joined the Respondent in January 2011 and had deliberately not done so because of her race. The minutes of the OWLS team meeting on 8 January 2015 showed that there was some further discussion about what had happened to the Claimant on that occasion. They discussed what staff should do to minimise risks and the Claimant asked Mr Ingam to explain what reference to the purple folder meant. The team meeting minutes record an explanation of what the purple folder meant though they do not recall who gave the explanation. They said that OWLS was to adopt that policy from now on and also that the Claimant was to attend training on loan working and cascade the information.

166. No evidence was presented that anybody else had been informed by Mr Ingam at the time of the TUPE transfer in January 2011 of the purple folder procedure. It was clearly a serious allegation to suggest that he had deliberately singled the Claimant out and not told her of the procedure because of her race.
167. In his witness statement Mr Ingam explained that the purple folder practice had been introduced by the Claimant's counterpart in the other side of the organisation and to his knowledge had never been actioned. It was formally introduced in OWLS after the incident with the Claimant. In oral evidence Mr Ingam was asked whether he had brought the purple folder to the attention of any member of staff. He said that the first time he mentioned it was at the team meeting in January 2015. He had not mentioned it to any other staff member before mentioning it to the Claimant then. The Tribunal had no hesitation in accepting that evidence. There simply was nothing to support the very serious suggestion that Mr Ingam had deliberately tried to put the Claimant at risk by not telling her about the system because of her race. **Note to self: the following paragraph will be moved back in the chronology.**
168. The notes of Mr Quin's interview with Miss Gibson on 11 December 2014 show that he discussed with her matters dating back to the Claimant's transfer to the Respondent in early 2011. The grievance that she had heard in 2013 and contact between staff and board members among other things. She was also asked about her involvement in the 2013/2014 appraisal. She said that she had only become aware of Mr Ingam's proposal to recommend an unsatisfactory appraisal after the appraisal meeting had taken place. She had been contacted by the Claimant and had tried to resolve the issue by asking Mr Ingam to be clearer in his views about the appraisal to the Claimant and to arrange a meeting to do that. Miss Gibson was concerned that the time lapse between the appraisal meeting and the follow up was unacceptably long and she had seen the appraisal documentation after the meeting and was concerned that on first glance the case for an unsuccessful appraisal was not entirely clear to her.
169. Mr Quin interviewed Ms Skyvington on 19 December 2015. Ms Skyvington said that she didn't have any problems with Mr Ingam. She understood and accepted his management style but did think that his character and management style would tend to discourage her from approaching him on any personal issue. She described her relationship with the Claimant as changeable depending on the Claimant's moods. She thought that the Claimant considered them to have a good working relationship but Ms Skyvington was of the view that she was carrying the majority of the workload. She referred to an occasion when the Claimant had refused to talk to her for about two months. More recently she said the Claimant had been trying to garner her support in resisting the staff structure review proposals and in her grievance but Ms Skyvington had indicated to the Claimant that she didn't want to be drawn in to those matters. Ms Skyvington's view was that the Claimant did not actually work particularly hard. She thought that the Claimant enjoyed parts of her job especially the face to face contact with members but felt that her attention to and level of competence with administrative and management issues was not what she would expect. Her perception was that the Claimant

had difficulties being managed and she referred to her experience working with the Claimant at the Cardigan Centre prior to the TUPE transfer where the Claimant had adopted a similar stance to her then manager as she did to Mr Ingam. Ms Skyvington was asked whether she thought Mr Ingam behaved differently towards her compared with the Claimant and she said that Mr Ingam tried to treat them the same but that the Claimant made it difficult for him to do so. Ms Skyvington was asked if there was anything else she wanted to say and she said she considered that the Claimant's difficulties in working to Mr Ingam's management was starting to affect both the performance and the reputation of OWLS. Ms Skyvington was asked what the effect on her had been of the Claimant's previous extended leave periods and she said that her workload did increase slightly but that it had been manageable and that she had enjoyed keeping things running.

