

Tyson & Others

Claimant

-v-

MAG UK Ltd

Respondent

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WITNESS STATEMENT OF NICHOLAS BROWN

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I Nicholas Charles Brown of [REDACTED] will say as follows:

1. I was employed by the Respondent as General Secretary from 27<sup>th</sup> May 2008 (**Page 69**) to 28<sup>th</sup> May 2013 (**Page 700**). My resignation was due to the untenable situation that Directors of the Respondent created in a series of events over a greater than 12-month period, as detailed in this statement. In summary, after many unsuccessful attempts to resolve my concerns about the behaviour of two Directors of the Respondent (Mr Liversidge and Mr Walker) toward myself and employees under my supervision (principally Mr Tyson and Miss Smith), I raised a formal grievance on 17<sup>th</sup> March 2013 (**Page 350**). In response, and not in keeping with its own policies, the Respondent suspended me on 20<sup>th</sup> March 2013 (**Pages 415 to 416**) saying this was to allow investigation of my grievance, as well as allegations of misconduct or gross misconduct which to me clearly related to the substance of my grievances. The Respondent then engaged an independent HR consultancy to investigate my grievances. The independent investigator wrote to me on 22<sup>nd</sup> April 2013 saying they had found in my favour, having concluded that I had been subjected to "sustained and escalating incidents of bullying, intimidation and poor treatment" by the Respondent (**Page 566**). The HR consultancy made several recommendations to the Respondent which subsequently dismissed the HR consultancy and made no effort to address my grievances. On 21<sup>st</sup> May 2013 the Respondent wrote to inform me that I was required to attend a disciplinary hearing

on 24<sup>th</sup> May 2013 to answer allegations of misconduct and gross misconduct relating to the grievances I had raised (**Page 680 to 681**). During the disciplinary investigation I had been refused sight of material the Respondent intended to rely on and was told by the (separate) independent investigator that the material I had asked to see would not be relevant to a future disciplinary hearing (**Page 675**). The disciplinary hearing was to be conducted by Mr Liversidge, one of the Directors I had named in my outstanding grievance, and was to be held at his own business premises (not-related to the Respondent), approximately 125 miles from my place of work; that meeting did not take place. It was not until 24<sup>th</sup> May 2013 that the Respondent told me it had decided to reject my grievance (**Page 687**). The Respondent arranged an appeal hearing for 29<sup>th</sup> May 2013 but refused all requests by me to state its grounds for rejecting the findings of the independent HR company it had appointed (**Pages 695, 697 and 699**), thereby making it impossible for me to prepare an appeal. The appeal hearing was also due to be conducted by Mr Liversidge at his own business premises which I contend would have been anything but impartial. By the 28<sup>th</sup> May 2013 it was clear to me that the Respondent had no intention to conduct matters fairly during the grievance appeal and disciplinary hearings; this was later confirmed on disclosure of emails in which the Directors involved specified the findings of those hearings before they were held (e.g. **pages 345 and 358**). This was the final straw and so I resigned with immediate effect.

## **Background**

2. Since 1988 I have been a member of the organisation known as the Motorcycle Action Group (MAG), of which the Respondent is the operating company. For several years I was the National Vice-Chairman of MAG and an elected Director of the Respondent. During that period I worked closely with Mr Neil Liversidge, a fellow MAG member who was the elected National Chairman of the organisation MAG and a Director of the Respondent. I witnessed Mr Liversidge's undoubted abilities and commitment to the organisation, but also his readily aggressive and manipulative behaviour. I grew increasingly concerned about Mr Liversidge's behaviour and actions, finally concluding he had become a net liability to the organisation. I withdrew from my formal role in the organisation in 2001.
3. It was in 2002, after I nominated an alternative candidate for the role of National Chairman, that Mr Liversidge's animosity toward me became apparent. Mr Liversidge conducted a vitriolic campaign for election and went so far as to write to my then employer on several occasions, twice accusing me of being "on the make" and my employer of attempting to damage and subvert MAG. My then employer replied to Mr Liversidge saying his accusations were a mixture of fact, fiction and self-delusion. Mr Liversidge subsequently lost the National Chairmanship of MAG and the Chairmanship of the Respondent's Board of Directors. Later he faced a series of complaints from members regarding different instances of his poor behaviour; I understand he was admonished but allowed to remain a Director until his departure in 2004 (**pages 774 to 777**).

4. Apart from making monthly financial donations I took no further active role in the organisation until I was appointed General Secretary in 2008 when, at the annual conference of MAG, I could see that Mr Liversidge was visibly agitated by the news.
5. On 12<sup>th</sup> August 2011 I was shown a letter written by Mr Alastair Preston, Managing Director of Magic Action Promotions Ltd. (MAP); this company employs Mr Peter Walker to raise funds on behalf of MAG and is owned by MAG members in Yorkshire (the region where Mr Liversidge and Mr Walker are members). Mr Preston's letter outlined a number of complaints about employees at Central Office. I was particularly concerned to find the letter had been written directly to Paul Turner (the then National Chairman) around four weeks earlier, with copies sent to Mr Ian Mutch (MAG President and the editor of MAG's bi-monthly members' magazine "The ROAD"), Mr Jolyon Lawson (a member of Yorkshire MAG and then National Vice –Chairman) and Mr Walker. None of these individuals had shown me the letter and so I could do little to investigate the complaints before they were heard by the National Committee of MAG on the following day.
6. The 13<sup>th</sup> August 2011 meeting of MAG's National Committee included Mr Preston's letter as an agenda item added at very short notice. His address to the meeting also contained very little specific information and so I had to request that he send me more detail. I expressed my concern at the way the matter had been handled as it appeared to be a very inefficient and damaging way to proceed.
7. After some effort to obtain information about specific complaints alluded to by Mr Preston, I was able to show that in the majority of cases Central Office staff had acted correctly. It became clear to me that a distorted view of Central Office was being encouraged, which reflected badly on some employees under my management, particularly Mr Paddy Tyson the Campaigns Co-ordinator and Miss Louisa Smith the Deputy General Secretary.
8. Mr Lawson and Ms Nicki Gage (then Yorkshire's Regional Representative) later nominated Mr Liversidge to represent Yorkshire on the Respondent's Board of Directors. Mr Turner asked me what I thought of co-opting Mr Liversidge to the respondent's Board of Directors; I replied that he had many strengths and long experience and I would work with whoever the members asked me to. However, I did have to clarify my position when Mr Turner told his fellow Directors that I was "happy" at the prospect (**Page 96**). Mr Turner wrote to his colleagues announcing Mr Liversidge's co-option causing one Director, Mr Pat van Aalst, to object that he had not been consulted. Other Directors also objected to the co-option, one told me they would have to resign saying that being in the same room as Mr Liversidge made them feel "physically sick". The Directors agreed to interview Mr Liversidge at its next meeting before making a decision. In the meantime I referred any communication I received from Mr Liversidge to the Chairman and / or Directors (**Page 98**).

