

**IN THE HIGH COURT OF JUSTICE**

**QUEENS BENCH DIVISION**

**Claim Form issued 19 December 2012**

**Claim No.HQ12D05474**

**BETWEEN:**

**MS AYODELE ADELE VAUGHAN**

Claimant

-and-

**(1) LONDON BOROUGH OF LEWISHAM**

**(2) RALPH WILKINSON**

**(3) CHRISTINE GRICE**

**(4) ELAINE SMITH**

**(5) VALERIE GONSALVES**

**(6) ELAINE HATTAM**

**(7) KATE PARSLEY**

**(8) DR ANTHONY WILLIAMS**

Defendant

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**WITNESS STATEMENT FOR THE CLAIMANT'S  
APPLICATION FOR AN INTERIM INJUNCTION  
AGAINST DEFENDANTS' (1 – 7): 25 MARCH 2013**

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## PREAMBLE

References in this witness statement to the Claimant's Bundles- B1, B2 & B3, are in the format [B?. xx . x] in this skeleton are to [bundle. page. paragraph] in bundles 1-3.

I, CENSORED, make this statement in support of my application dated 27 February 2013:

### Introduction

- 1 On diverse occasions between January 2011 and May 2012 the Defendant's have published/uttered and/or caused and/or permitted to be uttered and/or published and/or been party to or procured the distribution and publication within the jurisdiction of this Honourable Court and engaged in and intend to continue to engage in a course of conduct which amounts to harassment. I therefore seek an interim injunction in libel and slander to restrain the publication and utterances of defamatory allegations under the Protection from Harassment Act 1997 to prevent harassment by defamatory publications and utterances.
  
- 2 This is a consolidated hearing [B3.1422] to consider my application for an interim injunction against the Defendants' 1 - 7 [B1.28], my amendment application requesting permission to add a new cause of action for malicious falsehood to my claim [B1.30] and the Defendants' application for a 'stay' [B3.1409]. In the event that the Judge is unable to deal with the consolidated hearing today due to insufficient time, I respectfully requests that the case be referred to another Judge who is able to hear the case today because of the continuing harassment by the Defendants' and the severe impact of this conduct on my mental health. I have struggled to prepare for this hearing, but was lucky enough to have received some help with the preparations.

- 3 In support of this application I rely on my audio evidence (30 covert recordings which were sent to the Court by recorded delivery on 27 February **[B3.1408a]**) and the documentary evidence detailed in appendix A **[B3.1387]**, my application **[B1.30]** and supporting evidence in relation to my amendment application and my skeleton argument/my response to the Defendants' application for a 'stay' **[B1.17]**, my witness statement **[B1.62]** and related documentary evidence concerning this.
- 4 I am not expecting the Court to read all of the material in my bundles, the evidence has been included merely to support my allegation of harassment and to draw the Court's attention to the specific points that I have raised which relate to the issues of harassment, misfeasance in public office, malice, abuse of process and the lack of merit in the Defendants' applications and indeed their entire case.
- 5 On 19 December 2012 I lodged my Claim form **[B1.262]**. I attempted to lodge my Particulars of Claim on 5 February 2013 but was prevented from doing so until she complied with Master Leslie's instruction to shorten the length of my pleadings **[B1.293. 61]**. On 13 February 2013, after having seen Master Leslie in practice, (to which I was accompanied by two friends), he approved my Particulars of Claim **[B1.268]**, (which had been significantly reduced by 10 pages) and this was sealed by the Court and I was informed that the Court would served it on the Defendants 1 -8. Service is deemed to be 16 February 2013.
- 6 On 27 February 2013 I lodged my Notice Application to make an amendment for an interim injunction against the Defendants' and the documentary supporting evidence **[B3.1387]**, including my letter to the Court dated 27 February 2013 regarding this **[B3.1394]**. I was accompanied by 2 friends. As I had been rushing

to lodge my application and because of my memory impairment, (a symptom of my mental health condition), I forgot to bring the USB with me. I advised the Clerk that I would be posting the covert recordings to the Court via recorded delivery. I posted the USB on the same day **[B3.1408a]**.

