APPENDIX

DETAILS OF THE ERRORS IN THE FINDINGS OF FACT
IN THE ET JUDGMENT OF 11.02.08

Contents

The errors in law in the findings of fact of the above judgment relate to the evidence described below. To demonstrate the significance of this evidence I have briefly set it in context.

1. **Background to my 1999 complaint**

   The ET judgment fails to give any consideration to facts and evidence that set the background to the relationship between my line managers and me that shows that my grievances against my employers were justified. This evidence can be summarised as:
   a) I had been promised on recruitment, that I would be offered resources for research and career development and that these promises were not subsequently honoured by the Respondents [211]. In response to my concerns agreements were made and further promises were given about such resources my 1995 appraisal [57]. The Dean (R Davis) refused subsequently to honour them.
   b) The Respondents refused to promote me to Reader. Evidence shows that there was no limit on the number of Readers to be appointed [221] and an eminent Professor in my field recommended my promotion [67G].
   c) I subsequently complained about these matters to the Vice Chancellor, P Scott, [68] on 27.10.98. The Vice Chancellor ignored my letter.
   d) Before the complaint in my 1999 appraisal I had been employed by the Respondents for 5 and ½ years and there had been no complaint whatsoever about me. Four days after I formally complained about the above matters in my 1999 appraisal [70], J Morris sent me a threatening letter with unfounded accusations [72]. In the next 4 years from 1999 to 2003 I was invited to disciplinary meetings a record breaking 9 times. (See paragraphs 14-16, and 29 of my written submissions.)

2. **Intimidation and retaliation for my 1999 grievance**

   What has been described in paragraphs 32-35 of the ET judgment in combination with what has been left out results in a misleading presentation of the facts. More specifically the ET judgment fails to mention the following relevant evidence:
   a) None of the allegations made by J Morris on 20.07.99 [72] had ever appeared or mentioned before I complained in my 1999 appraisal.
   b) Although the ET judgment mentions my grievance for personal harassment [75], it makes no mention of the fact that in that grievance I asserted that J Morris had *'set out to show that my performance is not acceptable.. by inaccuracies and unfounded insinuations.'*, and that I supported that claim in a detailed letter dated 27.07.99 [73]. There is no mention of my response [73] in the ET judgment.

3. The ET judgment failed to give proper consideration to the fact that the Personnel director refused to address my 27.07.99 grievance [75] for harassment. Relevant evidence consists of the emails 18.10.99 [82-84], paragraphs 10-12 of my witness statement, and the absence of any evidence that that grievance was ever addressed despite the fact that I never withdrew it.

   The ET failed to consider that this is a breach of the University's Personal Harassment and Bullying Policy and Procedure [623] (See paragraph 30 of my written submissions.)

4. The ET did not consider the evidence that in response to my 27.07.99 grievance [75], the Personnel Director colluded with R Davis and J Morris
   a) To pressure me to withdraw my grievance. This was to be achieved firstly by setting a bogus disciplinary hearing designed to intimidate me so that I accept a subsequent offer to cancel that disciplinary hearing in exchange for the withdrawal of my 27.07.99 [75] grievance. This aim was to be assisted by enticing me with an offer of a sabbatical leave for research offered under the condition that I withdraw my grievance.
   b) To set me up to fail with view to dismissal. The above sabbatical was a disguised means of entrapment. The plan was to set targets for the sabbatical and if I miss them straight to dismissal.

5. The facts and evidence were significant and were extensively discussed in my submissions. The ET failed to examine them properly; instead the ET trivialised what happened after failing to report a lot of the evidence put to the ET. I will give details about the Respondents' plan mentioned above and will point to the relevant evidence.

6. **Bogus Disciplinary Hearing of 24.09.99**

   The ET judgement makes no mention whatsoever of the disciplinary that was called on 24.09.99 [78] despite the fact that this is extensively discussed in my submissions. (See paragraphs 8-9 of my witness statement and paragraphs 30, 31, 41 of my written submissions.)

   The ET failed to consider the evidence showing that the allegations made by the Respondents both in the 20.07.99 letter by J Morris and in the subsequent bogus disciplinary hearing were false. ([86], paragraph 9 of my witness statement.)

7. I will give some examples of false allegations that supported the bogus disciplinary papers of 24.09.99 [78]:
   a) In his earlier letter of 20.07.99 [72], J Morris had alleged that I had *'failed to attend a Progression Board without issuing an apology, thus making the Board inquorate'*.
   I had addressed that in my 27.07.99 letter [73], stating that *'I was present at the Progression Boards for which I received notice. There are attendance records to prove it.'*
   J Morris then re-launched his earlier allegation by claiming, in the papers for the bogus disciplinary hearing, that the apology shown in the minutes of the 8.07.99 Progression Board had been put by him although I had not actually issued an apology. He said he had done that in order to be able to declare the Board quorate. [80], [81].
   I produced proof that this version of the allegation was also false. The proof was an email from my colleague Dr P Soan who confirmed that he had conveyed to J Morris the apologies I had asked him to convey on 8.07.99 [97].
   b) Another example: J Morris put together some unrelated emails to fabricate a false allegation that *'Despite requests to change the dates of the submission of projects, I* (J Morris) *decided to place this as an issue on the subsequent BOS. You will see from the attached note the response from Dr Benveniste and by implication her non-attendance at this meeting.'*
   I was able to show that this allegation was false by pointing that the alleged 'response' predates the alleged 'request' [88].

8. The Respondents refused to engage in any fact finding, despite my insistence to have a fact finding meeting to establish the facts about the allegations in both my grievance and the 24.09.99 bogus disciplinary papers. (See my 22.11.99 letter to E Lancberry [101].) E Lanchberry admitted during cross examination she had no interest whatsoever in holding a fact finding meeting.

As discussed in paragraph 41 of my written submissions, the above evidence supports my argument that E Lanchberry was aware that the allegations in the 24.09.99 bogus disciplinary were unfounded. Furthermore if I had shown in a fact finding meeting that the allegations made in the bogus disciplinary hearing papers were false, E Lanchberry would have to drop it. She would not then be able to use the offer of the withdrawal of that disciplinary action in order to pressure me to withdraw my grievance.

The Respondents ended up withdrawing the disciplinary hearing of 24.09.99 disciplinary [78] without my asking them to do so.

9. **The offer of a sabbatical.**

The offer of the sabbatical, as well as the circumstances surrounding this offer, are very significant and they have been extensively discussed in my submissions. (See paragraphs 30-40 of my written submissions and paragraphs 7-12 of my 2nd written submissions.)

The ET does mention (in paragraph 37 of the judgment) the offer of the sabbatical and that I considered this offer a means to 'oust' me. The ET apparently rejected my view. However the ET failed to consider or even mention most of the evidence that shows that this offer was indeed a means of pressuring to withdraw my grievance and an entrapment to set me up for dismissal. What has been described, in paragraph 37 of the ET judgment, in combination with what has been left out, results in a very misleading presentation of the facts.

Furthermore the ET introduced facts and argument that are totally incompatible with the evidence before the Tribunal, and used these false facts in order to undermine the credibility of my claims with respect to the true role of the sabbatical.

I will elaborate on the above claims and point to the missing relevant evidence and the inaccuracies introduced by the ET.

10. The ET failed to consider or even mention the evidence that both the withdrawal of the bogus disciplinary hearing and the offer of the sabbatical came with the condition that I withdraw my grievance for harassment. (See 02.12.99 letter by E Lanchberry to me [107].) This is consistent with my claim that they were means of pressuring me to withdraw my grievance. (See paragraphs 8-16 of my witness statement.)

11. The ET say (in paragraph 37) that J Morris became increasingly exasperated by my behaviour and what he saw as a failure to carry out my duties and in December 1999 he wrote a handwritten note that reads: '*specific targets and if she missed them this should be a final step in a disciplinary.*' According to the ET, what motivated this was his frustration because I would not agree outcomes for my sabbatical. This account is inconsistent with the evidence or argument put by either party, it was simply made up by the ET.

12. The evidence shows that :

a) The first communication about the outcomes of my sabbatical did not take place till February 2000 [117]. This date is **after** December 1999 which is when, according to paragraph 37 of the judgment, J Morris felt frustrated about this matter, which was supposedly the reason why he wrote the note [115] *. This point is therefore less than credible since people feel frustrated after the even that caused their frustration and not

* This document is attached.

before.

b) The wording of the handwritten note is not described accurately in paragraph 37. There is a significant part missing. The precise wording of the note [115] is :
'Part time replacement for Regina in 2nd semester.
Must carry research with specific targets. If she misses these she is final step in disciplinary procedure.
Get together with Bev + Felicity to make the case for disciplinary soon.'
(The part missing from the ET judgment is in bold font.)

Bev and Felicity were Personnel Officers. The disciplinary mentioned here was the bogus disciplinary hearing called on 24.09.99 [78]. This was the only disciplinary in 1999 or before 1999. (See paragraph 35 of my written submissions.)

The failure of the ET to mention the last sentence of the handwritten note ('.. *Get together with Bev – Felicity to make the case for disciplinary soon*') is consistent with the failure of the ET to mention anything about the bogus disciplinary anywhere in the judgment. More importantly, as I explain below, proper consideration of that omitted sentence proves that the interpretation of the significance of the handwritten note [115], by the ET, is inconsistent with the evidence.

c) The ET says in paragraph 37 that the handwritten note [115] was written by J Morris. However J Morris testified during cross examination that the note [115] was written in his own handwriting but it was a verbatim record of the words spoken by E Lancberry during a telephone call.

As I explained in paragraph 45 of my written submissions, when E Lanchberry masterminded the plan of the bogus disciplinary hearing and the sabbatical in order to intimidate and set me up for dismissal, she did not even know me. So her unreasonable conduct cannot be attributed to 'frustration' or her view that I was 'difficult', as the ET suggested in some instances. (See paragraphs 38, 41 of the ET judgement.)

d) The ET says that the handwritten note [115] was written in December 1999. However the evidence shows that the note was written earlier. More speicifically :

As explained by the commentary recorded on page [115] the phrase *'Part time replacement for Regina in 2nd* ***semester'*** that appears on this note shows that the note could not have been written after 10 December 1999. That is because on that date it was decided that instead of having the sabbatical during the 2nd semester of academic year 1999-2000, I would have it during the 1st semester of 2000-2001. See [112].

Since the note [115] was written in 1999, then the only disciplinary the phrase '*Get together with Bev – Felicity to make the case for* ***disciplinary soon***' could be referring to, was the bogus disciplinary called on **24.09.99** [78]. There were no other disciplinary calls in 1999 or ever before. That implies that the note [115] was written before 24.09.99.

In paragraphs 35-36 of my written submissions I have discussed the above evidence showing that the timing when the handwritten note [115] was written ought to be around late August - early September 1999. The ET has apparently ignored the evidence on this matter and has given a different date that is not supported by the evidence.

13. In conclusion I have shown that what is written in paragraph 37 is inconsistent with the facts. This error in law is very significant because what is written in paragraph 37 was

designed to undermine my claim that the sabbatical was a means of entrapment to set me up for disciplinary action and dismissal. This claim can be shown to be entirely consistent with the evidence described below.

14. **The true role of the offer for the Sabbatical.**

The handwritten note [115] shows that the sabbatical and the bogus disciplinary hearing were planned together, since they were communicated in the same message from E Lanchberry to J Morris.

