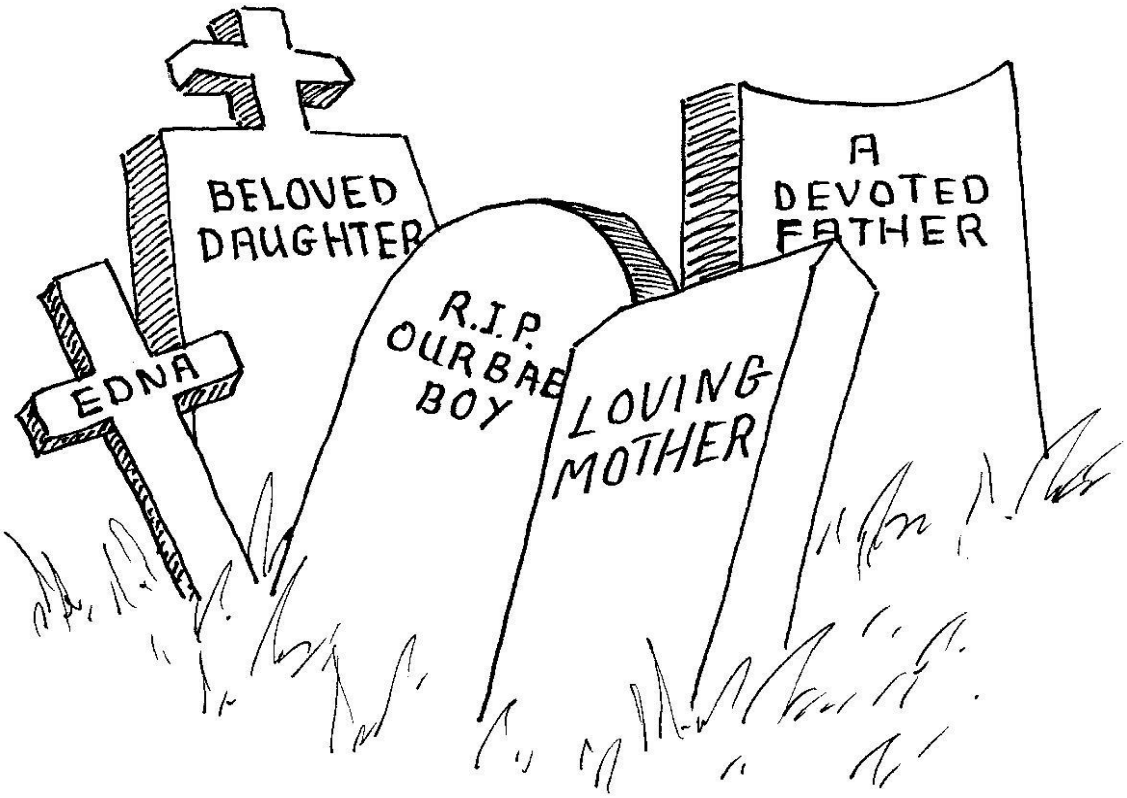
BREAKING THE SILENCE

PART TWO

THE FORGOTTEN VICTIMS OF PIDA's FAILURES



WHEN THE LAW FAILS TO PROTECT THE INNOCENT AND THE GOVERNMENT KNOWS THEN GOVERNMENT IS FAILING TOO

A REPORT BY EILEEN CHUBB
Of Compassion in Care

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FORWARD by Stephen Honour

When a criminal case goes to trial the events leading up to the alleged crime may not only be heard but taken into consideration when judgement is made.

When a case is heard under The Public Interest Disclosure Act the events leading up to the crime are not only being ignored but omitted when judgement is made.

Historically this has proven to allow those who have deliberately covered up crimes and committed perjury to carry on working in the same employment, many gaining promotion, some going on to advise Government and even being awarded an OBE.

This, the biggest failure of The Public Interest Act has allowed the suffering to continue for the most vulnerable in our society, those whose only hope may be a Whistle-Blower.

Introduction

On 15th July 2004 the then MP for Orpington John Horam read a petition to parliament on the failure of the Public Interest Disclosure act to protect Whistle-blowers.

THE GOVERNMENTS OFFICIAL REPLY "NO COMMENT"

In November 2004 every Member of Parliament and every member of the House of Lords was written to regarding the failure of The Public Interest Disclosure Act to Protect Whistle-Blowers.
The response from both Houses was SILENCE.

IT IS NOW TIME TO BREAK THE SILENCE!

WHEN THE LAW FAILS WHO'S RESPONSIBLE ?

The following are a small selection from the numerous letters sent in 2003 that show the government was fully aware of the failures of the Public Interest Disclosure Act and that no department would accept any responsibility or take any action other than to pass our concerns from one to another.

THE RT HON. LORD FALCONER
THE DEPARTMENT OF
CONSTITUTIONAL AFFAIRS
SELBOURNE HOUSE
54-60 VICTORIA STREET
LONDON SW1E 6QW

EILEEN CHUBB
19A TRANSMERE RD
PETTS WOOD
ORPINGTON KENT
BR5 1DT

1/JULY/03

Dear Lord Falconer,
I am writing to request an answer to the questions set out on page three of this letter and I have summarised the key points below. I have also enclosed an evidence document in relation to our case which will confirm the concerns I wish addressed, these concerns fall under the remit of your department and no other.

THE ASHFORD EMPLOYMENT TRIBUNAL PROCEEDINGS.

The Seven applicants in this case spent two years in The Tribunal system, throughout the hearings The Tribunal gave preferential treatment to the defendants, BUPA, which included the following examples.
A. Allowing BUPA to change their witness statements halfway through the proceedings.
B. Allowing BUPA to change the case originally pleaded.
C. Adjourning the hearing whilst BUPA appealed but denying the applicants the same right.

THE ASHFORD EMPLOYMENT TRIBUNAL VERDICT.

This verdict is so perverse that it bears no resemblance to either the evidence submitted or the law used in judging such, the verdict is so biased in favour of BUPA that any evidence that condemned BUPA was omitted in full from the verdict, to the extent that the evidence omitted contradicts every finding of fact in the verdict. Listed below are just some examples.

A. All independent witness statements that the disclosures of abuse were true.

B. All independent evidence that BUPA knew elderly people were being abused and that BUPA deliberately attempted to conceal evidence amounting to a cover up.

C. All independent medical evidence.

D. All independent witness evidence that the applicants were being harassed and physically assaulted.

E. All independent witness evidence that BUPA knew about the harassment and

actively encouraged and participated in the harassment.

THE PUBLIC INTEREST DISCLOSURE ACT 1998.

This act is flawed and failed to protect the applicants for the following reasons.

A. The Jurisdiction list of an Employment Tribunal in relation to this act authorises a Tribunal to judge detriment as the result of public interest disclosure and this is the extent of their jurisdiction, however in our case the disclosure's themselves were judged by the Tribunal and therefore The Tribunal exceeded by far its jurisdiction.

B. All public interest disclosures are likely to be of a criminal nature and an Employment Tribunal has no qualification to judge this area of law.

C. The above act allows for qualifying disclosures to be made to Ministers of the Crown and we made such disclosures to Tony Blair and Alan Millburn, however this evidence was omitted from the verdict and it is highly likely that disclosures of this kind will be omitted from future judgements.

THE EMPLOYMENT APPEALS TRIBUNAL.

The Employment Appeals Tribunal showed clear prejudice in favour of BUPA, by the following actions,

A. We had to assemble all the evidence bundles from scratch as our former solicitor would not release them and we were unable to obtain legal representation, we pleaded these facts to The Employment Appeal Tribunal and asked for a time extension to be granted, this was denied us.

B. BUPA lodged an objection to our appeal two months later and pleaded a case for being late, their reasons for a time extension were allowed.

C. We were denied an appeal and had five days from the date of this judgement to re-appeal but we did not receive the judgement until three weeks after this date.

THE HIGH COURT.

We appealed to The High Court for a judicial review, this was denied on the grounds that The Employment Appeals Tribunal were the remedy. We addressed this point with the following and re-applied.

A. The Employment Appeals Tribunal denied us an appeal and the right to further appeals were also denied, by their actions in not sending us the date from which we had five days to appeal until three weeks after that date had expired.

B. The Jurisdiction lists of The Employment Appeals Tribunals states that this Court has no jurisdiction to Judge The Public Interest Disclosure Act 1998 and can only look at a decision made by a Tribunal in relation to this act, however when a verdict

is perverse it would require a re-examination of a great deal of evidence in relation to this act, The Employment Appeals Tribunal has no jurisdiction and is therefore no remedy.

C. When an Employment Tribunal exceeds its jurisdiction in relation to a particular law, such as The Public Interest Disclosure Act 98, then the remedy cannot be a Court who has no jurisdiction at all to Judge the above act.
Permission for judicial review was denied for the second time on the grounds that The Employment Appeals Tribunal were the remedy.

SUMMARY.

I would therefore like you to answer the following questions.

1. Why has a company such as BUPA being able to influence the justice system?

2. If BUPA have not influenced the justice system then why have they been able to break the law?

3. If the law and politics are separate then why has the law suppressed politically sensitive evidence?

4. Why is there no remedy in place that allows for the evidence to be re-examined in detail?

5. If you feel all the evidence was not deliberately suppressed by The Tribunal then can you give another explanation as to what happened?

6. If You can not answer question five, then is this not sufficient grounds to warrant an investigation into The Tribunals conduct in this case?

I do hope that you will take this opportunity to uphold rights and justice and take action on this matter, I look forward to hearing from you,

Yours Sincerely

Eileen Chubb
On behalf of all seven applicants.

cc
The Rt Hon, Eric Forth M.P
John Horam M.P

Department for Constitutional Affairs
Room 6.24, Selborne House
54-60 Victoria Street
London SW1E 6QW
DX117000
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Telephone Enquiries: 020-7210 8500
Fax: 020-7210 0647

Eileen Chubb
19A Transmere Road
Petts Wood
Orpington
Kent
BR5 1DT

Your reference:
Our Reference: 65921-1
Date: Monday, 7 July 2003

Dear Ms. Chubb,

Transferred Letter re: Ashford Employment Tribunal

Thank you for your letter of Tuesday, 1 July 2003 addressed to the Secretary for Constitutional Affairs; it was received here Monday, 7 July 2003.

The issue raised is outside the remit of this department. Consequently, I have forwarded your letter to the **Department of Trade and Industry,** so that they can consider its contents.

If you wish, you can contact the **Department of Trade and Industry, 1 Victoria Street, London, SW1H 0ET** on **020-7215-5000**.

Yours sincerely

MB

Corporate Communications Unit

cc: Transferee.

TO LORD FALCONER
THE DEPARTMENT FOR
CONSTITUTIONAL AFFAIRS
SELBOURNE HOUSE
54-60 VICTORIA STREET
LONDON SW1E 6QW
By Post and Fax

EILEEN CHUBB
19A TRANSMERE RD
PETTS WOOD
ORPINGTON KENT
BR5 1DT

9/JULY/03

YOUR REF. 65921-1

Dear Lord Falconer,
With regard to your departments letter to me dated July 7th 03.

There would appear to be some misunderstanding as you have referred our case to The Department Of Trade and Industry, I will therefore endeavour to clarify the issues further.

Firstly, when we received The Employment Tribunal verdict two years ago, we wrote to Lord Irving and asked for an investigation into the conduct of The Tribunal, our case was referred to The Department Of Trade and Industry for investigation which resulted in The D.T.I writing back and saying it was The Lord chancellors responsibility and not the D.T.Is remit, in short we were sent backwards and forwards and no one would take action. However since that time our case has been heard in all the allegedly, courts of remedy.
The last Court to give judgement on our case was The High Court and I do not believe The High Court is the responsibility of The D.T.I.

Secondly The Department of Trade and Industry have no more authority then The Ashford Employment Tribunal or The Employment Appeal Tribunal to deal with evidence that relates to a deliberate cover-up of criminal offences.

I therefore request that you urgently take action on this matter as these issues fall within the remit of your department and no other.

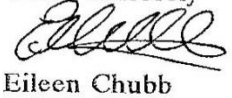
The very fact that an Employment Tribunal could suppress evidence that proved beyond any doubt that BUPA not only committed criminal offences but sought to deliberately conceal such is in itself indisputable evidence that having no legal remedy in place has resulted in a Tribunal system that not only acts beyond its legal jurisdiction but does so without fear of discovery, and is in fact a law onto itself.

Whilst our case is not a miscarriage of justice in the sense of wrongful imprisonment, it is never the less a miscarriage of justice that those who are guilty of criminal acts have firstly not been condemned for their actions but sent a clear message by the law," BUPA are above the law."

What the law fails to condemn, it condones, I would remind you why "The BUPA Seven" will continue to fight for justice, We may have been left with huge debts and been unable to obtain other work because we are Whistle Blowers and BUPA continue to publicly call us liars, we can however fight back but those we sought to protect from abuse are not so fortunate. As long as the law allows the injustice of our case to continue, then elderly people will continue to suffer and be abused and tortued at the hands of a company that is immune from the law.

I therefore request that you take action on all the issues I have raised as a matter urgency.

Yours Sincerely



Eileen Chubb
On behalf of all seven applicants.

cc The Rt Hon, Eric Forth M.P
John Horam M.P.

ETS Employment Tribunals Service

1 August 2003

Our Ref: TL/155/03

Ms Eileen Chubb
19A Transmere Road
Petts Wood
Orpington
Kent
BR5 1DT

Dear Ms Chubb

I am in receipt of your letter and document submission of 1 July 2003. You will be aware that the Department for Constitutional Affairs forwarded your letter to the Department of Trade and Industry for consideration.

It is my opinion as an official of the Employment Tribunal System (ETS) that the questions you raise in your letter are a judicial matter. Accordingly, I am sending your letter back to the Department for Constitutional Affairs for correct assignment.

I apologise for the delay in this reply and I am sorry that I am not able to assist directly.

Yours sincerely

T. Long

Tyrieana Long
Operational Policy Manager

TO LORD FALCONER
THE DEPARTMENT OF
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SELBOURNE HOUSE
54-60 VICTORIA STREET
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EILEEN CHUBB
19A TRANSMERE RD
PETTS WOOD
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YOUR REFS 03/8095
03/8485

7TH AUG 03.

Dear Lord Falconer,
Further to my letters to you of July 1st 03 and July 9th 03,
I have received the following correspondence as a result of the serious concerns I have raised with you,

1. Letter from your department, dated 7th July 03, which states that you have forwarded our case to The Department of Trade and Industry as it is their responsibility. (I disagree, as our case is a judicial matter, letter of July 9th)

2. I then receive a letter from your Department, dated 15th of July 03, which states your Department is now dealing with this matter and I will receive a reply from you by July 30th 03. (No reply is ever received)

3. I receive a letter from The Employment Tribunal Service, a Department under the remit of the D.T.I, dated August 1st 03, (which states that our case is a Judicial matter and has been referred back to your Department)

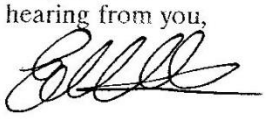
4. I receive a letter from your department dated, 4th of August 03, which states your Department is dealing with this and I will receive a reply by August 19th 03. (No reply is ever received)

5. I receive a letter dated 5th of August 03, from The Court Service stating our case has been referred to The Employment Tribunal Service a Department under The D.T.I.

To summarise the above we have been sent backwards and forwards between Departments and no action has been taken, it is hardly surprising why an Employment Tribunal can suppress evidence and act beyond their jurisdiction when it is considered that this allegedly, Court Of Law, is not answerable to either The Department that deals with justice or the Department that deals with industry, what cause's me the gravest concern is that even these two departments can not agree who is responsible. I enclose a list of all the steps we have taken in the past and ask you to seriously consider if any one should have to fight so long and so hard to get someone in authority to instigate an official inquiry into what is clearly judicial misconduct at the very least.

I enclose a full jurisdiction list which was forwarded to me by The Employment Tribunal Service, prior to seeking permission in The High Court for a review of our case, this list clearly states that The Employment Tribunal System has no authority to judge disclosures (which are Criminal matters) made under The Public Interest Disclosure act 98,

As your Department has responsibility for The Legal System, Justice and rights, then your Department is responsible for the following,
A Court of Law is provided that comply's with the natural laws of justice, that legal remedy's are available if the Court of first instance fails to give just and unbiased judgement, and that such Courts comply with the right to a fair hearing under article six of The Human Rights Act.
I look forward to hearing from you,

Yours Sincerely 

Eileen Chubb (On behalf of The BUPA Seven)

TO LORD FALCONER
54-60 VICTORIA ST
LONDON SW1E 6QW.

EILEEN CHUBB
19A TRANSMERE RD
ORPINGTON BR5 1DT.

16th of October 2003.

Dear Lord Falconer,
Further to my previous correspondence, I have summarised below both the concerns I have raised with you, and the response I have received.

As you are aware the applicants in this case, The BUPA Seven, were forced to resign after making protected disclosures about the abuse and torture of defenceless elderly people in the care home where they worked. They spent two years in The Employment Tribunal System and despite the continual delay and denial tactics which were used (Known as starvation tactics in legal circles) We received a verdict in July 01.

The (Stare decisis) How the law applies to a particular set of facts, means that similar facts in later cases have to be treated in the same way. This (Ratio decidendi) is the binding precedent, that which makes law. Throughout the two year ordeal the applicants were told to trust in the law, listed below is a summery of this law, which is taken from The Tribunal verdict.

1. The BUPA Seven should have considered their own safety before they reported the abuse and torture they witnessed.

2. The applicants were forced to leave the building due to the intolerable and hostile conditions they were subjected to.

3. The applicants could have returned to work at any time as their fear of the threat of being subjected to further harassment, which included constant verbal and physical assaults is not recognised as detriment by the law.

4. That the abuse and torture the applicants witnessed should be justified and toned down, Example, The old lady who was violently kicked must have behaved in a way that warranted her being kicked.

5. That senior BUPA management could not have helped the applicants because they were in ignorance, (Three hundred pieces of evidence, which contradict this verdict in full were suppressed by this Tribunal) Including the official notes written by senior BUPA management who met the applicants, these notes prove beyond doubt that BUPA were not only aware of the harassment but took an active part in it.

6. That the applicants had redress through a court of remedy, even though the Court in question had no jurisdiction to hear the case.

Of course you are fully aware of all these facts already as you have the

evidence that upholds them in full, but I thought it maybe helpful if I summarised these facts that are " The Law " before asking you again to reconsider your response to date, that response being that nothing is wrong.

This is The Law that protected The BUPA Seven and will protect those who come after them.

This is The Law that you, The Lord Chancellor, hold to be fair and just.

This is The Law that protects the vulnerable and defenceless, whose lives may depend on someone Blowing The whistle.

This is The Law that tells Whistle Blowers, "You should look the other way and do nothing ".

We have stood alone against the might of a multi-billion pound company, and the only people who have lifted a finger to help us, have been The British Media.
We will continue to seek justice not only for ourselves but for those we sought to protect, if right and truth are to prevail then it will be in spite of the law,

Yours Sincerely

Eileen Chubb
On Behalf of The BUPA Seven.

THE DEPARTMENT FOR CONSTITUTIONAL AFFAIRS
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Mrs E Chubb
19A Transmere Road
Petts Wood
Orpington
Kent
BR5 1DT

Your reference

Our reference C01/308/0

Date 27 October 2003

Dear Mrs Chubb

Thank you for your letter of 16th October 2003, addressed to the Lord Chancellor.

This has been noted and placed on file.

Yours sincerely

Henry Hochfelder
Judicial Correspondence Unit

10 DOWNING STREET
LONDON SW1A 2AA

From the Direct Communications Unit 15 June 2004

Ms Eileen Chubb
19a Transmere Road
Petts Wood
Orpington
Kent
BR5 1DT

Dear Ms Chubb

The Prime Minister has asked me to thank you for your letter and enclosures of 7 June.

Mr Blair receives many thousands of letters each week. He would like to reply to all letters personally, however, as I am sure you will appreciate his many other duties makes this impossible.

Mr Blair appreciates the time that people take to write to him, but, he must delegate to his staff and Government Departments the responsibility for dealing with many of them.

He hopes you will understand that the matters you raise are the responsibility of the Department for Constitutional Affairs. Your letter has, therefore, been forwarded to that Department, so that they are aware of your ongoing concerns and can send you any comments they may have direct.

Yours sincerely

K. McCann

KATHY MCCANN

2013

BREAKING THE SILENCE PART 1
Sent to the Prime Minister David Cameron

It was then forwarded to the Health Department

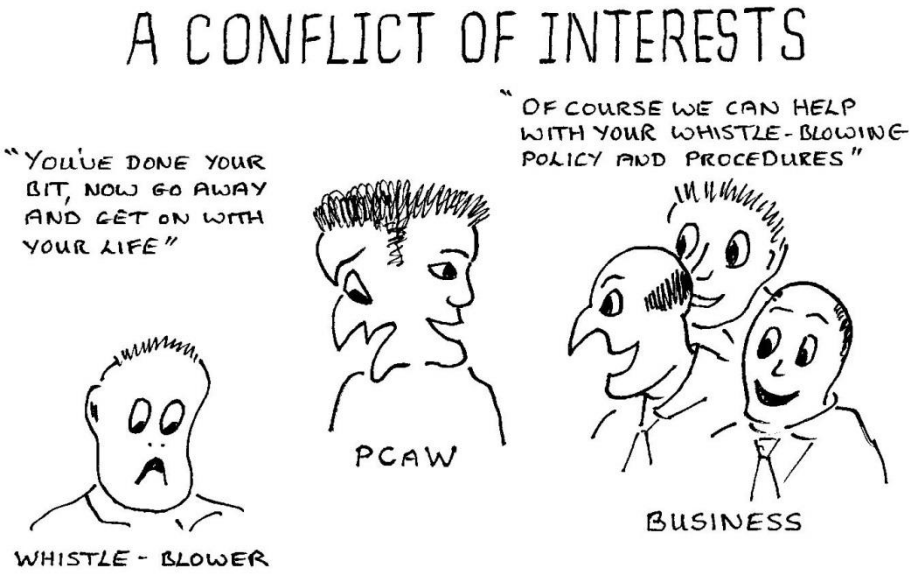
The Health Department wrote and said it was not their responsibility but that of the Justice Department.

A Further copy of Breaking the Silence was sent to the Justice Department (recorded delivery). No reply has been received.

TEN YEARS ON, SAME STORY

Public Interest Disclosure Act still failing
Whistle-blowers still not protected
Those they seek to protect still suffering
No one taking responsibility

STATEMENT OF ALISON O'CONNELL



I'm Alyson O'Connell, a 54 year old Registered General Nurse, who qualified in 1993; in 2005 I also gained a BSc in Community Health Studies. I had always been employed by the NHS as this is where my passion lies. My belief is that part of my role as a qualified nurse is that I am the patients' advocate and should always act in their best interest. I have never neglected my duties and have always strived to maintain to patient centred care in whatever area I worked within the NHS.

When I took up the post of a band 6 (junior sister) in the community Rapid Response team, I was of the understanding that the service was to benefit the service user. I was also aware that it was the aim of the service to take the strain off hospital beds and save money, as patients were often treated in hospital when in fact they could receive their treatments in their own homes.

The service was set up in 1999 out of winter pressure monies, to prevent hospital admission and facilitate early discharge. However as time went on it became evident that patient care was being tailored to meet the needs of the service rather than the service meeting the needs of the patients. Over time it became apparent, that care was being compromised and treatments were being adjusted to suit the service e.g. doses of intravenous medications being crammed into a 12 hour period, instead of being given over a 24 hour period, as laid out in the pharmaceutical guide lines, because the service was only available between the hours of 8am and 8pm. Left over intravenous medications were not being returned to pharmacy, they were being illegally stored and then re-dispensed by us nurses and used on other patients, an illegal, dangerous practice. Patients were also being denied oxygen therapy at home due to their smoking status, whereas if their where receiving their treatment in hospital they would have had access to oxygen irrespective of whether they smoked or not. Patients' lives were being put at risk and care was most definitely being compromised. Treatment became more complex and patients were experiencing life threatening events which I believe was caused by high doses of intravenous medications not being administered as they were meant to be given. The practices that I and the other members of the team were carrying out were not always in the patients' best interest.

As for saving hospital beds and providing effective use of moneys, what a joke! I have lost count how many patients needed to be admitted or readmitted to hospital, some requiring ambulances to bring them home, take them back in and then bring them back home again, talk about revolving doors!

We became a team of five qualified nurses all being paid in excess of £30,000 a year, a salary that not one of us earned or deserved. Patient referral was low and most weeks there was not enough work to fill the day. Very often there would be 3 to 5 of us sat in the office socialising and just waiting for the phone to ring or the bleep to go off. Besides us five being paid for work we weren't doing there was also a list of six on call staff grade doctors and consultants who were all paid an on call fee of £10,000 a year, they were hardly ever called out, £60,000 which could have been far

better utilised within the NHS. I recall on one occasion I needed advice regarding a patient and called the on call consultant on his mobile, he informed me that he couldn't help as he was in San-Francisco, he told me to just send the patient into hospital, he was the doctor on call for that day.

My concerns became so great that I didn't know what to do, I was full of fear and anxiety, I knew that changes to practices needed to be made, however I also knew that making my concerns official may be taken as offensive. Some of my concerns I had previously voiced in team meetings and I had been told that we had a "Cushy little number" and I should not rock the boat! On 25th October 2007 I went off sick to try to come to terms with my feelings and concerns, I couldn't continue to be part of these practices.

Before going to report my concerns to my line manager I had contacted the Royal College of Nursing, (RCN), and their official told me during a telephone conversation that my concerns were worrying. He informed me that he knew my borough manager he said that he was friendly with her, that she was an honest lady and that she would take my concerns seriously! He told me that he would get back to me in a few days, he didn't and I couldn't get hold of him either.

On 17th December 2007 I committed professional suicide, when I blew the whistle on unsafe, unethical, immoral and illegal practices.

Following the guidelines of the trust's whistleblowing policy I took my concerns to my line manager, who was so annoyed with me, she screamed at me, "I can't deal with this". She said that she would have to arrange a meeting with the borough manager; I had no problem with this as the policy stated that if concerns couldn't be dealt with at that level then they should be taken to the next senior level. However my manager wasn't really following the policy, because she told me that the meeting would probably take place after the Christmas period as it was so close to Christmas. She was shocked when she rang to arrange the meeting that there was a slot available for the following day and the meeting was arranged.