7 I believe that the Defendants' were not defending themselves at all in the course of their course of conduct towards me and that they were complicit in a plot to fabricate the allegations. The 1<sup>st</sup> Defendants' internal process went into entirely irrelevant or extraneous material, and even the hearing officer admitted that it had no relevance, **[B2.816. 964 - 970]**. During the dismissal hearing I raised the point that the majority of matters had also not been put to me during the investigation process **[B2. 798. 316 – 345 & B2.761. 327 - 330]** and you will see from the investigation transcripts **[B1.352 – 458 & B2.559 - 589]** that this is true.

8 It is self-evident that the publication and/or utterances of the material in question will cause alarm and distress to me, (a vulnerable disabled Claimant with fragile mental health), see my medical evidence, **[B3. 1370a, B1.163 – 164 & 171 – 177 & B3.1098 – 1001]**.

9 It is clear from the covert recordings/transcripts and other documentary evidence that the Defendants' said/published the words complained of to third parties **[B2.761. 327 – 328] & [B3. 1116 & B3.1234]**. Some examples of the evidence of malice in relation to the words complained of, which clearly disprove them and evidence the fact that the Defendants' were aware that the words complained of were false are:

a) *In relation to 20.1 [B1.274] of my particulars of claim: [B3.1249] – top of the page, 1<sup>st</sup> Defendants' dismissal letter & [B1.347. 27 – 30 & 47]*

- b) *In relation to 20.2g [B1.275] & 20.2 q [B1.276] of my particulars of claim: [B3.1049 - 1078] – it is clear from the transcript that I do not make the statement that she alleges*
- c) *In relation to 20.2j [B1.275], 21.2k [B1.281], 21.2t [B1.282] & 21.2w [B1.282] of my particulars of claim: [B2.952 - 1015]*
- d) *In relation to 20.2k [B1.275] of my particulars of claim: [B2.597 - 684], [B2.911 - 951], [B2.952 - 1015] and [B3.1016 - 1048] – it is clear from the covert recordings/transcripts of the team meetings that the statement that she makes is false and indeed contrary to the above statement made by managers at 21.2k [B1.281] of my pleadings*
- e) *In relation to 20.2n & 20.2o [B1.275] of my particulars of claim: [B2.690.208 – 210], [B2.816. 959 - 975] & [B2.884. 176 – 192], [B2. 885. 209 – 247], [B2.525. 98 – 115] & [B2.528. 204 – 206 & 217 - 224].*
- f) *In relation to 20.3 [B1.276] of my particulars of claim: [B1.342.28], [B1.343.44 & [B1. 344. 70 – 71]*
- g) *In relation to 20.4a [B1.276] of my particulars of claim: [B1.502 - 517]*
- h) *In relation to 20.7c [B1.277], 21.1c [B1.278] & 21.3k [B1.283] of my particulars of claim: [B1.487. 339 - 369] & [B1.124]*
- i) *In relation to 20.7d [B1.277], 21.1d [B1.279] & 21.3d & 21.3e [B1.283] of my particulars of claim: [B1.478 - 501] & [B1.122 – 124]*
- j) *In relation to 20.7h [B1.277] & 21.1h [B1.279] of my particulars of claim: [B1.352 – 458 & B2.559 - 589] - the recordings for the investigation interviews with me, (a disabled person who suffers from depression, fatigue and impaired memory and concentration), having to answer endless questions total over 8 hours*
- k) *In relation to 20.7i [B1.277] & 21.1i [B1.279] of my particulars of claim: [B1.502 - 517]*
- l) *In relation to 20.7j [B1.278] of my particulars of claim: [B3.1055. 238 - 253]*

- m) *In relation to 21.2e [B1.280] of my particulars of claim: [B1.469. 373 - 377] & 1255] – 2<sup>nd</sup> paragraph*
- n) *In relation to 21.2h [B1.280] of my particulars of claim: [B2.798. 297 – 301 & B2.711. 101 - 106]*
- o) *In relation to 21.2l [B1.281] of my particulars of claim: [B2. 523 - 551]*
- p) *In relation to 21.2p [B1.281] of my particulars of claim: [B1.489. 413 - 467]*
- q) *In relation to 21.2s [B1.281] & 21.2x [B1.282] of my particulars of claim: [B3.1049 - 1078]*
- r) *In relation to 21.3a [B1.282] of my particulars of claim: [B3.1280 - 1286] & [B2.711. 86 – 90 & 109 - 112] & [B2.907. 991 – 997]*
- s) *In relation to 21.3c [B1.283] of my particulars of claim: [B2.791. 45], [B2. 827. 1389 – 1395], [B2. 876. 284 – 309], [B2. 877. 316 – 321], [B2. 877. 343 - 358] & [B2.904. 894 – 920]*
- t) *In relation to 21.3h [B1.283] of my particulars of claim: [B1.122] and also see the section of this witness statement under ‘The Defendants’ knowledge of my medical condition / disability and disability status’ and the related evidence*