170. The next matter we return to in the chronology was the Claimant's request for annual leave. She emailed Mr Ingam on 2 January 2015 saying that she needed his decision on her holiday request. She said in her email that following her initial request in October Mr Ingam had told her at her support and supervision meeting on 27 November 2014 that she could have three weeks consecutive holiday. She reminded him in her email that she had had a month's holiday for the last three holiday years. The first two years she had visited her mother in Bangladesh and the third year she had gone to America for her son's wedding. She proposed that her absence could be covered by asking Ms Skyvington to go from four to five days a week or by Mr Ingam himself coming in for the whole of Thursday and Ms Skyvington coming in on Fridays and not Thursdays or employing Mr Cook or Miss Leyroyd temporarily to cover the leave. The Claimant was requesting her leave from 23 February to 23 March 21 consecutive working days. Mr Ingam replied on 5 January 2015. He said that he had considered the Claimant's suggestions but the fact remained that they would be going from 67 staff hours to 30 staff hours for 21 working days. They required a member of staff to provide an information service for each working day and Mr Ingam's role as manager was to cover in emergencies. At a time when the organisation was undergoing significant changes including a staff restructure Mr Ingam could not commit to providing the information service other than in emergencies. The suggestion that they employ someone to provide cover as they had done with a different member of staff was not practicable because they did not have the funds needed. Mr Ingam said that his view remained that he could not authorise a request for 21 working days but as discussed in November would consider a request for 15 working days although that was not ideal.
171. At the Claimant's request Ms Skyvington emailed Mr Ingam on 6 January to say that she was happy to cover the drop in service Monday to Friday when the Claimant was on annual leave. It is apparent that the Claimant raised the question of her annual leave on 8 January 2015 at the OWLS team meeting. She said that she did not feel happy about Mr Ingam's refusal to grant her 21 days. Mr Ingam indicated that she could carry forward any unused annual leave to the next month. The Claimant returned to the matter in her proforma prepared for her support and supervision meeting with Mr Ingam in January 2015. She emailed the

form to him on 12 January 2015 to be discussed on 22 January. She said that she did not feel happy about Mr Ingam's refusal to grant her the requested 21 days to visit her family in Bangladesh. She did not think that using the issue of capacity was fair especially when Ms Skyvington had agreed to provide cover. She pointed out that she was being forced to apply for another holiday at the end of March with a gap of only eight working days between the two holidays. She said that she felt that Mr Ingam's prejudice against her for being an Asian worker who dared to raise grievances was at the root of his refusal because he had allowed her to go for more than 21 days in the last three holiday years. On 14 January 2015 the Claimant emailed Mr Quin asking him to intervene in her holiday request. He replied the same day saying that he was unable to help the Claimant. The issue was a matter for her manager, not him or the board and the policy was quite clearly laid out in the staff handbook. In the event Mr Ingam approved a three week holiday starting on 23 February 2015 and a further six days starting on 27 March 2015 that the Claimant took those holidays.

172. In his witness statement Mr Ingam acknowledged that he had approved extended leave on three previous occasions for the Claimant but he said that he did not feel he could agree to the latest request because there was an increase in volume of work including the staff restructure and his involvement in externally facing issues such as the Leeds Older People's Consortium and the opening of Bramley Lawn a community centre that was being taken on and developed by the Respondent. His ability to make available the time for cover was not there. He said that other staff members had been allowed extended leave on one occasion only and that their leave requests had been considered on the basis of team capacity in the same way. Each request was considered at the point at which it was presented. Mr Ingam suggested that the Claimant had been treated more favourably because she had been granted more extended periods of leave than any other employee. In cross-examination it was suggested to him that there was no issue of capacity. He disagreed. He said it was to do with capacity. It was for the manager to ok. His consistent view he said was that leave of more than three weeks had to be exceptional. He had approved it for others. He accepted that it may have been on one occasion or two occasions, but he said that they had to provide an information service every morning. That was mainly the Claimant's job. Someone else had to do it in her absence and they only had one part time worker of 30 hours a week apart from the Claimant. If Ms Skyvington didn't cover it would have to be Mr Ingam. At that time they were in the middle of the restructure and he did not feel they could honour the leave.
173. Mr Ingam also said that he had would not have okayed an extended period of leave for the fourth time for anyone. When asked about that he said it was because of the impact of the organisation of having someone not at work for 21 working days. They had done it but it was a struggle and this was to do with capacity and well being. He accepted that there was no written policy that a fourth period of extended annual leave would not be allowed but said that it was a policy of his he added that he most probably wouldn't approve a third period of extended annual leave. He was asked what the justification for that was and he said that it was the pressure of work. He wanted to be flexible. Staff had been given

extended leave to go to New Zealand but it was different to do it on a regular basis.