9. On 10th December 2011, Mr Turner told me the Directors had declined to co-opt Mr Liversidge after interviewing him the previous evening, but had advised him to submit a nomination for election at the Respondent's 2012 Annual General Meeting. One Director, Mrs Denise Powell, told me Mr Liversidge threatened her, saying: "If I can't get you through MAG I'll get you some other way". I believed her account as it was in-line with my direct personal experience of Mr Liversidge's past behaviour. On several occasions thereafter Mr Turner asked me if Central Office had received Mr Liversidge's nomination, which we had not at any time before the closing date for nominations at the end of the year.
10. On 3<sup>rd</sup> January 2012, I emailed the Board and National Committee lists advising whose nominations had been received by the closing date. Mr Lawson immediately acknowledged that Ms Lavender's was the only nomination for Director of the Respondent, Ms Gage did not comment.
11. On 16th February 2012, Mr Liversidge claimed he had submitted a nomination before the closing date and was therefore automatically entitled to take the Directorship at the Respondent's next Annual General Meeting.
12. On 24th February 2012 Mr Turner emailed me a scanned copy of Mr Liversidge's nomination for co-option to the Respondent's Board of Directors, dated 9<sup>th</sup> December 2011 (**Page 99**). Mr Turner said the first he had seen of it was when Mr Liversidge emailed it to him that day. During subsequent enquiries no Directors told me they remembered seeing this document at that meeting but some time later two of Mr Liversidge's supporters, Mr Lawson and Mr Mutch (not Directors), said they had seen it at the Respondent's December Board meeting. In any case, nobody present on the night said they had accepted the nomination on behalf of the Respondent.
13. Some vacancies on the Respondent's Board of Directors remained and so I asked Mr Liversidge to send me a copy of his manifesto so I could include it in the documentation for the meeting. Mr Liversidge did so immediately (**Page 102**). I circulated Mr Liversidge's manifesto along with all others received at the time (**Pages 103**).
14. On 25th February 2012 I received an email from Mr Liversidge regarding the validity of his nomination. Several acrimonious complaints from Mr Liversidge followed, in one email he claimed his constitutional rights had been violated and asked "who gets the writ, you or Paul?" (**Page 104**).
15. On 27th February 2012 I advised Mr Liversidge of the current situation and assured him I was not aware that anyone intended to deny him his rights under the organisation's constitution (**Page 104 and Pages 84 to 87**). I wanted to show I was dealing with the matter correctly, especially after hearing rumours that he was alleging Central Office staff mishandled and obstructed his nomination. Mr Liversidge replied saying he intended to

submit himself for election as National Chairman (**Page 105**). In the context of recent exchanges this appeared to be a kind of threat.

16. On 28th February 2012 I was made aware that Mr Liversidge had used his personal Facebook page to spread a false allegation against me, saying, "Apparently Mr Brown's line is that he had to receive the nominations personally or they are invalid..." and also that I was trying to control MAG (**Pages 106 to 107**). I found this to be deeply offensive and was dismayed that he chose to publicly misrepresent my actions; Mr Liversidge considered himself to be a Director-in-waiting and I believe he should have acted accordingly; Facebook is not an appropriate place for an employer to air dissatisfaction with an employee.

#### **"Bullying" raised as a concern**

17. On 29th February 2012 I sent a polite but firm email, asking Mr Liversidge to reconsider the Facebook posting and assuring him I was willing to work with anyone who became a Director (**Pages 106 to 107**). Mr Liversidge replied that I had acted unprofessionally and used provocative terms, made clear he did not trust me and made further accusations unrelated to his nomination (**Pages 108 to 110**). Mr Walker commented to Mr Liversidge saying "I think that puts him in his place without him having an email to take to people that big boys are picking on him." (**Page 111**). I was not aware of this until disclosure, but Mr Walker's reference to himself and Mr Liversidge as "big boys" shows their mind-set; it was around this time that Mr Walker and I discussed, supposedly in confidence, whether Mr Liversidge's behaviour amounted to bullying and whether there was any prospect of it improving it. Again, I replied firmly but politely to Mr Liversidge whose display of strong personal prejudice and lack of trust concerned me greatly. At the behest of Mr Walker, I offered to discuss directly with him by telephone or face-to-face (**Pages 108 to 110**) but Mr Liversidge declined saying he preferred to "keep this in writing to avoid misunderstandings about what has or has not been said". Clearly there was little, if any, prospect of building trust.

18. On 2<sup>nd</sup> March 2012 Mr Liversidge emailed all of the above correspondence (**pages 106-111**) to Mr Mutch saying "Is Nich on a Kamikazi mission? He's an idiot to pick a fight with me" which again, I was unaware of until after disclosure although this document is no longer in the revised bundle.

**Comment [TS1]:** At page 111? We need to be specific

19. Around this time, Mr Lawson and Mr Walker each offered me assurances during telephone calls. Mr Lawson told me that he would not be supporting Mr Liversidge's nomination if he thought he was "the Neil of old", whilst Mr Walker told me that, as a former trade-union representative, he would personally make sure employees were treated correctly. In hindsight, these assurances appeared to be disingenuous and intended to persuade me not to ask awkward questions about the missing nomination.
20. On 8th March 2012 I commenced psychological counselling sessions prescribed by my GP due to physical symptoms of stress that became apparent about the time Mr Liversidge

started to make accusations about me, publicly and to my employer the Respondent. My symptoms included: hands clenching, tremor in right hand, sleep disturbance, impairment of concentration and memory. My GP also asked me to consider anti-depressant medication. Around three weeks later I reluctantly agreed as I felt the symptoms were having an adverse effect on my work and life. I was, and remain, concerned about dependency and am still taking this medication.

#### **Threats against Claimants' employment as Mr Liversidge and Mr Walker become Directors**

21. On 12<sup>th</sup> March 2012 an anonymous internet blogger published an article saying Mr Tyson and I had "... better watch out Neil is about!" **(Page 112)**.
22. On 15<sup>th</sup> March 2012 Mr Mutch forwarded to the National Committee an email on behalf of Mr Liversidge, who claimed his nomination had been "lost in the office" **(Page 116)** and made references to his dispute with me around the time of his 2002 election defeat. I saw this as further confirmation that he was prejudiced toward me and wished to spread that prejudice in order to undermine my standing among my employers **(Pages 113 to 118)**.
23. I sent a short factual response to the National Committee regarding Mr Liversidge's complaints. I pointed them to his insidious denigration of employees via Facebook, MAG meetings and internal communications **(Page 119)**. Mr Liversidge replied directly to me denying he held any employee responsible for the absence of his nomination, suggesting a Director took it away (although he did not say this to the National Committee). He again implied that I acted incorrectly when I asked the elected officers for clarification on the status of his nomination. He made a thinly-veiled threat about the consequences of not co-operating with him by stating, "Those who try in whatever way to be awkward or obstructive or to twist the rules will wish they hadn't bothered" **(Page 120)**.
24. On 20<sup>th</sup> March 2012, Mr Mutch suggested I make a statement recognising Mr Liversidge's legitimacy asking that I "simply concede that it is quite possible that it [the nomination] got binned in error as work overload does sometimes lead to such things happening" **(Page 121)**. I found this suggestion to be reprehensible. He also emailed Mr Liversidge, asking him to "... bare [sic] in mind constructive dismissal charges" which I was not aware of until disclosure in these proceedings but which is not included in the revised bundle.
25. On 21<sup>st</sup> March 2012, I replied to Mr Mutch reiterating the true facts of the case and making it clear what I thought about his suggestion that Central Office should take the blame in order to smooth things over **(Page 123)**. Later that day I emailed Mr Mutch regarding another false assertion, also apparently coming from Mr Liversidge's camp, that Mr Tyson and I were trying to remove Mr Mutch as editor of "The ROAD" **(Page 124)**.
26. On 28<sup>th</sup> August 2012, Mr Liversidge emailed the National Committee criticising Miss Smith and unspecified Central Office staff for "wasting time" by dealing with adverse comments

about MAG on its various Facebook pages (**Pages 139 to 140**). As Miss Smith's line-manager, I looked in to the matter and concluded she had not been doing as claimed, rather she was defending MAG's reputation against comments made by supporters of Mr Liversidge; limiting my response to Board members, I said that I thought his criticism was unjustified, I emphasised the need to develop MAG's ability to deal with social media and reminded Mr Liversidge of the Respondent's duty of care regarding abusive behaviour on social networks (**Pages 141 to 144**).