#### *The Defendants’ Defence*

10 It is clear that any defence run by the Defendants’ will not succeed at trial. There is real problem with the Defendants’ as witnesses and based on the damning material that I have submitted, it is clear that there is no reasonable prospect of their evidence being accepted- their case is doomed to failure.

11 In my skeleton argument [B1.1. 5 - 13] I have set out the numerous examples of how it supports my contention that any defence by the Defendants’ will fail. The Defendant’s will not be able to rely on the defence of qualified privilege because:

a) the allegations are untrue and the makers of the statement knew them to be

untrue (which the covert recordings and transcripts prove); b) the Defendant's involved were wilfully and maliciously fabricating/falsifying evidence against me and publicly defaming me in the clear knowledge of the severe consequences for me of their actions; c) the 1<sup>st</sup> Defendants' will not be able to show that it has acted compatibly with my Article 8 rights; d) the allegations made against me were not supported by facts which were accurate.

12 The Defendants' cannot enjoy a privilege to protect themselves against my justifiable complaints about their conduct, as my covert recordings, transcripts and other documentary evidence clearly shows that I was defamed by the Defendants, (which was actuated by malice), for the purpose of undermining what they knew to be perfectly valid complaints. This destroys any question of privilege. It either demonstrate that no such privilege properly arises in the first place or it would defeat the defence by my plea of malice.

13 The Defendant's will not be able to succeed in a defence of honest comment, (formerly known as 'fair comment') because it is clear that the alleged comments were not on a matter of public interest and primarily, the words are simply not comment at all and are factual in character and the ordinary reader or viewer will not recognise the statements as opinions. These first points already show that the Defendant's have failed the test.

14 Even if the Defendant's were able to meet the first two parts of the test, they are still required to prove that the alleged comments are not based on facts which are true (at the time the alleged comments were made), and the facts that the Defendant's claim that they related to, (which were untrue), were not contained in privileged reports and/or published on privileged occasions. The alleged comments were not on matters which had been expressly or implicitly put before

the public for judgment, or otherwise on matters with which the public had a legitimate concern and many of the alleged comments failed to make reference to or identify any true facts which could form a basis for the alleged comment. The words are simply not comment at all and are factual in character.

15 A public authority:

15.1 should only be entitled to rely on the defence “qualified privilege” in respect of a defamatory publication if it the publication was consistent with its public law duties; if the related investigation has been fairly conducted; if the subsequent investigation report and hearing outcome

(a) is about a serious matter of genuine public interest

(b) only contains judgments and apportionment of blame where they are supported by the factual findings, and

(c) only contains criticisms of people which have been put to them in advance of publication, with an opportunity for them to respond and, subject to the requirements of observing confidentiality, those responses are fairly represented in the report

15.2 should only publish information disclose or the purpose of and to the extent necessary for performance of its public duty and in accordance with its obligations under the HRA;

16 If the information published affects an individual's reputation, there is an interference with his or her rights under Article 8(1) of the Convention which must be justified under Article 8(2). In order to be justified under Article 8(2) the publication must be necessary for a legitimate aim and proportionate to that aim. This approach is consistent with the duties imposed on public authorities by the Data Protection Act 1998 (“the DPA”).



17 Further to the above, no consideration was given my right of reply before the statements were published. The statements complained of were not put to me before the publications. This is evidenced by the documentary evidence, my covert recordings and the fact that I had brought this to the attention of the 1<sup>st</sup> Defendants' during its SOSR hearing **[B2. 798. 316 – 345 & B2.761. 327 - 330]**. I can show that I was effectively ambushed and had not been given the opportunity to defend myself and refute the statements complained about, before they were published.

