

**Private and Confidential**

**CONFIDENTIAL INVESTIGATION REPORT TO  
THE POST OFFICE LIMITED**

**By**

**Simon Stephen**

**Heminsley Law**

## 1. INTRODUCTION

1.1. Heminsley, a law firm regulated by the SRA with particular expertise in carrying out independent employee related investigations, was asked by the Post Office Limited (the "Company") to undertake this investigation on 13 April 2023. I, Simon Stephen, was appointed as the investigator. This report represents my findings and mine alone.

## 2. BACKGROUND

2.1. The initial background is as set out in the Terms of Reference at Appendix 1.

## 3. EXECUTIVE SUMMARY

3.1. This report highlights key evidence obtained during the course of the investigation. It is important that the extracts provided are viewed in the context of the whole evidential picture. As a result, the totality of the evidence obtained is appended to this report and should be read in full by any relevant decision maker. The transcripts appended at Appendix 4 contain all the comments and amendments made by interviewees. Where material these have been added to the extracts in the report. It is also key to read the written response to the allegations provided by JD on 13 May 2023 at Appendix 2 and documents at Appendix 5.

3.2. I am not asked to make any findings in respect of credibility but I consider that it is important, in this executive summary, to highlight that there appears to be conflicts of evidence in the accounts provided during interview. These conflicts, and evidence from other sources which may assist the decision maker, are set out in the detail below. These conflicts could be seen to support JD's assertion that there are possible ulterior motives behind the concerns raised, and particularly those of [Sensitive - Whistleblower]

3.3. The concerns raised arise out of the relationship between JD and members of the Company's People Leadership Team ("PLT") and in particular [Sensitive - Whistleblower]. At the time JD joined the Company, on 1 December 2022, the People Team report they had not had consistent leadership for some time which had impacted on the team environment. [Sensitive - Whistleblower] had been unofficially stepping up to support the interim CPO (AW) and report having autonomy. JD appears to have had a difficult relationship with her predecessor (AW) which impacted on her handover and relationships and interactions with others, in particular [Sensitive - Whistleblower] who were seen as supportive of AW. JD reports that they were resistant to her management and did not assist her to either bed in or move forward with her remit.

3.4. These relationship issues appear to have come to a head in the last week of January and the first week of February 2023. Witnesses report strained PLT meetings with conflict between JD, [Sensitive - Whistleblower]. Witnesses report being unsettled by JD bringing in ex-colleagues into senior positions quickly after she joined. Witnesses report being further unsettled by the messaging they received in relation to projects such as the [Sensitive - Whistleblower]. It appears that the conflict between JD and the other PLT members, may have adversely affected messages

flowing down to the wider team. [Sensitive - Whistleblower] perceptions may also have been influenced by JD's management style, language, and physical expressions. Witnesses report a perception that she does not listen, can use derogatory language, raised her voice and can be 'erratic'.

- 3.5. Witnesses gave evidence that JD responded to criticism and challenge with what they perceive as aggression. JD reports that she was simply trying to move forward with what she was required to do, whilst managing a pre-existing difficult working environment with resistant members of the PLT [Sensitive - Whistleblower] in particular) who she believes were acting against her.

3.6.

## Sensitive - Whistleblower

3.7. In summary

- 3.7.1. There may be a case to answer in respect of whether JD's behaviour has, on occasion, met the definition of bullying as set out in the Company's Dignity at Work policy.
- 3.7.2. There does appear to be a case to answer as to whether JD has failed to follow Company process in respect of recruitment.
- 3.7.3. There may also be a case to answer that since joining, JD's approach and conduct has contributed to a working environment of a nature that has in turn contributed to members of the PLT resigning and/or going on sick leave.

3.8. In mitigation, however, the evidence would also seem to support a proposition that the issues that have arisen between JD and others, leading to the complaints being raised, may be based on the following:

3.8.1. JD was seeking to fulfil her remit and took decisions, including firm management, where this was required;

3.8.2.

## Sensitive - Whistleblower

3.8.3.

3.8.4. [ ] may not have been achieving suitable progress in the Company's cultural change;

3.8.5. JD appears to have wanted to make change promptly but reports that she was frustrated by Company culture, bureaucracy and the approach of [ ] and [ ] in particular; and

3.8.6. While JD had not won over the 'hearts and minds' of colleagues, this was not helped by the approach of [ ] and [ ] in particular.

3.9. While the evidence provided could, therefore, support the allegations against JD, having engaged with her, this investigator holds the view that the behaviours referred to may not be borne of malice but may be a result of JD seeking to fulfil her remit but, in doing so, her handling of a challenging environment, and obstructive members of the PLT, was in a manner which may have lacked awareness, appreciation or understanding of the impact her behaviours, and approach, was perceived to have had.

