IN THE HIGH COURT OF JUSTICE - QUEEN'S BENCH DIVISION

Neutral Citation Number: [2017] EWHC 3870 (QB)

Case No: HQ17X04474

Courtroom No. 37

Royal Courts of Justice
Strand
London
WC2A 2LL

11.15am – 1.15pm
Wednesday, 20th December 2017

Before:
THE HONOURABLE MR JUSTICE SPENCER

B E T W E E N:

MS GLORIA ALEXANDER-WIGHT

and

BARTS NHS TRUST HQ17/0599

MS R MORTON appeared on behalf of the Claimant
MR J BOYD appeared on behalf of the Defendant

JUDGMENT
(Approved)

MR JUSTICE SPENCER:

1. By this application, the claimant, Mrs Gloria Alexander-Wight, seeks an interim injunction to prevent her employer from keeping her suspended from work and, further, an interim injunction preventing the employer from any further disciplinary action against her.

2. The background to this matter is that Mrs Alexander-Wight is employed by the defendant Trust as a band 6 midwife and she has been so employed since 2010. On 4 April 2017, the claimant was employed at a midwifery-led birthing centre which is part of the Trust, and a patient, SK, who was at term+4, was assigned to the claimant's care. There was a failure to progress and it was decided that there should be a caesarean section. There had been an epidural anaesthetic administered at 19.25 on 4 April, and on 5 April at 01.50 an anaesthetist attended the patient's room. By now the patient had been transferred to the consultant-led labour ward, and been administered a further top-up to the epidural with a view to providing sufficient anaesthetic for the caesarean section to be carried out. It would appear that the patient was taken to theatre at 01.55, and in the course of what happened in theatre it was appreciated that the patient had suffered a cardiac arrest. Despite resuscitation and emergency procedures being carried out, the patient has sadly been left with severe hypoxic brain damage and is, I understand, in a minimally conscious state.

3. Not surprisingly with such an incident, the Trust opened a Serious Untoward Incident investigation and that was undertaken by an independent consultant anaesthetist, Dr Sarah Wray. For the purposes of that investigation, statements were taken from the staff involved in the care of the patient, including the claimant. There is a dispute as to whether the claimant had proper access to the patient's notes before preparing that statement. Whether or not she did, the statement, which is at tab 3 of the defendant's bundle, appears to refer in detail to the care that was given, making cross-reference to the clinical and observation charts and setting out the events that occurred by reference to specific times.

4. In relation to the incident itself, the claimant states:

> "I, Gloria Alexander-Wight, transferred SK on bed with assistance of coordinator, EN. 01.55, arrived in the anaesthetic room alert and orientated to time, place, and person. A disposable cap placed on head, earrings removed, given to husband. 01.56, SK on transfer from bed to theatre table became unresponsive, in theatre 7 was …"

and then she refers to the name of the specialist registrar anaesthetist, and other members of staff who were present. Continuing the statement, 'Facial oxygen was applied, CTG,' that is cardio-tocograph, 'Was applied, and bradycardia. 01.56 maternal collapse, 2222 call put out by coordinator'.

5. Dr Wray completed her investigation and produced a report on 7 August 2017. One of the findings in the report appears to have been a failure by the midwifery team to record observations on the delivery suite epidural observation chart between 19.45 and 01.45. However, that seems to be an incidental finding in relation to a specific chart which would be of interest to an anaesthetist, being an epidural observation chart, and it may well be that detailed observations and records were made in the other usual midwifery records, as

referred to by Mrs Alexander-Wight in her statement. In those circumstances it does not seem that the specific failure in relation to the epidural observation chart has much bearing. More importantly, it appears that Dr Wray's findings were presented to the patient's husband at a meeting. He then set out to the Trust his view that the information provided to Dr Wray was inaccurate. In a statement made for the purposes of these proceedings, by Deborah Coulthurst, who is the 'Assistant Director of People' at the defendant Trust, Mrs Coulthurst says that:

> "15. The husband set out his belief that his wife's cardiac arrest had gone on for longer than was indicated in the statements provided by the Trust's staff. The patient's husband said that as soon as his wife received the epidural block top up the anaesthetist left the room. He said that his wife said that she felt funny soon after this, and collapsed. However, the husband said that he thought this was meant to happen as part of her being anaesthetised and awaiting transfer to theatre for a caesarean section.
> 16. This is in contrast to Mrs Alexander-Wight's statement which stated that the patient was, "Alert and orientated to time, place, and person," on arrival at theatre, and only became unresponsive in theatre on transfer from bed to operating table".