I submitted that the offer of a sabbatical would normally have been a reasonable response to the grievance about lack of time to do research. However a plan, such as the Respondents', that combined an offer of a sabbatical with a bogus disciplinary hearing would be very odd indeed. Since they were used to make me withdraw my grievance it follows that that was the reason why they came about. (See paragraph 14 of my witness statement, paragraph 31 of my written submissions.)

15. More importantly the wording of the handwritten note [115] shows that it was a means of entrapment by setting unreasonable targets for research and then dismiss me if I missed them. In paragraphs 15-18 of my witness statement and 37-40 of my written submissions, I explain why there can be no scope for any other interpretation to what is written in [115]. The ET has not considered or addressed any of what is written.

16. The story in paragraph 37 of the judgment is not supported by evidence, it is supported instead by comments (appearing in paragraphs 34 and 37 of the judgment) about my alleged unwillingness to define targets for my sabbatical. These comments in turn are also inconsistent with the facts and evidence.

17. To start with, the evidence shows that it was up to me to plan my sabbatical and define the objectives of my research. (See [113], [118], [119], [120A].) Consequently it was inappropriate and unreasonable for the Dean, R Davis, to attempt to specify the deliverables of my sabbatical. In addition R Davis had no expertise or understanding of my field, no knowledge of where my interests lied and he never discussed this with me. This is explained in paragraph 16 of my witness statement and 44 of my written submissions. It is supported by contemporaneous correspondence [118], [119], [120A].

18. The evidence shows that I am an expert in my field, that I was very keen to do research [70]. So any finding by the ET that implies either doubts about my commitment to do research or my competence to judge what was doable within the constraints of a sabbatical leave is not supported by the facts. (See paragraph 16 of my witness statement.)

19. Furthermore planning research and specifying deliverables of a research programme takes some work and consequently time. R Davis attempted to specify the deliverables of my sabbatical before I even had time to think about that matter at a time when I was very pressed for time and tied up with the QAA review. I explained to R Davis that I would not have time to think about the deliverables till after the QAA review was over. ([118], [120A].) These matters and the supporting documented evidence are discussed in paragraph 44 of my written submissions.

The ET also failed to attach significance to the premature haste and persistence with which R Davis attempted to specify deliverables of my sabbatical that I considered unreasonable, despite the fact that it was not up to him to specify them.

20. Having ignored the above facts and evidence, the ET states, in paragraph 34, that I was being awkward and reluctant to commit to anything specific. The ET also states, in paragraph 37 of the judgment, that I did not agree any targets for my sabbatical. This is inconsistent with the evidence that shows that during the meeting of 23.10.00 I committed that at the end of my sabbatical I expected to produce a paper for publication and in the coming academic year I would give a seminar on my research. (See [135], paragraph 22 of my witness statement.)

21. The reason why the Respondents did not call for a disciplinary at the completion of my sabbatical, on the grounds that I missed the set targets, is because I delivered what I had promised to deliver. (See paragraph 24 of my witness statement, paragraphs 7-12 of my supplemental evidence and paragraph 46 of my written submissions.)

22. There is further proof that leaves no doubt that the offer of the sabbatical was a means of entrapment for my dismissal. In August 2000 there was yet another attempt to bring disciplinary action against me on grounds that I will describe later. In the 18.08.00 letter to R Davis [124], J Morris proposes '*immediate disciplinary action* ***(even before the sabbatical leave is complete)***'. This letter was written a year after the plan, to entrap me through the sabbatical, was first recorded in the handwritten note [115], and before the sabbatical was complete. It thus confirms that there was definite such a plan in place. The ET failed to consider or mention this evidence.

23. **Events in August 2000**

    The ET has failed to consider or even mention significant evidence that undermines the ET's findings. What is said in paragraph 36 is misleading.

    More specifically: the ET relied on documents [119, 123, 131] to show that in the summer of August 2000 I was not officially on sabbatical. Even if that were true, it is irrelevant. The relevant fact is that the Dean and I agreed that I would start my sabbatical research in the summer 2000. The 18.04.00 letter from R Davis [121] shows that. (See [200], paragraph 50 of my written submissions.) Contemporaneous evidence shows that RD agreed that my assumption that I was on sabbatical was justified and understandable (letter after 12.10.00 meeting [134B]). The ET failed to give consideration or even mention both letters.

24. Given that the Dean and I agreed I would spend the summer on research (sabbatical or not) I should not have been assigned any other duties including manning the telephones for clearing. This is consistent with my employment contract. (See paragraph 3(b) of the Statement of Particulars [606].) More importantly it was wholly unacceptable for J Morris to shout at me and threaten me as described in the email of 17.08.00 [123]. The ET failed to give consideration or mention this evidence.

25. **Attempt to set me up for disciplinary action after my 17.08.00 complaint.**

    The ET failed to consider or even mention anywhere in their judgment the harassment that followed after my 17.08.00 complaint about J Morris conduct. The facts and evidence are as follows:

26. Contemporaneous evidence shows that R Davis authorised my annual leave [703]. He did so because I protested that I was entitled to annual leave and I only had 3 days annual leave that year [123]. Annual leave of 3 days is less than the statutory minimum and far below what I was contractually entitled. In that email [123] I complained about the abusive conduct of J Morris. Following my protest J Morris urged that disciplinary action

be taken against me [124].

27. The Respondents embarked into extensive investigations, involving solicitation of information from administrative staff and colleague, in order to find things to base the disciplinary action on. The Personnel officer who conducted this search was F Wiltshire. (See [127], [128], [700]. Her 23.08.00 email [125] reveals excessive zeal in trying to find *'good'* grounds for disciplinary action. (See paragraph 20 of my witness statement.)

    Ms Wiltshire reached the conclusion that the Respondents had no grounds for disciplinary action against me. (See paragraph 6 of J Morris' supplemental witness statement.) R Davis however would not let go. He invited me to a meeting on 2.10.00 where Personnel was present. He was very aggressive towards me. When I defended myself he shouted 'shut up'. (Paragraph 21 of my witness evidence.)

28. The above events that transpired after my 17.08.00 complaint [123] amount to harassment and retaliation. More importantly they show the excessive eagerness of the Respondents to set me up for disciplinary action. I have discussed this and presented the relevant evidence in paragraph 54-60 of my written submissions and in the document titled *'Harassment'* [215] that was submitted for the appeal of my 2001 grievance.

    I also said in paragraph 61 of my written submissions that this mistreatment took place after I asserted my right to take annual leave and was a **breach** of **s45A of ERA 1996** (amended by SI 1998 article 31(1) relates to the right not to suffer detriment, working time cases).

    The ET have not considered or even mentioned any of the above.

29. The ET has overall failed to attach any significance or even mention instances where the Respondents made false allegations in their witness statements that amounted to perjury. For example the allegations below appeared for the first time in the Respondents' witness statements 6 years after the alleged events.
    a) J Morris described, in paragraph 3 of his supplemental witness statement, a procedure for getting authorisation for annual leave and claimed that I did not follow it in August 2000. However the document [134A] shows that J Morris did not notify the School of Mathematics about that procedure till 28.09.00, which proves that J Morris allegation amounted to perjury. (See paragraph 48 of my written submissions.)
    b) R Davis claimed, in paragraph 9 of his supplemental witness statement, that a reason why he invited me to the 2.10.00 meeting was because he thought it was not acceptable that I took annual leave without authorisation. However the evidence shows that this claim, made under oath, was false and therefore amounted to perjury. The relevant evidence in [703] shows that R Davis had authorised my request for annual leave. The same is shown by the letters on pages [134] and [134B]. The letter [134] was the one inviting me to the 2.10.00 meeting and the [134B] was sent as a follow up to that meeting. Neither letter says anything about my having taken annual leave without authorisation. (See paragraph 49 of my written submissions.)

30. **Other unfavourable treatment in 2000**

    In paragraph 38 the ET makes a vague reference to the incident about the request that I share my desk. The ET also refers to the email [112]. However they give no details about them. The ET is insinuating that its finding is based on evidence that in reality does not in any way support that finding. I will explain why the ET has done just that by describing the above incidents and related evidence:
    a) The evidence relating to the request that I share my desk and pc with a visitor is found in [121C], [178], [668], [98], [207A], [207B], [215]. This request was wholly

unreasonable since I told J Morris that I needed to use my office and pc on a daily basis. There were other desks the visitor could have used, including the desk that the visitor ended up using for the duration of his visit. This unreasonable request was followed by a rude email from J Morris and a series of inaccuracies in an attempt to justify his unreasonable request.

b) The ET has made a reference to the pattern that emerged from *'correspondence and documents on the file'*. but it has given no specifics other than the document [112]. I attach herewith a copy of the document [112] [*]. It shows nothing inappropriate on my part, but reveals inappropriate comments by R Davis regarding my ethnic origin. Overall I believe that what is written in paragraph 38 of the judgement amounts to unfounded innuendo.

31. The ET failed to consider or mention the fact that on 14.11.00 J Morris, acting arbitrarily and capriciously, blocked my 2000 application for readership [139]. That incident alone would have entitled me to resign and claim unfair constructive dismissal. The ET were directed to related case law in *Post Office v Roberts (1980) IRLR 347.*

32. **Events in 2001 - The T Tollman incident**

The account given in relation to the T Tollman incident is not entirely consistent with the evidence and several significant facts have not been considered or even mentioned. (See paragraphs 25-26, 36 of my witness statement.)

33. The statement, in paragraph 39 of the judgment, that T Tollman complained to her line manager is not based on the evidence. The facts are that I told T Tollman in a raised voice *'What do I have to do so that you do not attach the wrong forms?* I did so because she refused for 2 years to follow my instructions in relation to forms for the projects. Her line manager, B Forbes, and R Davis put a grievance accusing me of harassing Ms Tollman. They took 6 months to prepare the material, and gave me only 10 days (the minimum required by the rules) to prepare for the hearing that was conducted without witnesses.

34. I included the handling of the T Tollman incident in my July 2001 grievance for harassment against my line managers. The ET tells us that Ms Gipps gave me an informal warning. However what is **conspicuously absent from the ET judgment** is the fact that the University Governors who heard my grievance felt that the pattern of events supporting my grievance had not been properly investigated and gave as an example the handling of the T Tollman incident. They said they were **suspicious** about that [244].

35. **What prompted my 2001 grievance.**

My grievance in July 2001 was triggered by a sequence of abusive emails sent to me by J Morris. However the underlying reason was the realisation that the harassment that started in 1999 had continued and needed to be stopped [177]. The ET judgment refers to the page numbers of some of the relevant emails but what is written in the judgment is inconsistent with the content of these emails.

What has been described in paragraph 40 of the ET judgment, in relation to what led to my 20 July 2001 grievance, in combination with what has been left out, results in a misleading and trivialised account of the facts.

36. The relevant events are documented in [167], [177],[178], in paragraphs 29-43 of my witness statement and they are as follows:

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[*] This document is attached.

On 27.06.01 the Dean R Davis monitored my movements. He thus found out that I had called in sick that day [152]. On 28.06.01 R Davis instructed J Morris to monitor my self certification for sickness absence, to keep a record of requests and of my responses and to pass them on to R Davis for him to lodge in my file [155]. He went on to monitor and prompt J Morris' communications with me [160], [166], [170].

37. J Morris admitted, during cross examination, that R Davis had never made a similar request for any other member of staff. In paragraph 29 of my witness statement I described the established self certification process showing that the Dean (R Davis) did not get involved in that process. R Davis' instructions show his readiness to try to use any little detail about me he came across in order to harass me.