3.10. Specific conclusions against each allegation are set out below:

Report Section	Allegation	Conclusion
7.2	<p><b>JD's behaviour is rude and aggressive including pointing fingers, slamming doors and rude and/or aggressive language.</b></p>	<p><b>CONCLUSION:</b> I believe that there is sufficient evidence to find that there is a case to answer in relation to the allegation that JD, at times, exhibited behaviour and language which could be (and was) perceived as rude and aggressive.</p> <p>In particular, the evidence relating to JD's physical gestures and expressions, her abrupt manner, her tone of voice and her language towards and about colleagues, when taken together, could meet the definition of bullying under the Company's policies.</p> <p>This conclusion also takes into account the evidence, and conclusions, considered under the specific further allegations below and in particular 7.3, 7.4 and 7.6.</p> <p>However, the evidence needs to be considered in the wider context and the points of mitigation identified when considering whether it meets the definition of bullying in the Company policies.</p>
7.3	<p><b>Been openly critical and rude about individuals and the Company, including calling people 'idiots', 'twits', 'minions', 'underlings' and 'useless' and referring to an intent to remove role or dismiss people.</b></p>	<p><b>CONCLUSION:</b> I believe that there is sufficient evidence to find that there is a case to answer in relation to the allegation that JD was critical and rude about individuals and the Company, including calling people 'idiots'</p>

		<p>and 'useless' and referring to an intent to remove roles or dismiss people at [redacted] but not that this was openly said outside of 1-1s or meetings with PLT members so as to be considered as bullying under the Company's policies.</p> <p>However, the evidence needs to be considered with the wider allegations, the wider context and the points of mitigation identified.</p>
7.4	<p>JD shouted at and/or raised her voice at staff</p>	<p>CONCLUSION: I do not believe that there is sufficient evidence to find that there is a case to answer that JD 'shouted' at staff. I believe, however, that there is sufficient evidence to find that there is a case to answer in relation to the allegation that JD raised her voice at staff, but not (when taken in isolation) that this could be considered as bullying under the Company's policies.</p> <p>However, the evidence needs to be considered with the wider allegations, the wider context and the points of mitigation identified.</p>
7.5	<p>JD demonstrated [redacted] Sensitive - Whistleblower to [redacted] Sensitive - Whistleblower and [redacted] Sensitive - Whistleblower</p>	<p>CONCLUSION: I do not believe that there is sufficient evidence that there is a case to answer in relation to the allegation that JD showed favouritism to [redacted] Sensitive - Whistleblower and [redacted] Sensitive - Whistleblower</p>

		<p><b>Sensitive - Whistleblower</b></p>
7.6	<p><b>Belittling, berating and/or patronising</b></p>	<p><b>CONCLUSION:</b> I believe that there is sufficient evidence to find that there is a case to answer in relation to the allegation that JD belittled, berated and patronised staff. In particular her behaviours to <input type="checkbox"/> on <input type="checkbox"/> Sensitive - Whistleblower and <input type="checkbox"/> on <input type="checkbox"/> Sensitive - Whistleblower and with a perceived pattern of not listening and <input type="checkbox"/> Sensitive - Whistleblower in response to challenge, could meet the definition of bullying under the Company's policies.</p> <p>However, the evidence needs to be considered with the wider allegations, the wider context and evidence and the points of mitigation identified when considering whether it meets the definition of bullying in the Company policies.</p>
7.7	<p><b>Micromanagement</b></p>	<p><b>CONCLUSION:</b> I do not believe that there is sufficient evidence to find that there is a case to answer that JD micromanaged staff by restricting 1-1s with <input type="checkbox"/> or requiring sign off on financial expenditure.</p>
7.8	<p><b>JD unilaterally changed, or sought to change, Company decisions/initiatives/programmes</b></p>	<p><b>CONCLUSION:</b> I do not believe there is sufficient evidence to find that there is a case to</p>

	<p>which has undermined and blocked staff's role and workstreams, including cancelling the recognition award procurement</p>	<p>answer in relation to the allegation that JD unilaterally changed, or sought to change, Company decisions/initiatives/programmes which has undermined and blocked staff's role and workstreams which could be considered as bullying under the Company's policies.</p>
<p>7.9</p>	<p>JD breached, or spoke openly of an intention to breach, Post Office Limited processes</p>	<p>CONCLUSION: I believe that there is sufficient evidence to find that there is a case to answer for the allegation that JD breached Post Office Limited processes in relation to recruitment. In particular there was no open process followed with internal or external advertising and no official interview process.</p> <p>However, the evidence needs to be considered with the wider allegations, the wider context and evidence and the points of mitigation identified</p>
<p>7.10</p>	<p>The content of the meeting between Jane Davies and [redacted] on [redacted] together with previous interactions between them, and whether either party exhibited unacceptable behaviour during or leading up to this meeting.</p>	<p>CONCLUSION: With the exception of JD [redacted] using a [redacted] and whilst both parties may have behaved inappropriately, I do not believe that there is sufficient evidence to find that there is a case to answer that JD, or [redacted] exhibited 'unacceptable' behaviours, which could potentially meet the definition of bullying under the Company's policies, in the</p>

		<p>meeting with [redacted] on [redacted] Sensitive - Whistleblower</p> <p>[redacted]</p> <p>I do however believe that there is sufficient evidence to find that there is a case to answer that JD [redacted] Sensitive - Whistleblower [redacted] which could potentially meet the definition of bullying under the Company's policies.</p> <p>However, the evidence needs to be considered with the wider allegations, the wider context and evidence and the points of mitigation identified.</p>
7.11	<p>The above are alleged to be a pattern of behaviour which has created and/or contributed to a lack of trust in the working relationship between JD and staff. Further it has created and/or contributed to a toxic working environment which has led to individuals resigning and/or being absent and impacting on their health.</p>	<p><b>CONCLUSION:</b> I do not believe that there is sufficient evidence to find that there is a case to answer that the above, taken overall, is a pattern of behaviour which has <i>created</i> a lack of trust in the working relationship between JD and staff, or that it has created a toxic working environment which has led to individuals resigning and/or being absent and impacting on their health.</p> <p>There are however grounds to find that there is case to answer that the overall behaviours identified above, when taken together, have <i>contributed</i> to a lack of trust between JD and [redacted] and JD and [redacted] which has <i>contributed</i> to them resigning and/or being absent and impacting on their health.</p>