Prior to going into the meeting with the borough manager on the 18th my manager told me not to say that patient care was being compromised, because they would come down on me like a ton of bricks, how right she was!! The borough manager appeared to be very attentive and scribbled notes during the meeting and appeared to take my concerns seriously. She said that all matters would be addressed and she would get back to me, however she wanted me to see the occupational health nurse as she felt that these matters had taken a toll on my wellbeing. On leaving my line manager told me that she felt that I was no longer suited to the team, I could tell she was angry but I thought that her anger would fade and all would return to normal once all the concerns were addressed and the dust settled. As the process drew on the borough manager and all further managers that got involved all denied that this meeting was where concerns were raised under the Public Interest Disclosure act.

They always maintained that it was a sickness meeting, which was totally untrue! I thought that the whistle blowing policy was invoked and that I was protected under the PIDA. Wrong!!!!!!!!!!!!!!!!

On the 19th unbeknown to me at the time, my line manager called a team meeting (which I wasn't invited to), she informed the other team members of what I had done and then the nightmare began! Already I was no-longer classed as a team member.

I had been a one of the founder members of the rapid response community since it was set up in 1999. I had really good working relations with the other team members and we often socialised together. Throughout my nursing career I have never had any complaints made against me from either patients or staff. However as a direct result of blowing the whistle my life was made a misery and my work colleagues and my manager who were also my friends, all turned against me and seemed hell bent on tarnishing my character and were determined that I would never work with them again. This attitude continued throughout the management ranks even though they didn't know me! They weren't just content with destroying me; they also felt the need to target my family. One senior manager who I had never met before in my life described me as a "formidable character" and that she had gathered from my work colleagues, that 'my family was one who engendered fear in the local community'. This was offensive to me and my family on the one hand but laughable on the other as there was not once ounce of truth in this statement, although at that time I had no laughter in my life.

Unbeknown to me I had opened a whole can of worms that I wasn't even aware of, one of which was that the service had never been audited since it had been set up in 1999, until I raised my concerns.

I eventually got to see the RCN union official on 20th of February 2008, for the very first time, after nearly eleven weeks after our telephone conversation. I went to his office in Cardiff. When I explained to him about the concerns I had raised and that I had only had one meeting with the borough manager, which I had requested at the beginning of January, where I informed the borough manager that my colleagues had refused to care for my dying mother in law and had approached her GP, to instruct the GP not to prescribe intravenous medication for her, which would have enabled her to return to her own home, he responded by saying that this was f---ing disgusting. His words not mine! He informed me that a sickness meeting was arranged for the 27th in Ebbw Vale and that he would be representing me at this meeting and that he would then raise my concerns again and ensure that the whistle blowing policy would be invoked.

The meeting went ahead as planned and both I and the RCN official raised my initial concerns and a few more. At this point the HR manager put down her pen and said that she was only there to take part in a sickness review and would have nothing to do with whistleblowing. Regarding the miss-storage and recycling of intravenous he

commented that this could be seen as stealing, to which I replied "then let's call the police", both union and management went silent and moved on. He was so friendly with the borough manager and the HR manager that I felt as if he was actually looking for ways to get round things without causing them any trouble. At the end of this meeting and all subsequent meetings he saw me out and then returned back to the office with management.

I expected for things to move quickly after this meeting according to the policy, wrong again. I was like a hamster on a wheel, never being able to make contact with him, never knowing how things were progressing, I had nowhere to go, no one to turn to. I did have one advocate; I had referred myself to the RCN counselling services. A man named Howard would ring me once a week for an hour to discuss my feelings and frustrations. He was so supportive and always gave me advice on what to ask my union official when we next spoke. I recall him saying to me that I had a huge mountain to climb, and that there would be many obstacles in my way. He told me to ask the union official what he saw at the top of the mountain, I did; to which he replied "How do eat an elephant?" I had no understanding of what he meant and neither did Howard. Howard made the decision to continue to contact me even though the time for sessions had expired, as he wanted to know what the outcome would be. However the RCN found out about it and I had no further contact with him. I was on my own again!

It took months for the whistle-blowing policy to be invoked and the concerns I raised to be investigated. I attended so many meetings with them it was unbelievable, one day I attended in two different meetings in two different locations across the county. There were also long periods when I heard nothing at all. There were meetings that I had no knowledge of even though the union were aware and in attendance. Every meeting I attended caused me further anxieties, which I found difficult to move away from. With the prospect of every meeting approaching, I would build myself up and be hopeful when the meeting involved some-one who hadn't been involved before. The peaks and troughs of these emotions took their toll leaving me mentally and physically drained. I had little motivation, my sleep pattern was erratic and I would spend hours on end crying. Eventually the concerns were investigated, most were upheld and I was thanked for bringing them to their attention. However there were some concerns that were never investigated and I was never allowed to return to my place of work.

During the following weeks I contacted my MP thinking that he would be of help as it was his constituents who were being put at risk, he listened sympathetically but didn't want to get involved. I showed him of a copy of an article by Ann Keen MP entitled "You shouldn't have to be fearful of speaking fearful of speaking out about healthcare" published in the NMC news. He asked me what could he do with it, to which I replied, "If I was in your position Mr Davies I would approach her in the house of commons and explain to her how one of your constituents has been affected by speaking out" to which he said " I can't do that". He did write a letter to the chief

executive of the trust in June 2008 and had to re contact him in December for the reply. This just stated that the concerns had been dealt with.

Later in the process I informed Trish Law the then Assembly Member for Blaenau Gwent, she appeared far more concerned about the failings of the trust. She wrote to the then Health Minister for Wales, Edwina Hart, who wrote to the chief executive of the trust, who told her that as far as the trust was concerned my case had been concluded and there was no more to be done regarding this matter. No more support was offered to me by Mrs Hart and to my knowledge she didn't pursue the matter any further. I have since informed the Labour MP for Blaenau Gwent Nick Smith on how the whistle blowing policy failed me and how the people of Blaenau Gwent had been put at risk; he chose not to get involved. Alan Davies AM is also aware of how I was failed as a whistle blower, but has never shown any interest.

The NMC felt that they didn't need to get involved as they felt that the issues could be dealt with at a local level, although they did acknowledge that the practices had taken place and changes were going to be made. Misuse of medications was classed as a training issue, rubbish! Thanks NMC my governing body whose' guidelines I always thought were gospel!

The ombudsman didn't even acknowledge that their office had ever been informed even though I have a copy of the ombudsman form that was faxed to them in front of me from my MP's office.

That brings me on to Public Concern at Work, who from my experience with them had no interest what so ever regarding the public who were at risk. What a farce the only thing they were interested in was for me to either resign or go back to work. I told them that management had already told me that I couldn't return, so they said "Well resign then and move on". Move on my life had been totally destroyed I was in total meltdown and certainly didn't feel that my head would benefit any patient, I would probably have put them at risk. The only thing that I could think about was when was all this going to be sorted out so that I could return to my own job. PCAW told me that what I was hoping for was unreal and that if I didn't go and get another job; I would probably never work again. Why, I had done nothing wrong, although it appeared that I was the only person who felt that way. A few months later I rang PCAW again hoping that could offer me some support as I was in the depth of despair, to be honest it was a waste of a phone call and only added to my misery. They told me that I should have resigned and moved on, "You have raised your concerns and been listened to, what more do you want". There was no further help they could give me; it baffles me as how they can call themselves Public Concern at Work as they didn't show any concern regarding the public or myself.

The union would not support me in my plea to return to my place of work and felt that they had done all they could regarding the PIDAs, even though not all of my concerns had been addressed and they were never taken to the highest level within

the trust. I paid £500 in March 2008, to see a solicitor in Cardiff who advised the union to lodge a grievance, she was very supportive towards me, she advised me that the union should provide legal advice regarding my employment and that independently I wouldn't be able to afford her costs. The RCN never allowed me to see one of their solicitors as their union officials felt that no laws had been broken. Eventually I found a solicitor, who was not a specialist in employment law, to listen to my plight. He contacted an employment barrister and between the two of them they told me that my protection under the whistle blowing policy had not been adhered to and they would act on my behalf on a no win no fee basis. Their first aim was to get back to work in my own job. I was signed fit to return to work in December 2008 and informed the borough manager that I would be fit to return to work the following week. Immediately I was placed on full pay and told that they would tell me when I could go back. Prior to being declared fit for work, the trust made an appointment for me to see a FORENSIC PSYCOLOGIST, who deemed me to be sane and that I posed no threat to anyone, as the management were suggesting.

Meetings tapered off and no-one from the trust appeared to want to speed up my return to work. They would not allow me take up any position in my local area or my local hospital. They would only agree to me working in areas where I didn't have the knowledge or skills to work competently, to my mind they were again prepared to compromise patient care, along with my well-being.

I was eventually dismissed from the trust in December 2009; the reason for my dismissal was "Some other substantial reason". I was distraught my career and life was in shreds, I had never expected this to happen. Why, I had followed everything that was expected of me, attended every meeting agreed to mediation, which never happened because the other four members of them refused. I had nothing to hide, I had put my hands up to carrying out the bad practices, all I wanted was to improve on the service and make it safer and more effective for both patients and staff. My colleagues/friends described me to the management and union as dishonest, that I had broken confidentiality and that I had no loyalty to the organisation. During this meeting the general manager told me that "I was a waste of tax payers' money". She also said that I had expected special treatment for my mother-in-law, to be treated at home; however this was the role of the rapid response team. I have to admit that I did suggest to her that it was her who had received the preferential treatment for a member of her family who we had travelled to three times a day to administer intravenous medication, even though she lived way outside our catchment area! She nearly blew a gasket and shouted at me that I should not bring her family member into it, but it was alright for them to bring mine into it!

I appealed against this decision, surprise, surprise, I lost the appeal!

In March 2010 an employment tribunal took place, it was planned to last five days, however at the start it was determined that this was not enough time and that there would be an adjournment at the end of the five days and a further five days would be

booked for August. In actual fact after two days in court, I was called to see my solicitor and barrister who told me that I had blown my case the day before and that there was an offer of £15,000 on the table and they were accepting it on my behalf, and that was the end of my case. Out of the £15,000 I received just under £1,000, as the solicitor needed the rest to cover some of his costs, the other costs were met by my house insurance.

I have never been so heartbroken in all my life! I thought that justice was going to be done, justice for the people who received substandard treatments and care. Justice for my mother in law who had suffered in her last days of life, out of spite from my colleague who had been informed that I had blown the whistle. My colleague was off duty the day that my mother in law's discharge was arranged and she specifically came to the hospital to stop my mother in law going home, she was left to experience rough shod care and die in hospital on Christmas day, so cruel. I have never experienced feelings like them; the grieving process was exacerbated tenfold, not just to me but to all my family and my husbands' family. The hurt and the pain is indescribable, it drove us all to despair and made it difficult to move through the grieving process. Justice for my cousin, who I haven't mentioned, he came to stay with me following his discharge from Northwick Park hospital, with terminal lung cancer. He came to me because he trusted me and felt safe in my care. He was also refused home treatment by the rapid response team and had to be admitted to Nevill Hall hospital where he died from an horrific head injury, sustained when he fell from the bed because the staff had forgot to put the cot sides up after they transferred him onto a bed with an air mattress on it, because after two days in hospital he had developed pressure sores. Admitted with terminal lung cancer and died with a head injury. None of this would ever have happened if he had been allowed to stay in my home, he was safe and happy there. What happened to my cousin was never investigated! I have no shadow of doubt that these two members of my family were discriminated against because I rocked the boat, by speaking out to improve patient care. My mother in law desperately wanted to come home from hospital and my cousin desperately didn't want to go in. I know 100% that if I hadn't raised my concerns and had carried on as normal both of my relatives would have received their care at home, where they wanted to be. I have no regrets about raising the issues as I still deem them to be very important and as a nurse I know that I had a professional duty to do so. However I bitterly regret that these two members of my family got caught up in it and that my family have had to experience so much heartache.

For myself all I wanted was to return to my career, I loved being a nurse, caring for people, engaging with them , showing them kindness and compassion. I can never put it into words what I have lost. I was totally isolated, ostracised, hated let down insecure, victimised, I was accused of being a horrible violent person who was dangerous, dishonest and untrustworthy. I found it difficult to function in my role as wife, mother or grandmother. My every thought was taken over by this experience.

The emotional trauma that was inflicted on me and my family was more than anyone should have to bear. Financially I have used all our savings, my pension has been frozen which will have a huge impact in the future as it was superannuation. We have accumulated huge amounts of debt, to remain afloat, and I have had to apply to nursing charities for financial help when the unexpected happens. As for getting further employment it is very difficult. I have to explain my gap in practice and when I explain that I blew the whistle, it is usually said to me that, you can't lose your job for blowing the whistle! The problem is you can!!!!!

Two employers have given me the opportunity to continue with the work that I am so passionate. As a bank community nurse in Cardiff and as an Agency nurse, both meant that I had to travel in excess of 70 miles a day. I was forced to work out of my local area as the Aneurin Bevan Health Board contacted the agency after I had worked two shifts in their hospitals and they informed the agency that under no circumstances could I work within the trust. Unfortunately I found this mileage took a toll on my health, I was becoming as tired as when I got to Cardiff I would continue to drive to carry out my duties and reluctantly I had to let the job go. On the agency I was struggling to work 12 hour shifts, but continued to do, carrying out my duties to the best of my ability, whilst I was there. There were many shifts that I worked in numerous Welsh hospitals were I became aware of bad practices. I could have become a constant whistle blower, if I could have been sure that the protection that I needed could have been given to me. Unfortunately the reason for my tiredness came to the forefront in February 2012 when I was diagnosed with pancreatic cancer. Even though my life has changed so much in the past 18 months, the impact from the cancer on my life is by no means as big as the impact blowing the whistle had. It is one life event that I cannot move away from.

What I have gained from my experience is the knowledge that not all who are in the care profession care. I am safe in the knowledge that I spoke out for the right reasons and am able to hold my head, as I know I done nothing wrong. My dignity and integrity are still intact.

Colleagues past and more recent have asked me to explain what happened, what is concerning is that they expressed that they wouldn't do it because of what happened to me.

I do have a concern for the future, I read recently in the Gwent Gazette, that the Aneurin Bevan Health Board are proposing to reduce acute and community beds by 241, by the end of 2018. They state that the key to the success of this challenging bed reduction programme will be, the Frailty Programme's (which is the service which was once Rapid Response) ability to prevent hospital admission and speed up discharges, by enhanced care in patient's homes. My hope is that care is tailored to the patients and all their needs are safely met.

I have no intention of giving up my vocation or on my profession. I don't know what it will take to prevent me from pursuing this. I believe that this horrific episode needs to be told in its entirety and heard by people who need to hear it.

I urge who ever has access to this information and has the power and integrity to make the changes, please act. The people who care speak out for a reason; they want to improve care and treatments of venerable human beings who through no fault of their own, need to place all their faith and trust in us.

I will never give up and I am so grateful that I recently made contact with Eileen Chubb. She has become my guardian angel, a treasured friend and my inspiration, a true champion in the fight for justice of all the whistle-blowers who have been let down by the PIDA. I wish her well with her continued fight and pledge to help her and others in any way I can.

THE CONFLICTS OF INTEREST BETWEEN WHISTLE-BLOWERS AND EMPLOYERS THAT CAN SO OBVIOSLY OCCURE WITHIN PCaW HAS TO BE ADDRESSED. PCaW CAN NOT SERVE BOTH.

Statement of Eileen Chubb.

Please note this is a brief summary of events, the complete evidence is contained in my book (Beyond The Façade) a copy of which has been submitted in evidence with part one of Breaking The Silence.

My name is Eileen Chubb and I repeatedly informed my employers when I saw vulnerable elderly people being subjected to widespread abuse, including being physically assaulted, sedated with illegally obtained drugs and stolen from. When I became aware that other staff members (7 in total) were also reporting similar concerns, I realised that I would have to go outside the company for help in order to protect the vulnerable elderly victims.

I asked the other Whistle-blowers if they wanted me take their statements and they agreed and the following Monday I went to Bromley's, Social Care Inspectorate, who were responsible for the home and who we later learned were the correct proscribed regulator under PIDA.

When I returned to work all seven of us were immediately identified as the Whistle-blowers and our lives were made hell, we were subjected to verbal abuse, spat at, threatened, I was assaulted by a member of staff who smashed a chair into my back. We would turn up for a shift and be told to return for a different shift. Our wages were not paid correctly. All seven of us had spotless work records but from the day we blew the whistle notes were made on our files, we became the problem. Things got so bad that even the vulnerable elderly people were used to get to us, food was not delivered to the unit, dirty laundry was not washed, and the final straw was a GP visit I requested before going off shift was cancelled and the resident died.

We could not go on and were all signed off sick with stress, we went to meet with senior management of Bupa, Des Kelly and told him what was happening, fortunately Social Services were present as Mr. Kelly later denied any knowledge of what was said.
Two Months after we were forced to leave The Social Services Inspectorate published their Inquiry report which fully upheld the allegations. We were still of work sick when we discovered one of the worst abusers MK was working in another Bupa home in breech of the recommendations of The Social Services. We all resigned around this time as we could not return to work and Bupa treated us in a hostile manner. Our loyalty was to the residents we sought to protect and yet we were the staff Bupa punished.

We suffered dreadful hardship, eviction proceedings, unpaid bills, little money for even the basics such as heating or food. Every job application we made was the same, we would be told the job was still available be asked for our name and address but as soon as we said our name we would be told the job has just gone, are you one of them BUPA 7? Was often asked.

We contacted the Relatives and Residents association who did nothing, we contacted PCAW who said settle and get on with your life.

We made it through the Tribunal system against all the hardship after the case went part heard each time delayed and finally after two years received the verdict that excluded the entire investigation report of the proscribed regulator, disregarded the evidence given by the head of Social services Inspectorate and twenty seven relatives. The Tribunal Chairman Mr. Zuke said, We had not sufficiently considered the consequences to ourselves before making the disclosures,,

Prior to returning to the tribunal remedial hearing our solicitor told me that BUPA had offered her costs of seventy thousand on condition that I settled and the others would follow, I was asked to name my price, I knew people would continue to suffer in that home unless Bupa accepted we were telling the truth, I could never accept any amount of money knowing that. In our absence the Tribunal awarded us up to two months wages for injury to feelings, we returned this money. We were called the perfect whistle-blowers we did everything right.

After all the hardship we had suffered it was not enough to stop the abuse, Edna continued to suffer and died. Two years later further abuse was exposed in this home and when Bupa lost the contract for all the homes in Bromley there was widespread abuse exposed and reported in the media. There were staff who witnessed this abuse and could have stopped it but considered the consequences to themselves.

Des Kelly was the Bupa manager responsible for care homes in 1999, He is now the director of the National care Forum, has been awarded the OBE for services to the care industry. He is listed in the top ten most powerful men in the industry and advises the CQC on regulating care homes.
Val Gooding was the CEO of Bupa and told the BBC in a Hardtalk interview that we were liars and our allegations were false, fortunately the inquiry report upholding our allegations was put to her. She was awarded the CBE for services to the care industry, she currently advises the home office on governance, integrity and whistle-blowing.

I ask that future whistleblowers do not have to suffer the same hardship and injustice.

The pain and suffering I witnessed in that care home will always be with me, too many people said look the other way, the Public Interest Disclosure Act most of all.

Eileen Chubb

Statement of Delyth Jenkins

Please read this account alongside the Public Services Ombudsman For Wales Report reference number:- 1999/200600720

I had worked for Carmarthenshire County Council at a day centre for adults with learning disabilities, in an administrative capacity, for 11 years when I, and others witnessed abuse of service users, initially by the Manager, Lounne Grace (officer B referred to in the Ombudsman's report) and later by a carer, Irene Hayes (officer C in the report).

I reported the abuse, which included a service user referred to as Sallie (not her real name) being dragged off the floor, pushed and pulled, and denied food as some kind of punishment. The assistant manager also said that she heard Sallie being slapped by the manager, Louanne Grace (officer B) when they both took her to the toilet. She also mimicked service users. Following raising concerns about the Manager in a meeting with Mike Harrison (officer G) and Lyn Walters (officer H) in August 2005, an investigating officer, Richard Davies (officer J) was appointed , but it took until Oct 2005 for witnesses to be interviewed. I was interviewed by Richard Davies and a member of the human resources team, but the other two witnesses did not have a member of the HR team present. Richard Davies breached confidentiality, as information given to him in a confidential capacity. was discussed days later on the floor at the Centre where we worked, by the perpetrator, Louanne Grace and some of the staff. Mike Harrison, attended the Centre on the day I was interviewed by Richard Davies (Oct 2005), and interfered with what should have been a POVA investigation. Sandy Davies (officer F) also came to the Centre on that day, on Mike Harrison's request, but she denied to the Ombudsman ever being there, and in his report, the Ombudsman comments that the signing-in sheet for that day was missing. He also said in the report that Sandy Davies was seen by several members of staff at the Centre that day. Louanne Grace was left at the Centre, despite there being allegations of abuse against her, and further abused, which included denying a service user food on two consecutive days in November 2005. During this time I, and the other witnesses, found working at the centre very difficult. I would drive in to work in the morning feeling sick, and when I caught sight of the centre, I wanted to drive past, such was the pressure of the thought of another day in that environment, but one thought kept me going - I could not abandon those vulnerable, defenceless people, who couldn't defend and speak up for themselves. I continued to request the minutes of my investigation meeting with Richard Davies, but he failed to provide them until at least 5 months after the meeting I corrected them, and returned them a few days later, and within days started to receive silent phone calls. Days later Richard Davies telephoned me at the Centre and tried to influence me to withdraw my allegations.

I told him I couldn't do that. The silent telephone calls continued periodically for the rest of my time working at the Centre, until I went off on work related stress, due to the way I was being treated by two managers, sent to the centre following the flawed disciplinary of Louanne Grace. (I logged over a hundred calls over a period of around 3 years and sent the log to H.R. The H.R. manager, Lynne Lawrence, it seems, (according to an email I saw in the run up to the tribunal) wanted to take out a grievance against me, because I kept contacting HR for help, because I was being bullied and harassed.- they offered me no assistance whatsoever).

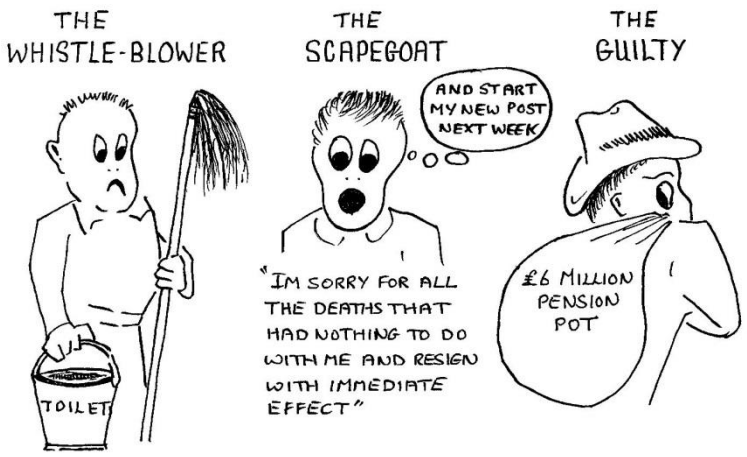
Mags Jones (Officer L) failed to follow the Council's Protection of vulnerable adults procedure, and told the Ombudsman's investigator that she had reported the abuse of a service user to the Police. The Police deny that she did this at the time in Oct 2005.
It took the Council nearly a year to call a POVA meeting, and during this meeting, according to a witness, Mags Jones told all present that I had 'caused problems in other departments'. I have only ever worked for the social care department within Carmarthenshire County Council, so this information she was passing on was lies.
Was her actions an attempt to influence people attending that meeting, (which included Police officers) into doubting my credibility? I raised this issue with Gareth John (officer M), in writing, but he said he couldn't comment on what a third party was supposed to have said!

Nearly a year after reporting abuse, nothing had been done, and I contacted Jane Ruel, the Council's complaints officer. I met with her in June 2006 and told her about the abuse, and asked if I should take the denial of food to the chief Executive? Jane Ruel told me and I quote, "You don't take anything as petty as denial of food to the chief Executive". This went against Carmarthenshire County Council's whistle blowing policy at the time, where it stated that if unable to report to your line Manager, it should be reported to the advocacy service or the chief executive. I wrote to Mark James, chief executive in July 2006 telling him about what was going on at the centre. I was unhappy with the way the Council failed to investigate this complaint, according to their own policies and procedures, and having exhausted every reporting avenue within the Council, took my complaint to the Public Services Ombudsman For Wales in July 2006. It took the Ombudsman over 3 years to investigate, and eventually published a report, which completely vindicated my complaint and was extremely critical of Carmarthenshire County Council. Two reports were produced, mine was published, but another report, which was even more damning than mine, was kept secret from public view. Officers who had failed were given anonymity within both reports, hidden behind letters of the alphabet. Lessons are only learnt through accountability, and to give these officers anonymity only serves to defend these officers. Officers who failed to protect vulnerable defenceless service users who cannot speak.
There was damning evidence contained in the other report (ref no 200700758) that wasn't

included in my report (ref no 200600720). Why would an Independent regulator, such as the Ombudsman, wish to keep hidden, damning, incriminating evidence from the public, and in so doing, defend officers who had failed to protect the vulnerable?

The Ombudsman has recently asked for additional powers to prosecute third parties, for disclosing information contained in secret reports. It is interesting to note that he did not ask for additional powers to prosecute officers who failed to protect the vulnerable, and who allowed abuse to continue. Gareth John (officer M) was the investigating officer who admitted to me in correspondence dated the 21st June 2007, that it was his decision not to include all the allegations of abuse of a vulnerable person, by a Manager, in her disciplinary. He goes on to say in the same letter that the 'other complaints are not forgotten, but will be incorporated into a report to the Director' (Bruce McLernon). These allegations were not just complaints, but abuse, and should have been dealt with following the correct procedures, and not just included in a report to the Director, as evidenced in the Ombudsman's report.

Mr John told the Ombudsman's investigator that the other allegations, apart from the slapping, were not included in the disciplinary proceedings against Louanne Grace because the investigation he and Rob Young-Jones (officer Q) were conducting was into the slapping and attendants incidents. Mr John said that *he was 'aware that denial of food was abuse, but the emphasis had been on the slapping, and the force-feeding allegation had been received quite late in the disciplinary process'. Mr John said that he 'does not think it would have made any difference had all the allegations been considered together, because that would have meant more witness statements and more confusion, and Louanne Grace would have denied the allegations'.* It is not true to say that the force-feeding allegation had been received quite late in the process as Officer E (another witness) had reported that to Richard Davies, investigating officer, some 15 months before the first disciplinary (May 2007). The reason given by Gareth John for not including the other allegations was included in my draft report, but when I raised concerns with the Ombudsman, in a response to the draft report, that Gareth John was now acting head of mental Health & learning disabilities, his reasons for not including the allegations was removed from my final report.