27. On 29th August 2012 Mr Liversidge responded to the Board, criticising me for taking the time to demonstrate the facts of the matter in question the previous day and taking personal objection to my comments about the bullying behaviour of one of his supporters (**Page 145**). This gave a clear indication that he had no confidence in the employee's ability to act professionally, further undermining Miss Smith and me. Then on 31<sup>st</sup> August Mr Liversidge asked me to be silent about his efforts to circumvent the National Committee's agreed policy regarding the matter (**Page 150**).
28. On 4th September 2012 Mr Liversidge emailed the Board-list with a sarcastic and childish criticism of me relating to his election defeat in 2002, again contradicting previous claims that he bore no grudge against me (**Page 152**).
29. On 11th September 2012 Mr Liversidge emailed the Board-list on behalf of himself and Mr Walker identifying a number of "concerns" about Central Office employees, ending by saying "I do not want to find that Nich has been copied in to argue this on email" (**Pages 154 to 156**, see also **Pages 160 to 165**). Mr Liversidge continued to make criticism of employees and to propose action regarding them. He appeared intent on pushing through his proposals with immediate effect, even before the Respondent's next Board meeting, without testing them or consulting me (given my responsibility for Central Office staff and operations) or the employees whose terms and conditions he wanted to alter. The Vice-Chairman, Mr Peake, discussed these matters with the Chairman, Mrs Powell, and took a strong line against Mr Liversidge's accusations (**Pages 167 to 169**). Mr Liversidge subsequently contacted the other five Directors, undermining Mrs Powell and Mr Peake and repeating serious allegations against me (**Pages 188 to 189**). He eventually had Mrs Powell removed as a Director.
30. Over a period of months, Mr Walker had been contacting my colleague Mrs Julie Sperling, the Respondent's Finance Administrator, whenever he wanted to know about staff-related matters. Mrs Sperling told me about each of these conversations at the time and also told me she felt uncomfortable about Mr Walker by-passing me, especially after the emails entitled 'CONCERNS' which were based in-part on incomplete information she had been asked to supply. I raised these issues directly with Mr Walker several times and he explained that it was because he did not trust me. Despite my entreaties he continued to ask Mrs Sperling when he wanted information about Central Office, further undermining my position as the manager of that office.

31. On 8th October 2012 I emailed Mrs Powell asking for the roles and responsibilities of individual Directors to be clearly defined by the Respondent, due to the employees' concerns regarding Mr Liversidge and Mr Walker's actions. I identified seven categories of behaviour by which Mr Liversidge and Mr Walker had placed the staff in unnecessarily difficult situations where: their demands fell within the remit of another Director; higher priorities had been agreed; lines of communication had not been followed; staff were told not to inform the Chairman or National Committee of decisions made by Directors that were not in line with Respondent's policy; accusing staff of obstruction and bureaucracy if they did not comply with requests; excluding staff from discussion or allowing them to challenge incorrect information and they appeared to be acting with the consent of the Board **(Pages 176 to 179)**.

**Respondent acknowledges Claimant's concerns when raised informally**

32. On 29th October 2012, Mr Liversidge emailed the National Committee saying that the Respondent had omitted to make clear they had devised a new Staff Code of Conduct and instructed me to inform the staff of the same **(Page 191)**. This was in contradiction to minute 14 of the Respondent's 12<sup>th</sup> October 2012 Board meeting **(Page 183)** and the consequent verbal assurances given to me by Mrs Powell that this would not be pursued until the Respondent had considered my objections and alternatives.
33. On 2<sup>nd</sup> November 2012, I emailed Mrs Powell, who at that time was still the Chairman and Director responsible for employees, voicing my concerns about Mr Liversidge's intentions toward Central Office staff and describing the very negative reaction of the staff at the prospect of him demanding access to them. I reiterated these concerns were genuine, asked for an impartial person capable of keeping order to be present at any meeting, and for a formal record of the meeting to be taken and agreed by all parties for the parties own protection and for the good of the Respondent **(Page 203 and 200 to 202)**.
34. On 30th November 2012, Ms Lavender became the Director responsible for staff and employment matters after Mrs Powell was removed from the Board. I emailed Ms Lavender some background information on the issues that had been discussed with Mrs Powell and forwarded to her my earlier email to Mrs Powell regarding my concerns about Mr Liversidge's intentions toward Central Office staff **(Pages 192 and 194 to 203)**.
35. I continued to discuss my concerns with Ms Lavender in the following weeks up to the Board meeting on 7<sup>th</sup> December when I reported on staff morale being low **(Page 205 and 206 to 209)**, whereupon Mr Liversidge expressed his doubt that I was telling the truth.
36. On 8<sup>th</sup> December 2012, during the National Committee meeting, Mr Tyson expressed a point of view. Mr Liversidge interrupted loudly saying he was "sick of paid people dictating to the group". When the discussion ended I formally asked for my objection to Mr Liversidge's behaviour to be minuted; I felt that my efforts to appease Mr Liversidge, even during that

meeting, had failed and that I now had to openly challenge his attacks on employees under my management.

37. On 11th January 2013 Ms Lavender met me and my four colleagues based at Central Office for individual and confidential discussions. I discussed with her the poor health of most employees at Central Office, including my diagnosis of depression and the effects of my medication; I asked for her discretion regarding disclosure to others but acknowledged that she must do as she thought right. We discussed Mr Liversidge and Mr Walker's attitudes as well as Mr Mutch's performance as editor of the magazine. I complained that the Respondent's Directors did not appear to have taken any notice of the concerns I had raised about Mr Liversidge. We agreed that rather than answering him directly I could refer Mr Liversidge's communications to her.
38. On 29th January 2013, Ms Lavender emailed the Directors giving them a report on her recent meetings with the staff and her appraisal of my performance (**pages 223 to 226 and 228 to 229**). Ms Lavender concluded "Our staff team have been strong whilst the Board has lacked direction. They would like to work with us but feel they are not being given a fair opportunity to do so. They would like to have input but do not know who to approach or are in fear of reprisal" (**Page 227**). The result of my appraisal was positive and Ms Lavender appeared supportive of the concerns of staff.
39. On 8<sup>th</sup> February 2013, I attended the Respondent's Board meeting. Mr Liversidge accused me of falsifying MAG membership figures. When I asked him if that was what he was really saying, he replied that he would not be tricked in to saying something that could be used against him at an Employment Tribunal. I found this highly offensive given my consistent attempts to avoid a formal grievance, let alone an Employment Tribunal.

#### **Mr Liversidge and Mr Walker unfairly accuse employees of working against them**

40. On 9th February 2013, during the lunch-break at the National Committee meeting, Mr Walker demanded an investigation regarding an alleged leak of MAP Ltd.'s financial information; he was apparently convinced the leak came from Central Office. Mrs Powell undertook to conduct an immediate investigation. Despite this, Mr Liversidge quickly emailed his fellow Directors making unfounded and degrading allegations against the employees at Central Office saying, "I have had a bellyful and the latest nasty deceitful spiteful fucking-up effort aimed at Pete Walker is the final straw. If they worked in my business they'd be at the dole office Monday morning... Mr Brown should also be required to start acting like a PROPER manager and interview each member of staff individually to find out who leaked it. Once we know, whoever it is, they are out of the door" (**Page 246**).
41. On 10<sup>th</sup> February Mr Pyatt emailed Mr Walker regarding their meeting two days earlier. He said of the meeting "it only re-enforced my opinion that Neil Liversidge is a bully. Our staff need encouragement, support and direction not destructive pressure from Directors and what

I have seen reflects old school tactics which I do not like and will not be party too and possibly illegal" (**Pages 250 to 251**).