		<p><b>However, the evidence needs to be considered with the wider allegations, the wider context and evidence set out above and the points of mitigation identified.</b></p>
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3.11. [redacted] is no longer employed but it was within my scope to consider [redacted] behaviour in the meeting of [redacted] Sensitive - Whistleblower and in events leading to it. I have set out the evidence in relation to this in the relevant headings below. I was also provided with, by JD, information as to specific and wider concerns as to [redacted] behaviour in the workplace. Where, relevant to the scope, I have set these concerns out under a relevant heading. The evidence appears to support the proposition that there had been genuine concerns around [redacted] own approach, style and conduct which may have been appropriate to consider under a formal process. These are fully covered in JD's written response at Appendix 2. In summary, JD raised concerns relating to [redacted] approach to process (see section 7.9 in particular) and also raised concerns JD about [redacted] behaviour in turn being aggressive, undermining JD and setting her up to fail (see 7.10 in particular). JD also raised wider concerns raised by colleagues in the business as to [redacted] approach (see JD's written response and 7.10 in particular).

3.12. At all times the decision maker may want to take into account the following:

- 3.12.1. the work environment in the People Team which JD inherited on 1 December 2022 when she joined the team;
- 3.12.2. that JD's role as CPO is to lead on people related initiatives, processes and policies including the Company's culture, strategy, and leadership behaviours (and indeed I am told presented on values and behaviours at the People conference in May 2023);
- 3.12.3. that all people related policies, including those relating to bullying & harassment, the code of conduct and recruitment, are sponsored by JD at Group Executive ("GE") level and that she should, therefore, be at least seen to support, if not embody, such policies;
- 3.12.4. that it was clear that certain witnesses who remain employed by the Company were (and are) concerned as to the potential scope for retaliation and were nervous about speaking to me.

#### 4. METHODOLOGY

4.1. This report does not provide legal advice.

4.2. The Terms of Reference set out the issues to be investigated (as "Concerns") as:

- 4.2.1. *The concerns raised by [redacted] Sensitive - Whistleblower in [redacted] emails dated [redacted] Sensitive - Whistleblower*
- 4.2.2. *The conduct and behaviours of Jane Davies towards [redacted] Sensitive - Whistleblower*;
- 4.2.3. *The Speak Up/PIDA reports/complaints; and*

4.2.4. *The content of the meeting between Jane Davies and [Sensitive - Whistleblower] on [Sensitive - Whistleblower] together with previous interactions between them, and whether either party exhibited unacceptable behaviour during or leading up to this meeting.*

4.3. The Terms of Reference set out the scope of my investigation as below:

4.3.1. The Investigator is required to conduct a fact-finding investigation into the Concerns detailed below. The investigation should be conducted in a fair and impartial manner and in accordance with any relevant provisions contained within [Sensitive - Whistleblower]. The Investigator is asked to make findings in relation to each of the Concerns and to recommend whether there is a case to answer at a disciplinary hearing.

4.4. I reviewed the information initially provided to me by the Company and have requested, and been provided with, additional information as the investigation has progressed.

4.5. The concerns raised in the “Speak Up” complaints were similar to and consistent with those raised by [redacted]. I have therefore considered them together in the evidence and findings below, set out under appropriate headings. These headings are consistent with the allegations put to JD when I interviewed her.

4.6. The primary allegations in relation to JD’s conduct related to bullying. Bullying is not a term defined in law but is a defined term under the Company’s Dignity at Work policy (see below). I have considered this definition for the purposes of this report. Harassment has a legal definition and is also a defined term in Dignity at Work (“DAW”) policy, which specifically provides that harassment is behaviour relating to a protected characteristic. As none of the allegations in relation to JD’s conduct have been phrased to me as relating to a protected characteristic, I have focused the evidence and findings using the Company’s definition of ‘Bullying’.

4.7. I interviewed JD in person on 9 May 2023 and have conducted the other witness interviews via MS Teams. Claire Hamilton has acted as the primary liaison point as required.

4.8. JD was accompanied by her lawyer (Richard Santy) at our interview. I understand this was a discretionary exception to the usual practice in relation to the right to be accompanied.

## 5. PROCESS AND DOCUMENTARY EVIDENCE

5.1. I undertook the following interviews between 20 April 2023 and 19 May 2023 with the people listed below (together the **Interviewees**’).