18 The 1<sup>st</sup> Defendant is a public authority and as such has a duty not to act contrary to the HRA. The publications were an interference with my Article 8 rights, which include a right to reputation, and therefore its actions have to be justified (as required by Article 8(2)). Secondly there would, in any event, be no "facts truly stated" on which any such comment could be based.

19 In addition, the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Defendants' have indicated that it intends to in rely on the equality form questionnaires and pleadings in connection to my employment tribunal claims. My Equality Form Questionnaire and attached questions can be found at **[B3.1296 - 1329]**, the Defendants' Equality Form Questionnaire response dated 30 September 2011 is at **[B3.1331 - 1353]** and the Defendants' Equality Form Questionnaire supplementary response dated 16 November 2011 is at **[B3.1355 - 1366]**.

20 I sent the Equality form questionnaire to the 1st Defendant by recorded delivery, which it received on 9 August 2011 at 10.27am. The next day I was suspended from duty. It is important to note the following, (which I believe is evidence of malice):

- a) If, as the Defendants are asserting and the 1st Defendant claims in its dismissal letter **[B3. 1254]** and Tribunal pleadings, (which is reflected in the words complained of by me), that they did not have enough information about my condition and they could not ascertain the precise nature of my condition, why were no references made to not having enough information about my condition or being able to ascertain the precise nature of my condition in its equality form responses at **[B3.1331 - 1353]** and **[B3.1355 - 1366]**? ;
- b) In question 8.12 **[B3.1323]**, I clearly state that the 1<sup>st</sup> Defendant was aware of my psychiatric condition (depression, anxiety and panic attacks) and the 1<sup>st</sup> Defendant did not deny that this was the case in its response to that question **[B3.1344]**; and
- c) All the 1<sup>st</sup> Defendant's managers that gave evidence during the internal SOSR ('some other substantial reason') process referred to my alleged inappropriate conduct during team meetings. The covert recordings/transcripts of those meetings **[B2.597 - 684]**, **[B2.911 - 951]**, **[B2.952 - 1015]** and **[B3.1016 - 1048]**, do not support the allegation and the hearing officer was not been presented with any by management. It is important to note that the 1st Defendant failed to make reference to this alleged conduct anywhere in its equality form responses, even though it made references to all these meetings in the responses; and
- d) The 1<sup>st</sup> Defendant's equality form responses are remarkable for their absence of any of the reasons relied on for my dismissal;
- e) At paragraph 8.12c of its initial equality form response **[B3.1344]** the 1st Defendant makes reference to my telephone conversation with the 3<sup>rd</sup> Defendant- Christine Grice on 29 June 2011 stating that she thought that I was rude and spoke very loudly. It is strange that the 1<sup>st</sup> Defendant failed to make reference to any other alleged inappropriate conduct that its claims occurred between April and 16 November 2011, (when the equality form

response was provided) and which it relied on as its reason for dismissing me;

- f) The above point is significant, as the equality form questionnaire and response covers events between 1 April and 5 August 2011, just 5 days before my suspension and the 1<sup>st</sup> Defendant had stated that it was approved by the 3<sup>rd</sup> Defendant- Christine Grice (the individual who suspended me, investigated me and recommended my dismissal)- see e-mail from the 1st Defendants' in-house solicitor Francis Millivojevic dated 11 November at 16.49 **[B3.1368]**), and it had input from everyone I had named, (including those who had made the allegations against me, which led to my dismissal)- see e-mail from Francis Millivojevic dated 4 November 2011 at 16.29 **[B3.1368]**.

#### *Harassment*

- 21 The covert recordings contained on the USB that I sent to the Court, (a copy of which is in a USB in an envelope at the front of my bundle 1), the related transcripts **[B1.342 – B3.1078]**, my witness statement number 2 **[B1.62]** and annex 1- 11 and 13 – 24 **[B1.342 – B3.1368]** - *the evidence sent to the Tribunal on 13 February 2013*, shows that the Defendant's wilfully and maliciously fabricated/falsified evidence against me, publicly defamed and targeted me, (a vulnerable disabled employee at the time and/or member of the public) in order to subject me to degrading treatment which has and continue to arouse feelings of fear, anguish and inferiority and it has and continues to humiliated and debase me.
- 22 If you compare my transcripts and recordings to the 1<sup>st</sup> Defendant's official notes **[B1.79 – 103 & B1.1116- 1241]** you will see that they are deliberately and wildly

inaccurate in numerous places (which is evidence of malice), including but not limited to the following excerpts which are also highlighted in my letter dated 27 February 2013, (please note that I have changed my initials to the word Claimant):