Apparently the labour coordinator had also provided a statement and maintained that the patient had collapsed in theatre.

6. Mrs Coulthurst's statement goes on to say:

> "Both accounts were in contrast to the anaesthetist who said that, "Two midwives wheeled the patient into the anaesthetic room and told me something was wrong. I assessed the patient rapidly, and although she was sitting up and had her eyes open, she was unresponsive to voice and a painful sternal rub". The reference to being unresponsive to voice and to a painful sternal rub refers to two of the three tests which constitute the Glasgow coma score and indicates that the patient's state of consciousness was severely reduced".

It is not clear to me at this stage why this apparent contradiction between the accounts of the midwives and the account of the anaesthetist was not apparent to Dr Wray when she conducted her investigation and why it was necessary for the patient's husband to intervene before there was some doubt cast over the accuracy of the statements provided by the midwives.

7. In any event, the claimant was called to a meeting on 29 September 2017 with her line manager, Mrs Gomoh. In her statement Mrs Coulthurst says that they 'informally met', but I do not understand the import of the adverb 'informally', when a letter of 20 October 2017 from Mrs Gomoh to the claimant records that there had been discussion about concerns being raised with regards to the midwifery care. There was reference to the possibility that the cardiac arrest had happened for longer than indicated in the statements

provided by all the staff, and the need for a midwifery management investigation and support. More importantly, the letter went on to state:

> "There was clear evidence that no clinical observations were documented after the epidural top up was administered, and this information was relayed to you. You also told us that SK was alert in the anaesthetic room and that you removed the woman's earrings and gave them to Sister E, the coordinator on shift. Due to the seriousness of this case there may be possible legal and NMC referrals'. [NMC being a reference to possible complaint and disciplinary proceedings by the Nursing and Midwifery Council]. The letter continues, 'The following immediate actions will be taken to support you:
> - Following your annual leave you are to work day shifts instead of nights so that all specialist midwives can support you.
> - On return from your annual leave you are to complete a developmental programme of support by 29 December 2017.
> - To attend human factors training by 29 December 2017",

8. Thus, it is said on behalf of the claimant that with full knowledge of the issues raised by the investigation and the claimant's potential part in it, the defendant Trust had taken a decision through the claimant's line manager and the labour ward lead at the hospital in question, that decision being to follow through the actions set out in the bullet points in the letter. This is in contrast to a decision to take formal disciplinary proceedings or to suspend the midwife.

9. Mrs Alexander-Wight went on leave and returned on 16 October 2017. On that day she was summoned to a meeting chaired by the Head of Midwifery, Mrs Felitta Burney-Nicol, and at which were present not only Mrs Gomoh but also a Lucy Walker of Human Resources and a Keeley Horton who took notes. What occurred in that meeting appears from a letter of 20 October, second letter of the same date, from Mrs Burney-Nicol to the claimant. Mrs Burney-Nicol states that she explained that the meeting was being held with regards to the care given to the patient, SK, the reason being to discuss the concerns raised by the husband, following a meeting held with him to discuss Dr Wray's final report. Mrs Burney-Nicol states, 'We are now clear about what happened in the room and would like some clarification about gaps in the care you gave'. The import of that sentence is that Mrs Burney-Nicol had reached a final view about the events in question, a view which was adverse to the claimant and the account which she had given. The letter goes on to state:

> "There are discrepancies in the statements received from the three key people regarding what had been said on the day, the care the lady received, and the timeline of events on the day. This meeting was called to give you the opportunity to voice your view and recollection of the events of the day in question. I explained to you that due to the outcome of the lady's health the case is now going to go legal, has been escalated to the Chief Executive, and will be reopened for investigation. As the

> case midwife I explained the importance of your input into the investigation to enable correct decisions to be made and the importance of relaying the correct chain of events on the day in question. I also stated that this case will be escalated to the NMC. You stated that you were not made aware of the agenda of this meeting, only to attend an urgent meeting; you were not notified of who will be in attendance at the meeting. You explained that you have previously submitted two statements, and if you are required to further input or disclose any information you will need time to allow yourself to prepare and compose yourself.
>
> I explained that after receiving the report there were discrepancies with statements, and clarification is required. I explained it was in your interests that you were given this opportunity to respond and clarify before a decision was made. However, you were adamant you did not want to look through your previous statement which was submitted, or contribute towards the meeting. I made the decision to adjourn the meeting for a short period for you to reflect on your decision. However, you were still adamant you did not want to contribute or clarify your statement on this date. I explained to you that due to your decision I was left with no choice but to suspend you from clinical duty with immediate effect. This suspension includes all duties across the whole of Bart's Health, including all bank and agency work. This suspension is in line with the Trust's conduct and capability policy, pending an investigation. This suspension is not punitive, but applied to protect both you and women while we investigate what happened and understand the care you gave".