**Sensitive - Whistleblower**

- Jane Davies (“JD”) – Chief People Officer

**Sensitive - Whistleblower**

## Sensitive - Whistleblower

- 5.2. The allegations that formed the initial concerns were contained in emails between [redacted] and JD on 3 – 10 February 2023 which contained, and followed, [redacted] resignation on 3 February 2023. I understand that, following [redacted] resignation a number of individuals approached the Company's 'Speak Up' team to raise further concerns as to JD's behaviour. Claire Hamilton, from the Speak Up team, liaised with these individuals who agreed to meet with me. Claire provided me with her initial notes of the calls with these individuals. The evidence I have provided and considered is however based on my interviews with them directly. Where I identified further witnesses to interview, I asked Claire to liaise with witnesses direct.
- 5.3. It is important to flag that certain employees were, and are, concerned about potential retaliation as a result of giving evidence to this investigation. I have notified the Company of these concerns so that steps can be taken internally to protect participants. I also sought to present the evidence in a way which addresses their concerns as best as possible. All interviewees (including JD) were warned that any retaliation could result in separate disciplinary action.
- 5.4. Summaries of the evidence given at interview, to the extent that they are materially relevant, are given in the context of the relevant issues below in the Annex. As previously stated, all transcripts and documentation should be read in full.
- 5.5. In addition to answering questions which I raised, each interviewee was invited to provide any further information which they believed to be of relevance. I also asked witnesses for some specific documents, which they provided. I asked the Company for specific further information which was provided by Claire Hamilton. JD in particular provided a lengthy written response to the allegations (Appendix 2) which included emails and MS Teams conversations.
- 5.6. I also asked some interviewees some follow up questions in writing and, where relevant, the responses are included in the evidence below. JD's responses are included in the document at Appendix 2.
- 5.7. JD told me that she believed that certain individuals, including [redacted] were in contact via WhatsApp with [redacted] in relation to the matters raised against her. JD also told me that she believed [redacted] was, at least in part, responsible for stirring up the allegations. I did consider interviewing [redacted] but, on balance, came to the view that she was unlikely to be able to provide balanced evidence as to how JD had behaved after [redacted] had left.
- 5.8. As explained below, and set out in length in her written response, it is part of JD's evidence that she has in fact been the victim of bullying behaviour herself by members of the PLT (and [redacted] in particular). I asked those interviewed for copies of any relevant [redacted] but had no means to compel [redacted] as they are ex-employees. [redacted] provided me with limited messages between [redacted] and a screen shot of a presentation from JD as set out below. exchanges with [redacted] which do support however that they were in discussion about JD. These are at Appendix 5 in 'Part 1'. These exchanges also flagged a potential concern re [redacted] but as this is out of scope, I have not taken it into account or taken any further action. These

5.9.

**Sensitive - Whistleblower**

5.10. Witnesses were asked to confirm that the transcripts were accurate records of the interviews. Subject to two interviewees (including JD) they have confirmed this is the case, subject to minor corrections of typographical errors and clarifications. The transcripts (with amendments and comments) are included as Appendices. Where material these amends and clarifications have been incorporated into the extracts in this report. It is important however to read the full transcripts and comments.

5.11. I am aware that there may be other people I could have interviewed. In particular there are likely to be more people who could provide evidence in relation to JD’s behaviour in meetings and also the behaviour of others (such as [redacted] JD herself have me a list of people she wanted me to interview and [redacted] suggested I speak to members of the [redacted] [redacted] JD’s list also included other members of the PLT, including [redacted] [redacted] also told me I should speak to [redacted] **Sensitive - Whistleblower**

5.12. I am, and was at all times, mindful of my scope and balancing the interests of all involved – including concluding this process as quickly as possible whilst still providing a thorough and balanced report. I decided that I did not need to interview any further witnesses other than those I have set out above. In particular I had asked to interview [redacted] who sits on the People Leadership Team (“PLT”) and who was able to give me an account of meetings, and also an account of behaviours of others including [redacted] I also asked to interview [redacted] who works closely with JD (and others) and was also present in PLT meetings. I considered that these witnesses’ evidence assisted in balancing out evidence provided by those who came forward and enabled me to form a view without further intrusion or delay.

5.13.

**Sensitive - Whistleblower**

## Sensitive - Whistleblower

- 5.14. Witnesses were all informed that the content of the interviews, and the transcripts, would likely be put to other witnesses and be contained in this report. They were also informed that if there were any further processes, the transcripts and contents could be used for those purposes as well (with the exception of the individual who came forward via Speak Up and did not wish to be identified).

### 6. THE EMPLOYMENT CONTRACT AND RELEVANT POLICIES

- 6.1. JD's contract of employment states, at 5.4, that JD will '*comply with any rules, policies and procedures set out on PeopleHub*'. It then specifically states that those rules, policies, and procedures are however, themselves, not contractual. I understand that the policies set out below are set out on PeopleHub and are therefore covered by this provision in JD's contract.
- 6.2. The Company's Code of Conduct says at section 6 '**Summary of Responsibilities**':
- 6.2.1. **EMPLOYEES** Post Office requires all employees to: ▪ Take a reasonable and respectful approach to their work, customers, and fellow colleagues. ▪ Ensure that they understand what standards are expected of them and seek advice where in doubt. ▪ Do their best to meet the appropriate standards. ▪ Ensure that if they intend to call relevant witnesses during an investigation, if possible, they give advance notice to their manager. Employees charged with a criminal offense should notify Post Office as soon as possible. Employees are not required to let Post Office know about minor offenses such as traffic offenses (unless this may impact them carrying out duties of their role).
- 6.2.2. **MANAGERS** Post Office requires all managers to: ▪ Set a good example. ▪ Ensure that appropriate standards are communicated to their team(s). ▪ Develop a culture where employees are supported and assisted in achieving and maintaining the required standards of conduct. ▪ Manage failure to meet these standards in accordance with the process and principles explained in this policy. ▪ Consult ER Services for advice and support before any disciplinary action is taken. ER Services will not make a decision on the outcome, this responsibility lies with the manager. It is recommended that line managers undertake employee relations training.
- 6.2.3. **PEOPLE TEAM** ▪ To provide timely professional advice to employees and managers on the implementation of this policy and procedure.
- 6.3. **Section 7: Required Standards** provides that:

- This section of the code provides a guide to the standards of conduct we require from all employees.