- a) Conversation between myself and the 3<sup>rd</sup> Defendants' Christine Grice during the investigation on 25 October 2011 [B1.413. 1029 - 1042]:

***'Claimant: ...And you know, also I wasn't the only one to raise concerns about Valerie's ability to support me as a disabled employee***

***CG: Who else raised?***

***Claimant: Cathy, Cathy also raised concerns about it. Because obviously she made a complaint at the same time as I did***

***CG: Okay, well I need to check that. I'm not sure that there was a complaint***

***Claimant: Well there was because it was Cathy that brought it to my attention that there had been a data protection breach...so I wouldn't have known...***

***CG: I don't think it's in relation to that***

***Claimant: ...had she not complained***

***CG: I don't think but I need to check but I don't think it was a complaint specifically about Valerie***

***Claimant: Oh, okay...I've, I've got information to the contrary...from Cathy herself***

***CG: Erm...Let's move on.'***

The 1<sup>st</sup> Defendants' official notes stated the following [B1.84 - 85]- bottom of page 84 and top of page 85

***'Claimant: Cathy Robinson has also made the same complaint about her.***

***CG: I will check but I don't believe the complaints are linked.***

***Claimant: I believe otherwise, as I have heard it directly from Cathy Robinson.***

***CG: Let's move on.'***

- b) Conversation between the 3<sup>rd</sup> Defendant-Christine Grice, Karl Harry (note taker), Cynthia Maxwell (HR) and myself during the investigation interview on 1 November 2011 [B1.392. 1464 - 1470]:

***'CM: Christine asked you a supplementary to that***

***Claimant: The supplementary answer is that I believe that it's a good practice to take notes when you attend meetings....good practice***

**JL: Sorry Christine what did you sa...that is what?**  
**CG: Erm...Karl did you**  
**KH: No I'm not actually writing your questions down**  
**CG: Oh okay'**

At the end of the interview the 1<sup>st</sup> Defendants' official minutes show these notes [B1.99].

**'Claimant: Is there a record of the supplementary questions?**  
**CM: Yes. These are being recorded.'**

My covert recordings and transcripts show that the 1<sup>st</sup> Defendants' notes do not contain all the supplementary questions and answers.

- c) Conversation between myself and the 3<sup>rd</sup> Defendant-Christine Grice during the investigation interview on 1 November 2011- which is not contained in the 1<sup>st</sup> Defendants' minutes which were provided to me [B1.89 - 99]:

**'Claimant: And you know and I hope that Elaine Smith is being questioned in the same manner and she's being asked why she copied those individuals into her emails as well because we're talking about parity of treatment here**  
**CG: That's not a matter for today**  
**Claimant: Okay. But I'd like that on record that I said that**  
**CG: It's not a matter for today and I don't think we need to record that**  
**Claimant: Please record that Jackie**  
**CG: Jackie can record it if she wants but this is a meeting with you**  
**Claimant: So basically I'm gonna be censored...is that what you're saying? You're gonna pick and chose what you want to record',**  
**[B1. 392.1441 - 1450]**

- 23 Unison reps (who were involved with the dispute between myself and the Defendants' right up to the internal investigations stage and who had been copied into e-mail correspondence), make numerous comments in the recordings and transcripts which support/are consistent with my allegations, (please note that the C's initials have been changed to the word Claimant):

- a) Comment made by Jackie Lynham- Unison rep (and Lewisham employee for 20 years), [B1. 370. 662], to me about the 1st Defendant and the 3rd Defendant-Christine Grice during the investigation interview break on 1 November 2011 [B1.362. 368 - 371]:

***'JL: ... they've done lots of things wrong. I told you before. All I'm saying to you, do you think in their position...she's got managers that have absolutely fucked up big time right, she's answerable to it all...'***