38. J Morris proceeded to write a sequence of unreasonable emails requesting that I put self certification for three, then five, then six days despite the fact that he knew I had been sick for only one day and had worked at home the 2 other days. [156], [163], [164]. J Morris went on to bombard me in June, July 2001 with rude, abusive emails, copied to my colleagues and the Dean, making false accusations. He falsely accused that I swore to a colleague N Atkins [164] and N Atkins had to write explaining that this accusation was not true [165]. J Morris falsely accused me I had not sent him my appraisal [172]. I produced proof I had done so [173].

39. J Morris attempted to justify his unreasonable request for sickness self certification by claiming that when I was not on site and the chart did not show where I was, I ought to self certify for sickness. There was no such policy or practice in the School of mathematics. The 26.03.01 email from the School secretary to the whole school [141] confirms that what we marked in the chart was when we were away. Nobody marked the chart when they worked at home.

    I forwarded J Morris' email to Personnel explaining that he was trying to apply a special policy for me, trying to blame me. I had been working from home as others did and the secretary had my home telephone number with instructions to give it to anyone who wanted to contact me [171].

40. As a result of the above communications that were copied to R Davis, he realised that I used to work at home. He later used this fact as a basis of harassment and eventually my dismissal. He did that by instituting home working restrictions that were enforced only on me. I will discuss this later.

41. **Refusal to authorise my annual leave.**

    One of the complaints in my 2001 grievance had to do with J Morris' refusal and the difficulties he created with the authorisation of my annual leave.

    The ET has briefly described the issue of annual leave at the end of paragraph 39 of the ET judgment. The ET refers to the page numbers of the relevant documented evidence however the brief account it gives is inconsistent with the contents of those documents. A distortion of the chronological order of events has led to a misleading account of what transpired.

42. The documents [145], [156], [161], [162] show that
    - On 8.05.01 the Admissions tutor, M C Wyman, wrote to the School of Maths *'Please book your August leave ASAP as by **June** time anyone not doing so will be doing clearing duty by default'* [145].

- On 22.05.01 M C Wyman wrote '*What a good time to book your leave! The first draft at a Clearing Rota is in your pigeon holes now. Please read.*' [145].
- On 22.05.01 I replied to M C Wyman '*I plan to be on holiday 13-31 August 2001. I will probably take another 2 weeks as I am contractually entitled to 5 weeks of holiday.*' [145].
- The above emails were copied to J Morris [145].
- On 23.05.01 J Morris wrote to me '*make sure you get your holiday form signed by me*' [145]. He did not object to my taking annual leave on 13-31 August 2001.
- On 29.06.01 J Morris wrote [156] to me '*I will point out to you now that as you probably know that the school is heavily involved in Clearing so I would advise you that the period coinciding with clearing will not be an appropriate time to take vacation unless there are very good reasons for doing so.*
- I submitted a holiday authorisation form, but J Morris refused to authorise it.
- On 4.07.01 I wrote [161] to J Morris reminding him '*As you well know, back in May, I informed C Wyman that I will be on holiday 13-31 August. I still intend to take those days of holiday. I have put a form in your pigeon hole for you to sign.*' I explained that we were contractually entitled to 35 days of annual leave but our various duties made it impossible to take the leave we were entitled to. I also asked for permission for holiday between 16 July - 10 August. (That was before Clearing that took place in late August.)
- On 5.07.01 J Morris authorised the leave for 13-31 August 2001 but left for holiday without authorising my request for leave 16 July - 10 August 2001 having issued directions on 4.07.01 [162] that no one could book a holiday before he had authorised the form. I thus lost many days of annual leave that I was contractually entitled. J Morris forbade me to take annual leave during clearing the next year [163]. No other member of the School was given such instructions.

43. The ET failed to give an accurate account of the above evidence, despite the fact that a factual account is given in paragraphs 31-32 of my witness statement.

    Having the above evidence before it, no tribunal, that examined the evidence with fairness and honesty, would present an account of events as inaccurate as what is presented in paragraph 39 of the ET judgment :'*contrary to instruction and without having got prior authorisation, she had booked to take (annual leave) during the clearing period after the rota for clearing had been drawn up*'.

44. The ET failed to consider or even mention the following relevant evidence:
    a) The Approved Absence forms for August 2001 [590K] show that half the School of Mathematics was on annual leave during Clearing in 2001. Participation in clearing was voluntary and I was the **only** person of the School that J Morris pressured not to take annual leave during Clearing. (Paragraph 68 of my written submissions.)
    b) I subsequently wrote about this matter in my July 2001 grievance: '*there are members of staff that have never participated in clearing yet they are not persecuted. I have participated in clearing two years ago. I am persistently persecuted for asking for a holiday for being sick and in fact for everything I do and do not do.*' (See document 'Harassment' [page 224].)

45. What is conspicuously absent from the ET judgment is that the Governors who considered the evidence for my 2001 grievance thought that '*...the refusal to allow Regina to take her holidays ... was an example of double standards, ie. the same didn't happen to other staff.)* [page 244] (Paragraph 68 of my written submissions.)

46. **Processing my 2001 Grievance**

The ET failed to mention the following relevant evidence that relates to the processing of my 2001 grievance :

a) I objected to the plan that E Lanchberry heard the grievance because of her previous involvement. My objections were ignored.
b) The ET referred to the 9.10.01 email that E Lanchberry wrote ahead of the hearings to the Vice Chancellor saying that I was a very difficult person and had been a problem for some years [197]. However the ET failed to consider that this was an attempt to undermine the impartiality of the Vice Chancellor.
c) My written statement was produced by a consultant hired by E Lanchberry. I did not agree with the statement produced by Lyn Hickman and asked to submit my own statement. I was not allowed. I was not permitted to put documented evidence in support of the statement. (See paragraphs 44, 45 of my witness statement.)
d) The Governors who heard the appeal of this grievance thought that the University procedures had not been properly followed [244].
e) The finding was that J Morris and R Davis were guilty of poor management but not guilty of harassment and ought to receive executive training.
f) I was offered a secondment to the Business School for one semester. After that I would return to the Faculty of Science with J Morris and R Davis. This temporary secondment was offered under the condition that I did not proceed to appeal. [204A], [206].
g) I refused the secondment because it was not a long term solution to what had proved to be a long term problem. I had asked a permanent transfer to the Business School. [205]. After the conclusion of the appeal hearings I asked again, on 3.09.02, for a permanent transfer to the Business School but I was refused [271], [274].

47. The statement in paragraph 40 of the ET judgement that I was offered a transfer to the Business School is inaccurate.

48. **Retaliation for my 2001 grievance.**

The ET mentions the 16.01.02 email by E Lanchberry to R Davis [204] [♣]. That email contains the following relevant matters that were not mentioned:

a) The reason why E Lancberry proposed my dismissal was because she could not *'cope with another hearing, this time with the VC, them possibly a hearing with Governors and meanwhile she (I) is still employed and in your (R Davis') Faculty'*.
E Lancberry suggested that she and R Davis propose to the Vice Chancellor to dismiss me on the grounds that *'relationships have completely broken down.'* E Lanchberry anticipated that I would then appeal to the Governors against the dismissal but they would then *'get it all over in 1 appeal'*.
b) E Lanchberry's plan was to talk to the lawyers and the she and R Davis would go together to talk to the Vice Chancellor.

49. The ET failed to consider or even mention the following relevant evidence about the preparations to dismiss me after the Governors' hearing in June 2002. This material has been presented in paragraphs 53-57 of my witness statement and supported by various documents:
a) E Lanchberry proceeded and took legal advice about the plan to dismiss me after the Governors' appeal hearing (scheduled for 14.06.02) and discussed it with the Vice Chancellor on 12.06.02 [233].

[♣] This document is attached.

b) R Davis' handwritten notes [225], written on 10.4.02, show details of how my dismissal would be dealt with including the final marking of my exams when I get dismissed.
c) At the end of the appeal hearing with the Vice Chancellor on 10.04.02, the later warned me not to proceed with an appeal to the Governors. [230].
d) My line managers, E Lanchberry and the Vice Chancellor had taken the decision to dismiss me right after the 14.06.02 appeal hearing with the Governors [244] *.
e) The true views of the Governors were very critical of the way management treated me. These views were not recorded in the official findings of the Governors but they communicated privately to the Vice Chancellor and are documented in the 14.06.02 email [244]. This disparity between what the Governors believed and what they put in their findings indicates an attempt to cover up management's wrong doing and is consistent with bias which is corroborated with the Vice Chancellor's view that these were *'three of the most sympathetic governors we (*the Respondents*) could possibly have'* that *'did the best job they possibly could'* [246].
f) The email [244] written by the VC shows some of the criticisms of the Governors against management. Namely, that procedures had not been followed properly, that my complaints for harassment had not been properly investigated, that the refusal to allow me to take holidays was something that did not happen to other staff, it was an example of double standards. The governors were also suspicious of the T Tollman incident [244].
g) Management's plan to dismiss right after the Governors' hearing was not actioned because the Vice Chancellor hesitated due to the criticisms of the Governors against management. He felt they had just had a *'narrow escape'* and consequently he proposed to postpone the dismissal for 6 months and then take action [244].
h) The Vice Chancellor admitted during cross examination that the plan during these 6 months involved the introduction of the home working restrictions of 25.10.02.

50. Overall what has been described in paragraphs 41-42 of the ET judgment in combination with what has been left out results in a misleading presentation of the facts. Having done that the ET attempted to trivialise the significance plan to dismiss me after the 14.06.02 hearing, by the comment 'whatever she (E Lancberry) thought the Respondent did not in fact take action to dismiss her'.

51. **The aftermath of the Governors' hearing.**

What is written in paragraph 43 of the judgment is inconsistent with the facts insofar as it amounts to misleading innuendo.

More specifically: The wording of paragraph 43 suggests anything but the fact that in June 2002 J Morris acted arbitrarily and capriciously in denying me annual leave during the re-sit examination period, despite the fact that there was a procedure to deal with the eventuality that an exam might get scheduled so that it coincided with my holiday. That his refusal came only days after the Governors expressed the view that denying me annual leave showed double standards and that others were not treated in such unfavourable way. (See [251], [244] and paragraphs 19-22 of my supplemental witness statement.)

52. The ET states (paragraph 45) that the decisions during the 12.07.02 meeting were motivated by the alleged criticisms by the Governors about the arrangements for taking annual leave. This claim is inconsistent with the evidence. More specifically:
a) The documents and evidence that were presented to the Governors ([215] [181]) highlighted the difficulties all staff had, because of the workload, in taking the annual leave staff was entitled. There was also evidence on how J Morris' treated me

* This document is attached.

unfavourably by refusing to authorise my annual leave. The Governors addressed the above issues that they were presented with, and not the procedure for requesting annual leave that was not an issue before them [244].

b) In contrast, the action points from the 12.07.02 meeting [252A] had to do with the rules regarding sickness notice and sickness certification and the procedure for requesting authorisation of annual leave. What was new in terms of the rules discussed on 12.07.02 was the new rules restricting home working. In addition to that, there was one action point to arrange for someone to co-teach the 2 modules I taught on my own. That must have been in order to ensure that someone else could teach my modules when I got dismissed.

c) The action points of the 12.07.02 meeting [252A] show that the purpose and outcome of that meeting was to set the background against which criticisms and disciplinary action against me were to be based and consolidate the plans for my dismissal. (See paragraphs 60-62 of my witness statement.)

53. **The home working restrictions were introduced in order to harass me.**

The reasons why R Davis introduced the home working restrictions were the subject of extensive evidence and argument. R Davis insisted that the home working restrictions were introduced for genuine business reasons (like the budget deficit of the Faculty of Science) and denied that my own practice to work at home was the reason why the home working restrictions were introduced. However he could not offer a credible explanation why the decision to introduce the home working restrictions was taken during the 12.07.02 meeting that was held for the 'Management of Regina Benveniste' [252A].