Despite this, Gareth John was promoted to Head of Mental Health & Learning disabilities permanently in July 2009. This position was only advertised internally. A draft report

severely criticising Mr John had already been produced at least six months previously, in January 2009 and sent to the Council. Furthermore, Mr John has no suitable qualifications or previous experience to do the job. When I went to see Mark James in Sept 2009, accompanied by my M.P. at the time Nick Ainger, following the publication of the Ombudsman's report, I asked Mark James whether Gareth John's appointment as head of service was a suitable one, considering he had been severely criticised by the Ombudsman? He told me " I didn't employ him, the Councillors did". The Council minutes of a meeting dated 23rd July 2009 clearly shows that Gareth John was interviewed by Mark James, chief Executive and Bruce McLernon, Director of social care. The ultimate decision might well have been taken by the Councillors to employ him, but were the Councillors given access to both Ombudsman's reports and were they given the full picture? During this meeting Mark James yelled at me to 'back off a bit', when I asked what was going to happen as a response to the damning contents of the reports. It was an awful manner to treat someone who had done nothing wrong, only witnessed abuse and tried to do something about it.

I was hit over the head by the same carer, Irene Hayes (officer C), who 13 months later went on to hit Sallie (service user), in an almost identical hit, which resulted in her being lifted from her chair, such was the force, as evidenced in the Ombudsman's report. The Council failed to even investigate the assault on me, even though a colleague provided a witness statement at the time. Had the assault on me been dealt with appropriately and promptly, the assault to the service user could have been avoided. Sandy Davies (officer F) said in a statement much later, that it was 'just a ruffle of the hair'. Yet how could she say this if she never investigated it, no one ever spoke to me about it! In the same statement Sandy Davies (officer F) states that she told Louanne Grace, who was Irene Hayes's line manager at the time, that if this was to happen again, Irene Hayes would be asked to leave the premises. Why would she ask someone to leave the premises if It was 'just a ruffle of the hair'?

Following the flawed disciplinary in May 2007, Louanne Grace was given a final written warning, to stay on her file for 18 months. According to the Ombudsman's report, a note he saw listed abuse as probable as they said there was insufficient evidence. Further allegations of abuse was omitted from that disciplinary allowing Louanne Grace to get away with it, and Gareth John, (Head of Mental Health & Learning disabilities), as investigation officer, admitted to me in correspondence that it was his decision. Mike Harrison (officer G) according to the Ombudsman's report, admitted that there were issues in Louanne Grace's last place of work, and that she had been referred to, in his words as, ' a nasty piece of work'. He also admitted that he had never really felt comfortable about Louanne Grace, and had not been entirely happy with her, but said that he had no choice but to accept her. He said managers sometimes have to take what they are given and then have to work with what they have.

Weeks after the flawed disciplinary in May 2007, two managers came to the centre, Catherine Anthony (Officer R) and Christine Stewart (Officer P). These two made my life a living hell. They would humiliate and belittle me every opportunity they had, and seemed confident and happy about doing so, with each other as support.

I had been eating lunch with staff and service users for 11 years, but days after sending a letter to Gareth John, head of service, complaining that the disciplinary was flawed. I was singled out and told by Catherine Anthony that I was no longer allowed a free meal like other staff. These two hated my popularity with service users and their families. Some staff told me that during this time they were told by Catherine Anthony to watch what they said to me, whilst others said they were told not to speak to me. It was obvious to me, and others, that their remit at the centre was to get me out. I went into the kitchen to make tea on one occasion and ate 5 chips that were left over after lunch, and destined for the bin, and Catherine Anthony reported me to the human resources department. They managed in those two years to take away every bit of my confidence and self-worth, and made me really ill, just because they wanted to silence me. My work computer was also monitored during this time.

I wrote to Meryl Gravell, the (then) leader of Carmarthenshire County Council in January 2008, and asked to meet with her to discuss how the council had failed to deal with my complaint of abuse of a vulnerable person by a manager. She refused to meet with me. A couple of days later I received, what I consider to be, a threatening letter from the Ombudsman's office, saying that they were about to interview police officers, and my identity could be revealed. I had been through too much by this stage to cower to such a threat, and I wrote back immediately to say that if making my identity known would get to the truth, then I had no problem with that. It transpired that police officers were not interviewed until at least nine months later, and only following my complaint to my M.P, Nick Ainger. Mr Ainger wrote to the Ombudsman's office and suggested to them in no uncertain terms that if they were having difficulty in making such appointments, he was prepared to contact the Chief Constable of Dyfed Powys Police himself.

I was accused by Mike Harrison (Officer G in the report) of a conspiracy and breaching confidentiality. I did neither of these things. Yet it is interesting to note that an Investigating officer (Eleanor Davies) raised concerns that Mike Harrison himself had breached confidentiality during her investigation, by attempting to contact her as investigating officer, and discussing issues with her. He also breached confidentiality by telling the interviewing panel during Catherine Anthony's

(officer R) interview for her old job, that someone had put in another complaint about her that morning. When asked by the Investigating officer why he had done this, he said that she had done so badly in her interview that he wanted to help her.

The Investigating Officer also raised concerns about the conduct of Christine Stewart and Catherine Anthony. None of the three were disciplined. In an addendum produced by her weeks before the Employment Tribunal, she described Christine Stewart's attitude to her Investigation team as 'hostile and uncooperative at best'. Still she was not disciplined. The Director of social care, Bruce McLernon, has failed in his duty of care. Bruce McLernon was also severely criticised within the Ombudsman's report.

I put in a grievance against Mike Harrison (officer G) on the 27th November 2006.
I hand delivered the grievance to Gareth John (officer M) and during this short meeting, Gareth John told me that when I met with Bruce McLernon (Director) and him (G.John) the previous week, and told them both in the presence of my trade union representative, that Mike Harrison had become very devious and was using other people to bully for him, whilst offering them protection, Gareth John told me, and I quote, "Bruce, and I looked at each other, nodded and agreed with you!". I asked Gareth John why they weren't doing anything about it? G John told me, "We haven't got enough on him yet". It is no coincidence that 10 days after I put in a grievance against Mike Harrison, he (Mike Harrison) told the Ombudsman's investigator that Louanne Grace's staff (transition service) asked to have a meeting with him and said they felt Louanne Grace had been 'stitched up'. Mike Harrison said he took the information to Gareth John but doesn't know what happened after that. This is at odds with information I received from Linda Rees-Jones, (Council legal dept) leading up to the tribunal as she said that Mike Harrison's diary showed he was somewhere else on that day. Therefore, whose version is the truth? It is no coincidence that all the transition team were promoted weeks later. (Another whistleblower has documented reference to Mike Harrison saying to him, "You do me a favour and you will be forever within my inner circle".)

I honestly don't know how I managed to continue to turn up for work, especially in the last 2 years, from May 2007 until I went on sick leave, with work related stress in August 2009. I kept focusing on the need to carry on until the Ombudsman's report was published. It was finally produced 2 weeks after I went off sick, and only following the intervention of my former M.P. Nick Ainger. Had he not stepped in,
I am confident the Ombudsman wouldn't have made it available for some time.
I felt really ill by this time, and when I went to see me G.P. my blood pressure was high, and she signed me off work for a fortnight. When I returned to see her at the end of the 2 week period, she could see that I was not in a fit state to go back to work.
I also suffered from other stress related illnesses during this time. The G.P later wrote a statement to the Tribunal, confirming information contained in my medical records for that time. I remain on blood pressure medication to this day.

Louanne Grace's second disciplinary took place over 3 years after the first in June 2010. The Chairman of the panel was the (then) Head of children's services,
Jake Morgan. He also carried out a 'so called' review of learning disabilities in late 2009, following the outcome of the Ombudsman's report, on the instruction of the chief executive, Mark James. This seemed to be just a P.R. exercise. I wrote to Chris Burns, assistant chief executive, (another investigating officer) weeks before the second flawed disciplinary, asking if they were going to include all the allegations of abuse this time, as some had been omitted the first time. On the morning of the disciplinary, Chris Burns, assistant chief executive, handed me a piece of paper which included some 10 lines of my statement (the whole statement was at least 7 pages long), and said that was the only thing being dealt with (this was mimicking service users). Mr Burns sat with me and the other witness whilst the hearing was delayed all morning, for some unknown reason. I kept asking Chris Burns if I could include all the allegations and he kept saying 'no'. I asked him why, and he said I would only annoy the chair (Jake Morgan). Why would the chair be annoyed because I wanted to say the truth? I continued to press Chris Burns that I wanted to say the truth. He then got annoyed with me and said, 'Oh just say what you want'!

Louanne Grace denying a service user food on two consecutive days in November 2005, was not included in her disciplinary, as Chris Burns, investigating officer said there was 'nothing in it'. How could he say that when we as witnesses were there and he wasn't! The answer probably lies in the fact that I told the Director of Social care, Bruce McLernon, in a meeting on the 2nd December 2005, about the denial of food, a meeting which he told the Ombudsman's investigator he did not recollect. I also told Lyn Walters (officer H), in a telephone conversation on the 16th December 2005, about the denial of food to a service user. Lyn Walters told the Ombudsman's investigator too that he had no recollection of the telephone call. Lyn Walters asked me also 'Why is it always you complaining' and told me anything I said outside an investigation 'didn't count'. I also wrote to Mark James, Chief executive in July 2006, and included in that letter the fact that I, and others, had witnessed a service user being denied food by Louanne Grace. Three senior officers knew about the denial of food, and yet none of them did anything about it. There is no wonder that Gareth John, Head of mental health & learning disabilities left this allegation out of the first disciplinary in May 2007, and Chris Burns, assistant chief executive also omitted it from the second disciplinary three years later, in June 2010.

I put in a grievance against Christine Stewart (officer P) and Catherine Anthony (officer R) in September 2009, for the way they had treated me. It took a year for a conclusion to the investigation, and the complaint was partly upheld. They were not disciplined. I appealed the outcome, but Paul Thomas, assistant chief executive refused to accept my appeal challenging the outcome. In his statement months later, leading up to the Tribunal, he admitted that the procedure was flawed, and I should have been allowed to appeal the

outcome, not just the procedure. I resigned in Oct 2010, as I could not return to work under the same management structure, who had treated me so badly. I then made a claim to the employment tribunal for constructive dismissal. The whole process is absolutely daunting. There is no assistance, despite the claim that it is a process that the individual can easily carry through unaided, and that a layperson will be assisted along the way. This is just not true.

After a couple of months, I contacted the Insurance company that handled my household insurance, as my policy also included cover for employment disputes.
They put me in touch with a firm of solicitors from Bristol (L.D.). They proved to be an absolute nightmare and offered me no assistance whatsoever. I contacted them following a three way telephone conference call between me, a tribunal judge, and a Barrister from Cardiff, engaged by the Council. A date was set for mediation between the Council and me in Cardiff. The solicitors (L.D.) refused to turn up because they said they needed more time to look into the complaint. I attended the mediation in Cardiff in March 2011. It was very one-sided and intimidating.
(I attended supported by a family member) and the Cardiff Barrister turned up accompanied by Linda Rees-Jones (Council legal department) and Alison Wood (H.R. Manager). The whole process reached dead-lock at lunch time, but the Judge said that the barrister had asked if I would meet with the other side around the table after lunch. He seemed very surprised that I agreed to a meeting, but I said I would only meet the barrister and the Judge, as the meeting in the morning had been very intimidating with the others from the Council there too.

I had been told during the morning, when I tried to raise things like the hit on the head I had received by a carer, which the Council had never investigated, (who went on to hit a service user 13 months later), that we were looking ahead and not backwards, yet the Barrister was allowed by the judge to raise issues and tell me that the hit had just been a 'ruffle of the hair' (according to Sandy Davies- Officer F). I found the whole employment tribunal process unfair, and it does not help the victim. We did not reach an agreement. Linda Rees-Jones, (Council legal dept) sent me a grovelling letter days later, begging me to return to the mediation table. I refused saying there was only one truth, and until officers of Carmarthenshire County Council admitted the lies, I was not prepared to negotiate.

I continued to send L.D. solicitors reams of documents, but they failed to offer me any advice. It was obvious to me by what the solicitors were telling me, that they were in contact with the other side, as they were always defending officers of the Council, and decisions made by Carmarthenshire County Council. I complained to the solicitor's senior partner that they were not giving me the assistance they should. I also complained to the Insurance company. Four months after engaging them, they had still not provided me with the merits of the case. I was progressing the case to tribunal on my own, and about six

weeks before the date of tribunal, I had no alternative but to dismiss L.D solicitors (Bristol),due to the appalling way they had handled this case. I was also treated very badly by several Carmarthen town solicitors. I engaged another local (out of Carmarthen town) solicitor, but it seemed from the outset that this case was too hot to handle, and that the objective was to avoid (at all costs), the truth coming out in an employment tribunal. I wrote my own statement for the tribunal, and ended up doing most of the preparation work. It become apparent to me that the employment tribunal does not have the expertise to deal with whistle blowing cases, as the abuse of service users which brought the claim about in the first place, is very often ignored. I knew I wouldn't get justice in a tribunal hearing as it stood, even though I was the one saying the truth, and I was now unrepresented, up against one of the highest paid barrister's in Wales, who was representing the Council. I settled the constructive dismissal case, even though what I wanted more than anything, was for the truth to be told, and as a consequence improvements made to the service and protection for the vulnerable and officers held to account.

I felt I was treated very badly during the mediation process at Cardiff Employment Tribunal, and as a result, I didn't have the confidence that the Tribunal hearing would give me fair play, as I would probably not have been allowed to refer to the abuse of vulnerable adults, and the failings of officers at all.

The worst betrayal of all came from Janice Martin, the advocacy Manager.
I contacted her in June 2006, and told her about the abuse going on at the Centre, but she offered me no assistance. Three years later, in July 2009, she organised a half day training session with us as staff at the centre, and we were set-up. Janice Martin told us as staff not to tell management ourselves what was wrong, but to tell her because, in her words, we 'could be sacked' for raising concerns. After lunch on the same day, the job of head of mental health & learning disabilities was advertised internally, and weeks later Gareth John, the investigating officer who admitted it was his decision not to include all the allegations of abuse in the perpetrators disciplinary, was appointed to the job. Janice Martin had completely betrayed us as staff, but worse than that was her betrayal of service users, the very people she was paid to represent. It is no co-incidence that she left the job weeks after I lodged my case with the employment tribunal, and is now running a pub/respite home for service users with learning disabilities in a seaside village nearby!

Kate Morgan (officer K), according to the Ombudsman, advised the Council against carrying out a second disciplinary where Louanne Grace was concerned, as if she was found guilty and sacked, and if she took her case to the Tribunal and won, it would show the Council in a bad light.

I contacted Public Concern at Work, in the summer of 2006, and they told me that I had done my bit by reporting the abuse, and that it was now no longer anything to do with me, and told me to get on with my job. Had I listened to that useless bit of information, I would not have gone to the Ombudsman, and none of this would have been exposed. It has been a long road to recovery, and I'm sure, as other whistle blowers will agree, you never completely recover. I never want to see anyone go through what I went through, having done nothing wrong, only reported abuse and trying to make sure that something was done about it. I hope people who have bullied and harassed a whistleblower, and who have allowed abusers to get away with it, can live with their consciences, although I question whether these managers who behave in this way have a conscience. With some recent changes to the whistle blowing policy with regards to detriment, bullying and harassing whistleblowers, on paper, many Carmarthenshire County Council staff would face dismissal, including Christine Stewart (officer P), Catherine Anthony (officer R), Mags Jones (officer L), Sandy Davies (officer F) and Mike Harrison (officer G). Whether this would happen in reality, remains to be seen.

I hope the Government will give Eileen Chubb, Compassion In Care and Enda's Law the support they deserve, and ensure that big changes are made to the law.

Delyth Jenkins

<u>Identity of Officers referred to in the Ombudsman's report. Ref no:- 200600720</u>

Officer A - John Howard POVA Manager still working in Safeguarding

Officer B - Louanne Grace - Independent living fund Manager

Officer C - Irene Hayes - no longer working for the Authority

Officer F - Sandy Davies - Resource Manager promoted to Senior Day Services Manager.

Officer G - Mike Harrison - Retired March 2013 (now chief executive Neath RFC

Officer H - Lyn Walters - Business Support Manager (don't know what his title is now).

Officer I - Lynsey Evans - H.R. Officer

Officer J - Richard Davies - Principal Officer - Transport & Buildings

Officer K - Kate Morgan - HR Manager

Officer L - Mags Jones - Team Manager commissioning team now Safeguarding coordinator

Officer M - Gareth John - Business Manager - Promoted to Head Of Mental Health & Learning disabilities on an interim basis In April 2008, permanently in July 2009.

Officer P - Christine Stewart - Resource Manager - Retired Dec.2011

Officer Q - Robert Young-Jones - Principal H.R. officer - promoted to H.R. Manager

Officer R - Catherine Anthony - Still officially Johnstown Centre Manager

Statement of J. Joskow

I became a care worker on the 5th of May 2011, with no previous experience or expectations of the Care industry, which raises my first concern, it is an industry.

The company I joined was ***** *********, very small, based in Cambridge and had its main branch in Croydon, the latter was CQC approved whilst the branch in Cambridge was not, and no records for its existence as far as I can see exist (http://www.cqc.org.uk/directory/1-312819402) on the CQC's website.

I will try to run through the series of events that happened in the most concise manner possible whilst some events that I may mention are fact, there will inevitably be parts where I could never have possibly known all of the information, but I will include anyway to give a picture of things that I felt should have at least been investigated.

Training at this company consisted of being crammed into a very small room next to a strip club to watch a video, training finished.

After this I began work that very weekend of May the 5th 2011 , with no guidance I was expected to assist with medication administration, moving and handling and almost no forewarning of caring for those suffering from Dementia.

Around May the 7th I had lodged my first complaint against ***** *******, after witnessing her spraying a service user in the face with hot water whilst laughing at his screams as well as swearing and gesturing right in his face. Even this was after we had lifted him into the bath, and generally man handled him with no equipment what so ever.

I made my complaint to the supervisor of the company *********, he said "this is very serious and thank you for bringing it to my attention".

The following week I received a phone call from *** asking why I had reported her and that ****** had informed her I had made a complaint. No further action was taken.

In the weeks that followed I was made aware of the slack standards of the company by many families that I visited and would often stay longer to ask about their experiences with ****** *********.

After conversations with 3 employees from the company, I was told that ******** had been offering up to 60 hours a week for workers in exchange for

sexual favours, as well intimidating the 40+ woman present in the office. Very shortly after I joined the company these employees had left, but not before phoning me to warn me that ******** was “not a man to get involved with”.
It was then that I went to social services, about my incident with *** and encouraged the Step Daughter of one of the service users (also an ex care worker) to write a formal complaint to Cambridgeshire County Council.
As is stood at this time I was working with a Carer who said that she was gathering the girls together to provide statements to the police about ********’s more nefarious activities. I said I would support them in any way possible and that she had the situation under control, her name was ****.
These events are difficult to put in a date by date account as they were often running parallel to each other, double up calls were attended by a single person, carers had no concept of peoples medication or what they were giving people and quite often put no effort in to encourage service users out of bed.
****** *** was left to sit all day with no stimulation what so-ever as carers would just sit behind her and eat their lunch, ******** was soon found to be stealing ready meals from clients with worse to come but we’ll get to that. Mr ****** was often left to be dealt with by his family when he was being difficult left half-dressed on the toilet.
In late May ******* ******* the then manager of the company made the outlandish claim that it would cost staff £2000 each to train for an NVQ2 or would be provided free in exchange for a minimum of 5 years work.
I also received a call from *** **** of Social services saying he would investigate further into matters I’d reported earlier, which coincided with a message from ******** to all the other care workers of the company saying that “I was dangerous and should not be spoken to”. (A doozey on behalf of the council as they had released that it was a white male that had provided a complaint, well, being the only white male in the company at the time that became a tad difficult to conceal)
The Transfer in June.
Shortly after having an officer of the Sova police unit visit me for a statement at my home the company thankfully closed, as things were being investigated I would have thought that the staff under scrutiny would have been held off on transferring to the Company that was to take on the work of ******
**********, ***** ****.

We attended a meeting with our new managers at the old office, we were given new uniforms and I got a sly smirk from *** as she walked past me carrying a ***** top, which I interpreted as her thinking she had got away with it.
Which for the time being she had, I sat down with my new managers at the branch of ***** in Waterbeach and proceeded to explain everything I had heard, seen and experienced with the company, they appeared shocked and said they would "investigate" which translated as do nothing and wait 6 months to suspend ***.
Things were quiet for a while and did seem to improve slightly, the company retrained everyone properly that much I can say, ******** was stuck answering phones as an office junior or so I thought and the police had taken my statements and said they were investigating.
This did not last very long, shortly afterwards **** had dropped trying to pursue ********, I had taken another carer ***** to the police station at her request to report an incident that she never so much as hinted at, but seemed very distraught.
Rotas where of course impossible to follow requiring the ability to teleport in order to keep to given times.
**** ***** 8:00 till 9:00, several miles away ****** *** 9:00 till 9:30 the opposite side of town another service user 9:30 till 9:45 and so on and so on. People never received the full duration of their call, ever! Despite complaints to the office. Stressed out workers and a completely slack network of support allow this to happen in all care companies.
As well as using the wonderful tool of guilt to pile more work on already stretched and under supported carers.
I cannot count the amount of hours of unpaid work I spent with service users just to get the basic needs fulfilled for them, or the amount of times it made me late for someone else.
Just before April 12th 2012 ******* had tried to give a woman in ****** ****** varnish on toast, claiming it was mistaken as honey. ***** did nothing about the incident; I only discovered it from the service user herself. Thankfully she was in a fit mental state and was able to refuse.
I began to warn service users about her behaviour, including stealing but mostly just for her complete stupidity as the company had taken no action.

It was at this point I was brought in by somebody above my manager ***** ***** to be disciplined, due to a breach of confidentiality, which I felt was more than acceptable to do because it posed a risk to the people that I was looking after.

April 12th was the day I resigned and coincidentally also the date of a CQC inspection of ***** **** at last I knew ******** faced no disciplinary and continues to work there to this day.

*** was to be arrested but disappeared until earlier this year at which I attended court to give evidence about the incident I witnessed around may 7th 2011. Unfortunately the appointed police and solicitor had no interest in my statements about ******* or anything else other than ***, all else was omitted, she was prosecuted and everyone gave themselves a pat on the back, I left the court feeling disappointed and deflated. They'd achieved a win great! but failed to look into any other allegation made about what struck me as a very serious problem. I tried to deviate into it whilst giving evidence in court to mention ******* but was told not to several times by the solicitor.

The care industry is completely broken, no minor adjustments can fix the truly horrific state it is in up and down the country, when people come first ahead of cheap council contracts and pennies per hour of someone's remaining time on this earth we might actually fly somewhere close to sanity.

From Joe Joskow

Tina Quinn – Dismissed for Whistle-Blowing

At the end of October 2011, I was dismissed from my job as a Primary School Teacher. I had worked for 34 years, nearly 20 of them as a teacher, with an unblemished record. I had never had a single disciplinary, verbal or written. I had not done anything wrong. However, I was forced into becoming a whistle blower and in doing so, made myself an enemy of the Head Teacher. For that reason she had to get rid of me.

I was forced into becoming a whistle blower because the Head Teacher had set me up on false allegations, not initially to dismiss me but, to have a temporary solution to her immediate problem. She needed to stop me becoming a Teacher Governor. As a governor I would be in a position to expose the financial and ethical irregularities at the school, including fraud.

On the 6th September, 2010, my former Head announced a vacancy for a Teacher Governor and I put my name forward. Shocked that I had, unexpectedly, put my name forward, she hastily arranged an election 3 days later, on the 9th September, coercing two teaching colleagues to stand against me. Neither had intended to stand. One had been my most vociferous supporter and nominator and a member of the Head's Senior Leadership team. Panicked, the Head forced this member of staff into standing against me and coerced a junior member o staff into standing, suggesting it might look good on her CV (both confirmed she had coerced them). The junior teacher was merely a red herring so that no-one would suspect what the Head had been up to.

I was suspended on the day of the election, on false allegations, to remove me from the premises and therefore unable to take part in the proceedings.

A week later, when I received a written list of the allegations - proof that I had been set up, I contacted the LEA, Haringey, and was advised to speak to their Head of Primary and Special Schools, Barbara Breed. I made a formal complaint for professional misconduct against the Head, in setting my up on false allegations and suspending me, to prevent me becoming a governor.

Barbara Breed wanted to know why the Head would not want me on the Governing Body, in her words, to give her justification for carrying out an investigation; as she was legally bound to do, under Haringey's own Whistleblowing Policy. I then had to give several examples of financial and ethical irregularities at the school, perpetrated by the Head. I also explained that she was able to get away with these irregularities because we had an invisible and absent Governing Body. I complained that she had groomed the Chair of Governors, a very busy mother, with 3 or 4 very young children and a busy career as an NHS Manager; with no time to dedicate to the role of Chair of Governors. This was a very cynical set up by the Head to ensure she had a total 'hands off' governing body, allowing her to carry out ethical and financial irregularities, unchallenged. Instead of carrying out an investigation, Barbara Breed betrayed me to the Head. I was to find out some time later that Barbara Breed was the worst person I could have spoken to, as she was a long time friend and mentor of my former Head.

To cut a long story short. Despite Barbara Breed having betrayed me, I was reinstated, as the investigation into the false allegations deemed them to be 'unfounded' and they had no choice but to reinstate me.

I knew my days were numbered and actively started to look for another job. When I was reinstated, I found myself victimised and isolated by the Head, over a four month period, trying to force me to walk out. I could not/would not walk out without another job to go to. The Head ran out of patience and set me up on false allegations and suspended me, for a second time.

I did not care about the internal disciplinary and appeal hearings and had no faith that I would get a fair hearing. I was going through the motions because my Union rep., said I would not get to a tribunal without first having gone through the internal disciplinary process.

I had no faith in the internal disciplinary process because the people charged with disciplining me were the very people I had complained about; my former Head Teacher and the Governing Body, in particular, the Chair of Governors. I had been very scathing of the Governing Body and their failure to provide good

governance at the school. As they were in charge of my internal disciplinary appeal hearings, they were hardly going to be objective.