42. Mr Tyson and I were regularly criticised by Mr Liversidge and Mr Walker for working on evenings and weekends, even though that is the time when most motorcycle-related activities take place. We were also criticised for claiming some of this time back as time-off-in-lieu. I had already advised Mr Liversidge, Mr Walker and the other Directors, on several occasions, that Mr Tyson and I typically donated the equivalent of more than 20 days per year of our own time, each, through out-of-hours working that we did not take back as time-off in lieu.
43. I became aware upon disclosure that, on 15<sup>th</sup> February 2013, Mr Liversidge had drafted a three-page letter to me on behalf of the Respondent. In this letter he made a series of accusations regarding staff members and volunteers alongside a number of related demands "to correct your behaviour and that of your subordinates". A large portion of the letter concerned the allegation that Central Office had leaked MAP Ltd financial information saying "(the Board) does believe they were leaked by a Member of your staff and that the person in question has taken her [sic] cue from your attitude to the Board in general and to PW and NFL in particular" (**Page 247 to 249**). Mr Liversidge stopped-short of actually sending the letter to me. During the later grievance investigation Mr Walker clearly stated that on the day before the February National Committee meeting he telephoned Mrs Sperling to ask about the leak, saying that "... she told me she had not given the accounts out, she also told me no one else had access to her computer to be able to see the accounts. I believed her and told her so" (**Page 539**). In the same statement he claims that he told me the same thing on the first working day after the National Committee meeting, Monday 11<sup>th</sup> February (**Pages 537 to 538 and 542**). In fact, when I telephoned Mr Walker on the 11<sup>th</sup> regarding his distrust of Mr Tyson, Miss Smith and myself, he refused to confirm to me whether or not he believed Central Office staff had leaked the report of MAP Ltd.'s accounts. At that time Mrs Powell had only just begun the investigation demanded by Mr Walker. I knew that my colleagues were under investigation but did not alert them to or discuss the incident with them at the time. It is always stressful when a team is under suspicion from their employer but I did not believe that my colleagues would have done as Mr Walker and Mr Liversidge alleged. Some days later Mrs Powell told me she had concluded her interviews and that no member of staff had played any role in the leak. Neither Mr Walker nor Mr Liversidge ever acknowledged that the employees were blameless in this incident and, as far as I am aware, they did not redress the damage they had done by their public accusations.

#### **Mr Liversidge applies further pressure against Claimant**

44. On 6th March 2013, Mr Liversidge emailed the National Committee apparently determined to exclude Mr Tyson and me from a small group set-up to issue press releases in quick-response to news, even though our work required staying up to date with events and communicating about them both within and on behalf of MAG.

45. On 7<sup>th</sup> March 2013, I gave a reasoned objection when Mr Liversidge insisted that Miss Smith should ignore the advice of the Information Commissioner's Office (ICO) and issue contact details for MAG members to their regional representatives, even where members had given instructions to withhold their details. This was followed on 8<sup>th</sup> March by my recommendations based on information from the ICO **(Pages 269 to 271)**.
46. On 11<sup>th</sup> March 2013 Mr Liversidge emailed Ms Lavender suggesting he meet the staff with one or possibly two other Directors (Ms Lavender asked for an impartial third party to be present) saying "I've done heavy disciplinary stuff before and it doesn't frighten me" **(Page 272)**.

**Respondent agrees to give Mr Liversidge and Mr Walker direct responsibility for staff**

47. On this same day, Mr Liversidge telephoned my colleagues Mrs Ferrari and Mr Tyson asking if they thought I was exercising good management in allowing Miss Smith to work from home while I was attending a meeting in Belfast. Mr Liversidge was apparently aggrieved when my colleagues told him it would be inappropriate for them to comment. I was aggrieved that Mr Liversidge should attempt to undermine me in this way since he knew that working from home every Monday was part of Miss Smith's arrangements for a phased return to work following treatment for cancer.
48. On 12<sup>th</sup> March 2013 Mr Liversidge emailed me instructing me to advise the staff that he and Mr Walker were now the Directors responsible for staff issues and that any appointments or commitments for the 18<sup>th</sup> March 2013 must be cancelled so they could meet all the staff at Central Office at 9am **(Page 276)**. He also accused me of "shopping around for allies" regarding the Data Protection Act matters that were still being argued over **(Pages 287 and 292)**. I emailed the Directors several times during that day, again acknowledging their right to choose who represents them with the staff, but reminding them of the long-standing staff concerns and advising them that, based on the recent behaviour of Mr Liversidge, one colleague had asked for legal representation while another had told me they feared dismissal if they expressed their true feelings about Mr Liversidge's behaviour and that the majority of staff were considering their position **(Pages 288 and 293)**.
49. Mr Liversidge instructed me to advise the staff that anyone absent through illness on 18<sup>th</sup> March would be required to attend a meeting at his personal business premises in Yorkshire on their return to work **(Page 290)**. There was no obvious trigger for this instruction but early the next morning **(Page 294)**, and again two days later **(Page 322)**, Mr Liversidge emailed the Directors and National Committee respectively to say he did this because he was convinced that I, Miss Smith and Mr Tyson would all avoid the meetings by claiming to be ill. This concern was unfounded and appeared to be another attempt to intimidate. After disclosure I could see that another Director Mr van Aalst attempted to reason with him, eliciting more defamatory remarks against myself and Miss Smith **(pages 299 to 300)**. Mr Liversidge

dismissed out of hand my efforts to make sure the meetings on the 18<sup>th</sup> March would be productive (**Page 301**).

50. On 14th March 2013 Mrs Powell visited Central Office. I handed her a letter outlining my concerns for the staff who felt intimidated by the behaviour of Mr Liversidge and Mr Walker, requesting the National Committee to take charge, as provided for in the constitution (**Pages 307 to 308**). Mrs Powell wrote to the voting members of the National Committee asking them to take control of the developing situation (**Pages 313 to 315**) but Mr Liversidge objected, making further defamatory accusations against myself, Mr Tyson and Miss Smith (**Pages 319 to 323 and Page 336**). My concern was also for the well-being of MAG and the Respondent as it appeared to me that Mr Liversidge and Mr Walker were on a collision course with the employment rights of the staff.
51. On 15<sup>th</sup> March, Miss Smith and I had our annual meeting with the Respondent's insurance brokers. During the fact-finding element of our insurance renewal negotiations I was obliged to tell them about the current situation when I was asked if I knew of any potential for claims against the Respondent's professional indemnity policy. I emailed the Board-list later that day advising them that the meeting had taken place (**Page 327**). I highlighted an exclusion clause in the Respondent's £1,000,000 insurance against wrongful acts, breach of statutory duty, libel / slander, malicious acts, etc. committed by its Directors, employees or elected officers, i.e., if the insured knew its actions to be a breach of duty or committed in reckless disregard of whether it was a breach of trust or duty.
52. 15th March 2013 was the last working day before the scheduled meetings with Mr Liversidge and Mr Walker. Mr Liversidge emailed me saying that Mrs Powell was "... up to some silly games" and telling me to disregard any instructions from her. I replied to Mr Liversidge (copy to the Board and National Committee lists) advising him that I had not received any instructions from Mrs Powell but that I had brought to her attention my concern, as their line-manager, regarding the long-term intimidation felt by Mr Tyson and Miss Smith. I also pointed to the impact on their health and mine (**Page 337**).
53. In an attempt to reduce the risk to the Respondent, I had given Mr Liversidge details of how to access the employment advice service that the Respondent subscribed to and which provided it with legal expenses insurance. Mr Liversidge responded that afternoon saying "we have obtained all the information and advice we need from ACAS" (**Page 340**).
54. Mr Walker then emailed the National Committee claiming ACAS was "dismayed" at the employees. He said that citing health grounds as a reason not to attend the meetings on 18<sup>th</sup> March would open the way to the meeting becoming a disciplinary meeting and that the only acceptable grounds would be physical illness "such as a locked back, etc." (**Page 326**). Members of staff who were on the National Committee email list were outraged by Mr Liversidge's degrading and defamatory claim that members of staff were being "downright