10. It seems to me that the claimant was, in one sense, ambushed at that meeting: she had not been given fair notice of what was to be discussed or who was to be present, or of the way in which the matter was being escalated at that meeting. Although it has been suggested and portrayed that the meeting was intended as no more than an investigatory meeting, it seems to me that, in fact, it was at least part of what was intended to be a disciplinary process as shown by the fact that the claimant was suspended at the end of that meeting. If the suspension was, as Mrs Burney-Nicol's letter seems to suggest, purely in reaction to Mrs Alexander-Wight's decision not to cooperate with the meeting and the questions that she was being asked, then that is rather different to a suspension because of concern about ongoing practice and the safety of patients. There is certainly nothing in the letter to suggest that it was as a result of concern in relation to patients, except the reference to, 'Protecting women while we investigate'. The words, 'I explained to you that due to your decision I was left with no choice but to suspend you,' could be interpreted as suspension as a result of the decision of Mrs Alexander-Wight not to cooperate with the meeting. However, it could also be said that the decision of Mrs Alexander-Wight not to cooperate meant that there was no further information available to Mrs Burney-Nicol than that which she already had available, and that the information she already had available, which raised questions as to the claimant's practice and indeed the accuracy of the statement she provided for the purposes of the investigation, meant that there was a basis to suspend. It must be said that the letter is not clear and is possibly not wholly accurate.

11. The claimant sought advice from an organisation called the Nurses' Defence Service,

which is an independent legal defence service for registered nurses. On 16 November the claimant sent a letter to Mrs Burney-Nicol enclosing a letter from the Nurses' Defence Service of 15 November. Relevant sections of that letter include the fact that the first letter of 20 October, reflecting the meeting on 29 September, had referenced a report and new information from the patient's husband, but none of that information had been relayed to the claimant, and there had been no explanation as to why there were serious concerns about the midwifery care provided. It went on to state, 'Had there been genuine concerns about the conduct or capability of Mrs A-W, she should have been notified with supporting evidence and given a reasonable opportunity to reply in the five months following the incident'. The letter raised concerns about the meeting of 16 October, pointing out that the claimant was only told to attend a meeting, but without being given any indication of what was to be discussed or who was to be present. She was not told that she had a right to be accompanied, and the decision to suspend came before any evidence of conduct, of capability issues had been put to the claimant, nor was she informed of why her care may have been lacking or what the information was relayed from the patient's husband which had warranted a further meeting.

12. The letter asked for a copy of the Trust's conduct and capability policy referred to in Mrs Burney-Nicol's letter of 20 October. It was pointed out that the two letters of 20 October were contradictory, that they had different outcomes, one of which was suspension, and the other which was support but otherwise allowing the claimant to work as normal. The letter then went on to say:

> "As made clear in the meeting of 16 October, Mrs A-W would welcome the opportunity to assist in the investigation by answering the questions required of her. However, there has been a significant unexplained delay and as such her memory will have faded, she has still, to date, not been provided with any documentary evidence. Therefore she would require advance disclosure of the information necessary to assist in the answering of specific concerns, and she would like to be accompanied. While Mrs A-W acknowledges that the Trust claims the suspension is not punitive, it relies upon the conduct and capability policy and the serious concerns over midwifery care without any specifics. As such, it is likely to be considered disciplinary action and the High Court in *Lim v Royal Wolverhampton Hospitals NHS Trust* [2011] EWHC 2178 (QB), the High Court found that even in the absence of an express term, "It is no doubt an implied term of contracts of employment that any disciplinary process be conducted fairly and without undue delay". If a substantive reply is not received within the next 14 days, by 30 November 2017 at 4pm, [the claimant] will be seeking further advice about injunctive relief and a potential claim in the Employment Tribunal, with a view to providing a letter before action".