174. On 23 January 2015 Mr Quin held a further grievance interview with the Claimant to clarify her complaints relating to the staff restructure. He asked her about the basis for her indication that the restructure was unlawful and asked her about her involvement in consultation and the working group. He asked the Claimant to tell him what she actually did in her job and how that compared with her approved job description. The Claimant indicated that apart from the discrepancy in salary arising from her protected salary on the TUPE transfer and the fact that there was no OWLS website her job description was broadly accurate. She said that she carried out fundraising which was not in the job description doing three or four applications in a year.
175. On 16 February 2015 the Claimant wrote to Mr Quin with a document said to be a response to the minutes of the hearing on 23 January 2015. The original minutes were two and a half pages long. The Claimant's notes in response were 10 or 11 pages. She also provided additional supporting documentation. The Claimant also referred to the incident on 10 December 2014. At that stage she was accusing Mr Ingam of negligence in not sharing the purple folder procedure with her. She said she had a right to the information. There was an OWLS team meeting on 19 March 2015. There was evidently discussion of when appraisals would take place and Mr Ingam said he would send an email about this the next day. He did indeed send an email the following day to all members of staff at BEA and OWLS. He said that because of the prolonged restructure and the large amount of management time spent on it the planned appraisal process for 2014/2015 was that the appraisal period would be extended so that it would be completed by June rather than April. Any salary increases awarded as a result of the appraisal process will be backdated to 1 April. There would be some minor changes in the process and objectives would be expected to be linked to the organisation's vision, mission, values and development plan.
176. As we have indicated the Claimant was engaged in correspondence with Mr Quin and Mr Ingam about the restructure proposals during the coming months. During that period Mr Quin wrote to the Claimant on 8 April 2015 to invite her to a follow up grievance hearing to discuss what he had found in the investigation and hear the Claimant's comments before making a final decision.
177. A meeting took place on 24 April 2015. Following their meeting Mr Quin emailed a provisional findings document to the Claimant. On 28 May 2015 she sent an annotated version back which included further detailed comments from her. Mr Quin wrote to the Claimant on 11 June 2015 providing her with a final outcome to her grievance. He said that he had given due consideration to all the points the Claimant made and had read and analysed all her supporting documents. By that stage she had provided in excess of 150 documents. Mr Quin had sought to identify the material issues within the Claimant's grievance relating to her appraisal, her allegations of unfair treatment and her complaints of other detriments including discrimination. He then set out his findings on each element.

178. So far as the appraisal was concerned he found that the Claimant had not entirely followed the guidance to be as brief as possible but was of the view that the broad process had been followed. However he considered that the date between the appraisal meeting and Mr Ingam's formal report being issued to the Claimant more than two months later was not acceptable. Mr Quin considered that the appraisal meeting itself had been carried out in a fair and reasonable manner and he placed weight on what Miss Dean had told him. He described her as an impartial observer.
179. Mr Quin found that the manner in which Mr Ingam had communicated his conclusions about the Claimant's appraisal following the meeting was unsatisfactory. It took a considerable amount of time and apparently much ill will to get to a point in June where it finally became clear what the outcome was. That was not conducive to efficient working by both parties. Mr Quin said that it seemed that the Claimant genuinely did not understand why Mr Ingam was recommending an unsatisfactory appraisal. He said that this was unacceptable although the fault appeared to lie on both sides. Mr Quin then considered whether the reasons for not giving a satisfactory appraisal were justifiable. He expressed the view that an appraisal was about more than just assessing whether the appraisee had met targets important though they were. It was also about competencies in areas like communication and levels of judgment, about attitude and commitment and the higher a member of staff was in the organisation the more exacting should those standards be. Mr Quin dealt in detail with arguments relating to particular objectives. In particular he dealt with the objective relating to fundraising and the five funding applications that Mr Ingam said he had been unaware of. Mr Ingam had explained the importance that he as manager knew what applications were being made. Mr Quin pointed out that the Claimant had said that Mr Ingam could have had the information about the application she had made because it was in a folder on the computer that he also used. Mr Quin said that Mr Ingam had agreed a general proforma letter for funding applications but said that the Claimant accepted that he was not necessarily aware of these specific applications. Where the second detailed issue that Mr Quin dealt with under this heading related to an application for a lunch club grant. The Claimant had said that she had to open a new bank account for this but that her work was wasted when Mr Ingam overrode her and found another way to secure the funds without having to open a further bank account. She said that Mr Ingam had instructed her to open the bank account and it was only when she ran into difficulties when doing so and asked him to intervene that she was stopped. Mr Ingam had said that what was in fact required under the funding application was evidence of a specific bank account and appropriate detail to be transparent. Mr Quin had formed the judgment that the Claimant's reasoning was perhaps inadvertently specious and therefore misleading. He said that it seemed logical that Mr Ingam would have endorsed the approach to obtain a grant but would not himself know the detail and it seemed to Mr Quin disingenuous to claim that he had instructed the Claimant to open a bank account. This was an important detail because it was an area of the appraisal where Mr Ingam did not accept that targets had been met. That the grant had ultimately been successful was irrelevant. Mr Ingam at the time considered the approach to funding to be inefficient. Mr Quin had himself

reviewed the application form concerned. It did not ask applicants to set up a separate bank account. It simply asked for bank account details.