dishonest" (**Pages 322 to 323**) about their health and I had to spend some time calming them down. My employer owed a duty of care for the physical and mental well-being of the employees, Mr Tyson, Miss Smith and I had all received medical treatment for, or related to, work-related stress and this had been reported to the Respondent over a period of time.

55. At the end of that day Miss Smith and Mr Tyson submitted letters formally raising grievances about their treatment by the Respondent citing intimidation by Mr Liversidge and Mr Walker as well as the failure of the Directors to consider their mental and physical well-being (**Pages 341 and 342**).
56. I emailed the Directors advising them that a formal grievance process had started for Mr Tyson and Miss Smith and that having sought my own legal advice I would be lodging a grievance on my own account. I made it clear that, as the Respondent's grievance process is designed to be an internal process, I was hopeful the matters at hand would be dealt with without going to an Employment Tribunal, so I asked for the correct grievance procedure to be followed so that "all parties should be able to feel confident that the matter will be dealt with reasonably and fairly" (**Page 335**).
57. On Saturday 16th March 2013, Mr Liversidge emailed the National Committee saying Miss Smith, Mr Tyson and I were likely to walk out and claim constructive dismissal and made it clear that he knew we were on the National Committee email list and would be able read his message (**Page 344**).
58. On Sunday 17<sup>th</sup> March 2013, Mr Gerard Livett (the then President of the Federation of European Motorcyclists Association) telephoned me to advise that Mr Liversidge had contacted him looking for evidence against me. On that same day, Dr Leon Mannings (a contractor to MAG) emailed me and Mr Tyson advising us that Mr Liversidge had also asked him for evidence against us (**Page 347**). Although it was humiliating to find that Mr Liversidge was canvassing my colleagues in advance of the next day's meetings, his intentions were at least clear. That evening I emailed all the Directors submitting my own formal notice of Grievance, citing my concerns about my treatment and that of staff under my management (**Page 350**). I included some relevant ACAS guidance and a link to the ACAS website page where full guidance could be found so that they could judge for themselves (**Pages 348 to 349**).
59. On the morning of 18th March 2013 I arrived at Central Office at 08:40hrs. Mrs Powell, Miss Smith and Mrs Ferrari were in the office. Mr Liversidge, Mr Walker and Mr Mutch arrived soon after; I greeted them and made them hot drinks. Mr Tyson arrived soon after that and Mrs Sperling just before 09:00hrs when Mr Liversidge called everybody in to the largest room at the office for a general staff meeting. He spoke with aggression, spelt-out his personal loyalties to Mr Walker ("a superb man manager") and Mr Mutch saying "These two people, along with Bruiser, are the men I trust most in my entire life"; these three individuals were

named by Mr Liversidge in complaints made against Miss Smith, Mr Tyson and me during our individual meetings. Mr Liversidge went on to contradict his earlier statement about the purpose of this visit not being disciplinary, by clearly telling us that disciplinary action could well take place later that day. He did so after making broad allegations about staff conduct and specifically telling me, Miss Smith and Mr Tyson to apologise, and that we did not have the trust or confidence of the Respondent's Board. This was done in front of our colleagues regardless of line-management and I believe was designed to degrade and humiliate us. Although I did not realise at the time, Mrs Powell had recorded Mr Liversidge's speech using a digital recording device (**Pages 362-366**). Mr Liversidge insisted on using Mrs Sperling's office despite a suitable alternative being available, this prevented her from being able to work on her computer (which is secured for finance work) and also denied her somewhere quiet on her first day back at work after major surgery, a requirement I had explained to Mr Liversidge and his fellow directors several times during the week before. Mr Liversidge later emailed the National Committee saying; "Nich insisted that we should use the meeting room which he had no doubt wired for sound as he was very disconcerted when we declined" (**Page 356**). I had not "bugged" any office and was offended by that accusation; my concern had been for Mrs Sperling's situation.

60. Mr Liversidge displayed aggression and prejudice, made false allegations against employees in front of their colleagues, thus causing physical and mental distress to several members of staff under my management. At this stage the three female employees were clearly upset and tearful but Mr Liversidge and Mr Walker insisted on starting individual interviews with them.
61. Mrs Ferrari was called in to her meeting with Mr Liversidge, Mr Walker and Mr Mutch. She emerged soon after and I saw that she was tearful.
62. Mrs Sperling was called next and, as she was visibly upset, she was permitted to have Mrs Powell with her during the interview. I later heard Mrs Powell's recording of the interview (**Pages 367 to 369**) in which Mr Liversidge addresses Mrs Sperling making allegations against her colleagues Miss Smith, Mr Tyson and me. Mrs Sperling was in considerable distress and was allowed to go home. I had repeatedly warned Mr Liversidge and Mr Walker about Mrs Sperling's health (**Page 295**), it had been reported at the Respondent's most recent Board meeting and I later discovered that Mr van Aalst had reminded them a few days before the meeting. Mr Liversidge emailed the Respondent's Directors and National Committee some time later to falsely accuse me of not having warned him so I could portray him in a bad light (**Page 639**).
63. By that point I had twice attempted to bring to the attention of Mr Liversidge and Mr Walker the effect that they were having on the employees, but I was dismissed out of hand each time.