### **Personal conduct**

Employees must maintain a high standard of personal conduct including efficiency, reliability, integrity, sobriety, punctuality and attendance. Employees must also follow reasonable instructions from their manager.

### **Respect for other colleagues**

Employees must maintain a high standard of conduct in relation to all other colleagues and treat them with respect and courtesy. They must pay particular attention to the requirements of our Equality, Diversity & Inclusion Policy and Dignity at Work Policy. They have a responsibility to protect the health and safety of other colleagues.

- 6.4. Bullying is then included in a list of potential behaviours which could be viewed as gross misconduct.
- 6.5. The Company's Dignity at Work Policy states the below in the Preamble (which is also stated in similar terms at s1 'Policy Statement'):

*'The aim of the policy is to help employees create a positive work environment in which everyone is treated with dignity and respect. At Post Office we are fully committed to equality of opportunity and promoting a harmonious working environment where no employee feels, discriminated against, intimidated or threatened for any reason.'*

*'...Post Office does not tolerate discrimination, bullying, harassment or victimisation.'*

*'We want to be absolutely clear and say it again: there is no room for discrimination, bullying, harassment or victimisation at Post Office. Everyone deserves to enjoy a happy, healthy and safe working environment. We will support you to speak out, and we will hear you when you do.'*

- 6.6. The DAW defines bullying as: *'Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power to undermine, humiliate, denigrate or injure the recipient'*.

*Examples of unacceptable behaviour are:*

- *Open aggression, threat, abuse and obscenities, shouting and uncontrolled anger triggered by trivial situation.*
- *Humiliating, ridiculing or belittling in front of others, persistent criticism or sarcasm.*
- *Personal insults and name-calling, spreading malicious rumours.*
- *Freezing out, ignoring, excluding to isolate victim.*
- *Excessive supervision and monitoring and being excessively critical about minor things with malicious intent.*

- *Setting an employee up to fail.*
- *Making threats about job security without foundation.*

*Bullying, harassment, victimisation and discrimination are acts of misconduct and where appropriate will be dealt with under the company's Conduct Code.*

*If, at any time, there is evidence that allegations of discrimination, bullying, harassment or victimization have been made in bad faith then disciplinary action may be taken.*

6.7. Section 7 sets out the responsibilities for staff:

- 6.7.1. *All* ▪ Treat everyone with dignity and respect at all times. ▪ Set a good example through own behaviours and challenge unacceptable behaviour at the earliest possible opportunity. ▪ Raise any concerns or issues about discrimination, bullying, harassment, or victimisation in good faith and in an appropriate and timely way to the appropriate person.
- Respect employees whose abilities, beliefs, religion, cultures, race, sexual identity or other characteristics are different from their own. ▪ Be open and honest in dealings with others and respect confidentiality. ▪ Challenge unacceptable behaviour in a way which is consistent with the values outlined in this policy, and where possible take steps to put an end to it without delay.
- 6.7.2. *Employees* ▪ Be aware that sometimes managers have to take decisions that may prove unpopular and that on occasions it may not be possible to undertake these decisions in a democratic way. ▪ Understand that it is reasonable for managers to expect high standards and to address issues of poor performance if they occur.
- 6.7.3. *Managers* ▪ Communicate the expected standards of behaviour to the team. ▪ Communicate the options available to employees to raise concerns. ▪ Provide open, honest, constructive and timely feedback on their team's behaviours and interaction with others. ▪ Take any issues raised relating to discrimination, bullying, or harassment, victimisation and take measures to protect an employee. ▪ If unclear about whether their approach is justifiable/appropriate they should consult with managers of the same or a higher level and ER Services.
- 6.7.4. *People Team* ▪ To provide timely professional advice to employees and managers on the implementation of this policy and procedure. ▪ Monitoring and reporting matters concerned with dignity at work across Post Office quarterly

6.8. **Section 16 then sets out 'Acceptable and Reasonable Behaviour by Line Managers to their team'.**

- 6.8.1. 'Within Post Office there is an expectation that managers fulfil their duties and responsibilities. It is reasonable to expect a manager to carry these out day to day in a fair, firm and consistent manner. These may involve:

▪ Talking to employees about their performance. ▪ Providing constructive feedback. ▪ Asking an employee to carry out a task in the workplace. ▪ Providing a constructive opinion when asked. ▪ Taking appropriate action as per the attendance, conduct and performance policies. Where these line manager responsibilities are carried out in a fair and reasonable way, they will not constitute acts of discrimination, bullying, harassment or victimisation, although some employees may feel stressed or anxious while performance functions are underway.

6.9. Finally, the DAW also says: *'Employers have a 'duty of care' for all their employees. If the mutual trust and confidence between employer and employee is broken (e.g., through bullying and harassment at work) then an employee may resign and claim constructive dismissal at an Employment Tribunal, on the grounds of breach of contract (as long as they have worked for the employer for two years)'*

## 7. EVIDENCE AND EVIDENTIAL CONTEXT

7.1.1. Summaries of the evidence under each concern are set out at Annex 1, using the same headings and numbering as in the main body of this report.

7.1.2. Before considering the evidence in relation to the specific concerns it is, I feel, necessary and helpful to set the context of the environment in which the allegations have arisen.