- b) Conversation between myself, Delroy Bent (also a Unison rep) and Jackie Lynham before the investigation interview on 25 October 2011 regarding my suspension [B1.415. 85 – 90 & B1.415. 92 - 94]:

***'JL: Yeah, she because they don't know how to handle the situation and what's happening, and I think the suspension was no reflection on that you've done anything wrong. They recognise, they, they everything they've done wrong...be fair. From you know even if it's sending a letter they send it to the wrong place or some mistake will be made. Rather than when you got a situation when you know everything has gone wrong for someone...'***

***Claimant: Uh hum***

***JL:...you correct and you check because, but they just haven't. And everything...and I think by the suspension wasn't a reflection on anything that you might have done wrong, it was the fact that we keep doing things wrong'***

- c) Comments made by Jackie Lynham to me before the investigation interview on 25 October 2011 regarding my suspension [B1.416a. 144 – 148 & B1. 416a.151- 156]:

***'JL: ...is the fact that everything that's happening, you keep quoting that it's affecting your health...right which it is...but what they don't wanna then be liable for is the fact that they've caused a situation with your health through all their wrong-doings...so that's what the reason why...'***

***'JL: ....and if I'm the employer, I'm not gonna keep giving you ammunition to add to that am I...you know that's their position isn't it. I'm not gonna carry on doing things wrong but actually Christine Grice must of has a field day with her staff ...I would have done, because at the end of the day, they're inadequate, you know...to say the least and the things they keep doing wrong its actually adding fuel to your tribunal claims...'***

- d) Comment made by Jackie Lynham to myself and Delroy Bent (of Unison) during the investigation interview break on 25 October 2011 regarding the allegations made against me [B1.437. 914 - 916]:

***'JL: But you know...you don't have to answer anything you're not comfortable with. But now I can see this is where this is going, that they're gonna produce out of the hat some erm complaints'***

- e) Conversation between myself, Delroy Bent and Jackie Lynham (of Unison) during the investigation interview break on 25 October 2011 regarding the allegations made against me [B1.438. 922 - 930]:

***'JL: Yeah it should be...but in retrospect what they're doing is tryna put their house in order***

***DB: They build and build and build***

***JL: Yeah they're tryna cover it***

***DB: The good thing is that you're onto their game so***

***JL: Well yeah but you know, it shouldn't become a game because it's peoples lives that you're dealing with. But it's about you're accused of something, you're gonna defend it aren't you? You know, that's their stance on it rightly or wrongly and I'm sure on the quiet, if I spoke to Christine Grice she would say what have my management been up to? You know, Jesus Christ you know'...***

- f) Jackie Lynham suggesting that management, (the Defendants') made complaints about me in order to divert attention from themselves, (on 1 November 2011) [B1.366. 532 -546]:

***'JL: See I...I think there was lots of stuff going on behind the scenes with Valerie and stuff and I think...I get the feeling that they were using the situation with you to get to Christine themselves over things***

***Claimant: To do what?***

***JL: It's just sort of rumours and things you hear... how can I put it without...they might have used the factors of your situation....***

***Claimant: Mhmmm***

***JL: ...to a means to their own end on things....***

***JL: You know...But I just think that, you know, something happened soon after you were suspended and I just thought, that's not how I pictured their relationship***

- 24 The Defendants lawyers have been in possession of the covert recordings and transcripts since the middle of February 2013, but have not disputed the content of the recordings, nor contended that the recordings have poorly transcribed or tampered with, yet the Defendants' have continued to justify and reinforce the false allegations against me, failing to retract them, despite knowing that what they wrote and/or said was false and even after having taken receipt of the damning evidence, (the covert recordings and transcripts).
- 25 Since October 2012 I made numerous attempts to provide the Defendants' lawyers with copies of all my covert recordings which further prove that the defamatory statements were actuated by malice, spite, ill-will and vindictiveness against me **[B3.1260 - 1270]**, but the Defendants' flatly refused to take receipt of the said evidence **[B3.1260 - 1270]** and right up to February 2013, (until the Employment Appeal Tribunal intervention) **[B1.255]**. I rely on this state of affairs as an admission by the Defendants' of malice.
- 26 At an Employment Appeal Tribunal hearing on 1 February 2012, Judge Underhill directed that I sent the Defendants' the covert recordings and transcripts **[B1.267c.24 & 267f.29]**. I followed that advice on 13 February 2013. The material was sent to Croydon Tribunal and the Defendants' legal department **[B3.336 - 341]**. A few days later, the Defendants' in-house Lawyer (Francis Millivojevic), e-mailed the Tribunal, stating that the legal department did not propose to listen to the recordings and proceeded to reinforce the Defendants' position/defence **[B3.1370]**. The Defendants' intend to continue defending my Tribunal claim, thereby using the forum as an opportunity to further publicly defame me and cause me humiliation, fear, anguish and injury to my already fragile mental health and presumably to lie under oath, which amounts to harassment. Lying under oath would also constitute a criminal offence.