180. Mr Quin also regarded this as an area where communications between the Claimant and Mr Ingam were less than effective. Mr Quin said that Mr Ingam had cited other issues that did not directly relate to individual elements of work performance but to an overarching approach in how effectively and efficiently the Claimant fulfilled her duties. Mr Quin summarised what those were. Mr Quin expressed the view that it was possible to conclude from all the appraisal documents that the Claimant had undertaken much of what she was tasked to do and was genuinely committed to her work. In his view the problem was that she didn't use sufficient communication skills or willingness to communicate. She tended to regard simple pieces of work as complex and time consuming when the simple tasks she enjoyed they should be dealt with quickly and simply. She appeared to lack respect and goodwill towards Mr Ingam as her manager and appeared to have held that view since the date of her transfer. She regarded his attitude as having a vendetta against her all of which Mr Quin considered heavily influenced her approach to her work and therefore how her appraisal was constructed. Mr Quin set out some overall conclusions on this part of the grievance. He started by pointing out that management must have the right to manage and that an appraisal was an opportunity for a manager to point out deficiencies in an employee's performance and to suggest how they might be overcome.
181. Mr Quin having reviewed the content of the appraisal form was of the view that the level of activity and performance demonstrated was not what might be expected from an employee on SO2 grade. A similar comment had been made by Miss Dean and Ms Skyvington who was also unaware of any difficult or complex work undertaken by the Claimant. Mr Quin overall considered that Mr Ingam's assessment on this was accurate. Mr Quin's view was that the manner in which Mr Ingam had communicated his conclusions was unsatisfactory. It took a considerable amount of time to reach a point where it finally became clear what the outcome was. Mr Quin then wrote this (the substance of the reasons for failing NS are also somewhat foggy. As manager must be clearer in his conclusions and the communication as such. To do otherwise is simply to undermine any goodwill and make more difficult future performance management tasks).
182. On balance Mr Quin concluded that Mr Ingam was justified in much of his overall assessment and whilst he considered the way in which he had expressed them and the deficiencies in the timings of his responses were not acceptable. Those shortcomings did not enable him to uphold the grievance.
183. Turning to the part of the grievance that related to internet misuse Mr Quin said that it was clear that there had been a material breach by the Claimant. There had been repeated and sometimes considerable lengths of time using non work related internet sites eg ATP tennis during working hours. The Claimant had admitted this. Mr Quin considered that Mr Ingam's raising the matter with the Claimant following her appraisal while Miss Dean was present and subsequently the Claimant being informally cautioned not to continue the practice was a reasonably fair and proportionate response. The formal disciplinary procedure was not

evoked and not formal action was taken. Mr Quin again criticised Mr Ingam for the length of time before the matter had been brought to a conclusion.

184. Mr Quin then turned to deal with annual leave. Mr Quin did not consider that the Claimant was entitled to an extended holiday because she had been allowed one in the previous years. He pointed out that circumstances would change. Mr Quin accepted Mr Ingam's explanation that on this occasion the growing demands on his own time coupled with the decrease in Ms Skyvington's time made it impractical for him to allow the Claimant such an extended period of holiday. Mr Quin dealt with the Claimant's allegation that Mr Ingam had himself breached the policy when he and Ms Skyvington had been on annual leave at the same time. Mr Quin said that Mr Ingam could not possibly second guess that the Claimant would be sick at that time. Holidays had been booked and paid for. This was unfortunate but did not appear to be a regular pattern. Mr Quin's view was that the facts did not bear out the complaint that the Claimant had been discriminated against. Firstly she had had a long leave period granted for three of the last four years running. While it was true that other staff had had long leave periods as well there was no other instance of another member of staff having consistently applied year on year for such long periods.
185. Mr Quin then turned to deal with the Claimant's complaint that she hadn't been able to go on training courses. He acknowledged that she had had a number of requests for training refused so he went on to assess whether that had been reasonable and proportionate on the part of management. So far as training in website development was concerned Mr Quin took the view that Mr Ingam's approach was reasonable. While there was no dispute that OWLS should have its own website Mr Ingam believed that the website can and should be developed by a member of BEA staff who was confident and experienced in that area. It would be appropriate for the Claimant in Mr Ingam's view to be trained so that she could manage and edit the website once it was up and running. As regards dementia training Mr Quin noted the difference between the two courses and that the course the Claimant went on was for volunteers and other staff working in neighbourhood networks. He considered that the decisions on this were effectively a management issue and could see no evidence that Mr Ingam had behaved inappropriately.
186. Next Mr Quin dealt with the Claimant's contention that she had been told off on a number of occasions for contacting board members inappropriately. Mr Quin referred to the BEA policy in its handbook which said that staff should not approach board members directly about operational or other work related matters. He said that in the instances the Claimant had referred to she did not follow policy. She had been reminded of the correct procedure on more than one occasion. She had not been told off or disciplined. Mr Quin went on to deal with the Claimant's complaints of discrimination. He dealt with the four particular instances identified by the Claimant.
187. So far as the original TUPE transfer was concerned Mr Quin said that he could find no evidence whatsoever that the unfortunate delay in determining the right salary band was motivated or characterised by racial