### **JD's overall response**

7.1.3. It is important to read JD's own written response to the allegations. In this JD makes clear her perception that the allegations arise from a collective of *'disaffected'* people acting together. She also says that these people had performance and/or behaviour issues and they did not want to be managed by her. She gives many, detailed, examples to support her proposition.

7.1.4. The evidence would suggest that there is support for the proposition that the formal raising of the allegations through the Speak Up process is a result of [redacted] discussing the issues with her team and to [redacted] in particular. The evidence would also suggest that there is support for the proposition that [redacted] have been in discussion (including with [redacted] about their concerns relating to JD's behaviour before, and after, their respective resignations with potential ulterior motives.

7.1.5 [redacted] have left, and there is evidence which would tend to show that the working environment has improved since then. JD has also provided evidence which would tend to show that she, and others, did have concerns around the conduct and/or performance of [redacted] prior to [redacted] resigning and the concerns being raised.

7.1.6. Notwithstanding the above and looking beyond who raised the allegations (and why), the evidence does show that there have been genuine concerns raised as to JD's behaviour and conduct and there is evidence tending to support them in part.

#### Investigator observations re JD

- 7.1.7. From interviewing JD, I consider it important to set out some of my own observations which may assist a decision maker. I did consider that it was possible to see, from my own interactions, behaviour that could support some of the propositions made about her perceived conduct and set out below. For example, she started our meeting by saying that she expected the Company to take action in relation to anyone who had made false allegations.
- 7.1.8. JD also appeared to be focussed on other people's behaviour rather than her own. This is again a theme that came across in the written response.
- 7.1.9. I also noticed that her frustrations and feelings could be made clear through physical gestures. For example, she did, on one occasion, point her finger when making a point and she would gesticulate with her arms. She did also at times bump her hands on the table (to the point that the transcribers of the interview fed back that it did at times make the transcription difficult). I did not consider that she did this, on purpose, to try and be aggressive or intimidating.
- 7.1.10. I also observed that JD also raised her hands in the air and leant back in a manner that appeared similar to that described to me by witnesses. I summarised this to JD as [redacted] [redacted] also said that JD would [redacted] Sensitive - Whistleblower I also observed that JD adopted a [redacted] [redacted] when telling me what [redacted] said to her, which mirrored the allegation [redacted] made as to JD's behaviour in the meeting on [redacted] Sensitive - Whistleblower (see below).
- 7.1.11. She also, on at least one occasion, seemed to stop herself from saying things she may have realised were similar to the allegations. For example, she appeared to refer to expressions on people's faces on at least one occasion which could be seen to be similar to the allegation that she asked [redacted] what was [redacted] Sensitive - Whistleblower She was telling me about a discussion with [redacted] on [redacted] Sensitive - Whistleblower and said [redacted] Sensitive - Whistleblower [redacted] Sensitive - Whistleblower
- 7.1.12. At times I could have formed a view that that JD was not listening to what was being put to her as she wanted to make her own point. For example, I put to her that – regardless of what she accepted happened – that if the alleged behaviours *did* happen then that could be acts of bullying. She however appeared to find it difficult to answer other than to tell me that the allegations were not true.
- 7.1.13. I did however find JD to be credible in that she believes what she told me. I did not see evidence that she told me anything which she did not genuinely believe to be the case. She is a senior and experienced HR professional who has held significant roles at large Companies. She told me she worked hard, with long hours, and found the Company a challenging environment due to the people there and the bureaucratic nature. She

seemed genuinely surprised by some of the allegations but at the same time did not indicate that she accepted that she had crossed any line and that all faults lay with others.

- 7.1.14. She reported that she was simply seeking to fulfil her remit and had, at times, to take firm management decisions accordingly which, whilst she perceived to be right for the Company, colleagues may not like. If this were to be the case, then it would not be supported as bullying behaviour, as explicitly set out in the DAW policy.
- 7.1.15. This then in turn suggests that there is evidence to support a proposition that JD's understanding and awareness of her impact and how she comes across is a fundamental issue with what has taken place since she joined. I am not asked to make any recommendations on this, and it will be for the Company to take into account in any decision making and to consider whether any further action and/or support may be required. I consider that this is relevant to consider against the definition of bullying in the DAW as set out above.
- 7.1.16. A final observation is in relation to JD's possible approach to following an agenda and/or written documentation. Before interviewing her, she was keen to have the allegations set out in writing before the meeting. This would not be my usual approach but I agreed in consideration of her wellbeing. JD then, I believe, wrote the written response at Appendix 2. At interview she appeared to be very much guided by that written response and would come back to it in responding to questions, which could lead to an impression that she was either not listening, or understanding the questions I was asking, or found it difficult to deviate from her written response in a manner akin to using a script. I make this observation as I consider it is relevant in seeking to understand how issues may have arisen, and in particular the meeting with Sensitive - Whistleblower As explained below JD had a set agenda of what she wanted to discuss at that meeting.
- 7.1.17. The evidence would tend to support a proposition that JD was keen to cover that agenda and in particular the point on feedback, regardless of how the meeting progressed. Again, this may be seen by colleagues to contribute to a perception of not listening and focussing on the points she wants to make.