27 The Defendants' are deliberately engaging in a course of conduct, designed to further erode my already fragile psychiatric health. This also directly relates to the words complained of and their continued denials of knowledge of my mental health condition during the relevant time. The Defendants' have been made aware that their course of conduct is severely affecting my already fragile mental (see paragraph 37 of my witness statement 2 [B1.41]) and having an adverse effect on my on-going Tribunal and High Court cases. My pleadings [AV.258] and the covert recordings and transcripts x 30 [B1.342 – B3.1049], show that there is a prima facie case of libel and slander and malice.

*The Defendants' knowledge of my medical condition / disability and disability status*

28 It is clear from the evidence that the Defendants' knew that I was disabled at the relevant time: see their own OH referral form dated 16 May 2011 [B1.112], where they specifically state that they accept that I am protected as being disabled and Elaine Smith's SOSR interview notes dated 10 February 2010 [B1.157] – top of the page, which states the following:

**CG: What did you know about her disability?**

**ES: We has the OH report which told us she had 'reactive depression'...The report said that the reactive depression was brought on by stressful situations so we did the stress risk assessment and other forms of adjustments to support her. I think it was described as depression which was reactive to stressful situations.'**

29 The Defendants' legal representatives also had access to my full medical records from September 2011 (due to the previous Tribunal case) and the 1<sup>st</sup> Defendants'- Christine Grice (the investigating officer) had this evidence in their possession from December 2011- before the SOSR hearing [B1. 1255- top if page & B1. 140 - 145], (which resulted in the 1<sup>st</sup> Defendant making an admission on my disability status, which covers the period up until at least February 2011,

see the Defendants' Tribunal opening submissions dated 9 January 2012 **[B1.147.10]**, yet the Defendants' continued to deny this throughout my employment and in their pleadings, stating that I should be put to proof of my disability and its effect, see their Case Management Discussion agenda **[B1.170]** – *top of page* and list of issues dated 17 April 2012 **[B1.167. 1]**.

30 The 1<sup>st</sup> Defendants' dismissal letter dated 5 April 2012 **[B3.1254]** even goes as far as to question my disability status, stating that there was no evidence of my disability. The 3<sup>rd</sup> Defendant (the investigating officer) stated that they would continue to have difficulties in obtaining information about my condition **[B1.1141]**- *last paragraph* (which completely contradicts what the hearing officer said at **B1. 1255- top if page**] in relation to disclosure of my full medical records): '**...and whilst it does highlight the health problems you had**'. The 1<sup>st</sup> Defendant used the alleged issue of on-going difficulties regarding ascertaining the precise nature of my condition as part of the reason for dismissing me. I have outlined the relevant law regarding the issue of my disability status at the relevant time, in my letter to the Court dated 27 February 2013 **[B1.1401 - 1402]**.

31 The 1<sup>st</sup> Defendant had been in possession of my full medical records dated up until the end of August 2011- **[B1.141]**- *letter and index from Rita Lee dated 20 December 2011*, which includes evidence from the psychologist from Maudsley Hospital who treated me during July and August 2011 and who diagnosed depression **[B1.141 – 142 & 145]**; also see her letter and fax to my GP date 5 September and 26 October 2011 **[B1.133]** and **[B1.138 - 139]**. It also evidences the fact that I had been seen by two Psychologists at Maudsley Hospital the previous year, who both diagnosed depression **[B1.143 - 144]**. My medical records also indicate that I saw Occupational Health Consultants in 2010 **[B1.143.16. & B1.144.41 & B1.104 - 105]** and 2011 **[B1.144.41- 45 & B1.144.50]**

- 51] and they all stated in their Occupational Health reports that I was covered by disability legislation [B1.105, B1.109 & B1.117].