54. During cross examination, J Morris gave evidence contradicting R Davis. J Morris did not know what the budget deficit had to do with the home working restrictions, he admitted that the restrictions were introduce for me, that is why they were discussed during the meeting of 12.07.02 which was for me.

The ET apparently accepted that the home working restrictions were made for me. This finding of fact is consistent with the evidence. However the ET failed to attach significance to the fact that R Davis had categorically denied that, which would suggest that R Davis had something to hide.

I submitted extensive arguments and evidence that the various reasons why R Davis says he introduced the restrictions were untrue and the **real reason** why these restrictions were introduced was to **harass and victimise me**. The related evidence and arguments are presented in paragraphs 170 - 181 of my written submissions. The Tribunal did not address these arguments or the supporting evidence.

55. **My home working had caused no problems and was consistent with the rules and practice.**

The ET stated (in paragraph 46) that my own home working caused genuine difficulties and prompted the introduction of the restrictions. This claim is not supported by the evidence. More specifically:

a) The Respondents' amended Response [31] has a bullet list with the reasons why the home working restrictions were allegedly introduced. There is no mention in that Response that my home working had caused any problems. The Respondents did not pursue such an argument in their written submissions.

b) R Davis explained in his witness statement (paragraphs 4, 5) that one of the reasons why he introduced the home working restrictions had to do with the problems and complaints about Dr Lucas from the School of Earth Sciences and Geography who neglected his students. The Respondents submitted documented evidence showing the

complaints against Dr Lucas. R Davis did not claim in his witness statement that there had been any problem with my home working.

c) R Davis categorically denied, during cross-examination, that the introduction of the home working restrictions had anything to do with my home working and confirmed, under oath, that there had been no problem with my home working. He also confirmed that he had no complaints or evidence that I neglected my students or burdened my colleagues, or I that I failed to attend appointments with my students.

d) The contemporaneous documented evidence does not support the allegation, made by the ET, that my students were seen by others because I was not available to see them. In fact, the notes from the 12.12.02 meeting held shortly after the introduction of the home working restrictions, between J Morris and myself to discuss these restrictions, confirm that the School of Mathematics had no problem with the home-working of any of its members [318].

56. The ET failed to attach any significance or mention anywhere in its judgment the many instances of false allegations and perjury by the Respondents' witnesses.

One such example appears in the notes of the 13.03.03 interview of J Morris by J Smith [354I] that record the following allegation by J Morris: '*RB was not marking on the chart that she was not on site on Thursdays, which would be an indication by default that she was on University premises. However, JM was aware that, often, RB had not been on site on Thursdays. Today (Thursday) was an example of RB not being at the University, but there was no indication on the log sheet that she was working off site.*'

I asked J Morris to confirm during cross examination (under oath) whether the above allegation was true. He said it was true. I then showed that this allegation was false and unfounded by inviting the Tribunal to examine the above mentioned chart / log sheet [590DD, 590CC] that shows that contrary to J Morris' allegations, I had indeed marked an 'H' (ie that I was working at home) on 13.03.03 as well as most Thursdays prior to that date.

57. The ET failed to consider or even mention that my home working and the way I saw my students were entirely consistent with the procedures and practices at Kingston University and the Faculty of Science where there was a flexible work pattern both in relation to the place and time of work. (See paragraphs 67-68 of my witness statement and 154-159 of my written submissions.)

More specifically the ET did not consider or mention the following relevant evidence that was not disputed by either party :

a) I worked at the university when I had lectures, meetings, office hours, appointments and at all times when I needed to be present at the university. At other times I usually worked at home. Evidence shows that this practice was common in the Faculty and the university. (See paragraph 6 of the amended response [28] and [450].)

b) The documented evidence ([657], [584-58], [587-588]) shows that the policy of the School of Mathematics was that students were seen by their teachers during publicised office hours or by appointment. I saw my students in accordance with this policy.

c) There was no requirement or expectation that lecturers should see their students at times other than what was implied by the above policy. In fact several colleagues refused to see their students at any time other than their office hours and by appointment. (See paragraph 46 of my supplemental witness statement).

d) There are rules in the statement of Particulars and the Staff Handbook regarding the hours of duty and how the duties are determined. See 'GUIDELINES FOR THE DETERMINATION OF DUTIES OF LECTURING STAFF' [604], or 'HOURS OF DUTY ACADEMIC STAFF' [637]. Once these duties were assigned (typically once a year), it was up to academic staff to deliver these duties. This was done flexibly with

respect to time and place. Academic staff self managed their work, given of course the constraints of timetables and other set events. (See paragraph 5 in J Morris' supplemental witness statement.)

e) There is no term in the contract or in the Staff Handbook specifying the amount of time one had to be physically on campus.

f) If a member of academic staff neglected his duties, his Head of School, would normally discuss that with him and if things did not improve the HOS could take disciplinary action or dismiss that member of staff. There was no evidence that I neglected my students or did not carry out my duties. Nobody ever told me I neglected my students or did not carry out my duties.

58. The ET do not appear to have found the reasons given in the amended response for the introduction of the home working restrictions convincing. The ET chose instead to rely on the comment by R Davis that students might not follow the procedures and might try to see their teacher outside office hours without appointment. If they did not find him/her they might go to another teacher (paragraph 46 of the judgment).

This is a hypothetical situation that could potentially arise with respect to any member of academic staff independently of whether he worked at home. For example there was evidence, that it was hard to find J Morris in his office because he had lectures and meetings (like everybody else) and in addition to that he used to 'hide' in the library so that he would not be distracted.

It was wrong in law for the ET to have relied on such a hypothetical situation since there was no evidence before the Tribunal that my students went to see other teachers because they could not find me. R Davis confirmed during cross examination that my home working did not cause any problems.

59. **Unilateral Variation of the terms of employment / contract**

The account given in paragraph 50 is not accurate. The action of a breach of contract has never been determined on the merits by the County court. There has been no submission or examination of evidence (that court did not even see a copy of my contract). There has been no finding of fact or of law that the unilateral variations by the Respondents did not amount to a breach of contract. The County Court struck out my breach of contract claim as an abuse of process because I did not claim a monetary loss. I had just asked for a declaration of a breach of contract.

I may not be entitled to re-litigate the matter of a breach of contract, however I am entitled to argue that the Respondents acted unreasonably by issuing an instruction that was against the terms of the contract, amounted to a unilateral variation of the terms and conditions of employment and applied exclusively on me, for no good reason.

60. The ET wrote they should not consider the matter of the unilateral variations by the Respondents, however they stated that the memo (that is the 25.10.02 home working restrictions) did not constitute a breach of contract. They reached this conclusion without proper consideration of my arguments and the evidence. I explain below.

61. I submitted (paragraph 128 of my written submission) that the new rules involved a unilateral variation of the express term of contract relating to the PLACE OF WORK. Paragraph 5 of the Statement of Particulars says : *'You will be based at one of the current University Centres, but the duties of the post, as agreed between you and your Dean, may involve working at other centres of the University, or other locations as agreed...'* The Respondents changed my place of work against my will thus doing away for no good reason with the element of agreement stipulated by the term PLACE OF WORK [606].

The Tribunal failed to properly consider this matter or possibly failed to understand it.

62. In paragraphs 129-132 of my written submission I discuss the unilateral variation of the term HOURS OF DUTY (paragraph 3(b) of the Statement of Particulars) [606A]. This term became relevant only because the Respondents attempted to use it in an attempt to lend legitimacy to the 25.10.02 home working restrictions.

Paragraph 3(b) of the Statement of Particulars states:
"(b) In support of your teaching role you will be expected and encouraged to practice, and or engage in, updating, research and professional development in your area of specialisation and 20% of the calendar year will be allowed as self-managed time for this purpose. The exact use and disposition of this time will be agreed with your Dean, normally on an annual basis, which may be through appraisal.
Practices will differ on the use of this time but normally a block of at least 4 weeks may be set aside at an appropriate time of the year. This may include time during teaching terms by agreement between you and your Dean. This professional development time may be taken consecutively with the period of annual leave at the discretion of your Dean. You may, however, engage in these activities for more or less than this specified time allowance by agreement with your Dean."

63. The Respondents attempted to justify the rule of 1 day a week mentioned in that memo by claiming that the 1 day a week of the memo is equivalent to the entitlement of academic staff to 20% of the calendar year that should be dedicated to research and professional development. The relevant reference appears in paragraph 14 of the amended response [31]. Also R Davis refers to paragraph 3(b) in the notes of his interview with J Smith [354C]. There are similar references elsewhere in the evidence.

64. The above justification is unacceptable and paragraph 3(b) of the Statement of Particulars cannot lend any legitimacy to the 25.10.02 memo because:
    a) 1 day a week for a year is not the same as a block of 4 weeks in a year despite the fact that they both are approximately equal to 20% of one's time. Staff typically worked at home to avoid distraction and during term time they typically caught up with work like marking. So the 1 day a week of work at home in the 25.10.02 memo is not the same or equivalent to the block of 4 weeks a year dedicated to professional development.
    b) If the above equivalence were to be accepted then that would imply that by working at home 1 day a week (performing typically teaching duties), lecturers would be considered as having used up their 4 week entitlement for professional development. Consequently lecturers would lose their entitlement to professional development. That would amount to a unilateral variation of the contracts of academic staff.

65. The ET stated that *'the one day a week from home was designed to safeguard the 20% self managed time.'* This statement would be irrelevant, unless the '20% self managed time' referred to the entitlement of 20% of a lecturer's time for professional development which was self-managed, as described in paragraph 3(b) [606A].

As I already discussed above, equating the 1 day a week in the 25.10.02 memo with the 20% entitlement for professional development, would result in the **erosion** of the entitlement of academic staff to time for professional development **rather than the safeguard**. This is the only rational conclusion one can draw from the facts. The finding in paragraph 50 of the ET judgment is therefore inconsistent with the facts.

66. In paragraphs 133-139 of my written submissions I discuss the requirements relating to the VARIATION TO TERMS AND CONDITIONS OF EMPLOYMENT. Paragraph 15 of the Statement of Particulars [page 606D] reads:

'This contract may be varied by the agreement of both parties. Furthermore, terms and conditions for all academic staff may be varied from time to time by Governors in the light of a joint agreement of the recognised negotiating body for academic staff.'
The evidence shows that the two parties (myself and my employers) did not agree on the home working restrictions that unilaterally varied my conditions for employment. The conditions were not varied for all staff, the variation was not made by the Governors and there was no agreement with the negotiating bodies (ie unions). The ET failed to properly consider this evidence and arguments.

67. In paragraph 47 of the judgment the ET say that the unions *'raised no objections'*. That is inconsistent with the evidence. The response from the NATFHE representative states. *'There is opposition to this. Folk are extremely reluctant to add another form to the pile that already exists. Also, it is felt that the majority of the staff fulfil their roles – most case above and beyond the provisions set out in their contracts. Clearly if the majority of staff worked to contract it would make it very difficult for any Faculty in the University to operate. An additional comment was that there are times when staff take time off in lieu and that this should be regarded as a legitimate practice. ... ...*
I would urge your FMG not to introduce a system that will irritate and alienate the majority of staff who perform their roles with a very high degree of commitment and professionalism.' [288A]

68. In any case, there is nothing in the evidence that could remotely satisfy the requirements specified by the Trade Union & Labour Relations (Consolidation) Act 1992 section 179(1) regarding 'Enforceability of collective agreements' that states:
179.-(1)A collective agreement shall be conclusively presumed not to have been intended by the parties to be legally enforceable contract unless the agreement-
(a) is in writing, and
(b) contains a provision which (however expressed) states that the parties intend that the agreement shall be a legally enforceable contract.