13. On 24 November, Mrs Burney-Nicol replied, acknowledging that there were serious investigations, that the suspension was likely to be extremely stressful and worrying, and promising to keep the claimant up to date with information and progress. She said that

she would be writing shortly to invite the claimant and her union representative to a formal meeting as part of the investigation process, and that Mrs Gomoh would be writing separately to advise of the details for the disciplinary investigation, for which she was to be the commissioning manager. She said, 'As you are currently suspended, I have enclosed a copy of the Trust's disciplinary policy for your reference. Please note there is a formal process for appeal as part of this policy'. Finally, on 8 December Mrs Gomoh wrote further to claimant confirming that she had commissioned an investigation into allegations of failure to provide basic midwifery care to the patient who suffered cardiac arrest. She stated, 'A meeting will be organised with you by the investigating officer to discuss your allegations in more detail and inform you of the process and timescales involved. During this meeting you will be asked questions regarding the allegations'.

14. That was followed by the taking out of the application for an injunction to prevent the suspension from continuing, to prevent any further disciplinary action. The application notice was stamped on 11 December 2017 and the notice of hearing gave today's date, 20 December, as the date of the hearing.

15. On behalf of the claimant, Miss Rowan Morton submits that the unusual feature of this case is the significant and substantive change in the approach of the defendant from the meeting on 29 September 2017 between the claimant and Mrs Gomoh, and the meeting on 16 October between the claimant and Mrs Burney-Nicol. She described the meeting of 29 September as supportive, whilst the meeting of 16 October led to what was a described as 'knee-jerk' suspension.

16. It was submitted that the decision to suspend is fatally flawed. Reference was made to the paucity of the evidence adduced by the defendant in relation the allegations in this matter, and in particular the lack of any statement from Mrs Burney-Nicol who played a central role in the decision to suspend. It was pointed out that whilst, at paragraphs 31 to 36, Mrs Coulthurst sets out her understanding of the reason for the decision to suspend, Mrs Coulthurst was not of course the decision maker. The justification provided in those paragraphs is not the justification that was presented to the claimant, plus Mrs Coulthurst says that the reasoning for the suspension included concerns which raised serious questions about not only the claimant's clinical standards, but also her probity and integrity. There was reference to the discrepancies between the statements provided to Dr Wray, and Mrs Coulthurst said, 'In circumstances where those discrepancies were potentially the result of Mrs Alexander-Wight being dishonest, she had no confidence that she could keep her within the workplace whilst upholding her responsibility to towards patient care'. Miss Morton submitted that there was no adequate basis for the suspension or for the change in approach between 29 September and 16 October. Whilst a risk to patient safety seemed to be relied upon, she submitted that there was no consideration of the fact that there had been seven years of good practice.

17. Furthermore, Miss Morton pointed out that the suspension appeared to have been based upon a policy called the Trust conduct and capability policy, a policy which was not supplied to the claimant and was not included in Mrs Burney-Nicol's letter of 24 November, and has not been supplied by the defendant for today's purposes; it has still never seen the light of day. Miss Morton submitted that this case is effectively on all-fours with the authority of *Agoreyo v London Borough of Lambeth* [2017] EWHC 2019

(QB), a decision of Foskett J of 20 July 2017. That case concerned a teacher where there had been concerns in relation to the ongoing welfare of children in his care, and where the teacher had been suspended. There, too, there had been a letter from a Mrs Mulholland setting out the basis of the suspension, and Foskett J pointed out that the decision to suspend had been taken on the day the letter was written, it did not indicate by whom the decision was made, no reference had been made to any consideration having been given to the appellant's version of events prior to the decision to suspend having been taken. There was no reference to any consideration being given to whether any alternative to suspension might exist whilst the initial investigation was carried out. Whilst the reason given for the suspension had been said to be to allow the investigation to be conducted fairly, the letter had not explained why the investigation could not be conducted fairly without the need for suspension.

18. Foskett J said that it is well established that suspension is not to be considered a routine response to the need for an investigation. He referred to a document issued by the Secretary of State called Dealing with Allegations of Abuse Against Teachers and Other Staff, where it had been said:

> "In response to an allegation, all other options should be considered before suspending a member of staff. Suspension should not be the default option; an individual should be suspended only if there is no reasonable alternative. If suspension is deemed appropriate the reasons and justification should be recorded by the employer and the individual notified of the reasons".