I eventually attended an Employment Tribunal at the end of October and beginning of November, 2012, absolutely sure that I would get a fair hearing and the Judge would see through the duplicitous behaviour of my former Head, the Governing Body and Haringey. I had no doubt I would win the case, as it was blindingly obvious, given the chronology of events, that I had been set up. This was especially true given that, the false allegations used to instigate my second suspension, were all dropped at the internal disciplinary stage. They had served their purpose in giving the Head a valid, albeit false, reason to suspend me, again abusing her authority and again, committing professional misconduct.

Haringey supposedly carried out a whistleblowing investigation yet, despite the allegations of fraud, amongst many other allegations, the Head was not even suspended, pending the outcome of the investigation. She remained on the premises throughout the duration of Haringey's investigation and a follow up investigation, to tidy up, by Deloitte Touche.

I also had to endure a whole host of shenanigans just to get to tribunal, including the original tribunal being postponed, the day before it was due to take place, when the Respondent's Solicitor lied to the tribunal to get a postponement.

Why would Haringey use their extensive resources to get rid of me, a lowly teacher, who had done nothing wrong? It is obvious really. Lowly teachers come and go and no-one really asks any penetrating questions. However, if they had suspended the Head Teacher, without publicly explaining why, there would have been an outcry. There would have been a lot of gossip. The school staff, the parents, the children and the wider community would have wanted to know what was going on and would have demanded answers. Haringey, if they were to cover up what the Head was doing could not arouse scrutiny about the what the Head had been doing. They chose to support her and get rid of me because it was the easiest option, and the best way to cover up what

she had been doing. If everyone had known what she had been up to, quite rightly, there would have been a public outcry.

The tribunal was a pointless farce. The Judge had made his mind up on day one; that they had a valid reason to dismiss (breaching the terms of my suspension) and that was all he needed to determine. He told me on day one that the truth of who had said or done what, was irrelevant. He simply had to determine that they had a valid reason to dismiss. He said that the Head, the Governing Body and Haringey, were not in any way motivated by my formal complaint for professional misconduct against the Head. He actually spent a great deal of time, during the first day of the tribunal, getting the Respondent's Legal Counsel to concede that I had in fact made genuine and legally correct protected disclosures and, had made them to an appropriate person but, did not find they were motivated to dismiss me because I had made the protected disclosures. What was most shocking of all was, in his summing up, the Judge based his decision on the fact that he was impressed by the Respondent's witnesses; my former Head, the Chair of Governors, the Chairs of my disciplinary and appeal hearings, both governors, one of whom was an employment law expert and adviser to the Law Society. Four hostile witnesses, who had a vested interested in ensuring I was dismissed.

What chance did I stand? They had used 'starvation' tactics on me, dragging the case out. I had no money and was not entitled to Legal Aid. I had to represent myself. The Judge was 'very impressed' with Respondent's witnesses, as opposed to my sole testimony, despite the fact that I provided ample evidence of the Head's lies and duplicity and they provided no evidence that I had done wrong.

A gross miscarriage of justice. Something all too familiar to whistle blowers, forced to go through a tribunal which is no place to try whistleblowing cases.

I was dismissed and rendered unemployable yet I did nothing wrong. The person who did wrong, is still in post, in order to protect Haringey from another scandal. A far too common occurrence.

September, 2013

Ian Perkin - My Whistle-blowing Experience.

Part 1 Introduction.

When Eileen Chub sent me a copy of her book “Breaking the Silence – Evidence from 1500 Whistle-blowers”, I read it with great interest, because through my own personal experiences I recognised and sympathised with the many examples that the book contained of individuals, who having screwed up their courage and spoken out to expose often very serious wrong doing within their organisations, found that when they turned to the “legal system” for some support and protection and tried to rely on the Public Interest Disclosure Act 1998, logic was frequently turned on its head and they received, as in my own case, no help at all. In fact for me the outcome of going to an Employment Tribunal and appealing decisions all the way to the House of Lords, has seen that those who were guilty of wrong doing, often go on to more senior posts, while I as the whistle-blower, had to experience having my character disparaged without good cause and lost my job without the payment of any compensation, despite the fact that I was successful in proving, both that I had been procedurally unfairly dismissed by my employer and that I had made only months before my summary dismissal a “protected disclosure” under the Public Interest Disclosure Act 1998, which Lord Nolan, who chaired the Committee on Standards in Public Life, said during the Bill’s passage through Parliament, that his Committee had been persuaded of the urgent need for protection for public interest whistle-blowers and he commended those behind the Bill "for so skilfully achieving the essential but delicate balance in this measure between the public interest and the interests of employers", fine words indeed, but when you read my particular story, you may question, whether in a real life practical situation, whether PIDA, despite the claims made for it by organisations like “Public Concern @ Work,” sometimes gives whistle-blowers any real help at all.

In case the brief summary of what can happen to “whistle-blowers” I have outlined above, is seen simply as the “sour grapes” view of someone who lost his job after having his own character justifiably blackened, I would ask you to bear in mind the words of Dame Janet Smith, who prepared, “The Shipman Inquiry”, the report on the activities of the British serial killer Harold Shipman and in 2012 was appointed by the BBC to lead an inquiry into the Jimmy Saville sexual abuse charges. In commenting on the wider significance of

"whistleblowing" in her report on the Shipman case, Dame Janet said the barriers to whistleblowing included, " the fear of being seen as a troublemaker or "maverick", the fear of recriminations and a feeling of impotence grounded in the belief that, even if the report is made, nothing will be done about it". If you are inclined to read the tale of my “whistle-blowing” experiences and you think that my story is too farfetched, I would ask you to bear in mind Dame Janet’s words before you dismiss my version of events out of hand.

Part 2 Sacked From The NHS.

Until the 4th December 2002, I was employed by St George’s Healthcare NHS Trust as Director of Finance, Information and Computing, with also the Procurement and Legal Service functions coming under my managerial control. I had worked continuously for St George’s since September 1986, being appointed as Director of Finance in 1990. In all that time and in the seventeen years before this, when I held a series of other finance posts in the public sector, I had never had any disciplinary action taken against me either formally or informally, or ever received a single letter or e-mail from any of those with whom I had worked complaining about my behaviour.

On the 29th July 2002, on my return from a period of annual leave, without any prior notice, I was called to a meeting with the Trust Chief Executive Ian Hamilton and the Director of Human Resources Colin Watts, who told me that they wished to talk to me as old friends!!! At the meeting they told me that I had offended several senior figures within the NHS, including the Chairman of the Trust, because of the way that I had spoken openly about the financial and information issues that confronted the Trust, including to Simon Sharp the Trust’s external auditor and that they wanted me to immediately resign as an Executive Director. In return for my resignation they said it would be arranged for me to be transferred, for a period of six months to a post within the NHS London Regional Office to undertake special project work. I would not actually be expected to work for the NHS during this period, but could use the time to find alternative employment. When I asked what would happen if I refused this offer, I was told that disciplinary action would be taken against me in order to dismiss me from my post and that if that happened, where did I think I would ever get another job in the future? When I said that I would not to resign, as I had done nothing wrong, Ian Hamilton said that he wanted me to

go on “gardening” leave. When I also refused to accept this proposal he and Colin Watts both left the room to have a private discussion with the Trust’s lawyers who clearly were aware of what was going on. When they returned they said that I could return to my office duties, but that I was no longer to attend any meetings in my capacity as a Trust Executive Director.

On the 4th August 2002 I submitted to the Chairman of the Trust Catherine McLoughlin (currently Chair of the UK Rehabilitation Council, as well as Vice-president of Age UK and still chairing NHS internal hearings) a written grievance notice complaining about the conduct of the Chief Executive, this was done before I had been informed that any formal disciplinary action was to be taken against me and therefore under Section 8 of the Trust’s Grievance Procedure, the Status Quo should have applied until the various stages of the grievance procedure had been exhausted. However, despite it being a clear breach of the Trust’s Procedures, on the 5th August I received a letter from the Chief Executive which told me that I had to attend a formal investigatory meeting on the 8th August, the outcome of which could lead to the suspension of my employment with the Trust. In addition, again in breach of the Trust’s Grievance Procedure, I received a letter from Colin Watts Director of Human Resources on the 7th August, which stated that the Chairman Catherine McLoughlin had decided that she would not be prepared to hear my grievance against the Chief Executive, but that the matters contained in my grievance could form part of my response to the allegations made against me by the Chief Executive. This of course meant that I was quite inappropriately being told by the Chairman of the Trust, to raise the very serious matters raised in my grievance with the very person whose conduct I was complaining about. The likelihood of these issues being considered fairly and impartially was therefore nil.

At the investigatory meeting held on the 8th August which focused almost entirely on Ian Hamilton’s complaints against me, he confirmed that there were no concerns surrounding my technical or professional competence, but that the matters he was investigating were about my management style and my ability to represent the Trust in a positive manner. At the meeting Colin Watts the Director of Human Resources stated that he would record the details of each of the issues raised and the various responses that were subsequently made and that his role would be to try and ensure fairness and

consistency during the proceedings. At the outset Paddy Quill a solicitor I had met for the first time that morning and who been appointed to help me by my Insurance Company requested that the proceedings be recorded either by tape or by him being allowed to bring with him a note taker. The Chief Executive refused this request, so from the outset I was being prevented from ensuring that a completely accurate recording of the proceedings could be made. This was to prove a very shrewd move by Hamilton and Watts, as when later, with the support of my solicitor, I challenged the integrity of Watt's notes this was sighted as evidence of my unreasonable behaviour, yet if our very reasonable request to have the meeting recorded had been agreed to, there could have been no dispute. I was to find out why the Trust was so anxious to make sure no accurate and independent record was ever made of what was said at this meeting later. When the meeting got underway, the Chief Executive was asked by Paddy to give an example of where my management style had been damaging to the Trust. He replied that I had engaged in a high-profile public condemnation of Richard Douglas the NHS Finance Director at the London NHS Directors of Finance Conference when the new system of funding for the NHS was being discussed. Colin Watts' notes made no reference at all to the fact that this serious allegation had been made against me, probably I thought, after I wrote to Richard Douglas on legal advice to obtain his view of the questioning I put to him at the Conference, his reply made it clear that he had no problem at all with my raising the points with him that I did and of course the meeting was a closed meeting for NHS Finance Directors and not open to the press and public, contrary to the false assertion being made by Ian Hamilton.

On the 9th August, despite the fact that I had been able to refute all the allegations made against me at the meeting on the 8th August, I received a letter confirming verbally what I had been told at the conclusion of the meeting, that my employment with the Trust was being suspended. One of the points that was specifically referred to, was that because I had made accusations and comments about the clear misconduct, details of which will become apparent later, of the Chief Executive as part of my defence (which is what the Chairman suggested I should do in her letter of the 7th August) this was now being sighted as a reason for my suspension.

Following my suspension, I received a letter dated 6th September, from the Chairman of the Trust Catherine McLoughlin, informing me that I was required to attend a hearing convened under the Trust's Disciplinary Procedure to be held on the 12th September, the outcome of which could lead to my dismissal as an Executive Director of the Trust. My solicitor requested that an independent QC chair the hearing rather than Catherine McLoughlin on the grounds that I would not be given a fair hearing under her Chairmanship. The reasons for believing this to be the case, were that while as a Trust Director I had regular meetings with the former Chairmen of the Trust, Miss McLoughlin had informed me shortly after her appointment to the Trust, via an e-mail from her Personal Assistant, that she did not require to have regular finance meetings with me and that she would receive financial information through the Chief Executive. I therefore believed that in any dispute with the Chief Executive I was at a serious disadvantage in having Miss McLoughlin as Chairman as she had clearly informed her opinion about me based on the information given to her by the Chief Executive Ian Hamilton, who of course was making unfounded allegations about me. The Chairman had also reprimanded me when I had pointed out to her that by not holding a public board meeting in April she was in breach of a statutory duty to present the Trust's annual budget to the public by the 30th April of each year. Although I didn't raise it at the time an even more serious reason for objecting to Catherine McLoughlin chairing the hearing arose when she had asked me to come to her office at 10.30am on the 14th November 2001. It was extremely rare for me to be summoned to see the Chairman and when I attended the meeting I was subjected to a verbal assault, where I was told that I was arrogant, did not know the hospital, despite the fact that it is was my family's local hospital and I had two sons born there, my father was at the time undergoing cancer treatment there and my grandfather and uncle had both died there, and for good measure she stated that she did not like my annoying habit of eating boiled sweets. The Chairman also asked me what I thought the other executive directors opinions of me were. This was a particularly interesting question, as this meeting was being held only a few weeks after I had made a protected disclosure to my board colleagues, in that I had reported to the Chief Executive that a junior member of the Information Directorate had raised with me, via her line manager the Head of Information, that the Deputy

Chief Executive John Parkes (currently Chief Executive and Accountable Officer of a new NHS Primary Care Trust Cluster that incorporates Milton Keynes and Northamptonshire) had told her on Tuesday 9th October 2001, that in reporting the number of operations that had been cancelled at short notice that week to the NHS London Regional Office, she should enter the number as zero even though the actual number of operations cancelled had been 28 and then when she researched the previous two weeks she found that the figures had been similarly altered without any justification from 42 to zero and then discovered they had been changed from 11 to zero. I told Catherine McLoughlin that I was aware that there was a degree of tension with board colleagues, but that this had stemmed as a result of me raising this issue and that the criticism had been particularly strong from the Chief Nurse Marie Grant, who had written to Ian Hamilton complaining that I should not have raised the issue at all and from John Parkes who had written to the Chief Executive to say that the responsibility for the information function should have been taken away from me and who in an acrimonious telephone conversation to me, had suggested that I should not have backed a junior member of staff and should have instead used my authority to suppress the issue instead of embarrassing him when all he was trying to ensure that the Trust was seen in a favourable light by the Regional NHS. Miss McLoughlin response to this was to tell me that she was not interested in my excuses and that I was the problem and that she always knew that she and I would come down to this one day and that I was not a team player. In my view by raising at Board level the fact that the cancelled operations were being misreported was a clear protected disclosure, as the Trust later admitted and was important, because as many patients and their relatives will know from experience, to have to prepare yourself physically and emotionally for a major surgical procedure is not a minor matter and to be informed, with less than 48 hours to go, that your operation has been cancelled can be a very traumatic event. What I had done was to raise the fact, at the highest level available to me within the organisation for which I worked, that these figures had been fraudulently reported contrary to the Health Act 1999 Chapter 8 section 18, which stated that it is the duty of each Health Authority, Primary Care Trust and NHS Trust to put and keep in place arrangements for the purpose and monitoring and improving the quality of health care which it provides. In

addition when the Government published its NHS Performance Ratings for Acute Trusts 2000/01 the Department of Health stated, “We would annually publicly classify all parts of the NHS according to a new system of performance measures” and also stated, “All Trusts have been assessed on their performance during 2000/01 against the following key targets, which are the most significant factors in determining their overall performance rating for this year”. One of those key targets is the achievement of less than 1% operations cancelled on the day, the source of the data to be the Situation Report produced by the Trust. This of course was the report on which the cancelled operations were misreported in October 2001 and on which I had made a “protected disclosure” as defined by the Public Interest Disclosure Act 1998.

As a result of my meeting with Catherine McLoughlin I formed the clear opinion that the Chairman was more interested in how the Trust was perceived within the wider NHS and that she was not prepared to allow the truth to get in the way of how she personally wanted to be viewed by those at the top of the NHS organisational structure. I formed the view about Miss McLoughlin that unless I was prepared to start lying myself about the Trust’s information and financial positions to show the Trust in a more favourable light, I was going to be extremely vulnerable if I was called on to make any more protected disclosures in the future and at a personal level, because of the Chairman’s outburst, I felt for the first time in thirty-two years of unbroken service in public service finance departments, that I had to take out legal expense cover insurance so that I would be able to defend myself if I was to be penalised for continuing to tell the truth and I also ensured that my membership of the GMB trade union also provided me with legal cost cover in the event that I might need to defend myself against an unscrupulous Chairman and Chief Executive. As you will see later these proved to be two of the most important actions I have ever taken in my entire working life, as the total costs of taking legal action would have needed me to find more than £250 thousand pounds. The probable reason why the Chairman and Chief Executive were so keen to dismiss me over the cancelled operations issue was highlighted at the Trust’s AGM held in September 2002. In giving his review of the year, Ian Hamilton stated that the Trust had not been far from achieving the top “three star” rating from the Department of Health. The Trust had met

8 of the 9 key targets, but unfortunately had failed to achieve the target for cancelled operations and so had only been granted a two star rating.

Despite the continued representations of my solicitor for an independent Chairman to be appointed, Miss McLoughlin stated that she was not prepared to allow anyone else to chair the hearing, notwithstanding that the NHS's own rules that were about to be published made it quite clear that were Board members of NHS Trusts to be investigated and subsequently subjected to a disciplinary hearing, both of those functions had to be carried out by individuals from other NHS organisations independent of the employing Trust. She said quite falsely that she was the only appropriate person who could chair the disciplinary hearing and that she would be accompanied, again quite against the rules of the NHS, by Diane Mark a St George's non-executive Board director.

On the first day of the hearing on the 12th September, my solicitor Paddy Quill requested that because of the dispute over the accuracy of note taking at the investigatory meeting that the disciplinary hearing be taped so that an accurate record of the proceedings could be maintained. Catherine McLoughlin stated that she would not allow the proceedings to be taped and that Miss McCullough of the Trust Human Resources Department would make a record of the proceedings. As a result of concerns over the way that notes were being taken during the first day of the proceedings my solicitor advised me to attend the second day of the hearing with a working tape recorder and to place it on the table in front of me. Catherine McLoughlin again stated that she would not allow the hearing to be tape recorded and instructed that the tape recorder be switched off. My solicitor continued to try and argue the points for allowing the proceedings to be taped but then Miss McLoughlin refused to speak while the tape recorder continued to operate and we all sat in silence for some minutes, before she attempted to grab the tape recorder and said "Mr Perkin leave the room, if you can't abide by procedures, which of course exhibits your usual pattern". This incident, which was recorded on tape, I think again clearly demonstrates Miss McLoughlin's unreasonable bias against me and is further evidence of why she should not have chaired the disciplinary hearing and why she was so adamant that the proceedings should not have been tape recorded. My solicitor advised me following this incident to turn the tape recorder off as he felt I would probably be dismissed without

the hearing taking place if we continued to press for the proceedings to be taped. Once again in retrospect I see this as a very shrewd move on the part of McLoughlin. One of the major reasons that was to be sighted for my dismissal was my alleged unreasonable behaviour at the disciplinary hearing. If there had been a recording of the proceedings it would have been easy for me to have refuted the allegations made against. If McLoughlin was correct when she said I was exhibiting my usual behaviour, surely a recording of the proceedings would have considerably strengthened her case, so why was she so adamant that she would not allow proceedings to be recorded? It was in my view because it was easier to accuse me of unreasonable behaviour if there was no accurate recording available for me to refute such an allegation. At the hearing itself, it was made clear that the allegations being made against me concerned my management style and ability to represent and advise the Trust in a positive and supportive manner, and my ability to form the necessary quality of relationships with external advisors, stakeholders and other external agencies to ensure the Trust's interests are best preserved and advanced. It was made clear that the allegations did not relate to any matters related to my professional or technical competency or my honesty or integrity.

To support the Trust case a number of witnesses were called, the first being David Knowles (currently the Vice Chairman of the Kingston Clinical Commissioning Group) a non-executive director member of the Board. Mr Knowles expressed the view that he had concerns about my performance as Director of Finance. He said that he had no doubts about my professional or technical competence, but that he felt that I did not take personal responsibility for the implications and consequences of financial decisions and that consequently I was not perceived as being a supportive or positive leader. In giving his evidence to the hearing Mr Knowles was not able to give one specific example of where there had been a failure on my part to take responsibility for something I should have done and didn't. Indeed under questioning Mr Knowles agreed that he had never ever raised any problems with me at all as to my performance as finance director, not by letter, e-mail or by requesting a meeting with me. He further agreed that the only people he had communicated with in regard to the problems he perceived with my performance were the Chief Executive and the Chairman. The only other issue that David Knowles raised was that the External Auditor, Simon Sharp a senior

manager in the firm of PricewaterhouseCoopers, had asked to have a meeting with the non-executive directors on the 24th July. He claimed that the purpose of the meeting was for Simon Sharp to raise concerns with them about my performance as finance director and he stated that Simon Sharp said at that meeting that he had evidence that I was in the habit of being very critical of the NHS financial regime and the situation that existed at St George's. Simon Sharp was not called as a witness during the course of the hearing, but submitted two letters for consideration. The first of these letters was dated 5th August and confirmed that Mr Knowles had been quite wrong to assert that the meeting on the 24th July had been called specifically to raise issues about my performance as Finance Director. The letter clearly states, "The reasons for both these meetings was to discuss the concerns that we have regarding the Trust's financial standing in 2002/03 and beyond, together with the effectiveness of the steps that are currently being taken by staff within the Trust to address the challenging issues that arise from the situation". What the letter went on to say was that, "In connection with these issues we also raised a concern that the robust and well aired views held by the Trust's Director of Finance on the financial regime within the NHS might adversely impact on:

- The trusts relationships with its partners in the local health economy;
- Officers and staff within the Trust charged with seeking to deliver the Cost Improvement Programme.

Simon Sharp also stated in his letter that, "we agreed that we had no concerns regarding the technical competencies of the Director of Finance".

My "well aired" view which Simon Sharp referred to, was the fact that I had pointed out to the Board on previous occasions and to Simon Sharp at a meeting I had with him on the 2nd July 2002, that because of flaws in the calculation of the NHS Healthcare Resource Group published data which determined how much funding was given to NHS Trusts, St George's was being given an annual cost reduction target that was not justified and could not reasonably be achieved and that as a consequence the Trust was being put in a position where it would breach its Statutory Breakeven Duty (Section 10 (1) of the NHS and Community Care Act 1990), which in fact is exactly what happened after my dismissal. To face disciplinary charges in connection with revealing this information to the Trust's external auditor and members of the

Board meant that disciplinary charges were being brought against me as a result of having made a second protected disclosure. This protected disclosure is further highlighted in Ian Hamilton's statement of case that he presented to the disciplinary hearing where he stated that "The External Auditor considered that the Finance Director had taken a view that the Trust's finance position was irretrievable and that there was no solution likely within the Trust without external support. The Auditor felt that the Director of Finance's views disclosed a very negative approach and he was most concerned that this would percolate to other members of the Finance Team". I doubt if there could be a clearer admission that I had properly reported to the External Auditor my concerns that the financial position of the Trust was so serious that we were in imminent danger of imminently breaking our Statutory Duty To Break Even, as laid down in the NHS Community Care Act 1990 and that I was being criticised and disciplined for so doing. It is clear that prior to making the protected disclosure about the financial position of the Trust that I had an excellent relationship with the External Auditor, in his management letter on the Trust's 2000/01 accounts Simon Sharp had said, "Once again we have been impressed by the organisation and effectiveness of the final accounts process at the Trust". Furthermore he stated, "We have commented in the past on the strength of the finance function at the Trust and consider that with its skills it may be well placed to contribute significantly to the Shared Services Initiative". What had happened in less than a twelve month period to make the External Auditor change his view from one where he thought my directorate should be able to provide financial services to other NHS organisations, to one where he was saying that my views could have an adverse impact on the Trust's relationships with its partners in the local health economy. It was of course the fact that I had made a protected disclosure about the Trust's underlying financial position, and the risk that we would as a consequence not meet our statutory duty to break even, that caused Simon Sharp and the non-executive board members to take the critical view of me that they did. In my opinion they were all concerned about the impact that this protected disclosure would have with the South West London Strategic Health Authority and with the NHS London Regional Office and ultimately Department of Health Ministers. In the event things happened exactly as I said they would, giving even more weight to the fact that I had made another protected disclosure.

The second letter that Simon Sharp submitted, while not being unhelpful to my case, nevertheless should not have been allowed to be submitted by the Chairman if she had been conducting proceedings fairly, as at the time that Ian Hamilton asked for it to be submitted he had already concluded the management case against me and I had already commenced my response to the allegations made against me and my first witness had been called and questioned. I believe that this again shows that Catherine McLoughlin was clearly acting in a biased way against me and that I was not being fairly treated as required by the Trust's published disciplinary procedure. The letter itself was not unhelpful to me as it repeated the contents of the letter of the 5th August and also added, "By way of clarification, it was not Ian's views that gave cause for concern but rather the potential impact arising from the way in which he aired them openly, both within and outside the Trust. We were concerned that he might be perceived as having a negative attitude to the financial difficulties facing the Trust and that this could undermine the action that the Trust was taking to address the situation". This is a clear statement that the external auditor agreed with what I was saying but was criticising me for speaking the truth because of the impact that the truth might have both internally and externally, although he provided no examples of where or how my views might be damaging to the interests of the Trust. I submited that as Finance Director of one of the largest NHS organisations in the country to be disciplined for speaking the truth about the difficulties St George's faced in meeting the Statutory Break Even Duty amount to a protected disclosure and it was wholly wrong for me to have been subjected to disciplinary sanctions as a result. The fact that the External Auditor Simon Sharp met with the non-executive directors on the 23rd July 2002, while I was on annual leave and that the moment I returned to work on Monday 29th July I was asked to resign from my employment from the Trust, shows in my view that the real reason for my dismissal was not related as the Chairman would suggest because of my "Management Style" but was clearly linked to the protected disclosures I made to the External Auditor on the 2nd July 2002 and his reporting of that disclosure to the non-executive directors and also the protected disclosure I had made in October 2001 about the misreporting of cancelled operations. After my dismissal, the Trust, which in every year I had been on the Board had achieved its statutory financial duties, ran up some of the biggest financial

deficits that the NHS has ever seen, so my apparent unreasonable management style could not have been having the adverse effect on the running of the Trust that McLoughlin and colleague alleged.

As the Chief Executive had told me for the first time, when he asked me to resign on the 29th July, of the External Auditor's concerns I telephoned Mr Sharp on the 30th July to try to ascertain what was happening. The following are extracts taken from the transcript of that telephone conversation which I believe further demonstrates that the true reason for my being dismissed is as a direct result of having made a protected disclosure.

IP: I can understand you may have the view that in the current political climate that giving bad news is not required. But I don't think that anything I said at the meeting you wouldn't agree was the truth.

SS: Ok, no I, you know. I've got concerns about how the NHS financial regime works myself and that's from the outside perspective. I can't remember exactly what I said; your pretty robust and sceptical attitude might not necessarily be in the best interests of the Trust.

IP: Because you think it won't find favour with the centre?

SS: Exactly, they'll say that the Trust has got this rogue finance director that won't toe the line.