The ET failed to consider the above point.

69. **Discriminatory enforcement of the home working restrictions exclusively on me.**

The ET failed to address what I submitted in paragraphs 192-195 of my written submissions. I said that the 25.10.02 home-working restrictions involved arbitrary and capricious exercise of discretion by the employer.

70. The evidence before the Tribunal does not support the finding (in paragraph 46 of the ET judgment) that 'The guidance was applied to all members of the Faculty of Science so that the rules were the same for all academics within the Faculty.'

To start with, if one were to accept that the home working restrictions aimed to address some genuine problem with attendance of academic staff at the University, then there should be no reason why these restrictions did not apply to academic staff throughout the University. This point and the related evidence are discussed in paragraphs 150-168 of my written submissions. The ET did not consider them.

The 25.10.02 memo stated that it applied to the whole Faculty of Science but the evidence shows that it was only enforced in the School of Mathematics. There is no evidence that the home working restrictions were enforced to any other School. That was despite the fact that the Respondents were asked to supply *'full details regarding the implementation of the "25.10.02 policy"* (home working restrictions), *for each department school of the Faculty of Science.'* [581]. (See [581], [311A], [312-323], [325], [326], [329], [331], paragraphs 76-77 of my witness statement and paragraphs 144-146 of my written

submissions.)

In addition, as I show below, the home working restrictions were waived for the members of the School of Mathematics who worked at home, except me. So the evidence shows that the home working restrictions were enforced only on me

71. In paragraphs 51-52 of the judgment the ET discusses the criteria used in order to waive the home working restrictions my two colleagues who worked at home. The ET admits that the reasons given by my colleagues and myself why we worked at home seem identical (ie the travel time and avoiding interruptions while working at the university). This is consistent with evidence [312], [313], [314].

72. I submitted evidence and arguments (in paragraphs 171-175 of my written submissions) that supports that the above set of criteria were specifically designed so as to distinguish me from the other lecturers who worked at home. Other than that they were arbitrary. ET erred in law by failing to consider or mention the evidence supporting my argument on this point.

For example, the ET have not explained why Dr Tsaptsinos was allowed to work at home on account of his preparation of lecture notes (he required peace a quiet), while my preparation of assessments or marking exams did not require peace and quiet. This arbitrariness is particularly noticeable since Dr Tsaptsinos had an office to himself while I had to share an office and got distracted by those who came to see my office mate.

Similarly it is not clear why Tsaptsinos and Joy were allowed to work at home because he had research students while I did not [354H]. Any reasonable person would have thought that having research students was a reason why one ought to work at the university and not at home.

73. The ET failed to consider or mention the following evidence and argument (presented in paragraph 175 of my written submissions) that proves that the criteria applied by Professor Morris were neither reasonable nor genuine. I pointed, during cross examination, to the work and background of Dr Lucas [747-749] and asked J Morris if according to the criteria he used to waive the home working restrictions for my 2 Mathematics colleagues, one ought to have waived the home working restrictions for Dr Lucas. Professor Morris admitted that if he used the same criteria, he would have waived the restrictions for Dr Lucas.

This evidence is significant because, as mentioned earlier, R Davis had claimed that the problems with Dr Lucas had prompted him to institute the 25.10.02 home working restrictions. However since the criteria designed to enforce the home working restrictions would not prevent the very person whose home working problems prompted the introduction of the home working restrictions, then these criteria could not have been genuine and were not designed to do what the Respondents claimed. The ET failed to note or mention this point and relevant evidence.

74. **Perjury and falsification of document by the Respondents.**

As I mentioned earlier, there are several instances of false allegations involving perjury that the ET have failed to attach any significance to or mention. There is a further example that relates to the enforcement of the home working restrictions to the School of Mathematics. The ET has mentioned in paragraph 52 'that D Tsaptsinos' permission was surrendered sometime in 2004' but failed to give proper consideration or even mention the related perjury and falsification of a document by the Respondents.

75. D Tsaptsinos' decided (sometime in 2004) to surrender the permission, given to him by J Morris during the January 2004 review, waiving the home working restrictions. The Respondents attempted to mislead the Tribunal by claiming that it was J Morris who withdrew, during the January 2004 review, to continue waiving the home working restrictions for D Tsaptsinos. This misrepresentation aimed at dispelling the credibility of my claim that I was the **only person in the whole university** who was prevented from home working.

    To support this perjury J Morris falsified the handwritten document [316] that was proof that, at the review in January 2004, J Morris had waived the home working restrictions for D Tsaptsinos for the year 2004/05. J Morris overwrote the '2004/05' with '2003/04' and submitted the falsified document as documented evidence to the hearing. He claimed that the permission shown in [316] had been given in early March 2003 and applied to the year 2003/04. (See paragraphs 10, 27 of J Morris' witness statement, paragraph 24 of R Davis' witness statement, R Davis' 1.04.04 letter to me [top of page 493].)

76. I uncovered this perjury and falsification, during cross examination, by pointing to
    a) Paragraph 10 of the notes of the meeting of 15.03.04 [472, 483], where it is recorded that J Morris had said that during the January 2004 he had waived the home working restrictions for D Tsaptsinos for that year.
    b) The date in the very bottom of the tampered document [316] that is 16.01.04 which is inconsistent with J Morris' claim that the handwritten note was written in March 2003.

77. **The plan to set me up for dismissal through the enforcement of the home working restrictions.**

    In paragraph 97 of the judgement, the ET has dismissed my claim that the home working restrictions were part of a plot for my dismissal. It has reached this conclusion without having given proper consideration to the evidence and argument supporting this claim or even mentioned them.

78. As I explained in paragraph 170 of my written submissions one outcome of the introduction of the 25.10.02 home working restrictions was that it **introduced the means of taking disciplinary action against a member** of academic staff on the grounds that he / she **worked at home** more than 1 day a week. Before that it was not possible to do so. Management could have taken disciplinary action if a lecturer neglected his students or his duties. However this pre-supposed that the lecturer neglected his students or his duties. I was NOT neglecting my students or my duties, but I was home working, so rules against home working such as mine were needed in order to take disciplinary action against me.

79. As I explain in paragraphs 176-177 of my written submissions, another outcome of the home working restrictions was J Morris' request that I provide a list of 'tangible outcomes' for working at home more than 1 day a week. See paragraph 12 of the notes of the 12.12.02 meeting [321] where it is recorded '.. *he said he wanted some bullet points for example when RB* (I) *was on sabbatical in 2000 what were the outcomes*'

    No member of staff was normally asked to provide a list of anticipated outcomes of research or anything else [318]. It is significant that the idea of a list of tangible outcomes was introduced as a condition for waiving the home working restrictions. R Davis confirmed, during cross examination, that lectures were not normally asked to specified such outcomes and explained that he had asked those who worked at home more than 1 day a week to specify the anticipated outcomes of their research in order to help them focus better. He could not offer an explanation however as to why he did not do the same

for those who did not choose to work at home more than 1 day a week.

80. I was the only person among those who worked at home more than 1 day a week, who was asked to give in writing a list (bullet points) of outcomes. J Morris did not ask the other 2 colleagues Dr Tsaptsinos and Dr Joy to supply a bullet list of outcomes in 2002. [322]. In the review of 2004 J Morris did not ask the 2 colleagues to provide anything in writing, only I was asked to do so.

    This request is reminiscent of the 1999 plan involving the anticipated outcomes of my sabbatical [115] according to which I was to "*carry out research with specific targets and if she* (I) *misses these she* (I) *is final step in disciplinary procedure*".

81. **The 2003 appraisal was an alternative means of getting me to commit to unattainable outcomes of research.**

    In paragraphs 179-181 of my written submissions I explained that by 2003 R Davis had a fall back position for getting me to commit to research deliverables. That was through the 2003 appraisal. The ET has not addressed this argument or the evidence supporting it. More specifically:

82. Three witnesses (J Morris, R Davis and I), testified that the School of Mathematics did not produce research. The reason was that the members of the school did not have time for research due to high teaching and administrative load. I was one of the few lecturers who wanted to pursue research, but by 2002 the amount of time and effort I had to spend dealing with the persecution I was being subjected to was so substantial that it became impossible for me to do research. Some examples of evidence documenting this are :
    - My letter to Personnel [177] says '*... Over the past three years, I have been living with a constant apprehension that any day I will receive yet another aggressive telephone call, or a rude email, or a false accusation, or an invitation to disciplinary hearing. My plans this year to so some research after the examinations have been ruined. I ask you to please put a stop to this harassment...* '
    - My letter to Personnel [200] says '*..The incident of 30 4 01 has been investigated for the past seven months. These months have been very difficult for me. I have been very stressed, I have been unable to concentrate and do research which is something I had wanted to do...* '

83. When R Davis refused to sign the 2003 appraisal agreed between myself and P Bidgood, I made some changes / additions. With regard to the research objective in the 2003 appraisal, I wrote '*Over the past few years the focus of my research interests was: quantitative modes for supply chain management. I would like to do research, however realistically the work load (due to teaching and administrative / clerical work) prevents that.*' [407]. What I wrote in my 2001 was very similar. R Davis had countersigned the 2001 appraisal but refused to countersign the 2003. P Bidgood finally said she would not approve the research objective because that '*was not what R Davis wanted*' [405]. (See paragraph 92 of my witness statement.)

    What R Davis wanted me to specify was '***the expected outcomes and/or milestones***' [404]. R Davis confirmed that during cross examination. Nobody was ever asked to do that in an appraisal. Given the background to this case and my awareness (due to the subject access request revelations) of the past conspiracies against me it was perfectly reasonable for me to refuse to commit to delivering outcomes I knew I could not deliver.

84. Any reasonable tribunal who considered all the relevant evidence would have reached the conclusion that R Davis' request in relation to my 2003 appraisal was very suspicious

indeed. The finding in paragraph 59 of the ET judgment that R Davis' request '.. was a perfectly reasonable request' is perverse under the circumstances.

85. **The L Tomlinson incident - Yet another attempt to take disciplinary action against me. Breaches of the RRA.**

The ET failed to consider or even mention the following relevant facts:

a) The incident with L Tomlinson was as follows: I was looking for the Mathematics secretary Mrs Simpson to assist me with a problem with the printing and delivery of module guides. Ms Tomlinson who shared the office with Mrs Simpson asked me why I wanted Mrs Simpson. I explained the problem. Ms Tomlinson offered to investigate. I refused and said I would report the problem to the Faculty administrative manager, B Forbes. I left in a hurry because I was going to be late for a meeting. Ms Tomlinson got upset because she had some authority in that office (which is something I did not know as she was very new) and felt it was unreasonable not to let her investigate. (See [307], paragraphs 71-74 of my witness statement.)
b) Ms Tomlinson then telephoned B Forbes, the latter advised her to put her concerns in writing and email it to her. The email was forwarded to Personnel and after their advice it got reworded into a formal grievance [290], [291]. R Davis and Personnel conducted investigations aiming at taking disciplinary action against me. Ms Tomlinson is reported to have said in a subsequent investigation that she was hurt because I was 'flailing my arms' as I spoke and that I 'stormed off' 'pushing my way out of the room' (which was physically impossible as the door of that office opens inwards) [299].
c) After extensive investigations Personnel decided they did not have a case for disciplinary action against me [306]. But R Davis would not let go. He invited me to conciliation meetings which turn into a further attempt for disciplinary action.