Foskett J went on to refer to the case of *Gogay v Hertfordshire County Council* [2000] IRLR 703 (CA), which provided legal authority for the proposition. In Mr Agoreyo's case, as here, Foskett J observed that, 'The protection of the children was not the reason given for the suspension in Mrs Mulholland's letter. She said that the purpose of the suspension was to allow the investigation to be conducted fairly'. Here, Miss Morton says that the protection of patients was not the reason given for the suspension, but rather the decision of the claimant not to cooperate with the meeting on 16 October. Miss Morton submitted that there had been no consideration of alternatives to suspension, and she referred to paragraph 82 of Foskett J's judgment where he said:

> "In my judgment suspension itself against that background would have been sufficient to breach the implied term relating to trust and confidence, particularly when the appellant's line manager had investigated at least two of the incidents and not considered them worthy of disciplinary action. If I was wrong about that, I would certainly say that suspension within a few days of being told, finally after several weeks of requests of help, of the introduction of a scheme of support and further induction, because of the problems with Z and O, was a further reason for that term having been broken, particularly when that proposed scheme had not yet been fully implemented. Either or both of these approaches in combination would constitute a repudiatory breach of contract by the defendant".

Miss Morton says that the present case is on all-fours with that case, and everything that Foskett J said in paragraph 82 has equal application here.

19. She and Mr Boyd, who represents the defendant, agree that the legal principles are as stated in Mr Boyd's skeleton argument as follows:

> "1. The defendant accepts the court will be prepared to intervene in a disciplinary process if it is demonstrated the procedures are being conducted on a basis which makes their conduct a breach of contract, such that the pursuant would also be breach [referring to *Edwards v Chesterfield Royal Hospital* [2012] IRLR 129].
> 2. Given the court is concerned with the granting of an injunction to restrain a breach of contract, it is essential to establish the terms of the contract [referring to *Mezey v South West London St George's Mental Health NHS Trust* [2010] IRLR 512, at paragraph 48].
> 3. The disciplinary process or procedure relating to C is non-contractual and therefore the claimant finds herself in the same position as the claimant in *Hendy v Ministry of Justice* [2014] EWHC 2535 (Ch), but the claimant is entitled to rely upon an implied contractual obligation upon the defendant's good faith and fairness in the operations of the policy.
> 4. The court will intervene in an employment dispute over disciplinary procedures only where the facts justify it. The question for this court is whether there is a serious issue to be tried, whether the balance of convenience lies in the continuation of the suspension or an injunction preventing the suspension in further disciplinary proceedings, and whether, as an alternative to an injunction, damages would be an adequate remedy".

20. Miss Morton submits that suspension is not a neutral act and damages are not an adequate remedy where the occupation in question is vocational and professional, and where the claimant could expect both the positive of progression in her work and career if she remains in active employment, and also avoidance of the negative risk of becoming deskilled if she remains suspended for a significant period of time. In those circumstances, she submits, that I should accede to the application.

21. For the defendant, Mr Boyd acknowledges that the process could have been, my word not his, "tighter", but he submits that the defendant was entitled to revisit the position with the Head of Midwifery on 16 October, despite what had happened with the line manager, Mrs Gomoh, on 29 September. He submits that in accordance with the evidence of Mrs Coulthurst, effectively two reasons are given for the suspension, the most important being that Mrs Burney-Nicol considered there was a real risk to patient safety if the claimant stayed at work. He refers to Mrs Coulthurst's understanding that Mrs Burney-Nicol was, 'Concerned about the serious risk to patients if Mrs Alexander-Wight was not routinely documenting clinical observations on patients' charts'. She refers to the uncooperative approach of Mrs Alexander-Wight in providing her version of events, and concern that she had, or may have provided, false or misleading information in her witness evidence for Dr Wray's investigation, concerns, which if substantiated, raised serious questions not only about the claimant's clinical

standards, but about her probity and integrity. In addition, it was submitted that there was ample evidence and an ample basis upon which the defendant could take the decision to suspend the claimant. He pointed out that the claimant had not availed herself of her opportunity to appeal against the decision to suspend her, although she was informed of that right of appeal.

22. He referred to the defendant's disciplinary policy, which was exhibited to Mrs Coulthurst's statement, and the flow chart, at page 11, which shows that the stage after a manager asking for the employee's side and requesting they write a statement where appropriate can involve a decision whether temporary redeployment or suspension is necessary. It should be pointed out that an earlier stage is for the employee to be notified of the alleged misconduct, and it seems to me that reliance upon that flow chart does not sit well with the submission that the meeting of 16 October was not, in fact, part of the disciplinary process, but was part of the investigatory process. Nevertheless, Mr Boyd submitted that the decision was rooted in the concept of substantial risk to patients, and that the Trust is uniquely in a position to form a view about that, a view with which this court should not lightly interfere. He submits that the Trust has provided material which is sufficient to raise genuine concerns in relation to the risk to patient care, and he asked the court to consider what the position would be if the Trust had done nothing and a further incident had occurred, the damage to reputation which that would have involved.