IP: I will agree that I don't toe the line because it is the truth and it needs to be said by someone. What's my alternative I either sit here and pretend everything in the garden is rosy, whereas I feel that I've always told the truth and I felt that with you as external auditors you had always felt that that was the case?

SS: And, I think so. That's the reason why I thought it was important to get that message through to Ian and the non-execs. Ian knows this.

IP: So from where I'm sitting I feel that by telling the truth, as you say, it's not something finding favour with the centre, but I feel it's something that had to be said.

SS: I just wanted to be in the position where I could say, look Ian is pretty robust and he can get up people's noses and therefore it's not always in the best interests of the Trust, just so they know that not all finance directors are as honest, robust and open as you are.

IP: But it's a crying shame that being honest, open and robust gets you into trouble.

SS: Well, yes.
IP: As an external auditor how does that happen?
SS: Um, I think it happens in the regime you've got.
IP: As external auditors you have always commented on what a strong budgetary control system we've got in place. You said in last year's report that was the case, you commented on the strength of the finance function.
SS: I don't think we have ever had any problem about the finance function or your leadership of it and each year the production of the accounts and the whole of that process just gets better and we have no concerns about that. Well I'm definitely going to produce a letter, but obviously we are going to have it craft carefully in view of the fact that it may end up as evidence in Industrial Tribunal if you think it will come to that.
IP: Well, absolutely, but all I'm asking for is an honest analysis. I'm being told that it's a perception about you. Technically you are doing a good job, no one can say you've done anything wrong, but you've fallen out of favour because you are confronting too many people with the unpalatable truth and you and I have had that discussion at several meetings at the end of the day. When you said at the sign off meeting that Dominic was present, that you were concerned that you there was a danger that there was an Enron type situation building.
SS: I fully stand by that. Yes.
IP: Was it you who said to me yesterday that when I got up at the conference and explained to Richard Douglas that HRG's are flawed, that actually locally that is being perceived as a mistake?
SS: Yeah. I said that someone had mentioned it to me that they had been at the conference and that you stood up and said that, yes.
IP: And that wasn't the right thing to do?
SS: Oh, no I don't think that was their perception. I think that their perception was that yeah, probably it isn't as being seen as very good by the powers that be, but I don't think actually they thought it was a bad thing but they wouldn't have done it personally
IP: But from what you're saying you don't have a problem with my leadership of the finance function.
SS: No. Not at all. Except for the perception you create within the wider economy.

IP: But that perception comes doesn't it, because I give them truthful information, which they don't want.
SS: Which they don't want to hear or acknowledge.
IP: It's frightening, its intimidating people. If I go down for it how many finance directors will speak the truth in the future?
SS: Not that they do now.
IP: Even less likely to in the future. It will be perceived that he was honest, open and robust and it got him the bullet. So what's the implication from that?
SS: Not a pretty one.
In all my now forty years of working in public sector finance, this was the most amazing conversation I have ever had with an external auditor. External auditors in the public sector are supposed to give an independent opinion on public bodies' financial statements and may review, and report on, aspects of the arrangements put in place by public bodies to ensure the proper conduct of their financial affairs and to manage their performance and use of resources. For Simon Sharp to admit that my properly discharging my function as Finance Director by giving truthful information about the finances of St George's was creating a problem and then to go on to say, in answer to my question of which NHS Finance Directors would tell the truth in the future if I was going to be sacked for telling the truth, "Not that they do now", simply reinforces the cynical view that people have about the lack of integrity in the way our public services are managed. The BBC certainly thought that Simon Sharp's comments were very concerning as they asked to borrow the tape recording from me and broadcast an extract from it on BBC London News on the 9th January 2003. The playing of that tape on the BBC lead to another interesting event with Simon Sharp that took place at the Savoy Hotel a couple of years later, which I will explain later.
The other issue that arose was when I tried to question David Knowles during the hearing about the evidence he was giving, was Mcloughlin's refusal to allow me to question him about an e-mail and a resignation letter that had been sent to me by John Clarke a former Trust non-executive director and Chairman of the Board's Investment Committee, who had resigned from the Board some nine months earlier. In his e-mail John Clarke indicated that he was shocked to hear of my suspension and was particularly disturbed to hear

that the decision was linked to my management style as he said in his e-mail that he had at all times found me to be a highly professional and co-operative executive. He went on to say that he had found nothing in my style that was unacceptable or even difficult, but was not completely surprised that Catherine McLoughlin (proof again why she should not have chaired the hearing) would act unfairly and that this coupled with remarks that David Knowles had made about the Executive Directors had made him believe that St George's was about to slip into the position where it adopted some of the poorer employment practices which had once existed in the private sector. When I attempted to ask David Knowles about the issues raised in John Clarke's e-mail and resignation letter, Catherine McLoughlin stated that it was a private matter between her and John Clarke and refused to allow me to put any questions in connection with the issues raised by John Clarke. I think this again shows unfair bias against me by the Chairman and demonstrates once again why she should have stepped down from the chair in order to have allowed me a fair hearing, but more importantly it prevented me from raising a series of questions with Mr Knowles which would have helped demonstrate that I was being disciplined for having made a protected disclosure. The reason for believing that this could have been established was because after my suspension, John Clarke telephoned me to say that in 2001, before he resigned from the Board, Catherine McLoughlin, Ian Hamilton and particularly David Knowles had been planning to dismiss another executive director from the Board other than myself. John Clarke's view was that something must have happened for me to have changed places with that person and become the Executive Director that was to be dismissed. Given that I made the protected disclosure towards the end of 2001, I believe that this is the reason why I became in 2002 the subject of a series of false allegations made in order to dismiss me from my post. As soon as I asked David Knowles a question about what John Clarke had told me, Catherine McLoughlin stopped the line of questioning and refused to allow me to put any further questions on the matter. I think this further demonstrates that I have been dismissed on the basis of the protected disclosures that I have made. If this was not the case Miss McLoughlin would not have been so determined to prevent any questions being put to David Knowles on the issues raised by John Clarke.

The next witness that was called to give evidence against me was Melvyn Esterman the former Finance Director of Merton, Sutton & Wandsworth Health Authority an organisation that had ceased to exist on the 1st April 2002. Mr Esterman had early retired from the NHS as he had failed to achieve a position in any NHS organisation following the reorganisation of NHS Health Authorities in 2002 and he was the only person called to give evidence from any organisation external to St George's to try and demonstrate that I had a poor relationship with external organisations with which I had to have contact. No other person from any external organisation was called to give evidence to the NHS disciplinary hearing or later to the Employment Tribunal. In giving evidence Mr Esterman made several untrue statements in that he asserted that St George's had regularly submitted late financial returns to both the local health authority and the Regional Health Authority and that St George's accounts on a number of occasions had not balanced. When I denied that any of this was true and challenged Mr Esterman to produce a single document that would demonstrate that a return had been submitted late or that the accounts did not balance Mr Esterman said he was unable to do so because all the relevant documents had been lost during the move of offices following the formation of the South West London Strategic Health Authority. In reply I produced written documentation to clearly demonstrate that in June 2000 Mr Esterman had previously made serious but completely false allegations about my department to the NHS Regional Director of Resources John Bacon, in which it was alleged that my department had failed to account correctly for the setting up of the provisions in the Trust's 1999/2000 final accounts to allow for the cost of medical negligence cases. It was also alleged that we did not provide information in accordance with the stated timetable for submitting returns. The seriousness of these allegations was further established by an e-mail I received from Ian Hamilton the Chief Executive which stated that it may be a matter on which he would be questioned by Nigel Crisp who at that time was the head of the NHS for the whole of the Greater London area. The reply that I sent to John Bacon the NHS Regional Director of Finance and the letter my department received from Julia Todd one of Mr Esterman's senior staff, showed that not only were his allegations about the way we established the provisions totally false, but his own staff confirmed that we had done it in accordance with the requested time scale. Mr Esterman's evidence was

further discredited by the evidence given to the hearing by Dominic Sharp (now the Deputy Director of Finance at St Georges) who at the time was the senior accountant responsible for producing the monthly Trust finance monitoring reports. Mr Sharp presented a statement to the hearing that confirmed that Mr Esterman's allegations about the medical negligence provisions were totally false and that he had never received any complaints at all as to the accuracy or consistency of monitoring reports that the Finance Directorate had produced from any member of Merton, Sutton & Wandsworth Health Authority's finance staff and I can state that Mr Esterman never raised a single specific complaint with me. Even if what Mr Esterman said was true, which it clearly wasn't, it is difficult to know how his view of me could have impacted adversely on my future professional relationships with anyone who had an external relationship with St George's as he had retired from the NHS some months before. Mr Esterman's evidence was so discredited that it would have been impossible for any fair-minded Chairman to give it any credence at all, but of course Miss Mclouhglin was only too delighted to do so.

The next person that Ian Hamilton called to give evidence against me was Suzie Bailey the General Manager for Children and Women's Services. Apart from making some minor comments about the time frame in which she received financial information from my department and that in some NHS Trusts she had worked, the management arrangements for integrating finance staff into the service side of the organisation were different, the most serious allegation that Ms Bailey made was to claim that when all the General Managers met prior to being interviewed in July 2002 by KPMG a firm of accountants who had been commissioned by the NHS London Regional Office to conduct a review of the St George's finance function they had all agreed on the following:-

- That the Finance Directorate was reactive rather than pro-active.
- That there appeared be a culture of separation of the Finance Directorate from Clinical Services.
- That there was a lack of flexibility in the finance support that General Managers got in dealing with their roles and competing priorities.
- There is a lack of information on how services are costed and priced and a perceived lack of willingness by the Finance Department to share this information.

- The emphasis at monthly review meetings with the Finance Director are always that the finance problem is the Service Centre's problem rather than a shared problem.

Miss Bailey also asserted that on more than one occasion that I had stated to her at the monthly review meetings that I had been threatening and had said to her that the financial position was so poor that Ian Hamilton will lose his job and some of the General Managers will go with him.

Miss Bailey who had worked at the Trust for only about two years, was the only General Manager called to give evidence during the hearing and she presented no documentary evidence at all to back up any of the claims that she was making, simply asserting that she was speaking on behalf of all the General Managers. To show that her assertions were completely false I submitted in evidence several e-mails that were sent in July 2002 to all the General Managers by Ian Harris one of my senior staff, which explained in detail how the costing process had been conducted and invited General Managers to contact him if they had any queries or comments that they wanted to make. In addition, I provided a copy of an e-mail that I received from Miss Bailey dated as recently as the 5th July 2002, where she stated clearly, that in a meeting that had been held earlier that day with the General Managers, she wanted to make it clear that she was in no way criticising the support she was getting from her finance manager and that she also wanted to thank me for agreeing to regularly attend the General Mangers meetings. In addition in statements given to the hearing by Michelle Salter, Miss Bailey's previous finance manager, and Philip Sargeaunt, the Chief Management Accountant, who had both attended the regular finance meetings where Miss Bailey had claimed that I had made threatening remarks against her, confirmed that I made no such remarks and both said that Miss Bailey had made comments to them praising the work of the Finance Directorate and the finance staff. An e-mail was also produced from Miss Baileys predecessor Ruth Meadows saying that without the help of the finance staff she would have made no contribution at all to the cost reduction target that she had been given by the Chief Executive and I also submitted a bundle of e-mails and letters showing not only a pro-active approach by the finance directorate but that much praise had also been received from Suzie Bailey's staff about the work of my department over a long period of time. More importantly, when

Mike Cumberbatch the Trust's longest serving General Manager was called to give his evidence to the hearing he made it clear that Suzie Bailey was not telling the truth when she said she was speaking on behalf of all the General Managers. In his statement he made it clear that over a period of several years he had found me to be approachable as Finance Director when raising any concerns with me and that he had always been given a fair hearing with the opportunity for a full and frank exchange of views. He also said that the finance staff encouraged by me had always been pro-active in terms of suggesting both cost efficiencies and more effective ways of managing the finances of the Service Centres. This evidence from the longest serving General Manger clearly and completely contradicted the evidence given by Suzie Bailey and in his verbal evidence Dr Cumberbatch also stated that he did not recall the meeting where Ms Bailey said all the General Managers had agreed that there were problems with the Finance Director. In fact Dr Cumberbatch went on to say that although he could not remember that particular meeting it was not however unusual for the General Managers to have a general whinge about other departments and that in his view the level of criticism levelled at the Finance Directorate was not any greater than that levelled at any other department and was probably less than that which had been levelled at the Human Resources Directorate. In response to questions Ms Bailey agreed that she had never at any stage raised any of the concerns that she alleged she now had about me as Finance Director actually with me and agreed that she had never sent me as much as an e-mail or single letter about these any of the issues she now said she had. In addition at the disciplinary hearing she also agreed that she had never chosen to attend one of the open lunchtime seminars, that I held to better brief St George's staff on the financial processes and problems at St George's to better inform herself about the hospital's finances. Amazingly when I asked Ian Hamilton at the hearing why he had not spoken to all the General Mangers, if he felt they were unhappy about my performance and had instead relied on evidence from one of the Trust's shortest serving mangers, he replied that Suzie Bailey was the most senior General Manger and that she was the Deputy Director of Operations. As Ms Bailey had not held that post at the time of my suspension Mr Hamilton was asked when the post had been advertised, as would be required by the NHS as an equal opportunities employer and on what date her

promotional appointment had been made. Mr Hamilton was unable to answer either question and in his evidence to the hearing Dr Cumberbatch confirmed that he was unaware that the appointment had been either advertised or made. As with Mr Esterman the verbal evidence of Ms Bailey had been completely refuted both by the witnesses and by the documentary evidence that I submitted to the hearing and it is clear that any independent Chairman would have found it impossible to give any credence to it at all, particularly as in the time that had elapsed since Hamilton had suspended me from my employment he had promoted one of his key witnesses in complete contravention of the required NHS recruitment procedures.

Next to be called to give evidence against me was the Chief Nurse Marie Grant who said that she and Professor Paul Jones had raised concerns about my management style with the Chief Executive in February and March of 2002 (just three months after I had made the protected disclosure that the Deputy Chief Executive had instructed a junior member of staff to falsify the cancelled operations figures). Mrs Grant went on to say, without producing any evidence to support the statement, that in her opinion my position as finance director was untenable and irreversible and that she had no confidence in working with me. When asked about the cancelled operations figures, although she offered no evidence to support the statement, Marie Grant said that it was well known throughout the hospital that information provided by the Patient Administration System was unreliable and that if John Parkes had altered the figures it would have been for a good reason. This statement was completely contradicted by Trust's Head of Information when she gave her evidence to the disciplinary hearing, as she stated that the information provided by the hospital patient administration system was robust and accurate, a view that was apparently shared by the Trust's Director of Modernisation Janet Hunter, who when asked at the November 2002 Public Board Meeting about the quality of the Trust's activity information, stated that it was robust and accurate. When questioned about the critical e-mail Mrs Grant had sent immediately to all the Executive Directors following my protected disclosure regarding the cancelled operations, in which she said, "It's so important that our staff see us working as a team, it was therefore disappointing to see this e-mail from Ian", she said that she wasn't concerned about the detail of the issue but with my style in raising it. When under further

questioning it was put to Mrs Grant that if I had not sent the e-mail the Executive Group would never have discussed the issue, she agreed that she had misunderstood the sequence of events and that her e-mail had perhaps been inappropriate. As with the other management witnesses Marie Grant admitted under questioning that she had never raised with me either formally or informally any of the serious concerns that she said now she had with me and like Suzie Bailey she agreed that she had not chosen to attend one of my lunch time seminars to better acquaint herself with the financial procedures and practices operating within the Trust. Yet in her statement she made the incredible and completely untrue claim that I had shown a reluctance to discuss the calculation of costing tariffs with her and the other executive directors and general managers. When it was pointed out to her when questioned at the hearing, that I had done a presentation to a special meeting of the Trust Board on the 5th June 2002 about this very issue and that she had not said at the meeting that she had any concerns or problems with my explanation she said that although she had been present at the meeting, "I can't remember". In addition the notes taken by Colin Watts at the Investigatory Meeting held on the 8th August he stated that he remembered many robust debates taking place with regard to this subject between the executive directors and myself and I was also able to produce to the hearing the e-mails sent by the Finance Department together with Marie Grants reply to those e-mails which provided incontrovertible proof that Mrs Grant had been well briefed on the subject and had been invited to raise any other problems or concerns that she might have had on the subject. The question therefore should have been why the Chief Nurse should want to make such clearly false statements about me and I think the logical conclusion to arrive at from her own evidence was that she first raised concerns about my "management style" with the Chief Executive immediately after I had alerted the Board to the fact that the Trust had submitted fraudulent cancelled operations figures to the London Regional Office of the NHS and for none other. If the disciplinary hearing had been chaired by an independent and fair minded person it is quite clear that Mrs Grant's evidence would have been completely disregarded, but of course it was accepted because the Chairman's real intention was to punish me for having made a protected disclosure which had not found favour with her or some of my ambitious executive colleagues.

The final witness that Hamilton called to give evidence against me was Professor Paul Jones the Trust's Medical Director. As with all the other witnesses called by Ian Hamilton, Professor Jones agreed under questioning that he had never raised with me either formally or informally any of the issues of concern which he now claimed to have had with my "management style" as Finance Director. Indeed under questioning Professor Jones agreed that his failure to have raised any of these concerns with me could be seen as a weakness and failure on his part and he accepted that he should probably with hindsight have done so. As a senior member of the Board, Professor Jones was copied in on the exchange of e-mails regarding the protected disclosure on the misreporting of the cancelled operations figures in October 2001 and it was just a matter of weeks after this issue had been raised, that Professor Jones said he first raised his concerns with Ian Hamilton the Chief Executive about the problems he had with my "management style". I do not think these two events are unrelated, given that at that time I had been Finance Director for eleven years and Professor Jones had been Medical Director for three years and there is no evidence of any complaint of any kind having been made about me, by him, to anyone before that time. In my view the evidence pointed to his concerns having arisen directly from my having made a protected disclosure about the cancelled operations.

To try and justify his criticism of me Professor Jones suggested that when he had worked at St Helier Hospital some eleven years before, the finance department there had been much better run. In response to this criticism I pointed out to Professor Jones that St Helier Hospital eleven years before had been a non-teaching hospital of less than half the size of St George's and that in any event two years ago the Commission of Health Improvement (CHI) had said about that hospital, "The management of the St Helier Trust is defensive in its attitude and staff morale is low as communication systems between the executive team and staff are weak". The rating given to St Helier by CHI was "nil" which culminated in the resignation of the Chief Executive and the removal of the Finance Director as Deputy Chief Executive. In reply Professor Jones said that the reason that St Helier had run into problems was because they had merged with Epsom NHS Trust and that it was a well-known fact that when hospitals merged they always ran into financial difficulties. When I explained that about twelve years ago I had handled the financial aspects of

the merger of St James Hospital and St Georges Hospital and not only had I not made a loss in doing this, but had managed to contribute three million pounds of recurring savings for the wider benefit of the wider NHS, Professor Jones said that the NHS was much more complex now and a comparison over that period of time was not valid. Therefore according to Professor Jones own evidence, a comparison of finance departments over a period of eleven to twelve years is valid if the comparison was detrimental to me, but not valid if it produced evidence that was favourable to me.

The other incredible and completely false accusation that Professor Jones made in his statement was that in relation to giving clinicians and managers information about the costing of clinical services, every request for information and support in this area from the Finance Directorate had been met with a flat refusal to consider or even understand the position that management teams found themselves in, although he could produce not one e-mail or letter from anyone that said there was an outstanding request for information or support that my directorate had not fulfilled. This statement by Professor Jones ignored completely the e-mails sent out by my department explaining the costing process, ignored the presentation I gave on the subject to the Special Board Meeting held on the 5th July and also ignored the reply I sent to Dr Patricia Hamilton the Chairman of Women's & Children's Services, copies of which I presented to the disciplinary hearing and which demonstrated a detailed response to a request for information to help her answer the concerns of clinicians on how costs are calculated in respect of the Neo-natal Intensive Care Unit. Far from being a refusal to cooperate with clinicians and managers this e-mail showed Professor Jones allegations to be entirely false, particularly as the final sentence of my reply said, " I hope the above explains the situation, but should you have any further queries please do let me know". Any independent or fair minded Chairman of the disciplinary hearing would automatically have dismissed Professor Jones evidence out of hand, as a result of documented evidence I had produced, but of course Catherine McLoughlin had already decided to engineer my dismissal as a result of the protected disclosures that I had made. Professor Jones also made other equally untrue allegations about me. In his statement to the hearing he said I exhibited a sense of "won't do", completely ignoring the long list of my recent achievements at St George's which I presented to the hearing and which

included having suggested both the development and financing of the Trusts new £60 million Atkinson Morley's Neuro/Cardiac Wing, which opened in 2003, the winning of contracts to provide Internal Audit Services to all the local NHS Primary Care Trusts, the gaining of the Chartered Institute of Public Finance & Accountancy Best Practice Employer Award in February 2002, and taking over without any increase in my remuneration, the management of the Trust's Procurement, Information and Computing functions. In addition the Atkinson Morley's Wing development was subsequently listed in Hansard (the official record of debates in Parliament), as having incurred by a wide margin the lowest PFI external financial costs of any NHS scheme in the country. I also pointed out that I had managed in 2001/02 the purchase and implementation of a new state of the art local area computer network that allowed for the first time the introduction of the Trust Intranet (praised by Professor Jones at the Trust's 2002 Annual General Meeting for its impact on Clinical Governance) and recommended to the board at the start of 2002 that the Trust take legal action against the nursing agency BNA for breach of contract, which resulted in December 2002 in the Trust receiving an out of court settlement that saw BNA pay the Trust a substantial six figure sum. If this is what Professor Jones calls a "won't do" attitude, it is difficult to know what one would have to do to be categorised as having a "will do" attitude. Professor Jones also stated in his evidence that when he was a Clinical Service Delivery Unit leader he only saw his accountant a couple of times at meetings, implying that the Service Delivery Units (SDU's) were not properly supported by my directorate. Yet when the hospital's Chief Management Accountant gave his evidence to the hearing he stated quite clearly that the management accountants attend all the SDU meetings that they were invited to and that the finance directorate attended such meetings more than the staff from any other directorate. Why should Professor Jones make such another false allegation about me and why should Phillip Sargeaunt's evidence be ignored. The explanation is that the true reason for my dismissal is because I told the truth and had made protected disclosures which the Miss Mclouglin did not like.

In making the allegations that they did against me, all the witnesses called by Ian Hamilton agreed that they had never informed me of the concerns that they had about my performance as Director of Finance, Information, Computing and Procurement, prior to me being suspended from my post. In

fact Ian Hamilton himself was unable to produce one e-mail or letter in the evidence he presented against me to show that I had in fact been warned about my "management style" or my relationships with outside organisations. I was therefore never given the chance to either explain why such criticism would have been inappropriate, nor was I given the opportunity to have modified my "management style" should any of the criticism been shown to be valid. To try and cover for this glaring omission in his case against me, Mr Hamilton sought to rely on what he purported to be a conversation that we had at my annual Individual Performance Review (IPR) meeting that was held on the 5th April 2002. The Individual Performance Review Policy clearly stated that in relation to an IPR meeting, "Agreed objectives and actions are recorded on the Personal Development Plan and a summary of the discussion is recorded on the summary sheet. Both parties then sign this off. A date is then set for a six month review". The policy also states, "If a capability issue arises it should be addressed immediately and not left until the IPR. If a capability issue arises for the first time at an IPR this issue should be addressed and the IPR rescheduled for another occasion". Ian Hamilton stated at the disciplinary hearing that he had been trained in the IPR procedure, yet he tried quite contrary to the Trust's procedure to use the IPR meeting to suggest that it can be used as evidence that I was previously warned about the concerns that the other executive directors and external organisations had about my performance as Finance Director. Even if that was true, which I disputed, the IPR procedure would have required the Chief Executive to provide a summary sheet of that discussion, which we would have both had to sign and to set up a review meeting in October 2002 to review my progress in addressing the weaknesses in performance that we had agreed. None of this was done and in giving evidence to the disciplinary hearing Mr Hamilton claimed the reason for this was a simple oversight on his part. In seems inconceivable that the Chief Executive could seriously have expected it to be believed that in a matter so serious that it might lead to the sacking of the Board's Finance Director one of the most senior employees in the whole organisation, that he simply forgot to follow the Trust's IPR procedures in which he claims to have been trained. In giving his evidence to the hearing Mr Hamilton submitted hand written notes which he claimed he had taken at the meeting and which he asked the disciplinary hearing to accept as a true record of the discussion that had taken

place between us, although I had never been given a copy of these notes until the investigatory meeting that was held on the 8th August 2002 and of course they had never been signed by either of us as agreed record, which the NHS rules require. To be fair to Hamilton the first part of the notes, which were typed up did follow the pattern of the objectives that were set for me to achieve in 2001/02 and which I recognise as being a reasonable record of the discussion that we had at our meeting. However, he submitted to the disciplinary hearing a separate sheet hand written sheet headed "Perceptions of Finance", which contained a list of items. Some of the items on this list repeated issues already covered on the preceding two pages, but also included were a number of points and issues which I did not recognise from our conversation and which appear to have been added as an afterthought. In any event these notes did not contain a reference to any concerns being expressed by other executive colleagues about my management style as Finance Director or concerns that external organisations had problems with my performance as Finance Director. If the Chief Executive had followed the Trust's own IPR procedures there would never have been a dispute as to what was said at the IPR meeting, even though his own notes clearly demonstrate that he had not raised with me the concerns of Marie Grant and Paul Jones nor the alleged concerns of external NHS organisations, because we would have had agreed a set of objectives signed by both of us. Ian Hamilton asked the disciplinary hearing to believe his word and not disregard his evidence because he had completely failed to follow the laid down NHS procedure for carrying out a IPR review, as a result I felt obliged to submit information to the hearing that clearly demonstrated that Ian Hamilton was a person of questionable integrity and that he had already previously lied when it had suited his purpose to do so. To demonstrate that this was the case I placed before the disciplinary hearing a copy of the application that Ian Hamilton had submitted when he had been appointed as Chief Executive a few years earlier. On the curriculum vitae Mr Hamilton under the heading of Education and Qualifications had written Associate Member Chartered Institute of Public Finance & Accountancy (CIPFA) – Qualified 1974. In fact Mr Hamilton had resigned his membership of CIPFA several years before the date of his application and was not entitled to describe himself as a member of that Institute. I also placed before the disciplinary hearing a copy of a letter (p391) from Barry Mather of CIPFA

confirming that he had resigned from the Institute in 1995. The Chairman's response to this information was that as the application had been made before she became Chairman of the Trust it was not something that she needed to take into account, completely missing that point that it demonstrated that when it suited him the Chief Executive was prepared to lie and that this should be taken into account when considering the weight to be given to our respective words, when there was a dispute as to what had happened between us and there were no agreed written records to verify the truth.