86. The ET failed to consider or mention my submission (paragraph 87) where I argue that :

The handling of the L Tomlinson incident has similarities with the T Tollman incident a year earlier. In both instances the complaint was engineered by R Davis and B Forbes with the help of Personnel. These complaints were based on suspicious grounds. In both cases the fact that I moved my arms when I spoke featured as a criticism and was investigated.

Moving one's arms, when speaking, is a cultural trait of most Mediterranean people. Criticising and pursuing a complaint and investigations about this, amounts to **Race /Cultural Discrimination**, it also induces staff to discriminate. Inducing employees to discriminate is unlawful under section 31(1) of the RRA that stipulates the following:
31 Pressure to commit unlawful acts
(1) It is unlawful to induce, or attempt to induce, a person to do any act which contravenes Part II or III, section 76ZA or, where it renders an act unlawful on grounds of race or ethnic or national origins, section 76.

Both cases involved unreasonable and prolonged investigations not proportional to the nature of the allegation. This presents some similarities with the case of ***Garry v London Borough of Ealing (2001) IRLR 681*** where extensive investigations against the claimant amounted to unreasonable treatment and race discrimination.

87. **Events before I submitted the 2003 complaint to the Employment Tribunal.**

The ET failed to consider or even mention the following:

a) Six months after the Vice Chancellor's suggestion in his 14.06.02 email [244] to wait for 6 months and then '*take further action*' the Respondents were implementing their

plan to dismiss me after they prepared carefully the ground (by introducing the home working restrictions).

b) What stopped the steady progression towards disciplinary action was the submission of my complaint to the ET in April 2003. At that stage the disciplinary action was put on hold for 10 and ½ months (until the ET complaint was withdrawn). An email from R Davis to the Vice Chancellor documents the preoccupation of the Respondents, while the 2003 ET complaint was active, to show to the Tribunal that they '*went the extra mile*' and that they were being reasonable and I was unreasonable [408G].

c) Accordingly on 12.06.03 R Davis responded for the first time to my request to supply reasons for the introduction of the 25.10.02 home working restrictions. These reasons had not been presented before and sounded like 'business reasons' which was obviously relevant in view of the outstanding legal action. [375]. Prior to that I had made 4 requests (that went unanswered) to be given reasons for the introduction of the home working restrictions. The offers of training, made by the Respondents at the time, were consisted with their preoccupation to appear conciliatory while my 2003 ET complaint was outstanding.

88. I responded to R Davis' 12.06.03 letter with a well reasoned explanation [378] as to why I did not consider R Davis' reasons for the introduction of the home working restrictions valid. There is nowhere in the judgment any comment suggesting that my arguments were incorrect, or in any way flawed. The vague statement of the ET, in paragraph 57 of the judgment, that my response [378] 'does not indicate constructive engagement' amounts to unfounded innuendo.

89. **Harassment after I withdrew my ET complaint**

The ET failed to mention that the reason I withdrew the 2003 ET complaint was because my insurers withdrew their funding on the basis of the finding of *Law Society v. Bahl [2003] UKEAT 1056_01_3107 (31 July 2003)*, and not because I felt my claim had no merit.

The conclusion of the 2003 ET proceedings, just before Christmas 2003, released, after Christmas, an unabated campaign to harass and dismiss me.

90. **The meeting of 19.01.04**

The ET judgment has failed to consider or even mention some of the most relevant facts in relation to the victimisation claim. More specifically :

91. Soon after I withdrew my 2003 ET complaint I was invited for a meeting. The agenda [435] for that meeting included the matter of my home working. In addition it included everything the Respondents knew about me even things that happened some time ago. (See minutes of the 19.01.04 meeting [436], paragraph 113 of my witness statement, paragraph 99 of my written submissions.)

The ET mentions this meeting but has failed to consider or even mention the fact clearly shown by documented evidence that the accusations in the agenda of the 19.01.04 meeting were false and unfounded. This failure is very significant as false accusations are evidence of victimisation. I provide details below.

92. **The 2003 appraisal**

The 2003 appraisal was one of the allegations in the 19.01.04 agenda. I have already discussed the evidence that R Davis tried to use that appraisal in order to pressure me to commit to deliverables I could not deliver.

As shown in paragraph 16 of [437], [459], the Respondents included 2003 appraisal in the 19.01.04 agenda without even knowing what to accuse of having done wrong. J Morris, who was asked to deal with the matters in the agenda, had no clue what was wrong with my 2003 appraisal. Instead he asked me to tell him what R Davis was objecting to with respect to that appraisal.

93. In the story that appeared in the 'Further and Better Particulars' [41] two years later, the Respondents claimed that the Dean, R Davis, only intervened because allegedly P Bidgood and I would not agree on the appraisal (see paragraph 3 [42]). Evidence shows that this is false since R Davis intervened after P Bidgood and I had already agreed and signed the appraisal.

94. **The moderation of the exam paper in November 2003**

The moderation of the examination paper for ST1210A in November 2003 was included in the 19.01.04 agenda yet I was never told why this was a matter I ought to be criticised about.

95. The evidence describing the events surrounding the moderation and submission of my exam paper consists of paragraphs 99-106 of my Witness Statement, emails [416], [417], [419] and [432]. The facts show that I did nothing wrong in respect to the moderation of that exam paper.

The account of events presented in paragraph 60 of the judgment is not only inconsistent with the facts, it is actually misleading. The ET fail to mention the following:

a) The amount of adverse commentary P Bidgood produced about my draft exam paper ST1210 was extraordinarily extensive and in my view unfounded, argumentative and in some points technically flawed.
b) The ET failed to even mention the significant fact that there was nothing wrong with my exam as confirmed by the external examiner who was asked to check it. This proves that P Bidgood's criticism was unjustified.
c) My reluctance to accept P Bidgood's view, that my exam was too easy, was based on my professional judgment, but it was also consistent with the fact that she often produced exam papers that had disastrous results. There was documented evidence of complaints from her students to the Academic Registrar about this [458], [465]. Under the circumstances the tone and content of my response was understandable.
d) After I explained to P Bidgood my objections to her suggestions I submitted the draft paper to the exam office for processing in time to meet the 14.11.03 deadline. The ET judgment failed to consider that my actions were in accordance to the rules and practice at the time. I put the exam printing on hold when, three weeks later, the Board of Studies on 3.12.03, changed the rules and further examination was required.
e) The ET wrote in relation to the above : '*...the Claimant simply sent her papers to the exam section for printing without having obtained sign off..*' This creates the false impression that there was a requirement or procedure that I should have obtained '*sign off*'. This is untrue and inconsistent with the evidence.

96. The account with respect to my contact with the external examiner that appears in paragraph 60 of the judgment is misleading. More specifically: The evidence shows that it was necessary to contact the External examiner and I decided to contact him directly because the examination officer, Dr Saebi, was on holiday abroad and was not contactable. Had I waited for Dr Saebi to return from his holiday before the external examiner could be contacted through him, the exam paper would not have been ready in time for the scheduled exam. There is no rule forbidding communications between a

lecturer and an external examiner.

97. The ET has also failed to attach any significance or even mention that the story that the Respondents presented in paragraph 4 of their 'Further and Better Particulars' [41], in relation to the moderation of the examination paper, is distorted and was proven to be so both through written evidence and cross examination. (See paragraph 107 of my witness statement and paragraphs 236-237 of my written submissions.)

The false accusations are as follows:

a) The Respondents accused me of not following the procedure for moderation of exams put in place by the Board of Studies. They omitted the fact that this procedure was not instituted till 3.12.03 [427]. That was 3 weeks after I had to take action, to meet the 14.11.03 deadline for the submission of exam papers for processing and printing, in accordance with the procedure in place before 3.12.03. In other words the Respondents accused me of breaking a rule, before this rule was made.
b) The Respondents also concealed the fact that the external examiner found there was nothing wrong with my exam, which shows P Bidgood's conduct caused unnecessary difficulties and delay for no good reason.

98. In conclusion, the ET failed to properly consider or even mention relevant and very significant evidence that shows that the inclusion of the moderation of the above exam paper, in the agenda of the 19.01.04 meeting was an act of victimisation. (See paragraphs 243-245 of my written submissions.)

99. **The revision paper**

In paragraph 62 of the judgment the ET describe briefly the matter of a revision test (review paper) that was discussed during the meeting of 19.01.04. J Morris alleged on 19.01.04 that in the previous year I had refused to set a revision paper for someone else's paper. This allegation was false and appeared for the first time ever on 19.01.04 . Related statements by J Morris were false. I challenged its accuracy and supported my claims with documented evidence. The ET has failed to given proper consideration or even mention this evidence. The Respondents submitted no evidence whatsoever to support their allegations.

100. The ET has also used the misleading phrase "*..she refused a clear instruction that she should do so*" suggests that I might have done something wrong in relation to the revision test (review paper).

That is contradicted by the evidence which shows that duties ought to be determined by **consultation and agreement** as stipulated by:

- The GUIDELINES FOR THE DETERMINATION OF THE DUTIES OF LECTURING STAFF, paragraph 4 on [page 605].
- 'HOURS OF DUTY - ACADEMIC STAFF' paragraph 2 [page 637].

(This evidence shows J Morris conduct was inappropriate and in breach of my employment contract. The ET failed to consider this argument and the relevant evidence.)

101. The ET also appear to be excusing J Morris' *ill tempered conduct* by stating it was a response of my attitude at the meeting. This vague statement is a disguised attempt to excuse the fact that J Morris treated me, in the presence of my colleague N Atkins, in a rude and disrespectful manner. (See the notes of the 19.01.04 meeting on [436].)

102. **More unfounded allegations against me**

The ET have also trivialised my claim that J Morris' subsequent letter of 20.01.04 included inaccuracies and unjustified and derogatory statements about me was not justified by stating in paragraph 64 *'that this was Professor Morris' opinion, genuinely held on reasonable grounds.'*

103. J Morris' 20.01.04 letter was used by R Davis to call disciplinary action against me shortly after [456]. During the disciplinary meeting of 25.03.04 he claimed that he had many examples of complaints against me, however when I asked him for specifics he said he could not remember. R Davis and J Lally (from Personnel) also refused to give specifics [470]. The ET failed to consider that.

104. There is further proof of the Respondents' determination to distort every detail in my professional life known to them and turn it into an unfounded allegation and criticism, that the ET failed to consider or mention:

a) An example can be seen in the Respondents 'Further and Better Particulars' [41] that give particulars for the Respondents' alternative reason for dismissing me. In paragraph 2, the Respondents wrote, in connection with the report sent to me by Julie Smith: *'In addition, the Claimant, despite accepting that the conciliator's notes were "overly fairly accurate"* ***neglected to send a copy of her own notes'.***

A contradictory version of this allegation appears in paragraph 34 of R Davis' Witness Statement: *'Julie Smith provided Regina Benveniste and myself with a copy of the note she had produced of that meeting promptly after the meeting had taken place. However, there was a lengthy delay before Regina Benveniste commented on Julie Smith's note. In fact, I understand that although she accepted that Julie Smith's notes were "overall fairly accurate" (see page [366] of the bundle), Regina Benveniste elected to* ***send Julie Smith a copy of her own notes.***' So independently of whether in reality I sent or did not send my own notes, according to the Respondents, I ought to be dismissed for it.