64. Miss Smith was then called and was also allowed to have Mrs Powell with her. I was on the telephone seeking further employment law advice when I saw Miss Smith emerge from the room being physically supported by Mr Walker. I could see Miss Smith was very distressed and she later explained to me that Mr Liversidge had threatened her with immediate disciplinary action after she had objected to Mr Liversidge investigating her grievance and that he became abusive when she asked for her rights to be properly observed, eventually initiating a severe panic attack affecting her breathing and mobility. Later that day she explained to me that, while sitting outside the building recovering from the panic attack, Mr Liversidge approached her and informed her that he had taken advice and was giving her 48-hours' notice to attend a disciplinary meeting at his personal business offices (which are not part of MAG premises), in Yorkshire. I later saw an email from Mrs Powell to the National Committee dated 20<sup>th</sup> March 2013 confirming Miss Smith's account (**Page 413**).
65. I observed that Mr Liversidge appeared incapable of recognising his own responsibility for the distress being caused which he seemed to regard as some sort of tactic by the staff. I pleaded with Mr Mutch to intervene but he shrugged his shoulders and replied "but what can I do?"
66. During a 'time-out' Mr Walker told me that he and Mr Liversidge did have copies of our grievances but had not bothered to read them, dismissing them as "spurious". I assured him they were serious and asked him to recall his experience as a trade-union representative and to consider the need for correct handling of grievances.
67. Soon after, Mr Tyson told me that, having witnessed the treatment of his colleagues and his objection to Mr Liversidge investigating the grievance, he was unwilling to take part in an individual meeting with Mr Liversidge (**Page 389 & 393 to 396**). He was also allowed to have Mrs Powell with him. Immediately after this meeting he reported to me that he had been told to attend a disciplinary meeting in Castleford at 11am on 25th March 2013 to face an allegation of 'gross misconduct' because he allegedly failed to co-operate during the meeting.
68. I was then called in. I asked Mr Liversidge if he had received the grievances; he confirmed he had and told me he would look at them when he got home after the meetings. I asked that the meeting be audio-recorded by Mrs Powell. Mr Liversidge agreed and I was asked a series of questions relating to complaints that Mr Liversidge and Mr Walker had against me. I declined to answer those questions that appeared related to my grievance against these two Directors, as it was not appropriate under the Respondent's own grievance policy for them to hear the grievance against them. I was told that if I did not co-operate I would have to attend a disciplinary meeting in Castleford on the following Monday. I was clearly being told that I was to be disciplined for invoking the Respondent's own grievance policy. I did not think this was legal. I continued to answer as best I could but was continually hampered by Mr Liversidge talking over me. Mr Liversidge made some remarks about my posture and demeanour in the meeting, aggressively telling me to sit up straight (which I was) and to look

at him (which I had been) and accusing me of displaying “dumb insolence” (**Pages 379 to 383 & 385 to 391**). I was told to give Mr Liversidge and Mr Walker the key to the building that had been issued to Mr Tyson, an instruction that was repeated by email (**Page 397**).

69. I was allowed to return to my desk but a few minutes later I was called in to a supplementary meeting with Mr Liversidge, Mr Walker and Mr Mutch. Mr Liversidge asked me to inform Miss Smith that the Respondent had decided to “relieve her of stress” and “make Central Office a happier place to work” by changing her job title from Deputy General Secretary, to Senior Administrator. I was told there would be no change to her duties, pay or conditions of employment. I explained that changing her title without reducing her work load could not be considered a suitable measure to reduce her stress and that it could look like demotion. I agreed to convey the decision in order to spare Miss Smith the inevitable distress of being told by Mr Liversidge and Mr Walker.
70. Mr Mutch entered my office around 12:30pm to say they were leaving and “not to worry”. Neither Mr Liversidge nor Mr Walker spoke to me before leaving; I expected Mr Liversidge to collect the office door fob he had demanded and to brief me, as Mr Tyson and Miss Smith’s line-manager, on the disciplinary action to be taken against them. Mr Liversidge and Mr Walker did not appear to me to have adhered to the ACAS guidance during their visit to Central Office that day. I saw Mr Liversidge’s accusatory behaviour, supported by Mr Walker and tolerated by Mr Mutch, and the disregard they showed their employees as a further escalation of the protracted series of events leading to the Respondent’s grievance procedure being invoked and then ignored.
71. Later that day, Miss Smith submitted a statement describing her experiences and a letter complaining about her treatment during the meetings with Mr Liversidge and Mr Walker. Miss Smith also described to me the intimidating behaviour exhibited by Mr Liversidge, who was apparently supported by Mr Walker and Mr Mutch. She reported being presented with allegations of misconduct that were inaccurate but which she was not allowed to answer fully, as well as threats of immediate disciplinary action against her in relation to her Grievance (**Page 392**). Miss Smith later showed me an email she had sent to her solicitor describing her experiences in some detail and which matched the verbal account she had given me earlier (**Pages 353 to 355**). Later on, Mr Tyson submitted his account of the events of the day (**Pages 393 to 396**). I also typed all my notes immediately into a statement (**Pages 385 to 391**).
72. After the meetings I emailed Mr Liversidge asking him to clarify the position regarding disciplinary action against Miss Smith and Mr Tyson. My concern was particularly for Miss Smith who appeared to have been given inadequate notice and without informing me as her line-manager. Mr Liversidge’s first email in reply did not answer my query but simply complained that I had copied Mrs Powell, saying she was not part of the management structure. I thought it significant that he did not complain that I had included Mr Mutch, who is

also not part of line-management, but who Mr Liversidge had brought to the meeting (**Page 361**). I replied to Mr Liversidge and his fellow Directors to say that I believed it it had been reasonable for me to include those present at the meetings when verbal notices of disciplinary action had apparently been issued (**Page 407**).

73. At the end of that day Mr Liversidge emailed his fellow Directors asking, "Please can I have your authority to hire a lawyer with a view to carrying out a full disciplinary proceeding leading to a lawful and fair dismissal of Louisa and a final written warning for Nich" (**Page 358**).
74. On 19<sup>th</sup> March 2013 Mr Liversidge emailed his fellow Directors asking them to deal with the grievances against him and Mr Walker that day. It is difficult to see how this could be achieved whilst following the Respondent's grievance policy and so I believe Mr Liversidge wished to make the Directors complicit in his deliberate disregard for the Respondent's own policies. Again I pointed out to the Directors that the Respondent's grievance procedure should be followed for the good of all concerned (**Page 406**).
75. Miss Smith came to see me in my office as she remained concerned that Mr Liversidge had issued her with a verbal notice to attend a disciplinary hearing. I told her that I interpreted Mr Liversidge's email to mean that he did not require her to attend a disciplinary meeting that Wednesday. Miss Smith remained concerned and told me she was going to take-up Mr Liversidge's offer that she could contact him if she had any queries. It seemed to me that his email was evasive and that he had made the offer of direct contact so he clearly intended Miss Smith to ask if she felt the need. His email response of 11:27hrs tells Miss Smith, "We told you that any disciplinary would be held here on Monday 25 March at 1pm. We told you that we were required to give at least 48-hours' notice but would instead be giving you almost a week's notice" (**Page 399**). This contradicted Mr Liversidge's earlier emails to me which I read as saying Miss Smith was not told she was to be disciplined (**Pages 404 and 405**). I was also concerned that Mr Liversidge still appeared to be refusing to give written details in the correct manner or instructing me to do so as Miss Smith's line-manager. At 13:29 Mr Liversidge emailed me to say Miss Smith was being vexatious and included the email exchanges he had had with her that day. I replied that I had given her some assurances but that I did not think it unreasonable to ask for clarity (**Pages 403 to 404**). By this time I was thoroughly perplexed by Mr Liversidge's contradictory emails on the subject.

#### **Respondent acknowledges Claimant's grievance, then suspends him**

76. On 20th March 2013 one of the Directors, Mr "Veece" Davison, emailed me to say he would be investigating my grievance (**Page 411**). I replied thanking him and politely asked how he would ensure his impartiality given that he had already emailed the National Committee stating that the staff "must have something to hide", thus showing his evident prejudice (**Page 328**).