#### Background to JD joining on 1 December 2022

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7.1.19

**Sensitive - Whistleblower**

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# **Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

7.1.41

7.1.1

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7.1.3

# Sensitive - Whistleblower

7.1.4

## 7.2. Concerns raised by [redacted] conduct of JD towards [redacted] and the Speak Up Reports: Bullying and Harassment

7.2.1. JD's behaviour is rude and aggressive including: [redacted] Sensitive - Whistleblower

[redacted] Sensitive - Whistleblower

### Summary

- 7.2.1.1. This allegation is also relevant to the other headings and should be considered as part of the context behind them as well.
- 7.2.1.2. The evidence suggests that members of the People Team found it difficult to get to know JD when she joined and that they did not consider that she sought to build a rapport with them. This in turn is perceived to have set the tone for relationships at the outset which witnesses told me then became worse as time went on.
- 7.2.1.3. The evidence tends to show that JD was perceived to be [Sensitive - Whistleblower] and [Sensitive - Whistleblower] which in term was considered to be rude by certain colleagues. This is supported by evidence which would also tend to show that JD was direct and took a firm tone when speaking to colleagues. The evidence supports the proposition that this could make meetings awkward and perceived to be 'hostile' for some of the participants involved.
- 7.2.1.4. The evidence does tend to show that JD was perceived to [Sensitive - Whistleblower] [Sensitive - Whistleblower] but I have not been presented with clear evidence that [Sensitive - Whistleblower] [Sensitive - Whistleblower]
- 7.2.1.5. [Redacted]
- 7.2.1.6. [Redacted]
- 7.2.1.7. [Redacted]
- 7.2.1.8. [Redacted]
- 7.2.1.9. [Redacted]

**Sensitive - Whistleblower**

7.2.1.1

7.2.1.1

## **Sensitive - Whistleblower**

7.2.1.1

## **Sensitive - Whistleblower**

This conclusion also takes into account the evidence, and conclusions, considered under the specific further allegations below and in particular 7.3, 7.4 and 7.6.

However, the evidence needs to be considered in the wider context and the points of mitigation identified when considering whether it meets the definition of bullying in the Company policies.

7.3.

## **Sensitive - Whistleblower**

### Summary

7.3.1.1 have been mindful at all times of the definition of bullying and expectations of staff under the DAW and Code of Conduct as set out in section 6. The decision maker should also bear these in mind.

7.3.2

7.3.3

7.3.4

7.3.5

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7.3.7

7.3.8

**Sensitive - Whistleblower**

7.3.9

**Sensitive - Whistleblower**

**Sensitive - Whistleblower**

However, the evidence also needs to be considered with the wider allegations, the wider context, and the points of mitigation identified.

7.4. JD shouted at and/or raised her voice at staff

**Summary**

7.4.1 I have been mindful at all times of the definition of bullying and expectations of staff under the DAW and Code of Conduct as set out in section 6. The decision maker should also bear these in mind.

7.4.2

7.4.3

7.4.4

**Sensitive - Whistleblower**

7.4.5

7.4.6

7.4.7

**Sensitive - Whistleblower**

7.4.8

**Sensitive - Whistleblower**

However, the evidence needs to be considered with the wider allegations, the wider context and the points of mitigation identified.

7.5. JD **Sensitive - Whistleblower**

Summary

7.5.1

**Sensitive - Whistleblower**

7.5.2

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# **Sensitive - Whistleblower**

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7.5.9

7.5.1

7.5.1

# Sensitive - Whistleblower

7.5.1

# Sensitive - Whistleblower

## 7.6. Belittling, berating and/or patronising

### Summary

7.6.1. I have been mindful at all times of the definition of bullying and expectations of staff under the DAW and Code of Conduct as set out in section 6. The decision maker should also bear these in mind.

7.6.2. These are words that have been used by [redacted] and those who raised Speak Up reports. 'Belittle' is specific words included as an example of bullying behaviour in the DAW. I have also considered the dictionary definitions.

7.6.2.1. Belittle means to make a person, or an action, seem as if it is not important.

7.6.2.2. Berate means to criticise or speak in an angry manner to someone.

7.6.2.3. Patronise means to speak, or behave towards someone, as if they are stupid or not important.

7.6.3

## **Sensitive - Whistleblower**

7.6.4. It is important to repeat the evidence above which would tend to show that, as set out above, JD did raise her voice and could behave in a manner which was perceived by others to be rude and aggressive. The evidence would tend to show that JD could become frustrated with responses from people and could react in a way which made those frustrations clear. This comes into play in these allegations as well as the evidence would tend to show that this influences perceptions of being belittled and/or berated.

7.6.5

7.6.6

7.6.7

## **Sensitive - Whistleblower**

7.6.8

7.6.9

7.6.10

**CONCLUSION:** I believe that there is sufficient evidence to find that there is a case to answer in relation to the allegation that JD belittled, berated, and patronised staff.

**Sensitive - Whistleblower**

# Sensitive - Whistleblower

However, the evidence needs to be considered with the wider allegations, the wider context and evidence and the points of mitigation identified when considering whether it meets the definition of bullying in the Company policies.

## 7.7. Micromanagement

### Summary

7.7.1. I have been mindful at all times of the definition of bullying and expectations of staff under the DAW and Code of Conduct as set out in section 6. The decision maker should also bear these in mind.

7.7.2

# Sensitive - Whistleblower

1-1s

7.7.3

7.7.4

# Sensitive - Whistleblower

7.7.5

Budgets

7.7.6  
7.7.7  
**Sensitive - Whistleblower**  
7.7.8

**Sensitive - Whistleblower**

7.8. **Sensitive - Whistleblower**

Summary – Recognition Platform

7.8.1  
7.8.2  
**Sensitive - Whistleblower**  
7.8.3  
7.8.4

7.8.5 **Sensitive - Whistleblower**

7.8.6. The evidence would tend to suggest that this was not a deliberate attempt to undermine staff, but a decision taken for genuine management reasons but again without being able to win the hearts and minds of those involved and impacted.