In addition to the application form issue I also placed before the hearing evidence of further protected disclosures I had made in relation to the conduct of the Chief Executive. In November 1999 members of the Board had attended a leaving function held for the former Chairman Lady Elizabeth Vallance and her husband Sir Ian Vallance, the then head of British Telecom. The hospital charities had agreed to make a grant of £495 towards the cost of the function, the board directors had put in a small contribution each, but the bill at the Savoy Hotel came to more than £1100 largely because of the volume of alcohol consumed and there was a shortfall of £540.25 to be met. Despite my advice to the Chief Executive that the balance of the bill should have been split personally between the board directors, Hamilton refused this advice insisting on charging the bill to the Trust's revenue account, even though at that time the Trust was already running a huge overspend. I never usually took bills to the Chief Executive to sign, but as in my view it was an inappropriate use of public funds I refused to arrange payment myself and took the invoice to Hamilton and he wrote on the invoice in his own hand that the bill was to be charged to a non-existent budget called the Chairman's Hospitality Budget. My pointing out to him that he should not have charged this expenditure to the Trust's expenditure account represents a protected disclosure and again explains in my view at least partly why the Chief Executive was so keen not to follow procedures in order that he could ensure that I was dismissed from my employment with the Trust.

Because of the Chief Executive's laissez-faire approach to the NHS hospitality rules, I had on the 15th May to write to Mr Hamilton in comprehensive terms to explain the hospitality rules in some detail, when a dinner was held at the Lanesborough Hotel which had been made for by a company with whom the Trust had a commercial relationship. Despite having made this detailed

protected disclosure to the Chief Executive, which was copied on to Catherine McLoughlin Chairman of the Trust, I was told by Ian Hamilton that although on that particular occasion the rules would be followed I had annoyed the Chairman by daring to raise the rules at board level. Despite having given this detailed guidance to the Chief Executive in writing, on the 8th November 2000 only six months later the Chief Executive was inviting the executive directors to accept inappropriate hospitality from a company called Patient Line with whom the Trust were negotiating a large commercial contract to put in individual bedside telephones and internet connections on hospital wards. The other issue that I drew to the Chairman's attention at the hearing was the fact that the Chief Executive had told me that Ahamed Tomadj (currently a Staff Governor at Kings College NHS Foundation Trust) had been appointed as the Estates Director at Kings NHS Trust. As the Chief Executive knew well, Mr Tomadj employment had been terminated at the Trust following an audit investigation that I conducted, which showed that the Director of Estates had broken just about several of the Trust's standing financial instructions, had misused his NHS credit card, had accepted an unreasonable level of hospitality from a contractor that the Trust was in legal dispute with and had also appointed contractor managers to the Trust with whom he had other business links and whom he also allowed, without any payment of rent, to use Inglby House (the hospital staff accommodation block) as their business premises. My expectation would have been that as soon as he became aware of this matter the Chief Executive should have reported the matter to the NHS London Regional Office. My understanding is that he has failed to do this. It was only later when through a report commissioned by the South West London Strategic I learnt that St George's previous Chief Executive Andrew Dillon (now Sir Andrew Dillon Chief Executive of the National Institute of Clinical Excellence) the individual who I had given my audit report to had written a glowing reference for Mr Tomadj to help him get the Kings job. This is what he had to say in that reference about Tomadj having left the Trust, "Ahmad left the Trust following an investigation into the way in which Standing Financial Instructions had been applied in the case of some capital projects. Ahmad's approach to getting things done quickly had led to a more liberal interpretation of Standing Financial Instructions than I considered appropriate and we agreed that in all the circumstances, he had made his contribution to

the Trust and should move on. I believe Ahmad now understands the interpretation of SFI's which he should have made. He is undoubtedly a capable and effective NHS estates manager and we have much to be grateful to him for the changes and improvements he made here. I was very sorry that we were unable to continue our relationship. I consider that he still has much to offer the NHS and that he can operate within organisational and financial structure where the limits of his flexibility to manoeuvre in what he considers to the interest of the Trust are clearly stated at the outset". Thank goodness Mr Tomadj did not commit the ultimate NHS sin and have a difficult management style!!!!! The South West London Strategic HA Review came to the conclusion that certain serious allegations against Mr Tomadj did not appear to have been the subject of intensive investigation and that in their view the public interest would have been best served if the relevant files were subject to intensive allegation by the NHS Counter Fraud Service. As far as I am aware, apart from the fact that I had one visit from one official who asked to meet with me at Surrey Police and told me that then head of the that service Jim Gee was not really interested in looking into the matter, no further action was ever taken. The South West London review also said that they believed the Andrew Dillon had written the reference after taking legal advice, but as Mr Warren pointed out to me when asking me why I had insisted on taking a tape recorder into the NHS disciplinary hearing against McLoughlin's instructions, when I said I had been acting on the advice given to me by my solicitor Paddy Quill, Mr Warren said to me that it is only advice and it is up to you as the principal to decide whether to take it or not.

In presenting his case to the disciplinary hearing Mr Hamilton claimed that my relationship with the Service Centre Chairs, the Trust's lead clinicians, had broken down, an assertion that was also made by Professor Jones during the hearing. However, the only evidence presented to support this false assertion was a letter which all the Service Centre Chairs had sent to the Chief Executive on the 29th May 2002 and which the Chief Executive did not reply to until several weeks later. I was not personally mentioned in the letter and during the course of the disciplinary hearing none of the signatories to the 29th May letter (which was not shown to me until after the Chief Executive had asked me to resign) was called to give evidence. In fact the only evidence that was provided to the hearing by a signatory to the 29th May letter, was a statement

provided at my request from the surgeon Mike Bailey the Service Centre Chair for Surgical Services, who stated quite clearly, “As far as I am concerned, the implications of the letter were that the process in the Finance Dept, for involving Clinicians had failed. We did not seek in our letter to attribute blame for this, indeed our understanding of the financial structure of the Trust is such that it would be inappropriate of us to try and do so”. When this letter is considered in connection with a letter that I sent to Ian Hamilton on the 20th February, in which I recommended that he and I cleared our diaries to jointly meet individually with the Service Centres Chairs to review their respective financial positions and which he refused to do, it can be clearly seen that the allegations that Service Centre Chairs had lost confidence in me as Finance Director is clearly false. The Chief Executive when asked about the 12th February e-mail acknowledged that he had received it, but said that he had not thought it an appropriate action to take at the time, although he did in fact arrange such a meeting several weeks later. It would therefore appear clear where the responsibility lay for not involving the Service Centre Chairs in the financial process, it lay with the Chief Executive. At the hearing Mr Hamilton said that the reason he had not acted on my e-mail was because it was in his opinion too little, too late, but if this was the case why did he arrange such a meeting several weeks later? Again any fair minded independent Chairman would have in considering the written documentation that I had placed before them, come to the conclusion that the allegations made against me by both Hamilton and Professor Jones were totally false, however because the Chairman wished to dismiss me for having made protected disclosures she disregarded the written evidence that I had been able to present to her and preferred to believe the unsupportable allegations made against me by Hamilton and Jones.

Apart from the witnesses that Hamilton called to give evidence against me, I called several witnesses to give evidence on my behalf. These witnesses included Dominic Sharp the Finance Directorate’s Finance Controller who completely refuted the evidence given by Melvyn Esterman that the Trust Finance Directorate had produced inaccurate and late finance reports. Phillip Sargeaunt the Chief Management Accountant who gave information which exposed the falseness about many of the claims made by Professor Jones and who in addition stated that in his experience of working for several NHS

organisations, I was the best Finance Director he had ever worked for. Wendy McCarthy the Hospital Head of Information who stated that she had confirmed to the Chief Executive that there was nothing wrong with the information recorded on the PAS system regarding the cancelled operations and that in her opinion there had been no justification at all for John Parkes instructing that the weekly figures be changed to zero. Mike Cumberbatch the General Manager and Michelle Salter the Management Accountant, gave evidence that completely contradicted the evidence given by Suzie Bailey the General Manager, who during my disciplinary process had been promoted in breach of NHS recruitment rules. Statements were also submitted on my behalf by Alistair Douglas Head of Trust Procurement and David Boakes Head of Computing, who outlined the major improvements to their services that had been brought about under my management and went on to say how much they had enjoyed working with me. I also provided statements from past Chairmen of the Trust, past Chief Executives (including Ian Hamilton) and the past Medical Director all of which were supportive of my performance as Finance Director of the Trust. Any fair minded and independent Chairman faced with this weight of evidence you would have thought would be compelled to dismiss all the charges that had been brought against me, given that none of the allegations made against me could be substantiated with written evidence. However, Catherine McLoughlin chose to ignore all the evidence I brought forward to defend myself and instead chose to dismiss me, in my view directly and simply because I had made a number of protected disclosures.

It was clear to both myself and my solicitor Paddy Quill that I had been subjected to an inherently unfair disciplinary procedure that had been conducted in breach of the NHS's own rules as to how such disciplinary hearings should have been conducted. Firstly Ian Hamilton should not have conducted the investigatory hearing and Catherine McLoughlin should not have chaired the disciplinary hearing. In both cases the NHS rules stated clearly, a that if an NHS Board member was to be subjected to a disciplinary hearing these two roles needed to be carried out by individuals from another NHS Trust to ensure that the investigation was conducted fairly and impartially. Secondly, I was given no prior warnings that there was a possibility that disciplinary action would be taken against me until the process to dismiss

me had begun. I was refused permission to tape record the proceedings and thereby ensure that a completely accurate record of the proceedings was taken and easily refute the accusations of bad behaviour at the hearing that were later used to justify my dismissal. My Member of Parliament was told when he queried with McLoughlin and Colin Watts at a meeting he had with them, the validity of this decision he was told that the normal procedure of the Trust was to provide a copy of the written notes that were taken should an internal appeal be made against the disciplinary panel's decision.

If I thought that the unfairness of the disciplinary panel was the end of the McLoughlin's manipulation of the system, I and my solicitor Paddy Quill were in for another surprise. After the hearing Paddy had told me to prepare for the internal NHS appeal that he said I would need to make on receipt of my formal dismissal letter, as section 13.1 Trust's Disciplinary Procedure stated, "An employee has the right of appeal against any formal disciplinary action". However, when I received the expected dismissal letter from Catherine McLoughlin, she had obviously decided not to run the risk of letting me put my case before anyone in the NHS who might have had the professional expertise and knowledge to understand what was happening. The penultimate paragraph of her dismissal letter stated, "In view of the conclusions we have reached as to the complete impracticability of you resuming your role and forming effective relationships with the Chief Executive and Executive team we do not consider that there can be any appeal against this decision". The whole disciplinary process had therefore had not been conducted in accordance with NHS employment rules, but had been conducted in accordance with McLoughlin rules which were designed to dismiss me from employment by the shortest possible route.

Part 3 The Employment Tribunal

Given what I knew about Ian Hamilton and Catherine McLoughlin from working with them for some time and observing their so called management actions, it was not that much of a surprise that they acted in the way that they did in terms of dismissing me unfairly. I suppose the main surprise for me was the way in which I was treated by the Employment Tribunal, which took place on thirteen days between the 22nd April and the 18th June 2003.

On the first day of the tribunal there were a large number of press and TV media present because of the fact that I had been given a large amount of publicity building up to the tribunal, including an appearance on BBC Hardtalk with Tim Sebastian and a lot of coverage on BBC London TV News, which of course had included the broadcast of the extract of the telephone conversation with the external auditor Simon Sharp, which I had tape recorded. It was clear that the Tribunal Chairman John Warren was irritated by the presence of the media, as he made the remark that he did not think it appropriate that the NHS should be washing its dirty linen in public. I took this to be a remark that was aimed at me, as it was clear that Mcloughlin, Hamilton, Marks and Watts did not want this to happen, it was only me the unfairly sacked employee who was keen to do any "washing". I was not encouraged either by the next thing that happened, when Mr Warren asked Hamilton to stand up and identify himself. Warren explained that when he had been a practicing solicitor a large proportion of his work had involved representing the NHS and he thought it possible that he might have known Hamilton. He declared that he did not know him and told him to sit down. I said to Lachlan Wilson the barrister presenting my case, that I was concerned that if Warren had done a lot of work for the NHS, that he would have some preconceived views about the organisation that might prejudice his view of the evidence he was going to have to consider, however Lachlan told me that just because he had done a lot of work for the NHS was not a reason to believe that he might be biased against me and so I had to put my concerns to one side.

The Trust was the first to put its case to the Tribunal and surprisingly they only called three witnesses to give evidence, Ian Hamilton, Catherine McLoughlin and Diane Mark, the three people who had carried out the unfair investigatory and disciplinary procedures. They called no other witness at all.

It was agreed at the outset that no criticism could be made of my technical ability as a financial accountant, but that the concerns, which they claimed had been raised over a considerable period related to my attitude and manner of interacting with colleagues (outside of my departments) and with external stakeholders. It was also agreed that over my long career in public sector finance I had never before been subjected to any form of disciplinary action, so that this was a complete first. Interestingly it was also suggested that I had over the years built around me a loyal and committed team who had been

trained in my style and ethos. While this may have been true about the Finance Department where I had been Director for a long period on time, it couldn't have been true of the departments that I had been given to manage over the previous two years, such as Procurement, Information and Computing, where there were plenty of staff not trained in my style and ethos but were equally loyal to me. In any event you would have felt in most organisations that to train loyal and committed staff was a good thing to do and in fact I had been formally complimented by Virginia Bottomley, when she had been Secretary of State for Health for getting the gender balance right and running a department that had so many internally trained women accountants in senior positions. However, as I was to find later, in the view of the Employment Tribunal this was to count badly against me.

When Ian Hamilton gave his evidence to the Tribunal he made the same accusations as he had at the NHS disciplinary hearing, but also this time supplemented his evidence by claiming that various people in the NHS had spoken to him and told him what a difficult person I was to deal with. Among the people who he claimed had spoken adversely about me were Sue Gallaher who had been Chief Executive of the by then defunct Merton, Sutton and Wandsworth Primary Care Trust, Jim McAullife the Director of Finance of the NHS London Regional Office, Douglas Ward the former Director of Estates, Alan Ritchie the Director of Finance of the Richmond & Twickenham Primary Care Trust, David Milner the Director of Finance of the Lambeth, Southwark & Lewisham Health Authority and John Parkes the former Deputy Chief Executive who had instucted that the cancelled operations statistics shoud be falsely reported. None of these people had been called to the original NHS disciplinary hearing, nor were they called to give evidence under oath to the Employment Tribunal, so I and my barrister were given no opportunity to challenge them directly about the words being attributed to them or question them about just what Hamilton claimed they had said about me. However, despite this fact the Employment Tribunal found this evidence to be correct as a matter of fact.

Interestingly neither Professor Paul Jones (Medical Director)or David Knowles (non-executive board member) were called to give evidence under oath when they had said so much at the NHS disciplinary hearing, but their apparent views were expounded on at length by Hamilton, Mark & McCloughlin when they

gave their evidence to the Tribunal. Again because they did not submit any evidence to the Tribunal it was not possible for my barrister to cross examine them under oath, but this did not stop the Employment Tribunal from finding as a matter of fact that the evidence given by Hamilton, Mark and Mcloughlin in regard to what they claimed the views of these individuals were was factually correct.

The Employment Tribunal did find as a matter of fact that Ian Hamilton had not properly followed the Individual Peformance Appraisal process in April 2002, on which he based his argument that I had been warned about my "management style" problems. The Tribual also found as a fact, that when Hamilton sent out management objectives to all the Executive Directors just a month before I was suspended, there were no special concerns given to me about my management style or relationships with external bodies. But this did not matter because despite finding these to be facts, the Employment Tribunal said the could not believe that a person of my seniority was not aware of how I was perceived anyway. Presumably based on the verbal evidence of the three people who had just conducted an internal investigation and disciplinary hearing in complete contravention of the NHS employment procedures, as not a single written complaint or warning could be produced by my former employers.

The Tribunal also found as a matter of fact that on the 23rd July 2002 I had told Simon Sharp the PricewaterhouseCooprs external auditor that in the future the Trust, "may well not be able to meet its statutory financial commitment", which I submitted was a clear protected disclosure under the Public Interest Disclosure Act 1998.

Just before my dismissal the NHS London Regional Office had commissioned KPMG, one of the big four commercial accounting firms to conduct an external financial review of St George's Trust because of the seriousness of the financial position of the Trust. All the senior members of the Board and staff of the Trust including myself had been interviewed, at the NHS disciplinary hearing although she agreed that the report had been completed and was in St George's possesion, McLoughlin refused to let me have a copy of it. The reason for her reluctance to release this independent report as any impartial Chairman of the hearing would most certainly have done will become apparent when you read what we found out about McLoughlin's interview with KPMG

when it was disclosed at the Employment Tribunal after I asked for a copy of the report to be released in response to some tough questioning by Simon Devonshire the Trusts barrister when he cross examind me. This request was initialy refused by the respondents on the grounds that although they had a copy of the report, they did not commission the report so could not release it. In the end after my having to push the need for its disclosure, the Employment Tribunal Chairman issued a witness order to KPMG to make them appear at the hearing and produce the required document. Once the document had been disclosed it was easy to see why there had been a reluctance to disclose it. Catherine McLoughin (who had given evidence under oath to the Tribunal that she conducted my NHS disciplinary fairly as had Diane Mark also in a sworn statement) in answer to a question put to her by my barrister under oath that she had not discussed moving me to another role even on a temporary basis, was recorded by KPMG as having told them on the 29th July 2002 that, "she wanted an exit strategy in place for the Applicant (Me) by the end of July 2002". Just two days later and that also "CM noted that not many external organisations wanted to work with Ian Perkin and that they were exploring the possibility of him being moved elsewhere".

The KPMG interview notes also discredited the evidence that David Knowles had given about me at the NHS disciplinary hearing as to his having long standing concerns about me. The notes of his interview dated 24th July record in relation to the Finance Team, "He noted that he did not believe that the team was conducive to delivery, but there was nothing in the way of hard evidence to indicate this. He noted that Ian Perkin was competent in his role, and although he is not the easiest character to get on with, he is respected professionally". Asked by KPMG whether any concerns had been raised at the Audit Committee which Knowles chaired, "DK noted that there had been none, however he was not financially competent and would therefore not be in a position to recognise if there were any subtext concerns". Also when asked about the financial information that I produced for the St George's Board the notes record, "DK noted that he has been provided with comprehensive financial information to date. At a recent board meeting they have reviewed the information from other organisations and compared it with their own. Out of this exercise there was not much additional information reporting that they wished to take on board that they were not providing already". When this

released information was compared with the statement that McLoughlin had already given under oath, it seemed to me that she had clearly committed perjury when giving evidence to the Tribunal and I raised the matter with my barrister Lachlan Wilson. He told me that these days in his view Employment Tribunal chairs think nearly everyone is lying when they give evidence and they see their role as deciding who is telling the truth rather than worrying about charging people with perjury. This seemed to me to rather undermine the whole purpose of giving evidence under oath, but I did think at a minimum that the inteviews that David Knowles and Catherine Mcloughlin had given to KPMG had fundementally undermined their credibility as reliable witnesses, but as I was to find out this was not the case. The Employment Tribunal Chairman quoted the evidence that David Knowles had given to the NHS disciplinary at length, as a finding of fact, nothwithstanding that he had said something different to KPMG just a few weeks before. I found Knowles lack of integrity somewhat worrying particularly as in addition to his role at St George's he had another role at the Kings Fund in London, which involved training future NHS Chief Executives!!!! When had he been telling the truth? To the NHS disciplinary hearing or at the KPMG interview? Because he did not give sworn evidence to the Tribual he could not be questioned on this inconsistencey in his evidence, this seemed to me yet another unfairness.

The Employment Tribunal judgement also quoted at length from the evidence given by Melvyn Esterman the retired former NHS Finance Director to the NHS disciplinary hearing, although as with David Knowles, Esterman was not called as a witness by St George's so my barrister was given no opportunity to cross examine him. Mr Esterman's evidence that was quoted in the judgement contained comments that he had said had been made to him by other prominent members of the local NHS, although none of these people, Alan Ritchie, David Milner, Jim McAuliffe gave evidence to either the NHS disciplinary hearing or the Employment Tribunal so at no stage were my legal advisors given the chance to challenge or question these individuals at first hand. Mr Esterman's evidence quoted by the Employment Tribunal repeated the false allegations that my department had provided inconsistent data and that all his senior staff had difficulty in dealing with the staff of my department, completely disregarding the evidence of Dominic Sharp (which was given under oath and in person to the Tribunal) and the letter that we

could produce from Julia Todd one of Esterman's senior staff which confirmed that Esterman had made untrue comments about my department in terms of a medical negligence problem in the past. Incredibly Esterman's so called evidence stated that the NHS Primary Care Trusts said that they did not want to use St George's Finance Department to provide them with financial services, when it was pointed out at the NHS disciplinary hearing, that St George's had since he had retired won contracts to provide the Primary Care Trusts with internal audit services, Mr Esterman said that the provision of internal audit services was a different issue, without explaining why and that he would never have said no to using St George's for that service. When McLoughlin was asked in cross examination to name any other Trust in the country who provided more financial services to other NHS organisations than the departements under my control did she was unable to name any.

Marie Grant the Chief Nurse was also another individual who did not attend to give evidence to the Tribunal, but whose evidence was quoted at length in the Employment Tribunal's judgement. Like the Knowles and Esterman's evidence, as they were not called to give evidence and did not submit sworn statements, her evidence can only have been quoted second hand by the Tribunal from evidence given by Hamilton, McLoughlin and Marks or from the notes taken by Jacqueline Mcullough of the Trust's HR Department who was the only note taker allowed by McLoughlin, as we had been refused permission to record the NHS disciplinary hearing proceedings or take our own note taker. Because of this there was no opportunity for my barrister to cross examine Grant on the evidence that was being submitted on her behalf against me. The most worrying example of this issue was the fact that the Employment Tribunal quoted her as stating that the Patient Administration System was not robust, which contradicted the evidence given by the Trust's Head of Information who gave her evidence to the Tribunal in a sworn statement, so that she could be cross examined although the Trust's barrister Mr Devonshire declined to do so. Interestingly in a sworn statement submitted to the Tribunal by Diane Mark she said in relation to the fact that she herself did not take many notes at the disciplinary hearing, "I preferred to use the time to listen and gain an understanding of the issues in question". It is a shame that Paddy Quill and I were not able to afford ourselves of the same luxury as we were not allowed a

note taker or a recording so had to juggle actually asking questions and in my case being asked questions as well as taking notes.

Professor Paul Jones (Medical Director) and Suzie Bailey (General Manager) were again not called as witnesses and did not make a sworn statements under oath to the Tribunal, so that again there was no opportunity to have them cross examined under oath as to the validity of the evidence that ended up being quoted by the Employment Tribunal in their written judgement under the heading , "The Facts Found by the Tribunal" and why their evidence differed so markedly from the evidence that my witnesses were giving under oath, which meant their evidence could all be subject to vigorous, as was his style at the Tribunal, cross examination by Simon Devonshire, who went on to take silk and is now a QC. Again particularly in Paul Jones unsworn evidence quoted by the Employment Tribunal, other senior people, who never appeared at the Tribunal or even the NHS disciplinary hearing or submitted any form of statement to the proceedings, were named as being critical of me, Professor Gordon Smith, Charles Pumphrey and very interestingly Dr Pat Hamilton. The reason why I say that quoting Dr Hamilton in the evidence is interesting is because she was interviewed by KPMG as part of their review, so for once we had a view of one of these quoted in writing during an independent review. Dr Hamilton was interviewed on the 2nd August 2002 after I had been told I need to resign or be sacked and what did she say, "Finance Department is very tightly controlled, was very vigorous and fair, and honest in their calculations and budget setting . Attributed these facts to Ian Perkin (DofF) who recruits the staff and trains them up through their post". The Employment Tribunal did not quote Dr Hamilton's recorded positive comment in their judgement, only the detrimental comments that Professor Jones said that she had said to him. Perhaps it was understandable that the Employment Tribunal believed that Professor Jones being Medical Director must in their view have been a man of integrity, who would not lie and whose reported evidence could be accepted without the need for any cross examination. Perhaps they might have taken a different view if they had known what was about to happen in the High Court the very next day after my Employment Tribunal finished. Mrs Nargund a consultant at St George's had brought a libel action, believed to be the first by a consultant against a hospital trust, after Paul Jones, blamed an embryo mix-up on her management. Speaking on the BBC and ITN, and to several papers,

he insisted: "It was a badly organised unit. It was basically chaotic and they couldn't focus on the job in hand. The mistakes were waiting to happen." Yet, in reality, the human fertilisation and embryology authority had praised Mrs Nargund for her "text-book" handling of the mix-up, which occurred when she was away from the unit. Her solicitor, Roderick Dadak, told Mr Justice Eady in the high court that his client had been "deeply upset" by Professor Jones's comments, which, "appeared to suggest that she was responsible for the three-way mix up and for the suspension of the unit's services". The Trust had therefore turned up in the High Court to say that they wished to make it clear that Prof Jones never intended to make any such suggestions nor to suggest any lack of professional competence, skill, ability or expertise by Mrs Nargund. The trust offered its sincere apologies for the distress caused both professionally and personally to Mrs Nargund, and agreed to pay damages and her legal costs. Dadak told the press that Mrs Nargund was to receive a substantial five-figure sum in damages, and costs of over £100,000 from the Trust. I don't think it is necessary to comment on Professor Jones credibility as a witness any further. How convenient for the St George's case against me that the apology had not been made a few days earlier!!!