discrimination in any way. Moreover the matter had been settled through a grievance in early 2012. Mr Quin rejected the suggestion that Mr Ingam had discriminated against the Claimant by using her computer when he attended OWLS. Ms Skyvington had said that Mr Ingam would ask the Claimant to be able to use her computer and that the Claimant was not very happy about doing so. There was no evidence in Mr Quin's view that he had forced the Claimant. Mr Quin dealt with the Claimant's complaint about Mr Ingam's advice on her North Leeds news article and with Mr Ingam's discussion with her about his difficulty in understanding her particularly over the phone. Mr Quin said that he had been unable to find any racially discriminatory motives or behaviour. Mr Quin explained that the complaint about Miss Skyvington getting extra pay when the Claimant did not had already been dealt with. He overall could find no evidence to suggest that any of the incidents to which the Claimant referred were in any way linked to her race, age or sex.

188. Turning to the staff restructure Mr Quin started by reiterating that the process was not unlawful because there was a diminished requirement for work of a particular kind. That gave rise to a redundancy situation. Mr Quin said that the Claimant had been advised of the rationale behind putting her job at risk and not that of the activity co-ordinator. She had had every opportunity to contribute to the process which was still ongoing. She had not so far done so except to object to it. Mr Quin said that the key issue was that the process was still ongoing. Mr Quin confirmed that the Claimant's was whenever a number of posts at risk of redundancy. Her post was at risk because some of the duties were being transferred to other posts so the range of duties was now significantly less. For example the information and publicity function was to be undertaken centrally across the organisation and that function was to be removed from both the Claimant's post and the equivalent post in BEA. Likewise the requirement for monitoring would now be undertaken by the new operational manager. Mr Quin did not uphold any part of the Claimant's grievance so far as it related to the restructure. The Tribunal considered Mr Quin's approach to the Claimant's grievance to be thorough and meticulous. He had taken care to consider all the points raised but had also undertaken the difficult task of identifying the substance of the Claimant's complaints and addressing them in a proportionate manner. His response was thorough and considered. The Tribunal was quite satisfied that Mr Quin had approached the matter with an open mind. He had rejected the Claimant's grievance, did not demonstrate a failure to be impartial.
189. In the documentation and in her evidence and submissions to us the Claimant placed great reliance on Mr Quin's comment about Mr Ingam's reasons being "foggy". She said that if Mr Ingam's reasons were foggy that part of her grievance should have been upheld. The fact that it wasn't she said demonstrated Mr Quin's lack of impartiality and his flawed approach. Mr Quin explained what he meant in his oral evidence. That he said that what he meant was that Mr Ingam's terminology was not as clear as it should have been but Mr Quin had examined Mr Ingam's reasons for failing the appraisal with him and having done so found that he was right to fail the appraisal. The reference to foggy reasoning was to the way that Mr Ingam had expressed his reasons not to the underlying substance of those reasons.