32 In May 2011, the 1<sup>st</sup> Defendants' own Occupational Health Consultant sent it an Occupational Health report [B1.117], recommending 'reasonable adjustments' and warning it that I was in danger of a relapse of my condition. In July 2011 I was seen by the Defendants' Occupational Health Consultant Marina Waters'- she too recommended 'reasonable adjustments' and she reviewed the individual risk assessment, (which had been undertaken for my depression), by my previous employer [B1.125].

33 I was signed off sick with depression by my GP in April 2012 [B1.163]. The 1<sup>st</sup> Defendant was advised of this before they sent their list of issues and CMD agenda to the Tribunal and on 17 April 2012 [B1.165] alleging that I should be put to proof of my disability), [B1.166] & [B1.170] – *top of page*.

34 In its own OH referral form dated May 2011, the 1<sup>st</sup> defendant accepted that I was disabled [B1.112]- *bottom of the page*. I have been, (and I remain) on medication for depression since 2010 [B1.264]. In light of all of this, it is incomprehensible why the Defendants' would continue to refute the issue. This is a perfect example of the type of harassment that I had to endure at their hands. It is clear that I am a disabled person under the Equality Act 2010.

35 The Defendants' would have been aware of the likelihood of my impairment continuing or recurring, was extremely high, considering this fact and the overwhelming medical evidence pointing to this from its own Occupational Health Consultant in May 2011 [B1.117] and my GP's letter to the 1<sup>st</sup> Defendant dated 6 April 2011 [B1.111] and the fact that the 1<sup>st</sup> Defendant had cited their concerns

for my health as part of it's reason for suspending me [B1.131]- the 3<sup>d</sup>  
*Defendant-Christine Grice's letter to me dated 11 August 2011.*

### *Conclusion*

36 I believe that the Defendants' have openly lied about the facts in this case and continue to lie with the objective of obstructing justice and their conduct also amounts to a misuse of the privilege of legal process in order to vilify me and deceive that Court and Tribunal, thereby perverting the course of justice, defeating the ends of justice and obstructing the administration of justice. Any defence run by the Defendants' would clearly indicate that they intend to perjure themselves and engage in conduct designed to prevent a fair hearing, indeed any objection to this application and for the defamation case to proceed first would be an attempt to prevent the Court from finding out the truth ipso facto.

37 The Defendants' conduct is both habitual and persistent and demonstrates the need for protection of me as a vulnerable disabled Claimant. Unfairly labelling individuals and trying to discredit them because they are prepared to expose those that abuse their authority will never lead to the provision of a fair and just legal system and it will represent an ambushing of justice.

38 The 1<sup>st</sup> Defendant is in breach of my rights under Article 8 of the European Convention of Human Rights (ECHR), in particular the right to reputation embraced by Article 8. The value in protecting reputation is not just for the benefit of the particular individual, but is for that of the public in general. Reputation goes hand in hand with a person's dignity. My reputation affects who will employ me, who will do business with me and who will promote me etc.

- 39 The defamatory statements are also in the hands of body (the Tribunal), whose role is to publish and despite the fact that I have furnished it with the covert recordings and transcripts; it has given every indication that it intends to publish the words complained of and allow them to be uttered in open court, (which I will be prevented from disproving by adducing the covert recordings and transcripts.
- 40 My reputation has been destroyed and continues to be destroyed by the numerous unfounded and defamatory statements and allegations which have been made against me and I have been denied the opportunity by the Tribunal to vindicate this reputation with the aid of the covert recordings and transcripts.
- 41 If this Court does not intervene by granting an interim injunction, (which would effectively prevent the Defendants' from being able to proceed with the Tribunal case first), it would result in me, (a disabled litigant in person), having to deal with parallel proceedings and it would also allow the harassment, defamation and destruction of my reputation and mental health to continue. Society as well as I will be the losers. The protection of reputation is not just a matter of importance to individuals like me, but it is also conducive to the public good.

I believe that the facts stated in this witness statement are true.

Signed

Ms Ayodele Adele Vaughan

13 March 2013