77. A few minutes later Ms Lavender emailed me a letter saying, “you have been suspended from work until further notice pending two investigations” (**Pages 412 and 415 to 416**). One of these investigations was to be into my grievance; this surprised me as I had not heard of cases where the person who brings a grievance is suspended while the people they have brought the grievance against are allowed to continue. The second investigation was to be “into an allegation of misconduct or gross misconduct concerning your refusal to follow reasonable management instructions and undermining of the management body”. The letter did not specify what reasonable management request I had refused to follow. The Respondent was also inconsistent in its treatment of me and Miss Smith, who was not suspended even though Mr Liversidge told her in his email of 19<sup>th</sup> March 2013, “I note once again you have copied in persons not in the management structure, i.e. Den Powell and Ian Mutch, despite it having been made clear to you that you discuss management matters only with line management.” (**Page 402**). I believe that I was suspended simply as a means of getting me out of the way while the arrangements were being made to get rid of me entirely.
78. I had received no prompt to read Ms Lavender’s email suspending me and did not know about it until an hour after it was sent. Her email failed to offer any support, but instructed me not to contact staff or members of MAG, effectively cutting me off from the organisation of which many are my friends are fellow members. I informed Mrs Sperling and Mrs Ferrari that the terms of my suspension meant I could not communicate with them other than to help Mrs Sperling change the password to my computer.
79. On the same day my solicitor wrote to MAG giving fair warning of the potential for claims to be brought against its wholly-owned operating company, the Respondent, and asking that urgent action be taken.

**Comment [TS2]:** I have deleted the last part of this para. As this is actually fine in terms of practice at this stage of proceedings.

#### **Respondent openly discusses intention to dismiss Claimant**

80. On 21<sup>st</sup> March 2013 Mr Mutch sent two emails to the Directors. At 13:18 he said “I won’t support this sacking business” and discussed “... what the fall out might be from sackings” among many other references to sackings, mine in particular (**Pages 418 to 420**). At 13:37 he said, “I spoke to Nich and he said that a grievance procedure could be conducted internally, no lawyers no courts no costs besides the travelling costs of participants. Can we drop the sacking or suspension of Nich in the meantime?” (**Page 421**). I believe Mr Mutch is referring to conversations with Mr Liversidge and Mr Walker, possibly with other Directors, who had by that time decided to sack me without having either conducted an investigation or considered my response to their allegations and without hearing my own grievance.
81. On 23<sup>rd</sup> March 2013 Mr Mutch emailed me directly to say, “I am not saying you’ve done nothing wrong but I am saying no one deserves sacking” (**Page 431**).

#### **Claimant’s grievances are heard**

82. On 26th March 2013 I received a letter from Qdos Consulting, advising me it was an independent HR specialist appointed by the Respondent to hear my grievance and that a meeting had been arranged for me, at its office, on Monday 8th April 2013 (**Page 434**).
83. On 28th March 2013 I replied to Qdos confirming my attendance and outlining the main points of my grievance. I made it clear that I had made considerable effort to resolve the issues within my grievance on an informal basis, explaining that I (and members of staff I was responsible for as line-manager) had been subjected to very poor behaviour by Mr Liversidge and Mr Walker over a long period of time and that the Respondent had failed in its duties toward its employees. I also explained that I had been suspended pending investigation of my grievance but that Mr Liversidge and Mr Walker had not (**Pages 446 to 448**).
84. On 5<sup>th</sup> April 2013 I received a letter from the Respondent advising me that if I did not attend my grievance meeting with Qdos on 8th April the Respondent would regard it as gross misconduct (**Page 452**). I was not only determined to go ahead but had given no indication to the contrary. I am not aware of any clause within my terms of employment which state that I can be disciplined for gross misconduct for failing to go through with a grievance; it seemed onerous and highly unusual to be threatened with disciplinary action if I did not proceed.
85. On 8<sup>th</sup> April 2013 I attended the grievance meeting and submitted a bundle of evidence with a summary of the main points to assist the investigation (**Pages 455, 458 to 470 and 491 to 497**).
86. On 11<sup>th</sup> April 2013 Mr Liversidge emailed the National Committee claiming Mr Tyson and I wanted to “destroy MAG” and “line their [our] pockets” (**Page 544**).
87. On 15<sup>th</sup> April I wrote to Qdos confirming I was happy for Mr Liversidge and Mr Walker to be shown the evidence I had presented, provided they would reciprocate and the brief mention of my diagnosis and treatment for depression was redacted (**Page 549**). I also referred to recent emails from Mr Liversidge as evidence of his further ill-treatment of staff and asked for them to be taken in to account.
88. On 22<sup>nd</sup> April 2013 Mr van Aalst appears to have sent the findings of Qdos to the Directors, although I only found this out much later (**Pages 571 to 576**).

**Independent investigator upholds Claimants’ grievances, Respondent ignores findings and commences disciplinary proceedings against Claimant**

89. On 24th April 2013 I received a telephone call from Mr Turner, who was standing-in for me at Central Office. He said he had seen an email to my work address telling me of an urgent meeting at a solicitor’s office in Wakefield the next morning, but knew nothing more than that. When I telephoned the solicitors in question they had not heard of the person I was supposed to be meeting. Mr Turner then admitted he had been instructed by Mr Liversidge to tell me to go there for a disciplinary hearing. I had yet to hear the outcome of my grievance and

believed I should have been given at least 48-hours' notice and in writing, so I asked Mr Turner to forward me the instructions he had been given. Instead, I received an email via Mr Turner telling me the Respondent had made its instructions clear and that I was to attend the meeting as notified and claim my expenses. It was very unclear to me what the purpose of the meeting was, so I sent this to Qdos as further evidence of poor treatment and asked when I would be told of the outcome of my grievance (**Pages 578 to 579**). I was later able to make contact with the independent HR investigator I had been instructed to meet in Wakefield and, given the circumstances, they suggested postponing the meeting for a few days (**Page 590 refers**). They were also able to clarify that this was to be an investigatory meeting rather than a disciplinary hearing and on that basis I was able to get some advice. I asked for clarification of the matters to be investigated but none was given (**Pages 587 to 588**).

90. That afternoon I received a letter from Qdos upholding my grievance saying "...you have been subjected to sustained and escalating incidents of bullying, intimidation and poor treatment by your employers, MAG (UK) Ltd." In their letter to me, Qdos recommended "that Mr Liversidge and Mr Walker no longer have responsibility for HR practice within MAG UK" and that Directors be given training in employment matters (**Pages 566 to 567**). I did not feel satisfied with some of the other findings and contacted Qdos regarding an appeal, but they told me that they had already been sacked by the Respondent and therefore could not handle my appeal.
91. On the same day, the Respondent wrote to me asking for usernames and passwords to Central Office IT systems, saying they may see my refusal as "a deliberate attempt to harm the business further" possibly leading to disciplinary action (**Page 580**). I did not possess the information nor cause it to be removed, I found the inference that I had done so and that I already harmed the business to be highly offensive.
92. Mr Liversidge emailed the National Committee alleging that employees obstructed volunteers by means of the application form for issuing ID cards to elected MAG representatives. I found this to be grossly unfair and saw it as a further attempt to undermine the staff (**Page 577**).
93. On 25<sup>th</sup> April 2013 Qdos emailed Mr van Aalst offering to respond to my email regarding an appeal saying, "I fear you may compromise yourself if you do not at least acknowledge the letter and confirm how the appeals process works". I became aware of this only after disclosure.
94. On 26 April 2013 I wrote to the Respondent informing it that I wanted to appeal some points of the grievance findings but that I accepted the main finding in my favour. I also set out my concerns about their handling of the disciplinary process, again asking them to tell me what the allegations were against me and asking them to ensure the process was conducted fairly (**Pages 600 and 601 to 602**).
95. On the 28th April 2013 Mr Liversidge emailed the National Committee claiming the staff forced him and Mr Walker to behave as they did on the 18<sup>th</sup>. It was clear to me that our

legitimate concerns, and our attempts to have them treated seriously, were again being deliberately misrepresented (**Pages 607 to 608**).