190. The Tribunal accepted that evidence. It was consistent with what was set out in the remainder of the grievance outcome and also with the note of Mr Quin's interview with Mr Ingam in which he had carefully gone through with him the substance of his reasons for recommending that the Claimant did not pass her appraisal.
191. As we have already noted Miss Graham became the Claimant's line manager taking over from Mr Ingam in May 2015. The first team meeting chaired by Miss Graham took place on 9 July 2015. The notes of the team meeting record that staff had talked through the new fundraising plan. Miss Graham said that she was looking at a pot of money that would fund empowering a community and there was a discussion about any ideas for it. Ms Skyvington apparently suggested getting money boxes for members to fill with change to donate. The notes record Nadira might look at applying to supermarkets. Fran will look for opportunities and list some suggestions. Nadira will have a think about what she will be involved in.
192. One of the Claimant's complaints to the Tribunal was that at this meeting Miss Graham put her under undue pressure to do more fundraising. She believed that Miss Graham was acting under Mr Ingam's instruction. She said that this was direct discrimination and harassment. In her witness evidence she said that Miss Graham kept on asking her to do a Pack a Bag initiative at a supermarket. She said she felt very uncomfortable at this, nobody else faced any pressure from Miss Graham even though she the Claimant had raised more funds than anybody else that year. The notes of the Claimant's first support and supervision meeting with Miss Graham indicate that they had a discussion about fundraising. The Claimant had suggested some work action points for the next period and Miss Graham asked her where the general fundraising support would go into the list. The Claimant asked that it should not be included in the action points. She said that she had achieved her fundraising targets and would not like to take on further responsibilities. Miss Graham explained to her that the fundraising plan gave targets but that she anticipated that additional work would be needed by team members to ensure that the overall targets were met and all of the team would need to be flexible towards this as it was vital to OWLS that running costs were covered. The Claimant reiterated that she was not comfortable looking into funding via supermarkets. Had achieved the targets she perceived were laid out in the plan and would not currently do any further fundraising work other than one particular allocation. Miss Graham was asked about this in her oral evidence. She said that she did remember asking the Claimant about Pack a Bag. She said that she particularly asked the Claimant to help and she recorded the Claimant saying that she wouldn't be comfortable with that type of work. Although she didn't remember specifically she accepted that it was likely she would have asked the Claimant a couple of times. She acknowledged that the Claimant had said that she was not comfortable and she said fairly close to that point she said let's move on. The Claimant drew Miss Graham's attention to a list of funds that she said was responsible for raising. Miss Graham said that the total target under the fundraising plan had not been achieved. Part of her job was managing that plan and that would entail change and review. That is why the discussion happened. There was a discussion about who did what. There was not one member of staff doing an unfair amount and it was her role as

manager to balance capacity. The Claimant suggested to her that she had asked her to be involved in a Pack a Bag initiative because she was Asian and because Mr Ingam had asked her to. She said that that was absolutely not the case. The Claimant drew attention to the fact that this had also been discussed at the support and supervision meeting. Miss Graham said that she was not putting pressure on the Claimant. There was pressure on the organisation and part of her role was to ensure that they achieved their fundraising targets. No pressure was put on the Claimant.

193. In her evidence to the Tribunal the Claimant gave some suggestion that part of her discomfort with the idea of carrying out a Pack a Bag initiative at a supermarket was that her husband would not be happy about it. There was no evidence that she raised such a concern at the time and the Tribunal was quite satisfied that she was not advancing such a reason or any reason related to her culture or background during the time of these discussions.
194. The Tribunal accepted Miss Graham's account of what had taken place at her very first team meeting with the Claimant and Ms Skyvington. We accepted that she asked the Claimant more than once whether she would be prepared to help with a supermarket Pack a Bag initiative to raise funds, that the Claimant expressed unwillingness and that when the Claimant indicated that she was uncomfortable about it Miss Graham moved the discussion on.
195. Miss Graham returned to the question of fundraising at her support and supervision meeting one to one with the Claimant. It seemed to the Tribunal that she was entitled to do so. It was part of her job as manager to manage the fundraising plan. In the course of that discussion she tried to encourage the Claimant to be flexible and assist towards achieving the overall target. The Claimant said that she did not feel comfortable looking into funding via supermarkets. Nothing more was said or done about it. The Tribunal did not consider that there was anything untoward in Miss Graham's behaviour.
196. As we have already indicated on 20 July 2015 the new proposed operational structure was announced to staff. While that process was ongoing the Claimant continued to progress her grievance. The Claimant had written a letter of appeal against the grievance outcome on 26 June 2015. The Respondent appointed a third party from outside the organisation to hear the Claimant's appeal. That was a Miss Dixon a CIPD qualified associate HR consultant who runs her own HR consultancy practice. She works as a self employed sub-contractor and sometimes provides her services to the Respondent's legal representatives Ellis Whitam who appoint her to provide independent HR services for their clients. She had provided her services for Ellis Whitam in that way on a number of occasions but had not worked with the Respondent before. Miss Dixon was appointed by Ellis Whitam to deal with the Claimant's grievance appeal.
197. At the end of July Mr Quin wrote to the Claimant inviting her to an appeal hearing on 27 August 2015 informing her that the appeal would be dealt with by Miss Dixon. On 4 August 2015 the Claimant emailed Mr Quin