In addition, the documented evidence shows that Julie Smith sent me her notes for the 25.02.03 meeting on 9.04.03 saying *'Please accept my apologies for the delay in contacting you.'* [358]. I received that letter on 11.04.03 and replied on 19.04.03 commenting on her notes and sending her a copy of my notes [366]. In other words it was Julie Smith who delayed contacting me and it was I that sent my comments promptly after she wrote to me. As this misrepresentation by R Davis was made under oath it amounts to **perjury.**

b) Another example of unreasonable accusations that the ET failed to consider or mention, appears in paragraph 5 of the Respondents 'Further and Better Particulars' [41].

In October 2003 J Morris assigned to me the duties of examination officer for the School of Mathematics, a post that was primarily of clerical nature. On 30.10.03 I submitted to J Morris for his consideration a proposal for the streamlining of the process of handling exams [409]. R Davis instructed that I be relieved of the duties of the post of examination officer. He later used my proposal as grounds for my dismissal [41]. As I explained in paragraph 97 of my witness statement, the University was committed to a continuous improvement of quality and proposals such as mine were not uncommon. My comparators were likely to be rewarded for such proposals, not dismissed as I was.

105. There is more evidence that the Respondents made derogatory remarks without basis or specifics or proof, which suggests harassment and victimisation. The ET have not considered or mentioned the following:

a) R Davis called disciplinary action for my dismissal on the basis of my home working which he described in paragraph 42 of his witness statement as *'affecting the efficiency of the School'*. During cross examination he was asked to explain how my home working was affecting the efficiency of the School. He had no answer.
b) In paragraph 26 of his supplemental witness statement, J Morris described my home working as having *'a detrimental impact on both (my) colleagues and (my) students'*. However, during cross examination, J Morris failed to justify the above. He admitted that I always attended my office hours and never neglected my students. He did not know of any colleague that was burdened or affected by my home working.

106. **The meeting of 25.03.04**

The disciplinary meeting eventually took place on 25.03.04. This was the first time **ever** that a specific allegation was made that there was a problem with my home working. More specifically J Morris claimed that two colleagues, Dr Saebi and Dr Bidgood, had complained because they helped some of my students with a test.

107. In relation to the above, the ET have failed to properly consider the following evidence:
a) The ET failed to consider the very significant fact that the very first allegation relating to my home working (independently of the fact that it was unfounded) did not appear till 25.03.04, yet the home working restrictions were decided on 12.07.02 for me and formally introduced on 25.10.02.
b) According to what Dr Saebi told me, he and Dr Bidgood had not complained about my home working so J Morris' allegation that they did was inaccurate. (see notes of 25.03.04 hearing [470] and paragraph 125 of my witness statement).
c) J Morris also alleged during the 25.03.04 hearing that there were other complaints, yet when I asked him to give specifics he said he could not remember. R Davis and J Lally from Personnel said they could not remember either. (See paragraph 14 of notes [470], paragraph 122 of my witness statement.)
d) After checking the facts I submitted evidence [494], on 7.04.04, that the reason why my students went to Dr Saebi and Dr Bidgood was a trick some students used to cheat by getting unsuspecting lecturers to do the work the students were supposed to do for credit. It had nothing to do with my home working. During the 2007 ET hearing, J Morris admitted, under cross examination, that my explanation in [494] was valid. (See paragraph 195 of my written submissions.)
e) R Davis eventually admitted, during cross examination, that I had done nothing wrong in that instance and that he had no evidence that I ever neglected my students or that I burdened my colleagues.

108. **After the 25.03.04 meeting.**

What the ET wrote in paragraph 69 is not supported by the evidence. More specifically:
a) J Morris underwent management training because he was directed to do so, following my 2001 grievance, because of his poor management. It had nothing to do with the 25.03.04 meeting (as R Davis falsely alleged in paragraph 63 of his witness statement). There is evidence [240] that the Governors felt that R Davis, in addition to J Morris, ought to undergo management training. (See paragraphs 17-18 of my supplemental witness statement). The ET chose to repeat what had R Davis wrote in his witness statement despite the fact that it was shown to amount to perjury.

b) I explained the reason why I refused to undertake the coaching proposed by R Davis in my 19.04.04[498] letter to R Davis, where I wrote:
'The underlying problem in my relationship with J Morris is that he has persistently harassed and victimised me. However he is not alone in this effort. You and the Personnel Director share the responsibility for this mistreatment. Having seen several documents acquired through the subject access request under the Data Protection Act I have proof that on several occasions J Morris simply followed your instructions. On 19/1/04 J Morris explicitly told me he was following orders from the Vice Chancellor.'
The ET failed to consider or mention this.

c) The reason why I did not appeal to R Davis' 1.04.04 warning and submitted a grievance to the Chairman of the Governors (J Cope) was explained in my response [498] where I wrote :
'I have no intention to appeal your findings to the Personnel Director or the Vice Chancellor. My trust and confidence in these officers, you and J Morris has been totally undermined by their and your actions. That is the very reason why I have taken legal action against the University.'

109. **My 2004 grievance to the Chairman of the Governors**

The ET failed to give proper consideration or mention in paragraph 70 that:
In my 7.04.04 letter to J Cope [495] I stated (after referring to the criticisms the Governors had made against my line managers in relation to my 2001 grievance) :
' What you did not know at the time is that the Vice Chancellor and the Personnel Director had plans in place to dismiss me immediately after the appeal hearing by the Governors. That was because I had refused to withdraw my grievance. The only thing that stopped them from dismissing me right then was the criticisms the committee of Governors raised at the time. The Vice Chancellor then suggested to the other university officers to wait for 6 months and then take action.
There is documented evidence to prove all this. I acquired this evidence in 2003 through a subject access request for documents, made under the Data Protection Act. I attach some documents so that you can see for your self.'

In support of the above I attached documented evidence including [115], [204], [225], [244], [246], [252A]. This is a significant point because normally if the Governors had seen a grievance and documented proof about a conspiracy to dismiss a member of staff, they would have intervened. However they refused to intervene in my case.

110. The ET makes no mention of J Cope's 30.06.04 letter [518]. This letter was written after all legal proceedings were completed, in response to my 20.06.04 formal grievance [516]. J Cope justified his refusal to deal with my formal grievance by referring again to my 2003 legal action against the university. His letter [518] reads like gloating for the fact that I had not succeeded with my legal action against the University. (Paragraph 109 of my written submissions.)

111. The ET failed to address the argument and the supporting evidence (paragraph 108 of my written submission) that J Cope's refusal to address my grievance was in breach of the following:
a) the Respondent's Personal Harassment and Bullying Policy and Procedure [623]
b) section 10 of the Articles of Government for Kingston University [page 591] that states that suspension and dismissal of holders of senior posts is handled by the Chairman of the Board of Governors. [595]
c) the Rule of the ACAS code of Practice that states :
'In the course of a disciplinary process, an employee might raise grievance that is related to the case. If this happens, the employer should consider suspending the disciplinary procedure for short period while the grievance is dealt with. Depending on

the nature of the grievance, the employer may need to consider bringing in another manager to deal with the disciplinary process. In small organisations this may not be possible, and the existing manager should deal with the case as impartially as possible.'

112. The ET failed to address the argument (paragraph 109 of my written submission) that by refusing to intervene J Cope let the very people about who were conspiring to dismiss me, to go ahead with their plans. This was a serious failure to ensure **impartiality** which a requirement before a dismissal is found to be fair.

113. The ET failed to consider or even mention that my grievance to Jerry Cope was a reason for my dismissal. This is explicitly stated in paragraph 8 of the 'Respondents Further and Better Particulars' for the alternative reason for dismissal [43] where one of the alternative reasons for dismissal is that *'the Claimant sought to involve the Chairman of the Board of Governors.* (paragraph 109 of my written submission). This is prima facie evidence from which a Tribunal could infer victimisation, had they properly considered it.

114. **Self certification for sickness absence - a means of harassment**

What the ET has written in paragraph 73 is an example of how the ET trivialised my claim that the harassment I was subjected to involved, among other things, '*...**false or unjustified criticism, nitpicking**...*'. The conduct of the Respondents in relation to self certification was raised in the context of the above accusation of *'false or unjustified criticism, nitpicking'*.

More specifically I wrote in paragraph 61 of my witness statement:
*'Although J Morris had overall responsibility for the running of the School of Mathematics, in practice the main functions of management that J Morris exercised over me on a regular basis were **signing sickness certifications**, authorising holiday, assigning exam invigilation duties. It is significant that every one of these functions had become a focus of criticism of me by J Morris.'*

There are several instances that demonstrate the above harassment that have not been considered or even mentioned by the ET. The incidents involving specifically sickness certification are documented (in addition to page [515]) in the following documents that have not been discussed: [155], [156], [163], [164], [169], [172], [183], [296], [309], [331], [332], [334], [335], [336].

115. **Request that I attend disciplinary meeting during my authorised annual leave**

The version of events described in paragraphs 79-80 of the ET judgment is not consistent with the evidence.

The related facts are as follows: My annual leave in 2003 and 2004 had been authorised by the deputy had of School Dr Nigel Atkins. He had authorised the annual leave of other members of the School of Mathematics. N Atkins had authorised my leave till 9.08.04. I had made plans accordingly. J Morris wrote in his 12.07.04 letter to me [525] : *'Your holiday has already been authorised by Nigel and I cannot undo that but I understand you want to change the dates.'*

In view of the above facts the statement in paragraph 79 of the judgment *'the Claimant making it clear that she believe that it was for her alone to dictate when she should take holiday'* is clearly false.

116. Despite the fact that the R Davis knew that I would not be back from my annual leave till 10.08.04, he wrote to me during my holiday setting a date for a disciplinary hearing to take place on 29.07.04 during my holiday.

117. **Refusal of the Respondents to clarify grounds for dismissal**

The account in paragraphs 78-82 of the judgment does not reflect the facts and evidence before the ET. The ET do not mention that I clarified the question I requested the Vice Chancellor to address in my 25.07.04 letter [538] as follows:

"*What requires clarification is whether according to the university's rules and practice the pattern place of work such as mine, constitutes grounds for dismissal. As I already explained in my letter of 10.7.04, I believe that an employer is legally bound* ***to clearly communicate what constitutes grounds for dismissal.*** *Such information ought to be widely communicated and be equitably applied to all members of staff.*
I ask that a ***clear response*** *be given to my request for the clarification described above.* ***My decision will depend on this response. The same applies to my action against the university in order to assert my rights.*** *I expect to receive a clear response to my request for clarification soon after I return from my annual leave on 10 August 2004. If the university states that my refusal to change my established pattern place of work will constitute grounds for dismissal, then I request that the university also provides an explanation, in writing, as to why this treatment is not afforded to the rest of the University. After all a pattern place of work such as mine has always been and still is common practice throughout the University.*"

118. The attempt of the ET (paragraph 82) to justify the refusal of the Respondents to give a satisfactory answer to the above question is not supported by the facts and evidence before the ET and in any case it is perverse.

More specifically the answer given by the Respondents, '*no final decision to dismiss would be taken by myself or the Vice Chancellor without a full hearing having been held at which you will of course have the opportunity to restate your view on the current dispute*' [520], does not answer question whether home working such as mine was grounds for dismissal and why other lecturers were not treated as I was. It is simply an evasive answer.

