

James Tyson
Nicholas Brown
Louisa Smith

Claimants

-v-

MAG UK Ltd

Respondent

WITNESS STATEMENT OF GAIL PUTTOCK

I, Gail Puttock C/O Qdos Consulting Limited, Qdos Court, Rossendale Road, Earl Shilton, Leicestershire, LE9 7LY of will say as follows:

1. Qdos Consulting Limited ("Qdos") received a request from the Respondent for HR consultancy assistance on 21st March 2013 following a call from Mr Pat Van Aalst, the Respondent's Finance Director, who provided Qdos with instructions throughout.
2. Qdos' initial instruction was in relation to a complex grievance that had been raised by 3 individual employees Miss Louisa Smith, Mr James Tyson, both office workers, and Mr Nicholas Brown their direct Line Manager.
3. Their grievances related to their current line managers Mr Neil Liversidge and Mr Pete Walker, both Directors of the Respondent.

The Grievances

4. Miss Smith felt that she was bullied and harassed by Mr Liversidge and Mr Walker at a meeting held on 18th March 2013 and felt that the "behaviour" had gone on for some time stemming back to April 2012. She felt that her job had a loss of status as a result of the changes to her job title. She felt that the recommendations that she made were not taken on board in relation to the Data Protection Act and that decisions were being taken without telling or consulting staff. Miss Smith felt that she had a lack of confidence in the Respondent as an employer going forward. Miss Smith raised her grievance on 15 March 2013 (**Bundle Page 341**) and supplied further information on 26 March 2013 at my request (**Bundle Pages 438 and 439**)

5. Mr Tyson felt he was bullied and harassed on 18th March 2013 at an individual and collective meeting of the staff at the Respondent's Central Office, held by Mr Liverside and Mr Walker. Mr Tyson also felt that he had a lack of confidence in the Respondent as an employer going forwards. Mr Tyson raised his grievance on 15 March 2013 (**Bundle Page 342**) and supplied further information on 28 March 2013 at my request (**Bundle Pages 446 to 448**)
6. Mr Brown felt he had been subjected to sustained and escalating incidents of bullying, intimidation and poor treatment by his employers. Mr Brown raised his grievance on 17 March 2013 (**Bundle Page 350**) and supplied further information on 28 March 2013 (**Bundle Pages 442 - 445**).

Grievance Process & Findings

7. The grievance process was carried out in accordance with the Respondent's Grievance Procedure and the ACAS Code of Practice.
8. The three Claimants were invited to a formal grievance meeting arranged at Qdos' offices on 8th April 2013 (**Bundle Pages** Mr Van Aalst was copied in to all of the correspondence. **434 to 436**)
9. Each Claimant requested to be accompanied by Mr Gurman, a former Trade Union Representative of Unison. Mr Gurman was not a work place colleague or recognised Trade Union Representative of the Respondent, however, as each Claimant declared that they had individual health issues, which Qdos were aware of through conversation with Mr Van Aalst and in the interests of the Respondent and the Claimants, their request was granted.
10. Each individual meeting was carried out on the 08th April, with Melanie Hardy, HR Advisor present as a note taker at all three meetings. The minutes of Miss Smith's meeting are at Bundle B, Pages **471 - 483** and the minutes of the meeting with Mr Brown are at Bundle B, Pages **491 - 497** (471 - 483)
11. Each Claimant submitted evidence to support their grievance including additional letters expanding upon their grievances. Evidence was presented in the form of emails, recordings of meetings and transcripts of the tapes of the meetings (both collective and individual – see **Bundle Pages** and **Pages 382 - 383**)

12. Following the individual meetings, I arranged to interview, by telephone, Mr Liversidge and Mr Walker on the 09th April 2013. The interview was designed to encourage both individuals to address the concerns of the Claimants. Mr Liversidge and Mr Walker were asked to submit a statement following the discussion on the 09th April which they did by email the same day (**Bundle Pages 534 - 542**)
13. All evidence was reviewed and a meeting was arranged with Mr Van Aalst in order to discuss the findings. Mrs Toni Robinson, HR Consultancy Development & Delivery Manager, was also present at the meeting on 11th April 2013.
14. During our meeting with Mr Van Aalst, the findings of the grievance meetings were discussed:-

Miss Smith

- a. Taking all of the evidence that was submitted, including that of Mr Walker and Mr Liversidge, the way that Miss Smith was managed, on balance, was consistent with Miss Smith's perception that she was managed in an intimidating and oppressive manner.

For example, during the telephone interview on 9th April, Mr Liversidge admitted that if Miss Smith failed to attend a meeting which was a reasonable management instruction she would be disciplined. Despite the fact that Miss Smith left the meeting because she "could not get her breath".

Another example was Mr Liversidge's minutes of a collective meeting that took place on 18th March 2013 with the staff of the Respondent. The minutes contain phrases such as, "That stops now and anyone deluded enough to think otherwise will find themselves looking for a job with no reference to rely on" (**Bundle Page 364**)

- b. A letter was presented to the grievance hearing that stated Miss Smith was to hand in her key fob and not attend the building (**Bundle Page 454**)
- c. There was no evidence for Miss Smith's claim of a loss of job status. There was a change of duties, but I could not find a loss of status applied to these changes.