23. Mr Boyd also submitted that it is not for this court to get involved in the micro-management of disciplinary processes. He pointed out that the complaint in this case, as reflected in the skeleton argument of Miss Morton, at paragraph 26, follows a series of procedural steps which are said to be failures, rather than an allegation of breach of contract in relation to the suspension itself, as in the case of *Mezey v South West London St George's Mental Health NHS Trust*. Rather the allegation is in relation to the process which led to suspension. Therefore, he submits, any intervention by the court would be intervention in relation to the process, that would indeed be micro-management which such cases as *Kulkarni v Milton Keynes Hospital NHS Foundation Trust* [2009] IRLR 829 says should be avoided. Further, he submits there was no serious issue to be tried. If he is wrong about that, he submits that in any event the balance of convenience should rest with the continuation of the suspension. For similar reasons to those which have been set out in the previous case of *Hendy v Ministry of Justice* [2014] IRLR 856, where at paragraph 87 it was said:

> "The overall balance of convenience may well favour letting the procedure run its course if the unfairness lacks enough severity. In the present case, for example, there is to be a disciplinary hearing, and then there is a possible appeal. Those are stages which are capable of considering unfairness, even if there is a technical breach of contract. Then, at the end of the road, there is the availability of an unfair dismissal claim in the Employment Tribunal".

24. Mr Boyd makes two further submissions. Firstly, he submits that the suggestion that damages would not be an adequate remedy is not made out. Secondly, he submits that there has been unreasonable delay in bringing this application, given that the claimant has known of her suspension since the middle of October, and there was reference to the

threat of an injunction in the letter of 16 November 2017, to which I have referred.

25. In my judgment, Miss Morton is right that there is nothing in reality to distinguish this case from the decision of Foskett J in the case of *Agoreyo v London Borough of Lambeth*. The fact is that the defendant has completely mismanaged this disciplinary process. Once it became apparent that there were apparent discrepancies between the statement provided by the claimant and either the statement being provided by the anaesthetist or what the patient's husband was saying, it was incumbent upon the defendant to take a proper and considered view as to what course they should take in investigating the matter further, and in relation to any disciplinary process to be brought against the claimant. When Mrs Gomoh met the claimant on 29 September and made the decisions that she did, the claimant was entitled to assume that, in relation to the matters which were raised in that meeting, and the potential discrepancies which had been pointed out and which were known to the Mrs Gomoh when she had that meeting, the decision that had been taken, which she accepted, was the end of the matter.

26. It was wholly unfair, in my view, for the defendant not only then to have significantly changed its mind, but also to have conducted itself in the way in which the meeting of 16 October was conducted, when the claimant was invited to a meeting without being given any real indication of what the purpose of the meeting was for, where it might lead, who was to be present, and without being given an opportunity to consider allegations in advance of misconduct, or to be accompanied or represented. This was not in accordance with the Trust's own disciplinary policy. Mrs Burney-Nicol purported to suspend and conduct herself in accordance with a document referred to as the Trust's conduct and capability policy, but the failure to produce that to the claimant, or even to this court, leads me to think that that is a document which does not even exist. Certainly, if it did exist, I would have expected to it have been exhibited to Mrs Coulthurst's statement. If it does not exist, then it is of enormous concern that this suspension should have been carried out by reference to an imaginary document. What it smacks of is Mrs Burney-Nicol acting in haste and out of pique because of her disapproval of an approach to that meeting which, in my judgment, Mrs Alexander-Wight was wholly entitled to take, given the circumstances in which that meeting arose, and given the position in which she found herself, in my view, unfairly.

27. It follows that this disciplinary process is wholly off the rails and it should have been put on the rails in a proper way to start with. I find it surprising that an organisation such as this defendant should not have sorted out its processes in a better way than seems to be illustrated by the sad events represented by this case. In all the circumstances, I accede to the application and I make the orders which are sought.

Transcript from a recording by Ubiqus
291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiqus.com

This transcript has been approved by the judge.