While the Employment Tribunal in their Findings of Fact, quoted over many pages the evidence that had been attributed to individuals, who had not directly given that information under oath to the Tribunal, but had had their apparent views quoted by McLoughlin, Hamilton and Marks, or had it taken directly from the notes taken by Miss McCullogh of the Trusts HR department, at the NHS hearing. Very little of the evidence given by my witnesses found its way into the Tribunal judgement at all even though it had been given under oath and therefore my witnesses could have been called for cross examination. Mike Cumberbatch the Trust's longest serving General Manager who contradicted Suzie Bailey's evidence put in a sworn statement, as did the young lady that John Parkes the Deputy Chief Executive had told to alter the cancelled operations statistics, Wendy McCarthy the Head of Information, Phil Sargeant the Chief Management Accountant and Michelle Salter who had provided financial support to Suzy Bailey. In all these cases the Trust accepted without challenge the written statements of evidence that they made in support of me, so they were not called to be cross examined on it. It is difficult to understand why if these sworn statements were accepted by the Trust that

they were not quoted in the Tribunal's judgement. Mike Cumberbatch's evidence was recorded in one sentence, "The Applicant referred to Mr Cumberbatch's evidence and statement in support of him" and a single paragraph, which actually and very worryingly had the Employment Tribunal Chairman Mr Warren inaccurately quote from Dr Cumberbatch's actual evidence. What Mr Cumberbatch actually said in his evidence was "that complaints about Finance function were less than that made by General Mangers against Human Resources Department and Estates". What Mr Warren quoted Dr Cumberbatch as saying in his judgement was that, "he did not consider that the Finance Department was more criticised than was the Estates, or HR Department", in my view a significant difference. This was not the only concern I had about the way some of the evidence was quoted in the Findings of Fact by the Tribunal. The quote attributed to David Knowles that "Money did not always follow the patients", is not complete. It goes on to say, "This can largely be attributed to the demise of Extra Contractual Referrals". When the phone conversation I had with Simon Sharp was listed under this heading Warren starts the quote, at, "I think it happens in the regime you've got--", he has missed out the question to which this an answer which is, "It's a crying shame that being honest, open and robust gets you into trouble. As an external auditor how does that happen?" The other vital suppression is that Warren has ended this section with a quote from me, "---saying its going to be better than it is where would that get me at the end of the day?" Warren completely leaves out Sharp's reply, which is, "We'd be saying your living in cloud cuckoo land". In a quote from Melvyn Estermans' evidence to the NHS disciplinary hearing Mr Warren states as a finding of fact in relation to Esterman's evidence, "He explained that in one instance where figures were changed this was the concerning the provision for a potential negligence claim against the authority. In the Applicant's opinion it would have been inappropriate to wait for the definitive figures and to put in estimates". This is not what Esterman actually said at the hearing, what was recorded in the Trusts written notes of the hearing on pages 9 of 12, was that other Trust's put in estimates St George's put in actuals. If I had included in the balance sheet of the Trust an estimate of a liability, when I knew what the actual liability was to knowingly understate that liability, then this would have been an unlawful act on my part, and I could have been stuck off as an accountant, particularly

as the difference between the two figures in this actual case was in fact £1.886million pounds. I will never cease to be amazed at how the Employment Tribunal could have accepted Esterman's evidence over mine and Dominic Sharp when to have done what he suggested would have needed me to have committed an unlawful act.

Out of interest while ignoring this evidence shown on pages 9 of 12 on this very important accounting issue, from the same sheet Warren extracted the words Esterman used to describe me "Prickly and difficult and quotes them in under the findings of fact. On another finding of fact Mr Warren records in the Tribunal judgment that cancelled operations were cancelled on two weekly returns only, when the evidence clearly shows this happened for three weeks, showing how much attention was given to my protected disclosure and then perhaps most seriously of all Mr Warren included a quote from the grievance letter that I sent McLoughlin on the 4th August 2002, saying that, "I was aware that he thought I was failing", an apparent admission that I was aware that Ian Hamilton thought that I was failing in my job. Of course this is not what I said at all and if the letter had been accurately quoted from in the judgment it would have said, I was asking for clarification as to if he thought I was failing "where he thought I was failing" an entirely different meaning had been given to the letter.

I had naively expected when I attended the Tribunal that quoting evidence in the judgment would have been accurate to a meticulous degree and I did raise my concerns with Brian Langstaff QC about the fact that in several instances that had not been the case. He said that he did not see that much could be done about it. If we complained he told me that we would have to demonstrate that not only were mistakes made, but that they had been made to deliberately disadvantage me. It was for me however, another demonstration of just how hard it was to get any what a saw as a fair deal.

Mr Sargeant's evidence was covered in the same brief way, a single sentence and a single paragraph. Wendy McCarthy's evidence to be fair was given a larger single paragraph in Mr Warren's judgement, but again did not in any way compare with the pages given over to the apparent complaints of those individuals who had not even submitted a sworn statement to the Tribunal or in many cases not even appeared at the NHS disciplinary hearing. The sworn statement given by the young lady who had been asked by John Parkes to

erroneously change the cancelled operations statistics was also not mentioned at all.

Dominic Sharp who took the very courageous step in my view, of giving evidence on oath personally on my behalf at the Tribunal month, while his Chairman, Chief Executive and Director of HR all sat in the court in front of him, completely refuted the claims of Melvyn Esterman, but had his evidence as a "finding of fact" reduced to just three lines in the Tribunal's judgment, "Mr Dominic Sharp from the Respondent's finance department also gave evidence to the Tribunal – Mr Sharp supported the Applicant denying that in his view the Applicant was a no can do person". Considering that Simon Devonshire cross examined Dominic Sharp on his evidence for a considerable period and could not find any fault with what he had to say, I found it extraordinary that Mr Warren could have summarised his contribution to the hearing in just three lines. The evidence given in person at the Tribunal by my Personal Assistant Janet Watson and what has to be fairly exceptional in any Employment Tribunal hearing, my solicitor Paddy Quill, who felt that he had to give evidence to counter accusations by McLoughlin, Hamilton and Marks that I had behaved badly at the NHS hearing was not even mentioned at all by Warren in the Tribunal's "Finding of Facts".

When the hearing ended on the 18th June I was told by my barrister that he thought it would be unlikely to be a quick decision and that it could be as long as eight weeks before I received the judgement from Mr Warren. In the end the judgement did not get issued until Tuesday the 27th January of the following year, more than six months after the Tribunal had concluded. My case had received a lot of attention in the media and a lot of journalists were waiting on the result, but presumably by coincidence, it was received on the 28th January 2004 the same day as Lord Hutton's report into the events surrounding Dr David Kelly's death was released so there was far less interest than normal as the TV screens and column inches of the newspapers were given over to Lord Hutton's report.

In the decision section of the judgement the Tribunal was critical of the procedure that was followed by the Trust and accepted that it had not been appropriate for Miss McLoughlin to have chaired the disciplinary hearing and that she had clearly discussed the matter with the Chief Executive. The Tribunal accepted that the KPMG report, which had only been released on

order of the Tribunal had shown that she had expressed views to KPMG, which clearly showed that she had wanted me out of the organisation by the end of July 2002. The judgement also made it clear that McLoughlin was not impartial when she chaired the NHS disciplinary hearing and that appointing Diane Mark to sit with her did not remedy that defect. Indeed the Tribunal pointed out that the NHS Code of Conduct published on the 9th October 2002, envisaged the possibility of using external persons to deal with disciplinary matters for senior staff and that being part of the NHS it would have been very easy for St George's to have arranged for an independent person to have been appointed to chair the hearing. The fact that I was given no right of appeal was also sighted by the Tribunal as being unfair and unjust and that again an appeal could have been made to an outside individual. The tribunal also noted that the Trust had failed to follow the ACAS Code of Practice for dealing with dismissals, in that I had been given no warning that if I did not improve my performance then it might have led to my dismissal. However, Mr Warren tempered this comment by stating that in the Tribunal's view at my level of employment the request to go down such a path is not strictly required even though as far as I can ascertain the ACAS Code of Practice does not recommend that it only applies to staff of a lower seniority than I had.

Having stated that the I had been subjected to a NHS disciplinary hearing in contravention of all the basic rules governing such a hearing, Mr Warren went on to say that when considering whether or not had a fair procedure been followed, what was the percentage chance that I would not have been dismissed. Unusually in my view, a view that was later to be shared by Lord Justice's Mummery and Neuberger in the Court of Appeal, the Tribunal concluded that an independent panel considering the evidence fairly would have come to the conclusion that there was 100% chance that my employment would have been terminated, i.e. a nil percentage chance I would have remained in post. The justification for this that was given, was that the Tribunal was satisfied that despite by their own admission I had an inappropriate biased chairman in charge of proceedings, who refused to let me have proceedings tape recorded to ensure that there was an accurate record of the proceedings, things were not that unfair as they said I knew the allegations against me and had the opportunity to bring witnesses to support my case and contest the allegations against me. Mr Warren did not question

the motives of McLoughlin as to why she should have been so keen to ignore the NHS and ACAS procedures and why she went on to deny me an appeal to an independent hearing of NHS experts who might have better understood the evidence. If the Trust had really had faith in their case against me, why were they so determined to ignore the rules, that were quoted by the Tribunal, that disciplinary proceedings and investigations involving the members of NHS Boards were to be conducted by individual's independent of that Trust? If the critical things that they were saying about me were true, then they clearly had nothing to fear from handing both the investigation and proceedings over to an independent body, as if the case was as strong as McLoughlin, Hamilton and Marks contended, then a finding of my guilt by an independent body would have made it much more difficult for me to appeal to an Employment Tribunal and there could have been no finding that I had been subjected to an unfair hearing. If however, they were not confident that there case could stand up to independent scrutiny there was every reason for McLoughlin, Hamilton and Mark to keep all proceedings under their control because they could ignore my evidence and that of my witnesses, as was demonstrated in the findings of fact made by the Tribunal and accept all manner of unsubstantiated allegations against me completely ignoring the evidence I put forward to refute what was being said. For example with regard to my protected disclosure, Mr Warren included in "The Decision" the following, "The respondent accepts that the raising of the cancelled operations matter in 2001 was a "protected disclosure". No other comment was made about this in the decision, it was simply ignored even though it was a major reason in my view as to why the Trust had acted as they had. When you look at the witness statement submitted under oath by Diane Mark to the Tribunal she said, "It was certainly part of Mr Perkin's case that his alleged disclosures were the cause of the disciplinary proceedings", yet later in the same statement she admits, "I assisted Catherine McLoughlin when she deliberated after the conclusion of the evidence. The alleged disclosures did not form part of our discussions and were not the reason why she took the decision to dismiss". Any properly constituted independent hearing would have been bound to have given some consideration to my alleged disclosures, particularly as the Tribunal in "The Decision" recorded that it was accepted by the Trust that in the matter of the cancelled operations I had made a public interest disclosure, but in the hearing

chaired by McLoughlin it was said by Diane Mark (a magistrate on the Wimbledon bench at the time), that it "did not form part of our discussions".
The Tribunal also found that the conduct of both myself and my solicitor during the NHS disciplinary hearing and especially my attacks on the Chief Executive and the HR Director so seriously damaged the relationship between those us, that at that level we worked at, I had made it impossible for me to work as part of the team, so that my own conduct during the hearing also contributed to my dismissal to the extent of 100%. The Tribunal said that I had made false allegations about Mr Watts doctoring the notes he took of the investigatory meeting that I had with Hamilton, yet this completely overlooks the fact that in an a proper independent investigation Watts should not have been taking those notes, I was refused permission to tape record the proceedings that would have provided an indisputable record of what was said and the sworn statement of Paddy Quill my solicitor who stated under oath at the Tribunal, that one of the most serious allegations made against me at that meeting, that I had made a public condemnation of Richard Douglas the NHS Finance Director, had been missing from the notes. In support of the Tribunal's "Decision" regarding Hamilton it was said that I had not acted in good faith when I told the NHS disciplinary hearing that Hamilton's CV application had stated that he was an Associate member of the Chartered Institute of Public Finance & Accountancy (Cipfa). However, whatever the Tribunal stated it was an actual fact that he had put this on the CV, a copy of which I submitted to the disciplinary hearing in evidence, that he had at the time he had submitted that CV, not paid the annual subscription to Cipfa for a number of years and was therefore without question at the time he submitted his CV not a member of that body, although he was stated on his CV that he was. I remain at a loss to understand how Mr Warren and the Tribunal could say that I was not acting in good faith in pointing this out. When you are a member of a professional body, whether you are a lawyer, engineer, doctor or accountant you are subject to a code of behaviour, regulation and professional ethics, including continuous professional training that you must abide by, enabling complaints if necessary to be made to your professional body should you conduct not meet those standards. This of course gives a considerable degree of assurance to those who might be considering employing you in a senior professional role. Having passed professional exams several years ago is not the same thing at all as

claiming membership of a professional body. As an example Doctors to practice in the UK despite having passed the relevant exams have to register with the General Medical Council before they can practice, however if they do not pay their annual membership fee their name can be removed from the register and they can no longer practice. I stand by my original comments regarding Hamilton and that fact that he made a claim on his CV which was simply not true and that this was typical of the man. The "decision" I received from Mr Warren also said I had not acted in good faith when I raised the issue of the payment by Ian Hamilton, of the part of the Savoy Hotel bill that was incurred when the leaving function for the former Chairman Lady Elizabeth Vallance was held. I quote directly from the judgement, "The Applicant (me) was aware of some of the matters at the time, for example the Savoy dinner bill and it was dealt with by Mr Hamilton, and accepted by the Applicant as having been dealt with satisfactorily." This of course was not the case, the whole reason why I got Hamilton to sign off the invoice was because as Finance Director I was not prepared to sign it off myself. I cannot think of a single other occasion when I asked Hamilton to sign off an individual invoice. Interestingly a common theme in the judgement, was that anything that I raised about the behaviour of my former board colleagues, didn't count because I didn't always raise it formally at the exact time it took place. My contention was that I always did raise matters at the appropriate time, but the judgement seemed to imply because I hadn't got more of a response on every issue raised their poor behaviour was somehow excused. On the other hand, while the Tribunal accepted that no written complaints were ever sent to me about any of my alleged failings, they came to the conclusion that almost every complaints about me was no matter what the gap was between the time it was alleged to have occurred and when it was raised with me, which was generally after I had been suspended from my employment. The Tribunal in their "decision", actually said "-there had been no warning as such that if no improvement then it may lead to dismissal. At the Applicant's level of employment the request to go down such a path is not in our view strictly required we are satisfied that the applicant knew of the concerns and did nothing to address them". I have to say that it did feel to me that the Tribunal was applying a double standard here, but in any event in September 2004, too late to help me with the Tribunal or the subsequent appeal to the Employment

Appeals Tribunal, the NHS in response to requests that I had been putting to the then Chief Executive of the NHS Sir Nigel Crisp for an independent inquiry as to exactly what had been going on a St George's, set up, not the independent inquiry I had requested, but an internal one which was commissioned by the South West London Strategic Health Authority whose senior employees it had been said at the Tribunal by Hamilton had been critical of my performance as Finance Director. However, even this review found that, "I believe that Mr Hamilton acted in error by charging a sum of £540.25 to the Trust concerning an event at the Savoy Hotel in November 1990. I hold the view that the allegation (by me) about the Savoy bill is proven and that the tax payer was disadvantaged."

In looking back at the Tribunal judgement I think they missed the fairly the really obvious point that if the proper NHS and ACAS procedures had been followed the whole investigation and disciplinary process would have been conducted by an independent set of individuals and there would have been no need for an antagonistic environment to have been created. The fact that there was a hostile environment could only have been engineered, entirely and deliberately by McCloughlin, Hamilton and Mark by their instance in conducting an unfair and impartial investigation and hearing. The fact that they said I conducted myself badly at the disciplinary hearing was contradicted by my solicitor Paddy Quill who took the almost unprecedented step of giving evidence under oath in person to the Tribunal. In this evidence he said that I had conducted myself professionally and reasonably at all times and that in fact I was the one who had been subjected to provocation during the hearing by McLoughlin and her colleagues. The Tribunal disregarded this evidence.

What I really found surprising with the Tribunals judgement was that their decision was based on only having received evidence under oath from three individuals, McLoughlin, Hamilton and Marks. On the Tribunals own findings these three individuals had conducted an investigation and NHS disciplinary hearing in contravention of the NHS and ACAS rules that governed that process. In addition they had also seen that ordering the disclosure of the KPMG report, which they had withheld from me, on its disclosure revealed that when McLoughlin under cross examination by barrister and under oath gave evidence to the Tribunal that she had not discussed the case against me with anyone prior to her chairing the disciplinary hearing: that she formed no

conclusions as to the outcome regarding me, and that she had not engaged in investigations with other entities (and in particular the NHS London Regional Office) regarding the possibility of me moving (temporarily or otherwise), was not speaking the truth to the Employment Tribunal, who accepted as a finding of fact that she had expressed views to KPMG that an exit strategy would need to be in place by the end of July. In my view you would have thought that someone who behaved so badly and lied when giving evidence under oath and her colleagues who participated in the unfair investigation and disciplinary hearing, would not have had their word taken over mine and my witnesses, who all gave their evidence under oath and could have been cross examined, including my solicitor, who I had never met before the process started and never seen since, but as I have already said this proved not to be the case and the decision of the Tribunal was that, " the Applicant was unfairly dismissed. Had the dismissal have been procedurally fair there is 100% chance that the Applicant would have been dismissed fairly. In any event we would have found that the Applicant contributed to his dismissal to the extent of 100%". I had therefore proved against the denials of McLoughlin, Hamilton and Marks that I had been unfairly dismissed and had also proved that I had made a protected disclosure under the Public Interest Disclosure Act 1998, but all of this had achieved me nothing as I had still lost my job and been given no compensation.

Part 3 - The Appeals

Never one to give up, after the disappointment of the Employment Tribunal judgement I asked my lawyers to submit a case to the Employment Appeals Tribunal and that appeal was heard in London on the 29th July 2004, before Mr Justice Mitting, Mr Evans and Mr Motture. The case was summarised at the outset by Justice Mitting. As Director of Finance at St George's I had been dismissed not because of any criticism whatsoever could be made or was made of my technical competence nor of my integrity, but in a nutshell my dismissal was related to difficulties of personality and inter-relation with colleagues and of management style. Unfortunately, when you appeal you cannot appeal against matter of decided fact, but only on points of law. There was no dispute that I had been procedurally unfairly dismissed or that I had made a protected disclosure on the cancelled operations figures, my lawyers therefore submitted an appeal on the basis that the Tribunal in their judgement did not clearly find what the reason or if more than one the principle reason for my dismissal was.

However, while the Appeals Tribunal accepted that there was some truth in this argument that came to the conclusion that the fact that the Tribunal did not categorise the decision to dismiss me was not fatal to its reasoning or to the safety of its decision to dismiss. The Appeals Tribunal said that there was nothing to indicate that there had been any other element of unfairness in the procedure apart from the lack of impartiality of McLoughlin and that the Tribunal were perfectly entitled to come to ask if an independent chair person would have come to the same conclusion. The EAT went on to say that the Employment Tribunal had treated my conduct before the NHS disciplinary hearing as indicative of the difficulties that my former colleagues had experienced before the hearing. My barrister Brian Langstaff QC, said that a different outcome might have occurred had a proper unbiased NHS disciplinary hearing taken place, but the EAT said that was not the case, because I had made accusations against the Chief Executive and the Director of Human Resources and this had made it impossible for us to ever work together again and this entitled the Employment Tribunal to come to the conclusion that notwithstanding the partiality of the Chairman, I would still have been dismissed. Langstaff also suggested that a 100% reduction in my compensation after having proved unfair dismissal was not reasonable, but the EAT said in dismissing my appeal that it was justified, because I had made wholly unfounded accusations against the Chief Executive Hamilton and the Director of Human Resources Watts and made it impossible for us ever to work together again and for these reasons my appeal against the decision of the Employment Tribunal was dismissed.

Despite this setback I still felt that I had been treated so badly by the system that I wanted to go on and appeal to the Court of Appeal. The problem was that up to this point I had been legally represented in court by experienced lawyers. Firstly at the Employment Tribunal by Lachlan Wilson and then at the Employment Appeals Tribunal by Brian Langstaff QC, assisted by Lachlan Wilson. The costs of their time had been paid for, firstly by my legal expense insurance and then by my trade union the GMB. To get this financial support it had been necessary for my lawyers to say that in their opinion I had a better than 50% chance of success of winning my case. This had been an easy thing to get the lawyers to certify when I took my case to the Employment Tribunal, because of the biased way that McLoughlin had conducted the NHS disciplinary

hearing and although my lawyers thought that my chances of winning at the Employment Appeals Tribunal were reduced, they still rated them better than 50%. However, when it came to getting them to say I had a better than 50% chance of winning at the Court of Appeal, Brian Langstaff said to me that although in his view an appeal was not without hope, having lost twice at both the Tribunal and the Appeals Tribunal he did not feel he could say that I had a better than 50% chance of winning my case and this meant that I would no longer to be able to get my costs paid. Picking up on my sense of injustice, he said that he did not usually give this advice to his clients, but he said that in my case he thought I might be capable of proceeding with a Court of Appeal application myself without legal representation, given that I had not been able to find work for the past two years and was living of my savings and could not really afford to employ lawyers and continue to support my wife and two small children, although he made clear to me that if I lost my appeal I would be at risk of having to pay the other side's costs. Politicians will tell you that individuals in our society have rights and that these can be enforced by taking legal action taken through the courts. However, I am sure that a lot of people who have ended up in a similar situation to myself will recognise that in practical terms if you don't have the financial resources to employ expensive lawyers you don't really have any rights at all, particularly when you are in a dispute with a big employer like the NHS who at the end of the day isn't worried about where the money will come from to pay big legal bills because it is all paid for by the taxpayer.

Anyway having received this advice I decided to press on regardless of the risks to try and get some justice and I made a written submission application to the Court of Appeal for leave to appeal, as you have no automatic right to get your case heard by the Court. My written submission was considered by Lord Justice Sedley and he refused me permission to appeal. The reasons that he gave were that I had conducted myself unacceptably against colleagues before proceedings had begun and that if all that had been at issue was my aggressive reaction to proceedings, the decision to dismiss might have been unsustainable. But he said that my reaction amounted to corroboration of the accusation that I had already shown myself near impossible to work with (rather than for). He went on to say that he agreed with the Tribunal and Appeals Tribunal decision that a warning to improve my performance was not

required not because of my seniority but because I was too entrenched in my attitude to respond positively. His final comments related to the seriousness of McLouglin's improper role (Hamilton's improper role in conducting the investigation into the accusations made against me was not mentioned). He accepted that the Appeals Tribunal reasons for upholding the finding of 100% contributory conduct as being shaky, but said he could see no prospect that the Court of Appeal would second guess two specialist tribunals on the finding that a dismissal was inevitable even before an impartially chaired body.

This was another setback but I still wanted to continue because of a fierce sense of injustice, which I think stays with all whistle-blowers who find their characters attacked in this way. I was continually being told that I would have been sacked by an impartial hearing anyway, but no one seemed to raise the obvious question of if this was the case, why had McLoughlin and St George's gone to such lengths to ensure that my case never had the opportunity of ever being considered by an any impartial individuals, not at the investigatory stage, not at the disciplinary hearing and not at the NHS internal appeal I was entitled to have under the NHS's regulations as she unilaterally declared in my dismissal letter I was to be denied. How could the an appeal Court judge know how things would have happened in an impartial investigation and disciplinary hearing when one had never actually taken place.

Undaunted I decided to exercise my right to ask for the Court of Appeal to give me a hearing in person, where I could ask for Lord Justice Sedley's decision to be reconsidered. On the 14th January 2005, I appeared in front of Lord Justice Mummery (a former President of the Employment Appeals Tribunal) and Lord Justice Neuberger (who is currently President of the Supreme Court of the United Kingdom). It was the best day that I had so far experienced in my pursuit of what I believed to be justice. My case was that the Tribunal and Appeals Tribunal had erred in law in concluding that there was a 100% chance that my employment would have been terminated, even if the disciplinary proceedings had been chaired by an independent person; that my conduct had contributed to my dismissal to the extent of 100% and that there had been a potentially fair reason for my dismissal. To my delight and relief, Lord Justice Mummery in coming to his conclusion about this matter, accepted that the argument that I had put forward disclosed a real prospect of my appeal succeeding. He said it was unusual to hold that there was a 100% chance that

employment would have been terminated, even if the procedure had been fair. He also said that although it was legally possible, it was also unusual to find a conclusion that an applicant who succeeds in establishing that there was procedural unfair dismissal has contributed to that dismissal to the extent of 100%. Even more unusual Lord Mummery said was the situation which existed in my case, in which no misconduct had been alleged against me, I was, following the disciplinary tribunal summarily dismissed. Lord Mummery went on to say that there must have been a very real question as to whether there had been a potentially fair reason for my dismissal, quite apart from the findings in my favour by the Employment Tribunal about the unfairness of the dismissal process. I was given leave to appeal by Lord Justice Mummery and Lord Justice Neuberger said that he fully agreed with the course of action proposed by Lord Justice Mummery and that there was no point in his expressing reasons of his own. At the end of the formal hearing Lord Justice Mummery said to me, "How has this happened to you Mr Perkin", my answer to him was, "I don't know my Lord, that is why I am appearing before you today". On leaving the court I was feeling elated because at long last I felt someone had seen the common sense of the injustice that I suffered and felt that I was now on a path to success, little did I know.

A further interesting thing happened to me just a few weeks after I was granted leave to appeal. In 2004 I was elected by my fellow accountants in a membership vote to become a Council Member of the Chartered Institute of Public Finance & Accountancy (I have been on the Council ever since and later was elected by my fellow accountants to become Honorary Treasurer of the Institute). The annual dinner of the Institute was then held each year ironically at the Savoy Hotel in London. As a council member I was invited to the annual dinner and by chance it turned out that Simon Sharp the PricewaterhouseCoopers external auditor was a guest at the dinner as well. Three times during the course of the dinner Simon Sharp left his table to approach me during the course of the dinner. Mr Sharp on his first visit asked me if I had a tape recorder on me. When I confirmed that I did not, he went on to say that he thought we were friends and that I should have known that privately he supported everything that I had said about what had gone at St George's, but that because of his position and the fact that I had powerful people ranged against me he said it was impossible for him to have said so

publicly at the time. He said he thought that we were friends and that the release of the recording to the BBC had damaged his career and I said that if he had told the truth he would have had nothing to fear.