- d. No evidence was presented that stated that Miss Smith was the allocated Data Protection Officer for the company. Any breach was the responsibility of the Directors.
- e. It was considered that Miss Smith was supported through a very trying time, and that the company had maintained pay throughout her treatment for cancer.
- f. It was finely balanced but I did not feel that there was sufficient evidence to support the allegation of a breakdown in trust and confidence with the Respondent because Miss Smith had good relationships with Selina Lavender, Director and Mr Brown, her Direct Line Manager. The relationship breakdown appeared to be between Miss Smith and Mr Walker and Mr Liversidge was bought about by the way Miss Smith felt she was being treated by Mr Liversidge and Mr Walker. Upon reviewing the evidence, I shared Miss Smith's concerns.
- g. On balance and in accordance with the ACAS Code and the Respondent's own policy, I recommended the following outcome:-
 - i. Claim for Bullying & Harassment to be upheld
 - ii. The claim for a loss of job status to be not upheld
 - iii. The claim for a breach in Data Protection to be not upheld
 - iv. The claim of a lack of trust and confidence to be not upheld, although to note the concerns with the relationship with the Director(s)
- h. Mr Van Aalst approved a response to the grievance in line the above points to be sent to Miss Smith on 18th April 2013 (**Bundle Page 562-564**) This letter was designed to outline the findings and present a progressive way forward to modify the working relationship to allow an effective way of working in the future.

Mr Tyson

- i. Taking all of the evidence that was submitted including that of Mr Walker and Mr Liversidge, the way that Mr Tyson was managed, on balance, was consistent with Mr Tyson's perception that he was managed in an intimidating and oppressive manner.

For example, Mr Liversidge's minutes of a collective meeting that took place on 18 March 2013 with the staff of the Respondent contain phrases such as, "That stops now and anyone deluded enough to think otherwise will find themselves looking for a job with no reference to rely on" (Bundle Page 364

Another example was the tape and transcript of Mr Tyson's individual meeting with Mr Liversidge. During the meeting on 18 March 2013, Mr Liversidge raised his voice and was forceful, using repeated phrases such as "Is that clearly understood? Is it clearly understood? Is it clearly understood?" getting louder and more forceful each time (Bundle Page 378 Mr Tyson felt that this was oppressive and intimidating. Mr Tyson advised Mr Liversidge that he had raised a grievance and for that reason did not wish to participate in the meeting.

- j. A letter was presented to the grievance hearing that stated Mr Tyson was to hand in his key fob and not attend the building (Bundle Page 453
- k. It was finely balanced but I did feel that there was marginal evidence to support the allegation of a lack of confidence with the Respondent as an employer because of the evidence presented and the manner in which Mr Liversidge spoke to and treated Mr Tyson. I did not consider that this was an irretrievable breakdown of trust and confidence overall.
- l. On balance and in accordance with the ACAS Code and the Respondent's own policy, I recommended the following outcome:-
 - i. Claim for Bullying & Harassment to be upheld
 - ii. The claim of a breakdown of a lack of confidence to be upheld with recommendations
- m. Mr Van Aalst approved a response to the grievance in line the above points to be sent to Mr Tyson on 18th April 2013 (Bundle 560 - 561 This letter was designed to outline the findings and present a progressive way forward to modify the working relationship to allow an effective way of working in the future. (560-561)

Mr Brown

- n. Taking all of the evidence that was submitted including that of Mr Walker and Mr Liversidge, the way that Mr Brown was managed, on balance, was consistent with Mr Brown's perception that he was managed in an intimidating and oppressive manner.

For example, Mr Liversidge's minutes of a collective meeting that took place on 18th March 2013 with the staff of the Respondent contain phrases such as, "That stops now and anyone deluded enough to think otherwise will find themselves looking for a job with no reference to rely on" (**Bundle Page 364**)

- o. A letter was presented to the grievance hearing that stated Mr Brown was to hand in his key fob and not attend the building (**Bundle B, Page 452**) Mr Brown was currently suspended from his normal duties, however, there was conflicting evidence as to whether it was standard practice for suspended employees to return company property. There was no reference to this practice in the Employee Handbook.

- p. On balance and in accordance with the ACAS Code and the Respondent's own policy, I recommended the following outcome:-

i. Claim for Bullying & Harassment to be upheld

- q. Mr Van Aalst approved a response to the grievance in line the above points to be sent to Mr Brown on 22nd April 2013 (**Bundle Page 566 - 587**) This letter was designed to outline the findings and present a progressive way forward to modify the working relationship to allow an effective way of working in the future.

Post Grievance Recommendations

15. Given the findings, Mr Van Aalst during the meeting on 11th April 2013, instructed Qdos to put together our recommendations that could be submitted to the Directors for them to consider and address the outcomes of the grievance. As a result of this request, Qdos recommended that:

- a. a restructure of the Respondent was undertaken and that all Directors Elect were given full training in Employment matters.

- b. Mr Liversidge and Mr Walker no longer had responsibility for HR practice within the Respondent.
- c. a clear strategy is developed in the organisation from the bottom via the democratic forums, for this to be overseen by the National Committee and given to the directors to instruct on the implementation of the strategy so that all staff have a clear agenda as to what the work is, with targeted delivery timescales.

16. Following the meeting with Mr Van Aalst and as per his instructions I produced a report dated 23 April 2013 (**Bundle Pages 571 - 576** commenting on the prospects of a potential constructive dismissal claim in this matter. This report confirmed that in Qdos' view that all 3 Claimants had potentially more than a 50% prospect of success in a constructive dismissal claim they may bring.

17. Mr Van Aalst instructed Mrs Toni Robinson to hear any appeals to the outcome of the grievance findings. Prior to any appeal taking place, Mr Liversidge withdrew Mr Van Aalst's instruction and appointed an alternative HR provider to hear the appeals.

18. This was the end of Qdos involvement in the matter.

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

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Gail Puttock