objecting to Miss Dixon hearing the appeal. She said that Miss Dixon was a part of Ellis Whitam and that Ellis Whitam were giving advice to the Respondent on matters related to her grievance. She said that she did not understand why one of the BEA board members was not carrying out the appeal. Mr Quin responded on 4 August 2015. He confirmed that Miss Dixon was not employed by Ellis Whitam but owned her own HR and training consultancy. She was a neutral and independent HR consultant and was not instructed by Ellis Whitam to make her findings. The appeal hearing went ahead on 27 August 2015. Miss Dixon's evidence was that before the meeting she was provided with the Claimant's appeal letter and with two large A4 files with all the supporting documentation in them. When she met the Claimant they discussed the documentation and the Claimant provided some further documents by email. The Tribunal was shown the minutes of the grievance appeal meeting on 27 August 2016. Miss Dixon reiterated at the outset of the meeting that she was a sub-contractor and had not had any contact with BEA prior to the meeting. Further she had had no involvement with the restructure. Miss Dixon then went through each of the points the Claimant had raised in her appeal letter. Following the meeting she interviewed Mr Quin and Mr Ingam. Her interview with Mr Quin took place immediately following the appeal hearing. Her interview with Mr Ingam took place by telephone. The following day the Claimant emailed her asking her why she had met with Mr Quin after the appeal hearing because the Claimant was concerned that she was not acting independently. Miss Dixon explained to her that she had been asking Mr Quin a number of questions as part of her investigation into the Claimant's grievance appeal. The Claimant saw a copy of the notes of the appeal hearing which were provided to the Claimant and on which she provided her comments. Notes were also kept of the meetings with other individuals. They were not provided to the Claimant at the time.

198. Miss Dixon wrote to the Claimant on 30 September 2015 with the outcome to her grievance appeal. That was a detailed 16 page document that dealt thoroughly and meticulously with the Claimant's appeal. Miss Dixon upheld one part of the Claimant's grievance appeal. She had been provided with a document indicating that there was a requirement for the lunch club to have an independent bank account with a minimum of two signatories. That was inconsistent with Mr Quin's finding that there was no such requirement. Miss Dixon was satisfied that that document No 159 in the Claimant's file had been provided to Mr Quin but that he had not considered it. She found that this was an omission on his part but that she found that this was only a minor issue because it related to a target in the Claimant's appraisal that had been added by herself not agreed by Mr Ingam and was not in any way the sole reason for the Claimant not passing her particular appraisal.
199. Nonetheless her grievance about that was partially upheld. No other aspect of the Claimant's grievance was upheld.
200. The Tribunal found Miss Dixon's approach impressive and thorough. She was faced with a mass of material detailed correspondence going back over some time and detailed grounds of complaint and appeal. She dealt carefully with them. There was absolutely no evidence that could suggest

that the reason she did not uphold the majority of the grievance appeal was in any way related to the Claimant's race, nor was there any evidence that she had been put under pressure to reach a particular finding. It is of course the case that whenever an organisation engages an external consultant to carry out such an appeal the organisation pays the consultant but it pays the consultant for their independence. In the absence of some evidence to suggest that Miss Dixon was being encouraged or pressurised into reaching a particular outcome the Tribunal is entirely satisfied that she was not.