119. The ET has not considered or even mentioned the reason why I insisted on being given the above clarification. My reasons appear in my letter to the Respondents in my 25.07.04 letter [538].
'*I have expressed my views regarding the breach of contract committed by pressuring me to change my pattern place of work without my agreement. My arguments can be seen in various documents that are in your possession. The fabrications presented at the hearing of 25.3.04 and in the subsequent correspondence have simply reinforced my view that what is going on is harassment and victimisation. The University has refused to address my complaint regarding this matter, so the only matter that remains unresolved is whether I will give into your intimidation.*'
(The statement that the *University refused to address my complaint* was a reference to the 30.06.04 refusal of the Chairman of the board of Governors [518] to address my grievance against J Morris, R Davis, E Lanchberry and the Vice Chancellor)

120. The ET failed to consider or mention the following:
a) The Vice Chancellor set a disciplinary meeting for 13 August 2004 that was just 3 days after I returned from my annual leave which was a breach of the Respondents' own Disciplinary Procedures. He asked me to confirm my attendance.

b) In my response [541] I explained again that my views had been made clear and sent him copies of relevant letters. I said I had nothing to add until I received the clarification I had requested.
c) The Vice chancellor did not give the clarification I had asked. Despite the fact that I had not confirmed I would attend, he held a disciplinary meeting on his own and dismissed me.

121. The ET failed to give proper consideration to the submission that: **refusing** to communicate what amounts to grounds for dismissal **even when explicitly asked to do so** (as is the case with the Respondents) is far more unreasonable and unfair than failing to communicate such grounds which has been used as basis for a finding of unfair dismissal.

122. The ET have failed to consider or even mention the very relevant fact that I was the only person in the whole university who was dismissed for working at home, despite the fact that there were others (including my comparators) who worked at home as I did.

123. The ET failed to mention that during cross examination I asked the Vice Chancellor to give the same clarification: why other lecturers in the university who worked at home as I did were not dismissed. He refused to answer.

124. **Events after the dismissal**

The description in paragraph 87 is inconsistent with the relevant evidence that is summarised in paragraphs 143-150 of my witness statement. The ET have failed to consider or even mention most of the following facts:
a) The Vice Chancellor wrote in the 13.08.04 letter informing me about my dismissal that any appeal should be submitted within 10 days of the receipt of the 13.08.04 letter [543]. He also wrote that I should make arrangements to vacate my office on 16.08.04 and return the university property that consisted of the key to my office, my id card and a car parking permit that was expiring end of September 2004. This request was reiterated by the acting Dean of the Faculty of Science, Dr MacKintosh [545].
b) The above instructions by the Vice Chancellor and the Dr Mackintosh were in breach of Article 10(13) of the Articles of Government for Kingston University (page [591]), states that in the case of an appeal against a decision to dismiss, the dismissal shall not take effect till the appeal had been determined.
c) On 21.08.04 I submitted an appeal to my dismissal [547].
d) My personal belongings were voluminous, they took up 28 large crates. If I had handed in my key I would not be able to pack and move my belongings. On 26.08.04 Dr Mackintosh also wrote that I was '*not permitted to enter the university's premises at will*' [552]. The university is a public place everyone can enter at will. Preventing me from entering the University premises was a means of humiliating me.
e) The constraints imposed by the Respondents made it impossible for me to move my belongings even I wanted to do so before the determination of the appeal. The Respondents refused to send me my final payment.
f) I was cut off from the university email and no post was ever forwarded to me. I was thus professionally isolated since I used the university email and address for all my professional contacts. Around 1.09.04 my belongings were moved by the Respondents to an undisclosed location in the university.
g) The date of my appeal had been set for 23.09.04, but after a lot of hard thinking I withdrew my application on 20.09.04 because I decided '*my working life had been intolerable and my repeated attempts to have the problems addressed had been in vain.*' [553].

125. The Respondents were most uncooperative to the suggestions I and Dr N Atkins (who was asked to mediate) made in an attempt to resolve matters [560], [563]. The Respondents did not pay my final pay cheque until I said I will add an additional complaint to my ET claim about the non-payment.

Attached:

DOCUMENTS from the bundle of the 11.02.08 ET merits' hearing.

	Description of Document	**Date**	**Page of the Bundle**
1.	Email from Reg Davis to Elizabeth Lanchbery and Felicity Wiltshire forwarding emails between the Claimant and John Morris dated 10 – 13.12.99	15.12.99	112-114
2.	Handwritten note (by John Morris) with comments by the Claimant	Undated	115-116
3.	Email from Elizabeth Lanchbery to Reg Davis	16.01.02	204
4.	Email from Peter Scott to Elizabeth Lanchbery and Reg Davis	14.06.02	244

From:	**REGINALD DAVIS**
Organization:	**Kingston University**
To:	**E.Lanchbery@ F.Wiltshire@**
Date sent:	**Wed, 15 Dec 1999 16:02:37 -0000**
Subject:	**(Fwd) Re: Moving forward**
Copies to:	**J.Morris@**
Priority:	**normal**

Dear Liz and Felicity

The best laid plans..,.....

Having been assured by the member of Maths staff reponsible for timetabling that Regina's semester 2 teaching could be covered, John Morris has now been told it can't. This means she cannot take her sabbatical in Sem 2 at the time of the TQA. We will have to hope that she can put on a performance for the assessors as she did for John. To keep faith with her, she has been offered her sabbatical in Sem 1 of 2000/01. However, as you will see from the attached she is now laying down conditions - resources for the sabbatical (what does this mean? Surely she only needs a computer, which she has) and a research student after the sabbatical (no chance - once she has proved she can do research in the KU environment, she gets in line with the rest of them). I understand John has advised her that it is unwise to press the research student issue, but you what she is like. Prepare for a happy greek new year explosion!!!

REg

------- Forwarded Message Follows -------

From:	Regina Benveniste <
Organization:	Kingston University
To:	John Morris <
Date sent:	Mon, 13 Dec 1999 19:41:13 -0000
Subject:	Re: Moving forward
Copies to:	e.lanchbery@ , r.davis@
Priority:	normal

John,

Thanks for your email message.

As far as I am concerned the sooner I take the sabbatical leave the

better. However I appreciate that the School's TQA review, next semester, may suffer if I do not teach my OR modules. I understand Vince Lau had great difficulty trying to find someone to teach my modules.

Since the TQA review is a matter of great importance to all of us, I am prepared to wait till September for my sabbatical. I would like however the University to assure me that this sabbatical leave will not be postponed any further or cancelled under any circumstances. I also want to be assured that the faculty will make resources available to support my sabbatical research efforts, as well as a research studentship to help consolidate a research programme that I intend to define.

Regina

==========

On 10 Dec 99, at 11:33, John Morris wrote:

> Dear Regina:
>
> I have just received the copy of the letter to you
> from
> Liz Lanchberry and I am very pleased to see that the Faculty
> (namely Reg) has been able to offer you a semester free from
> teaching to provide you with the opportunity to devote time to your
> research (and perhaps other things too).
>
> The problem with the offer as I see it is that it
> is going
> to create particular difficulties with regards to the School's
> activities at a very critical time (ie the TQA visit) and I would
> not want to change things during this time (for obvious reasons). (
> I do not think the School's best interests would be best served if
> we brought in substantial changes to the teaching just at this
> moment.)
>
> I therefore would like to make the suggestion that
> you
> consider the offer for a semester relief to apply to the first
> semester next year (ie September thro February). I think this will
> have a number of benefits for you (which I am sure you will realise
> too).
>
> In the main it will give you more time to plan
> your

> sabbatical semester; it will also allow relief from the
> administrative duty (namely the Project co-ordination) which would
> not be possible next semester.
>
> We have both been subjected to an unfortunate experience over the
> last months and I am sure you will agree with me that we should let
> the past be the past and start the future on a positive note and aim
> to work for the general good of the School.
>
> If you wish to call to see me to discuss the above (or other
> matters) please do not hesitate.
>
> Regards
> John
>
> PS You will note that I am copying this to Reg so that he is fully
> aware of my suggestion to you.

Comments by R Benveniste

This note is written in J Morris' handwriting. It is not dated. Its content suggests it was written some time before 10 December 1999.

I say so because it refers to 'PART TIME REPLACEMENT FOR REGINA FOR 2ND SEMESTER'.
This refers to the need to find part time help to replace me in teaching the modules of the 2nd semester of the academic year 1999-2000 when it had originally been proposed that I (Regina) was to take sabbatical leave. However around 10 December 1999 this plan was changed and my sabbatical was postponed for the 1st semester of the subsequent academic year 2000-2001.

Bev and Felicity are Personnel staff.

Note deciphered by R Benveniste

PART TIME REPLACEMENT FOR REGINA IN 2ND SEMESTER.

IN THE TIME MUST CARRY OUT RESEARCH WITH SPECIFIC TARGETS AND IF SHE MISSES THESE SHE IS FINAL STEP IN DISCIPLINARY PROCEDURE.

GET TOGETHER WITH BEV + FELICITY TO MAKE THE CASE FOR DISCIPLINARY SOON.

Part time replacement for Regina in 2nd semester.

in the time until everyone's research with [illegible] targets
and if the nurse then she is final step in disciplinary procedure

Get together with Bev + Velicity to move the case
for disciplinary soon.

X-RS-Sigset: 0
To: R.Davis
Subject: Regina
Comments: Confirmation of delivery was requested.
MIME-Version: 1.0
Content-type: text/plain; charset=ISO-8859-1
Content-transfer-encoding: 8BIT
Date: Wed, 16 Jan 2002 16:51:39 +0000

Dear Reg,
Jaz just took a phone call from Regina and she said that she was not happy with the hearing and she wanted to appeal against it. Jaz would not speak to her at length, but will phone her back in the morning. Our view is that if she does not accept the outcome then she is refusing the offer of secondment.
I really do not think I can cope with another hearing, this time with the VC, then possibly a hearing with Governors and meanwhile she is still employed and in your Faculty. My inclination is to go to the VC and recommend that we dismiss on the grounds that relationships have completely broken down and she has refused a reasonable offer of a secondment to a different Faculty. She could then appeal to Governors against the dismissal, but we would get it all over in 1 appeal.
I will be speaking to our lawyers first thing tomorrow to get a legal view on this.
Perhaps you and I need to talk and then go to Peter together about her. This is one case where I really do not think we can let the employee's insanity send us all to the psychiatric ward!
Liz

From:	"Peter Scott" <
Organization:	Kingston University
To:	E.Lanchbery@
	R.Davis@k
Date sent:	Fri, 14 Jun 2002 16:07:47 +0100
Subject:	Regina
Copies to:	R.Abdulla@
	J.Morris@l
	C.Gipps@k
	A.Popham@
Priority:	normal

Dear Liz and Reg,

The good news, which you may have heard already, is that the Governors panel has decided to reject Regina's appeal and uphold my findings.

The bad news, which will probably not be communicated publicly, is that they felt our proecdures had not been followed properly - in particular they felt that Regina's complaint that she was being harassed had not been properly investigated (the pattern of events rather than the specific episodes) but also specific incidents (e.g. the refusal to allow Regina to take her holidays - which they suspected was an example of double standards, i.e. the same didn't happen to other staff). They were also suspicious of the Trish Tolman episode (and will say that the informal warning letter should be removed from Regina's file - they say that, according to our own procedures, it shouldn't be there).

So, all in all, a narrow escape. But there is no point re-arguing the case now. However, there are implications for how we proceed. In the light of their concerns I believe we cannot act too precipitately, whatever the legal advice is. Instead I think that, once the outcome of her appeal is communicated to Regina, I must write to her urging her to draw a line etc. - and give her the opportunity to demonstrate that she is prepared to try to rebuild relationships. I cannot see how I can offer her less than six months in which to do so. Only then, in the light of subsequent events, can we take further action.

You may disagree - but I will take a lot of dissuading.

Peter