Later in the evening he returned to my table and went on to say that in his view I had been wrong to supply the media with a copy of the tape recording that I had made of the conversation that had taken place between the two of us immediately after I had been told that if I did not resign from the NHS that I would be sacked, because of concerns that Mr Sharp had of my performance as Finance Director. Mr Sharp said that while the issues I had been raising were true, in his view change could only be brought about by working within the system and that it was wrong to flag issues of dishonesty up directly. On his third visit to my table, when he was considerably the worse for wear because of drink, he knelt down on the floor beside my chair and told me that I should cease the legal action that I have been taking against the NHS and that he found my behaviour in persisting with it extremely annoying, at which time he punched me several times on the arm. Sitting on my right at the dinner table was Ms Gill Lewis Head of Public Sector Audit in Wales, I had not met Gill Lewis before the dinner and she said she had never witnessed behaviour like that before and that if I required it, she would be prepared to make a statement into what she witnessed at the dinner. In view of the fact that Ms Lewis was prepared to make a statement, I made a formal complaint to both the Audit Commission and PricewaterhouseCoopers Mr Sharps employer. It was clear that as someone who had played a clear role in what had happened to me at St George's it was totally inappropriate behaviour for Mr Sharp to have approached me at all in connection with these matters, particularly as on-going litigation was still in progress. The result of my complaint was that I received a reply from Paul Woolston of PwC, which agreed that it had been inappropriate for Mr Sharp to approach me and discuss the matters that he did with me, particularly when legal action was still pending. He said that Mr Sharp now recognised this and wished to apologise unreservedly for any offence, however unintentional, that his behaviour might have caused me and also apologised on behalf of PricewaterhouseCoopers. The reply that I received from the Audit Commission, the body who had appointed PricewaterhouseCoopers to be the external auditors at St George's was somewhat better and the Audit Commission said, "In these circumstances we

have agreed with PricewaterhouseCoopers that Simon Sharp will not hold any Audit Commission appointments". Too late to help me with my pending appeal, but in my view yet another person that Hamilton and McLoughlin had relied on to try and unfairly blacken my character had in fact disgraced and discredited themselves.

With the leave to appeal secure, my lawyers were again able to advise me and have their costs paid by the GMB as they were again able to say that my case had a better than 50% chance of success. They were very pleased with the Mummery/Neuberger decision and prepared for the full appeal which was listed to take place on the 12th and the 13th of May 2005 at the High Court in the Strand by Lord Justice's Thorpe, Wall and Tuckey. My barrister Brian Langstaff QC had said to me that there were certain judges that we must hope to avoid in terms of the appeal hearing, because there were some that he thought would probably find for me and some that he thought would find against me. Lachlan Wilson who was assisting Langstaff, told me that it was a shame that Lord Mummery had not reserved the case to himself. This talk of who was best to hear the case had started to worry me. I said to Brian Langstaff, that if who heard the case determined the outcome, rather than the evidence itself, wasn't it all a fix. He reassured me that it wasn't a fix, but said that judges were like anyone else, they all come with their own ideas and particular personal prejudices and experiences and when you have appeared before them as a barrister on many occasions you get a feeling for how they are likely to judge any particular case based on judicial decisions that they have made in the past. Some judges he said will favour the rights of the individual while others will perhaps favour the rights of big organisations, he said not to worry because all though one of the three set down to hear my case would not have been his first choice, two of the others were fine and everything should be OK.

In 2004 I had got back into work and after a year in May 2005 I had obtained the position of Chief Finance Officer for Surrey Police Authority, I post I still hold quite happily more than eight years later albeit it I am now the Chief Finance Officer for the Surrey Police & Crime Commissioner, who took over from the Police Authority. Looking forward to my court hearing I was attending a police meeting in London on the afternoon of the 11th May, just twenty hours before my appeal case was listed for hearing in the High Court. I

was just arriving and about to turn off my mobile phone, when my solicitor called me to tell me that the hearing had been cancelled and that it would have to be reset for a date later in the year. When I asked the reason why he could not tell me and said we would speak later, because I would be picking up the legal costs for having my legal team cancelled at such short notice and would be at risk of picking up the abortive costs of the other side for the same reason if in due course I lost the case. It was a good job my legal costs were being paid by the GMB or I would have had to have stopped any legal action there and then for pure lack of funds. I asked my Member of Parliament Edward Davey (the current Secretary of State for Energy), who had always been very supportive of my case to look into the reasons why my case was taken out of the Court of Appeal listing at such short notice and in April 2006, after my case had finished he received a letter from Harriet Harman (then Minister of State at the Department for Constitutional Affairs) which apologised for the late adjournment, but said that Lord Justice Thorpe had ordered my case out of the list because a family case concerning the residency of children had arisen and children related matters automatically take precedence over any other type of case. When I pointed out to Edward that the particular case that replaced mine in the Court of Appeals list had not been about child residency and that the withdrawal of my case had not been in accordance with the Court of Appeals own rules in that it had been taken to suit the availability of one of the advocates appearing in the case that replaced mine, he wrote to Harriet Harman again, pointing this out and got another reply from her this time, which agreed that my case had not been treated in strict accordance with the Court of Appeal (Civil Division) practice directions, suggesting that they provided guidance only and did not fetter the discretion of judges, by rule are authorised to exercise. It was just another example of where the system had not applied the rules fairly to me.

My Court of Appeal case was now set down for hearing on the 29th July 2005 and I my wife and one of my sons arranged to meet Brian Langstaff QC and Lachlan Wilson in his chambers shortly before proceedings were due to start. We approached the day with some confidence, but soon had that dashed when we meet with Brian and Lachlan, as they said that I had drawn the “short straw” and that my case was to be heard by Lord Justices, Tuckey, Mance and

Wall, all three of whom Brian Langstaff had said he hoped I would have avoided.

Having heard my appeal the judgement was issued on the 12th October 2005 and from my point of view it was not good. It was correctly pointed out that in terms of my claim that I had been dismissed for making protected disclosure, this matter had been decided by the Employment Tribunal and there was no right of appeal allowed in respect of that issue to either the Employment Appeals Tribunal or the Court of Appeal.

Interestingly the Public Concern at Work the charity that says its aim is "To protect society by encouraging workplace whistleblowing" states on its website to this day the following:- "Ian Perkin - On this page are the legal decisions in the case of Ian Perkin. In October 2001 when he was the senior executive responsible for handling whistleblowing concerns at an NHS Trust a junior staff member blew the whistle that the figures for cancelled operations were inaccurate. In December 2002 Mr Perkin was dismissed for what the Trust said was a complete breakdown in working relations with senior colleagues and medical staff. Mr Perkin disputed this and argued that he was dismissed for blowing the whistle on the inaccurate figures. He brought a claim under PIDA and normal unfair dismissal laws. The original decision shows why the employment tribunal found that Mr Perkin's dismissal was not related to any whistleblowing by him. Contrary to some reports, Mr Perkin did not challenge this finding in his appeals either to the Employment Appeal Tribunal or to the Court of Appeal which were about his rights under normal unfair dismissal laws". It does not seem to me that having such a statement on their website, about someone who had succeeded in proving that he had made a protected disclosure, just before his suspension from his employment following a proven biased and unfair disciplinary hearing had taken place, would be a great encouragement to other whistle-blowers. Particularly following sixteen years of continuous employment with that employer, without a single complaint every having been put in a letter, e-mail or any other formal format before the decision had been take to dismiss him. It might nice if Public Concern at Work pointed out that it was not legally possible, as the Court of Appeal pointed out, for me to challenge the Tribunal decision to ignore the impact that I claimed my proven public interest disclosure had on my dismissal. The Public Interest Disclosure Act 1998, is supposed to give some protection to

whistle-blowers, but as Diane Mark (one of the only two individuals on my unfair and biased NHS disciplinary panel) in a sworn statement to the Tribunal said, “It was certainly part of Mr Perkin’s case that his alleged disclosures were the cause of the disciplinary proceedings”, and later in the same statement, “I assisted Catherine McLoughlin when she deliberated after the conclusion of the evidence. The alleged disclosures did not form part of our discussions and were not the reason why she took the decision to dismiss”. It is possible to see therefore just how much protection I derived from the Public Interest Disclosure Act 1998 of which Public Concern at Work has spoken of so highly. On their website under the heading “Practical Points” it states, “where a protected disclosure has been made, employers should take all reasonable steps to try and ensure that no colleague, manager or other person under its control victimises the whistleblower:”, presumably being subjected to a proven unfair and biased NHS investigatory process and disciplinary hearing within nine months of making a proven protected disclosure under the Act does not count in their eyes . Also under the same heading the it states, “any attempt to suppress evidence of malpractice is now particularly inadvisable since (a) a reasonable suspicion of a ‘cover-up’ is itself a basis for a protected disclosure: s.43B(1)(f); (b) a disclosure to the media is more likely to be protected: s.43G(2)(b); and (c) there is less scope for keeping such matters private by a gagging clause: s.43J;”. When the South West London Strategic Health Authority commissioned the NHS report on the problems at St George’s its report issued in September 2004, said, “I consider Mr Perkin’s allegations proven, in respect of the inappropriate alteration of cancelled operations data for the three weeks commencing 24 September 2001. I am also of the opinion that the Trust was wrong in offering a variety of excuses for the error occurring”. Presumably Public Concern at Work would except that excuses are in effect “cover-ups”. Within a year of my disclosure I was in the middle of an unfair and biased disciplinary designed to dismiss me while John Parkes, the man who is currently Chief Executive of an NHS Primary Care Trust Cluster in Milton Keynes and Northamptonshire, had moved on to his first NHS Chief Executive role. What a great NHS we have and thank goodness we have Public Concern at Work!!!

Returning to the Court of Appeal judgement this also stated that they accepted the view of Lord Justice Sedley, the judge who had originally turned my written

application for leave to appeal, that my dismissal was, “for some other substantial reason” and that had the Tribunal been relying on my conduct to dismiss me, that “I was too entrenched in my views to have responded to any warning or guidance that without change my behaviour might had led to my dismissal”. In deciding on what is called the Polkey Reduction i.e. the reduction in any award I might have expected for proving that I had been unfairly dismissed, Lord Justice Wall had this to say about Catherine McLoughlin. “ The point which I have found most difficult in this part of the case is that which relates to the conduct of Ms McLoughlin. There is no dispute that this plainly rendered the dismissal procedurally unfair. The question is whether it goes further, and whether the Tribunal was right to find; (1) that had Mr. Perkin's disciplinary proceedings been conducted before a properly constituted and unbiased tribunal there was a 100% chance that he would have been fairly dismissed; and (2) that "by his conduct Mr. Perkin contributed to his dismissal to the extent of 100%". "I have to say that I find it quite extraordinary that a person in Ms McLoughlin's position could think it right to chair an internal disciplinary procedure when she herself, only days before, had made it clear beyond peradventure that she wanted Mr. Perkin dismissed. The overwhelming and irresistible inference is that she not only wanted him out, but was of the view that this was the speediest and most effective way of achieving her objective, since there was plainly no prospect, with her in the chair, that the disciplinary procedure would result in anything other than confirmation of Mr. Perkin's dismissal. Against that background it must, at first blush, be reasonable to think that a fair procedure, and a genuinely independent investigation would – or at the very lowest might- have produced a different result – and certainly not a result which placed the entire responsibility for his dismissal on Mr Perkin itself”. However a little he added, “Mr Perkin was of course, entitled to defend himself, but the manner of his defence, and in particular his attacks on the honesty, financial probity and integrity of his colleagues (and in particular his dogged insistence on maintaining his stance in relation to those attacks when they were manifestly ill-founded – see an example of the notes taken by Mr Watts referred to in paragraph 4 of this judgment) opened the door, in my judgement, to the Tribunal being able to find that any other disciplinary process would have ended in the same result. In my judgement, the Tribunal was plainly entitled

to reach the conclusion that any other disciplinary process would have ended with exactly the same result". This led on to Lord Justice Wall concluding that he again agreed with Lord Sedley, that, "I have thus come to the conclusion that it was open to the Tribunal to find a 100% Polkey reduction" and that he agreed with Lord Sedley's finding that the Tribunal reasons for 100% contributory conduct were shaky, but said he could see no prospect that the Court of Appeal would second guess two specialist tribunals on the finding that a dismissal was inevitable even before an impartially chaired body. My appeal was therefore dismissed, although there was a footnote added to the decision, which referred to the reasons given by Lord Justice's Mummery and Neuberger for allowing the appeal, which related to the fact that it was unusual to find that someone was 100% likely to lose their job when they had successfully proved they had been procedurally unfairly dismissed and that even more unusually they had then been held to have contributed 100% to their own dismissal when no misconduct had been alleged against them. Lord Justice Wall's footnote said, that the facts of the case were highly unusual and that they justified the Tribunal decision to uphold my dismissal without any compensation.

I did submit a further appeal to the House of Lords, as a final throw of the dice, but they turned it down on the grounds that I had not raised a point of law that they considered to be of general public importance.

I am not a lawyer, but I agreed with the Court of Appeal that the facts of my case were unusual, the reason I stuck to my claims that my former colleagues were not telling the truth either, when taking notes, conducting the investigation, or conducting the NHS disciplinary hearing, was because they were not, and I stand by what I said at the time 100%, but now supported by some of the additional information that has come to light since my Employment Tribunal case was concluded. The Employment Tribunal could have ordered a proper investigation into the allegations that I made, but they did not. They simply accepted the word of the three people who they knew had broken all the rules in trying to get rid of me and never at any time questioned their motives in doing so and simply disregarded the sworn evidence given by me and my witnesses including quite exceptionally in this sort of case my solicitor, who felt compelled to take the stand in the interests of justice, but whose evidence was not even mentioned in the Tribunal

judgement when pages were devoted to the so called evidence of people who never even submitted a sworn statement to the proceedings. Perhaps most worryingly of all many of the people involved in the my case on the NHS side who did things they should not have done went on to much higher positions in the NHS like John Parkes for example, most worryingly of all is that Catherine McLoughlin despite the very harsh comments made about her in my Court of Appeal judgement is still chairing NHS hearings and only early this year in the summer of 2013 was appointed to chair an NHS grievance hearing brought against another NHS organisation by Michelle Salter who gave sworn statement to my Employment Tribunal on my behalf. I hope that my experience will not discourage others from telling the truth in future and exposing wrong doing within large organisations, because as we have seen in so many cases recently a decent society needs “whistle-blowers” to flag up wrong doing and particularly so in organisations that deal with the most vulnerable in our society.

Ian Perkin

22/10/2013

ANON

After a few weeks looking for a job I was desperate, I took a job in a care home. It was offered to me on a plate and I was given a start date with no real questions. If you don't have a criminal record and don't care there is always care work. Training was a DVD which if anyone actually watched it and then remembered it when they walked out the door was at best vain hope, but hey I'm sure some insurance policy was covered somewhere! Having never been around old old people in my life I was sceptical, but from the moment I started I liked the old old people and the people with dementia. There were scary moments when we had no staff and some residents were violent but it came as a package with the job. It was accepted and was normal we struggled to cope alone and the managers left us to our devices. With experience we gained knowledge, with practise we became able to handle situations. From the moment I started I also noticed the short fall in the standard of care but it was common practise and no one ever told us what the right thing to do was. As I complained the hatred within management became clear and I was disciplined and moved to another unit. It was just a job to me not a career I'd planned but I was fond of the old people they fought in the war for us-one resident still had a bullet in him at 92. How was I to help the old people if I was fired and having no knowledge of the whistleblowing policy I kept my head down but for someone who has to witness this every time you step foot in the door how do you just keep your mouth shut? Moving to the residential unit things weren't so bad but it was like a meat factory where living people were shunted from place to place and or confined to their room if they were deemed a problem. The shortfall in the standard of care was attempted to be made up of staff who work tirelessly to ensure some standard and dignity was being maintained.

Working at the home was just as exhausting as rewarding, every day facing a new challenge. The main problem was short staff especially at weekends. The endless jobs we had even when we weren't short staffed we barely covered our jobs that we needed to do. The good workers' working tirelessly to ensure some dignity was maintained but there were never enough of us and we couldn't be everywhere at once. The foreign workers were the best but always ignored because they were foreign. With many complaints and arguments with

our managers being ignored, we continued this pattern with no one to go to for help we just carried on.

After working at the Home for three years some bright spark felt it necessary to abuse the staff and cut our wages and cut our hours making our jobs impossible. Workers were forced to sign new contracts when they couldn't read, were told not to come back the next day. When staff stood up to them they were shown the door and being made enforceably redundant. How can we be redundant when redundant means the job is no longer there which just isn't true in a care home? A worker that had been there 12 years and was a fixture of the home was forced out of her job without a second thought, we fought for her redundancy pay £3,000. Workers left in their droves, and remaining staff were at breaking point where morale was low. Bad workers became worse and used the opportunity to be lazy and even worse towards the residents. At one point we had 21 shifts in one week that needed covering. When we approached the management we were met with lies and complete avoidance of our questions. We made statements about the abuse and neglect the residents suffered and the abuse of the staff, appointing someone to meet with the management and the owner of the home on our behalf. They offered us money to £500 to shut up and sign the new contract or to leave our jobs quietly. How was this resolving anything? We refused. After repeated meetings with the management and the owner of the home, we wanted some issues resolved and improvements made they offered us £750 to leave our jobs quietly.

We took our statements to the CQC and spoke at length on the phone to social services. The social services could not wait to get us off the phone and I'm sure at one point the woman was asleep. The CQC came into the home claiming 'You're all protected under the whistle blowers protection.' The CQC found fault everywhere and even shut down one unit to new residents. The CQC found faults that were exactly the same as what was complained about in our statements. All of us who wrote statements were not protected by act or anyone enforcing it.

A campaign against us was started. The management took our statements and showed all the remaining staff- they were made public. When we confronted the management they claimed it was an accident and they were just left on the table and one or two members of staff may have got a glance at them. The

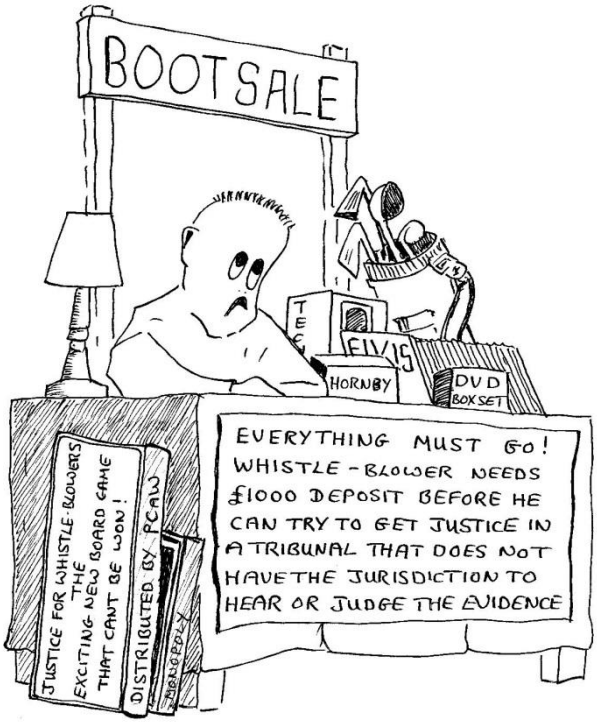
management called a meeting with all the staff including some of us whistle blowers and told them we were blackmailing the home with lies for money. Nearly all of us were suspended on full pay - but not one of us ever received full pay, following investigations. We were suspended when we were short staffed already, how did they cover us when four of us were meant to be in the next day. One whistle blower did not receive a suspension letter and when she phoned the home was told she was not suspended and went to work. Then was told she was actually suspended it was a clerical error and was sent a suspension letter the next week. Again how did they cover our shifts?

The investigations were *** ******* covering their tracks and creating a divide between the remaining staff and the whistle-blowers. For example in one statement the whistle blower brought up an incident with two members of staff, but it was not dated. The manager interviewed one of the members of staff and told her that 'regarding the incident he had checked the rota and she was not in that day.'

The suspended whistle-blowers received letter after letter that was quite bullying that frightened and intimated them. They abbreviated our names like we were still mates, we weren't their mates. When all we were doing was standing up for ourselves and making our point. The truth hurts but you don't hide it, you should deal with it before it gets worse. We were asked to attend meetings with the human resources and a building surveyor, we were to attend these meetings alone and unrepresented. We did not attend any of them. How could we and why should we? Along with the unsuspended whistle-blowers we were subjected to abuse by the remaining members of staff. We were spat at, ignored, called names, shouted at and physically attacked. For the unsuspended staff this was an unbearable place to be expected to work, and requests to move shifts and units were ignored.

We were offered £1,000 in a compromise agreement to leave our jobs. This agreement basically said the *** ******* had done nothing wrong, and we wavered any claims- Why would we sign this? Are we supposed to accept a few pounds leave behind innocent people and walk away how is it that simple? Why not try and listen to us, if we work on the front line with the daily running of the home doesn't it even make a little sense to listen to our ideas for improvements and deal with some of the problems ? As every small detail that

happens in the home effects living people- human beings why would anyone not want to try and improve their standard of living? –We refused this.
We were stuck in a desperate spiral of lies and stress from doing the right thing. The heaviest worry of the lack of money so a desperate attempt to get other jobs but all the paper work from the home was stating we had to be available to them. The bottom line was they did not want us back in our jobs. Why? When we were the good workers that turned up to work, did a good job and went the extra mile at work but we were the ones that they wanted to leave. With the stress we hardly ate or slept and trying to think clearly was a joke, this whole situation was a joke. To walk away from this when we did the right thing is utterly laughable. Yes we all struggled, lost our homes, borrowed money from our families and our cars are patchworks of selotape and metal. But we did the right thing.



We were on the point of where to go from here, should we get solicitors advice or handle it ourselves. With the emotional strain and a fear of the unknown we got a number of solicitors advice they all condemned the home and said our case is serious. Then came the problem MONEY we had none as we were losing our jobs, and we are not entitled to legal aid. This is ridiculous as whistle blowers are supposed to be protected. The solicitors firms asked us for hundreds of pounds for an hour or if we could check our housing policy to check it covered this. We were working class people in rented houses we barely covered our rent anyway and had nothing in the house that warranted insurance the request was void. Then the last solicitor we came too we went with him because we had no choice and a relief someone was listening to us. While getting into the solicitors the home held a dispensary without us present and told us we had done something wrong due to extenuating circumstances and come back to work in two days' time. After this we received another

compromise agreement of £2,500 with a few days deadline. With the stress and it being Christmas half of us took this. The solicitor separated us into individual cases. The solicitor even told one of us he had no case and he was sent back to work. At work he was called into the office and given the compromise agreement to sign and leave. He did.

There were four of us left, getting the legal papers together and writing our cases up and holding down a job was a renewed hardship. The offers came in with increasing value along with increasing lies, the home were not admitting any fault or even an acknowledging they were in the wrong but they were prepared to pay thousands.

Our solicitor led us down the tribunal path and the home 'response' was a pack of lies and an utter joke. They firmly stuck their heads in the sand and accused us of wanting money yet they were the ones offering it. They never dealt with any issues we had. We had expectations of the home and the authorities to listen to us, to help us and deal with some of the problems. The point we were trying make seemed to get lost in amongst every legal page, the issues we had were washed aside and it became a game of 'how much'? Well as our statements were made out of principle not money, how much are our principles worth, our ethics, morals???

When the offer of £10,000 came up the second time our own solicitor became bullying in an attempt to get us to settle, he was threatening and gathered evidence against us where we were pushed into agreeing to the settlement. We ended up in a fight with someone who was supposed to represent us. He wanted his pay check and that was it!

I asked for the settlement to be sent back as a charitable donation where the money really belongs to help feed the residents. As the residents pay to be there doesn't that make sense? I myself won't lie yes I could use that money but I will get out of this mess with my conscious and principles intact!

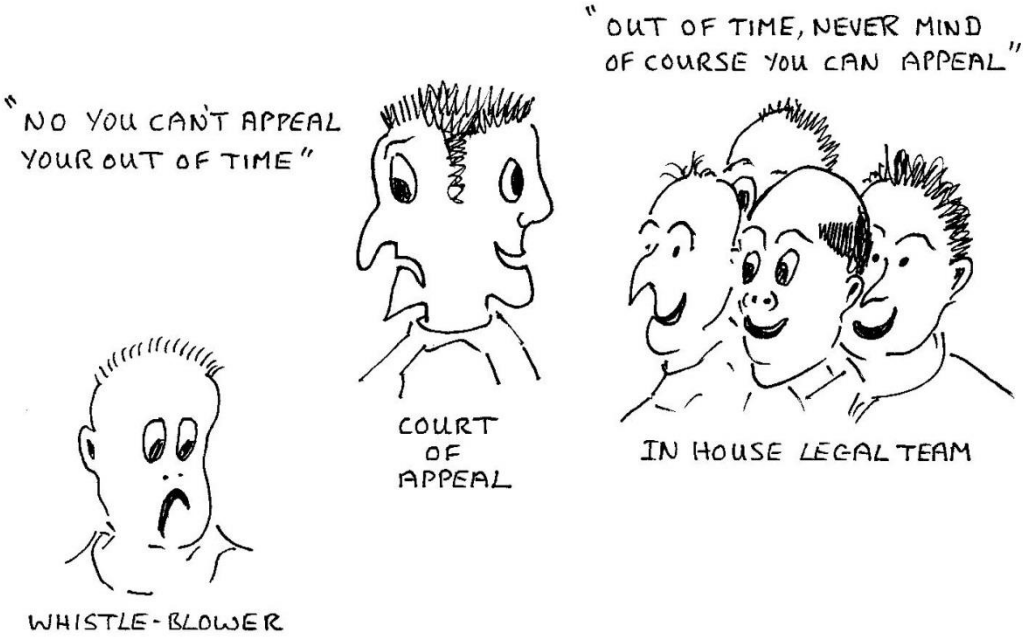
Anon

Jennifer Simcox. Raised concerns about poor care and as a result had to work in stressful conditions. She was dismissed and could not get legal representation.

Nurse Alice Clark, Still fighting for justice after The Tribunal attacked her for the way she challenged the doctor she had concerns about.

When so few cases make it through the barriers to use PIDA it is more important than ever that cases law sends out a strong message.

Eileen Chubb
" The worst thing that happened to me as a Whistle-blower? The knowledge that more vulnerable people suffered and they suffered because PIDA failed "



SUMMERY

We call for The Public Interest Disclosure Act to be scrapped and replaced by;
A law that protects those who make disclosures in good faith and in the public interest.
A law that protects all sections of society equally.
A law that gives equality of arms with employers in court.
A law that holds those to account, found responsible for covering up, denying concerns and failing to act.

Most disclosures are of a criminal nature and therefore beyond the remit of an Employment Tribunal and should be held in a criminal court.

Whistle-Blowers should not be rewarded for blowing the whistle but may be awarded compensation by the court for detriment.

There will be those who oppose some or all of the above, we would ask them what are they are afraid of, only those who break the law need fear a robust law that protects Whistle-Blowers.

FURTHER INFORMATION

Breaking the Silence Part One

Beyond The Façade by Eileen Chubb ISBN 9781847476333

Public Services Ombudsman for Wales, Investigation into complaint against Carmarthenshire County Council. 1999/200600720.

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The Whistle-Blower cartoons are the creation of Stephen Honour and are based on actual events.