96. On 29<sup>th</sup> April 2013 I attended a four-hour disciplinary investigation meeting. I was not shown any evidence or specific allegations despite asking before, during and after the meeting. Some time later the investigator's notes from the meeting were emailed to me for comment (**Pages 611 to 623 and 644**).
97. On 30<sup>th</sup> April I still had not received any instructions from MAG (UK) Ltd regarding my grievance, so I emailed the responsible Director, Mr van Aalst, advising him that my grievance was continuing, and that Mr Liversidge was continuing to act prejudicially (e.g. by contacting my colleagues at FEMA to say that neither I nor Mr Tyson would ever again be a delegate to FEMA meetings; the nature of our work meant we had been regular delegates, as had our predecessors, and so I took this further evidence that he was determined to get rid of both of us). I asked what new arrangements had been put place to handle my appeal and I reminded him that I was about to take ten days' annual leave (**Page 625**). Mr van Aalst acknowledged receipt that same day saying he would contact me as soon as possible with details of how my appeal would be progressed (**Page 626**).
98. On 10<sup>th</sup> May 2013 my solicitor emailed two Directors of the respondent reminding them that I had sent my appeal to Mr van Aalst because Qdos were no longer dealing with my case (**Page 650**). Mr van Aalst replied that the Respondent had appointed another third party to investigate (**Page 651**).
99. On 22<sup>nd</sup> May 2013 I received two letters from the Respondent. The first, summoned me to a disciplinary hearing at Mr. Liversidge's personal business premises in Wakefield, Yorkshire at 11am on 24<sup>th</sup> May 2013 (these premises are in no way linked to the Respondent, although Mr Liversidge's letterhead suggests that they are). The letter contained a bundle of statements and evidence that Mr Liversidge wished to rely on, however the independent investigator's notes did not contain the corrections I had made. There were five allegations: 1) That I had obstructed the staff meetings on 18<sup>th</sup> March and endeavoured to absent myself from them; 2) That I had been insubordinate when excluded from the Respondent's Board meetings; 3) That I refused to carry out reasonable management instructions; 4) That I undermined the Respondent's Board by involving the National Chairman and National Committee; 5) Being involved in outside activities. I was confident I had evidence to refute all this allegations. As an example, Clause 13 of my contract of employment allows employees to have outside interests, I had written agreement from the National Chairman/Chairman of the Board and minutes from the Respondent's Board and National Committee meetings confirm I was acting with consent (**Pages 680 to 681**).

**Final Straw: Respondent refuses to inform Claimant of grounds for rejecting his grievance**

100. The second letter, initially emailed by Mr. Liversidge and later hand delivered to my house, postponed the disciplinary hearing and instead told me to attend a grievance appeal hearing at the same time and place. In the letter the Respondent claimed that my appeal "has only just been brought to our attention" (**Page 682**, see also **Pages 625 to 626, 645, 686 to 687, 690 to 691 and 696 to 698**). This was clearly untrue. I concluded that, having failed to complete the grievance process correctly, Mr Liversidge was again attempting to bluff his way out by accusing me of failing to follow procedure.
101. On the 24<sup>th</sup> May 2013, one calendar month after Qdos wrote to me finding in my favour, Mr Liversidge told me for the first time that, "The Board has rejected the Qdos findings and recommendations" (**Page 687**). Up to that point the Respondent had failed to tell me of its decision to ignore the independent findings of the specialist HR company they had employed to investigate my grievances. Nor had the Respondent notified me of the outcomes they had agreed at that time. The Respondent failed to follow their own policy by not notifying me of the outcome from the grievance procedure or their grounds for rejecting the specialist HR advice they had commissioned from Qdos.
102. I asked for the reasons why my grievance had been rejected by the Respondent so that I could present an appeal against its decision. Mr Liversidge replied by email stating, "The Board is not obliged to explain to you the views it takes or the decisions it makes on internal management matters". This is clearly not part of the process and removed from me the right to prepare an Appeal; it was clear to me that Mr Liversidge was still refusing to follow procedure.
103. By 28th May 2013 I had been suspended on full pay for ten weeks and would have remained suspended on salary significantly longer if the grievance and disciplinary process had run its course. By contrast, two Directors responsible for poor treatment of their employees had been left in place and allowed to further undermine my position while my grievance against them was being investigated. This clear disparity in treatment, Mr Liversidge's refusal to explain the grounds for rejecting my grievance and his attempts to blame me for the failure of the Respondent to follow due process, all led me to believe that both the reasoning and the process being followed were unfair (**Pages 697 and 699**).
104. Having read the evidence presented to me by the Respondent ahead of my disciplinary hearing, I did not think their case against me held up to scrutiny and wanted to formally clear my name. However, I had to admit that I had finally lost all trust and confidence in the Respondent due to its failure to follow recommended practice and the Respondent's own policies. Nor did I have reasonable grounds to believe that I would be treated any more correctly in any future hearings or appeals, especially given Mr Liversidge's insistence on conducting those meetings himself and on his own personal business premises. I concluded that by continuing to behave in this manner toward me, it was clear that the Respondent

intended to achieve my resignation. After consulting my solicitor and family I felt I had no choice other than to submit my immediate resignation due to the untenable situation that Directors of the Respondent, in particular Mr Liversidge, had created (**Pages 700 to 701 and 703 to 704**).

105. It is my belief that Mr Liversidge has worked to remove loyal and hard-working colleagues in contradiction of the Respondent's own policies.
106. While it is clear that Mr Liversidge is primarily responsible for mishandling the process, he had the support of a majority of his fellow Directors, while the National Committee stood back and allowed it to happen. The governance and management problems of MAG pre-date my employment; they are systemic, cyclical and very long-standing and it is these problems that Mr Liversidge has sought to exploit. I tried regularly throughout my employment as General Secretary to get the Respondent to take these problems seriously and presented ways to address them, but to little avail (**Pages 80 to 82**).

#### **Mitigation**

107. I have received a total of £4,500 for work I have undertaken since my resignation. I have found it difficult to identify permanent employment opportunities within my field of experience and expertise. Also, this matter has had a significant impact upon me and my health making the job hunting process exceptionally difficult.
108. I made an application for a business analyst position with a major motorcycle manufacturer but, despite having unique experience related to a critical part of the role, I was not selected for interview. I have also had discussions regarding roles in London and Europe but these would require relocation. There has been some reluctance among potential clients given the circumstances of my resignation from the Respondent and the negative comments made on social media. I have also noticed Mr Liversidge and his associates have been monitoring my Linked-In account, which I use as a source of potential employment opportunities. Given that Mr Liversidge has previously written defamatory letters to one of my former employers I believe it is reasonable to assume he intends to interfere in a similar manner with any potential clients he might learn of and so I have felt compelled to restrict what Mr Liversidge and others can see from my Linked-In profile. I hope that a successful outcome at Tribunal will help to lay these concerns to rest. In an effort to generate future income I have invested more of my own time and money to promote "Overland Magazine", a specialist publication which I jointly own with Mr Tyson, but I do not expect benefit from this until 2015 at the earliest. I estimate that I have spent a total of 30 days on Overland business since my resignation. I underwent ankle surgery in August 2013 which would have signed me off work for four weeks. In October my mother died requiring me to spend several days making funeral arrangements, arranging care and supporting my elderly father.

This statement is true to the best of my knowledge and belief

.....

**Nicholas Brown**

.....

**Date**

