

**Factual scenario**

1.6 The Claimant was Chief Executive of the Respondent between 9 October 2006 and 3 February 2010. For the first two years this was under a contract for interim management services (Bp 66). Then it was as an employee. One of his claims is that he was unfairly dismissed.

1.7 By early 2009 the Strategic Health Authority ("SHA") and the principal provider PCT, NHS Lincolnshire (the PCT), were concerned that the Respondent had failed 2 KPI's over the preceding Christmas period. The first was that patients were spending too long waiting to be seen in Accident and Emergency. The second was that with a number of electives referred through by the PCT, the maximum 12 week wait was being exceeded. From all the documents that I have read today it appears that in the ensuing debate as to ownership on these issues,

[REDACTED]

[REDACTED] In the middle was Dame Barbara Hakins (DBH), the Chief Executive of the SHA. The SHA has an umbrella role over both of the Trusts in terms of inter alia the delivery of health performance targets. In that context the Claimant will allege that he published, in the form of a letter to DBH, what would be a qualifying protected disclosure (PID) on 8 April 2009. I have read it. Prima facie it is a PID and by reference to s43G of the ERA, and because it raises concerns inter alia about patient safety. I am not of course making other than a judicial observation for today's purposes and of course there are then issues concerning good faith and the timing of the PID in the context of the worsening relationships.

1.8

[REDACTED]

1.9

1.10 Against that background [REDACTED] the Claimant both wrote inter alia to the NHS Chief Executive at the Department of Health who is Mr David Nicholson. The Claimant's letter is dated 24 July 2009 (Bp378). At the same time he wrote to the temporary replacement Chairman of the Respondent, Paul Richardson, and also to DBH. These letters are critical of what by now had happened and also refer back some 6 months to when DBH had been allegedly about wanting the Claimant removed. So as per my previous observation they are prima facie PIDs. What then happens of material significance is that circa 26 July the Claimant went off on sick leave with stress.