201. Miss Dixon's clear oral evidence to the Tribunal was that the Claimant's race played no part and at no point was she acting under instructions from Mr Quin. One of the points focused on in particular by the Claimant was what Mr Quin had said about Mr Ingam's reasons being "foggy". Again the Claimant was suggesting that this should have led to her appeal about the appraisal being upheld. Miss Dixon explained that she had discussed this with Mr Quin. As she explained in her outcome letter Mr Quin indicated that he had dug deeper with Mr Ingam to get behind the wording used in the documentation at the time. She was satisfied that when he referred to the reasons as being foggy he was referring to the written reasons at the time but was satisfied that the substance of the reasons was in fact sound.
202. That concludes the Tribunal's chronological findings. It is also necessary to refer briefly to some of the Respondent's policy. In particular section 2 of the Respondent's staff handbook outlined the board's roles and responsibilities. It said that staff should not approach board members directly about operation or other work related matters. Any matters a member of staff wish to bring to the board's attention should be presented to the manager who would in turn present to the board. There was a section in the staff handbook dealing with holidays and leave entitlement. That made clear that that holiday year ran from 1 April to 31 March. Employees would not normally be allowed to carry holidays across from one year to another. All holidays must be requested in advance and agreed with the line manager before any holiday was booked. For holidays of one week or more at least three weeks notice were required. Holiday requests would be given due consideration and wherever possible agreed. However a holiday request might be denied where it would be detrimental to the needs of the organisation or where another staff member had already requested the same days. In all cases the manager's decision was final.
203. There was a disciplinary process. It involved three stages, an investigation, a disciplinary hearing and an appeal. The outcome may take the form of a verbal warning recorded in the personnel file for 12 months, a written warning kept on the file for 12 months, a final written warning or dismissal with or without notice.
204. There was also a redundancy policy. The Claimant placed some weight on this and we refer to some of the passages in full.

"18.1.1. BEA's aim is to maintain and enhance the efficient and financial sustainability of the organisation and as far as possible to provide a stable work environment and reasonable security of employment for its employees. "

“18.1.2. However circumstances may arise where changes in the market, the level of funding either diminished funding or the completion of a funded project, where organisational requirements and working practices will necessitate the need for redundancies. The individuals concerned will be dealt with on an individual basis. “

The policy made clear that the Respondent was committed to ensuring no discrimination.

There was then a section dealing with process.

“18.2.1. Where the need for redundancies has been identified consideration will be given specifically to the following alternative options subject to business need in order to avoid redundancies:

- (1) To suspend recruitment other than essentials.
- (2) To consider re-deployment within BEA.
- (3) To reduce the number of temporary staff.
- (4) To seek to generate funds from other sources.
- (5) To invite applications for consideration of early retirement and/or voluntary redundancy or working fewer hours. “

18.3. Consultation

18.3.1.

18.3.2 At the onset an explanation and written notice will be given of the reasons for the proposed redundancy, what steps have been taken to minimise the problem and the selected criteria. The selection criteria may include some or all of the following but the list is not exhaustive.

- ◆ Length of Service
- ◆ Attendance record
- ◆ Disciplinary record
- ◆ Skills competencies and qualifications
- ◆ Work experience
- ◆ Performance records ...

18.4. Procedure

Written statement

18.4.1. The individual employee will be given a letter stating that their job is at risk and the reasons for this decision.

18.4.2. The employee will be invited to a meeting to discuss the situation.

Meeting

18.4.3. The employee will have the opportunity to state their point of view.

18.4.4. The manager will inform the employee about the decision to issue notice of redundancy.

18.4.5. The employee will be offered the right to appeal which must be made in writing within 10 working days from the date of the letter confirming the redundancy.

18.4.6. The details of the meeting and the right of appeal will be put in writing.

Appeal

18.4.7. If an appeal is received the employee will be invited to attend a further meeting.

18.4.8. The appeal meeting will be chaired by the chair of the board or his/her representative.

18.4.9. After consideration the final decision will be given to the employee in writing.

Notice of redundancy

18.4.10. The individual employee will be issued with written notice of the redundancy giving details of the last day of service with BEA and the redundancy payment that will be made ...

18.7. Suitable alternative employment

18.7.1. Employees under notice of redundancy shall be informed of all actual and expected vacancies at BEA during the period of their notice.

18.7.2. For each vacancy available at that time BEA will determine whether any of the employees declared redundant are suitable for the particular post. This will be done by inviting the employee to a re-deployment interview. The employee may have a representative or a work colleague of their choice present in an advisory capacity.

18.7.3. The purpose of the interview is to

18.7.3.1. Establish whether with a reasonable amount of training if necessary the employee is able to undertake satisfactorily

the tasks detailed in the job description for the alternative post. This will be done by:

- ◆ Considering the employee's complete work experience to date (whether paid or voluntary) and
- ◆ The skills she/he has acquired over time.

18.7.3.2. Establish whether the employee considers the post to be a suitable alternative and is willing to accept it ...

18.7.5. Where an employee under notice of redundancy is to be re-deployed BEA will use its best endeavours to provide training which is compatible with the work and business of BEA so far as is reasonably practicable.

18.7.6. An employee who is successfully re-deployed in an alternative post shall have his/her redundancy notice withdrawn.

205.

Employment Judge Davies
10 November 2016

Date Sent: 10 November 2016