**Summary – Culture Strategy/Leadership approach**

7.8.7  
7.8.8  
7.8.9  
7.8.10

**Sensitive - Whistleblower**

**Sensitive - Whistleblower**

7.9. JD **Sensitive - Whistleblower**

**Summary**

7.9.1

## **Sensitive - Whistleblower**

**Sensitive - Whistleblower** Witnesses reported to me that the Company could be particularly bureaucratic and this is compounded by the fact it is Government owned and funded and is subject to a public inquiry with strict governance requirements. **Sensitive - Whistleblower**

7.9.2

7.9.3

## **Sensitive - Whistleblower**

7.9.4

7.9.5

7.9.6. I am not asked to make recommendations other than if there is a case to answer, and [redacted] is no longer employed by the Company, and it is for the Company to decide what to do with this information provided by JD.

7.9.7.

**Sensitive - Whistleblower**

7.9.8. The evidence would also support a proposition that the style, behaviour, and approach of Jane, as set out above, contributed to the perception that she found process to be a blocker and it frustrated her. This could then have impacted on people's perceptions on how JD viewed compliance with process and the meaning, or interpretation of, what she said and how she acted.

7.9.9. It is again not my remit to make recommendations other than if there is a case to answer and it is for the Company to consider how to approach overall governance of policy and process compliance.

**Sensitive - Whistleblower**

However, the evidence needs to be considered with the wider allegations, the wider context and evidence and the points of mitigation identified

7.10. The content of the meeting between Jane Davies and [redacted] on [redacted] together with previous interactions between them, and whether either party exhibited unacceptable behaviour during or leading up to this meeting.

Summary

7.10.

**Sensitive - Whistleblower**

7.10.

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**Sensitive - Whistleblower**

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7.10.8. On balance, the evidence would tend to show that both parties may have behaved in broadly similar way which had the impact of antagonising each other. The evidence would tend to show that both parties had valid points to make but neither party appreciated the manner in which they were presented.

7.10

**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

**Sensitive - Whistleblower**

However, the evidence needs to be considered with the wider allegations, the wider context and evidence and the points of mitigation identified.

- 7.11. The above are alleged to be a pattern of behaviour which has created and/or contributed to a lack of trust in the working relationship between JD and staff. Further it has created and/or contributed to a toxic working environment which has led to individuals resigning and/or being absent and impacting on their health.

**Summary**

- 7.11.1. All the evidence, and conclusions, set out in this report should be considered in its entirety in relation to this allegation.

7.11.2

7.11.3

**Sensitive - Whistleblower**

7.11.4

7.11.

# Sensitive - Whistleblower

**CONCLUSION:** I do not believe that there is sufficient evidence to find that there is a case to answer that the above, taken overall, is a pattern of behaviour which has *created* a lack of trust in the working relationship between JD and staff, or that it has *created* a toxic working environment which has led to individuals resigning and/or being absent and impacting on their health.

There are however grounds to find that there is case to answer that the overall behaviours identified above, when taken together, have *contributed* to a lack of trust between JD and [redacted] and JD and [redacted] which has *contributed* to them resigning and/or being absent and impacting on their health.

However, the evidence needs to be considered with the wider allegations, the wider context and evidence set out above and the points of mitigation identified.

Simon Stephen

Heminsley Law

30 May 2023

## ANNEX – EVIDENCE

7.2. JD's

# Sensitive - Whistleblower

7.2.1. The evidence relating to the wider allegations, and 7.3, 7.4 and 7.6 in particular, is repeated here.

7.2.2. [redacted] said that [redacted] did find that JD could be [redacted] or [redacted] but not rude. [redacted] said 'Well I suppose I would say, well not [redacted] a bit [redacted] you know if she's if she's working on something and you either email her or you text her and you'll just get a very short response and then you know when you talk to her you'll be why were you like that, oh I'm sorry I was doing this, that and the other, so that's the sort of thing that's my experience'.

7.2.3.

# Sensitive - Whistleblower

7.2.4  
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7.2.9  
7.2.10  
7.2.11

# **Sensitive - Whistleblower**

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7.2.1  
**Sensitive - Whistleblower**  
7.2.1  
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7.2.1

## Sensitive - Whistleblower

7.2.20. RT said colleagues had come to him with concerns about JD's behaviour towards others. One member of his team, he says, told him that people were considering making a 'whistleblowing complaint' about JD and alleged bullying and sought his advice. He told me he hadn't experienced anything of that nature and counselled them to follow the Speak Up process if they had their own concerns. He said that he was not, however, given any specifics other than they *'had been in meetings and potentially felt uncomfortable....and...witnesses others who, so it was hearsay that people had been shouted at or told to get out of a meeting...'*

7.2.21

7.2.22

## Sensitive - Whistleblower

7.2.23

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**Sensitive - Whistleblower**

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7.2.28. RT said that she has however *'softened'*. He said *'And then more recently, however, I think she has softened a little bit, by which I mean it is less directive and that may just be as a consequence of you know, the time in the business, realising that we are a complicated business, a complex business, things are not straightforward'*.

7.3.

**Sensitive - Whistleblower**

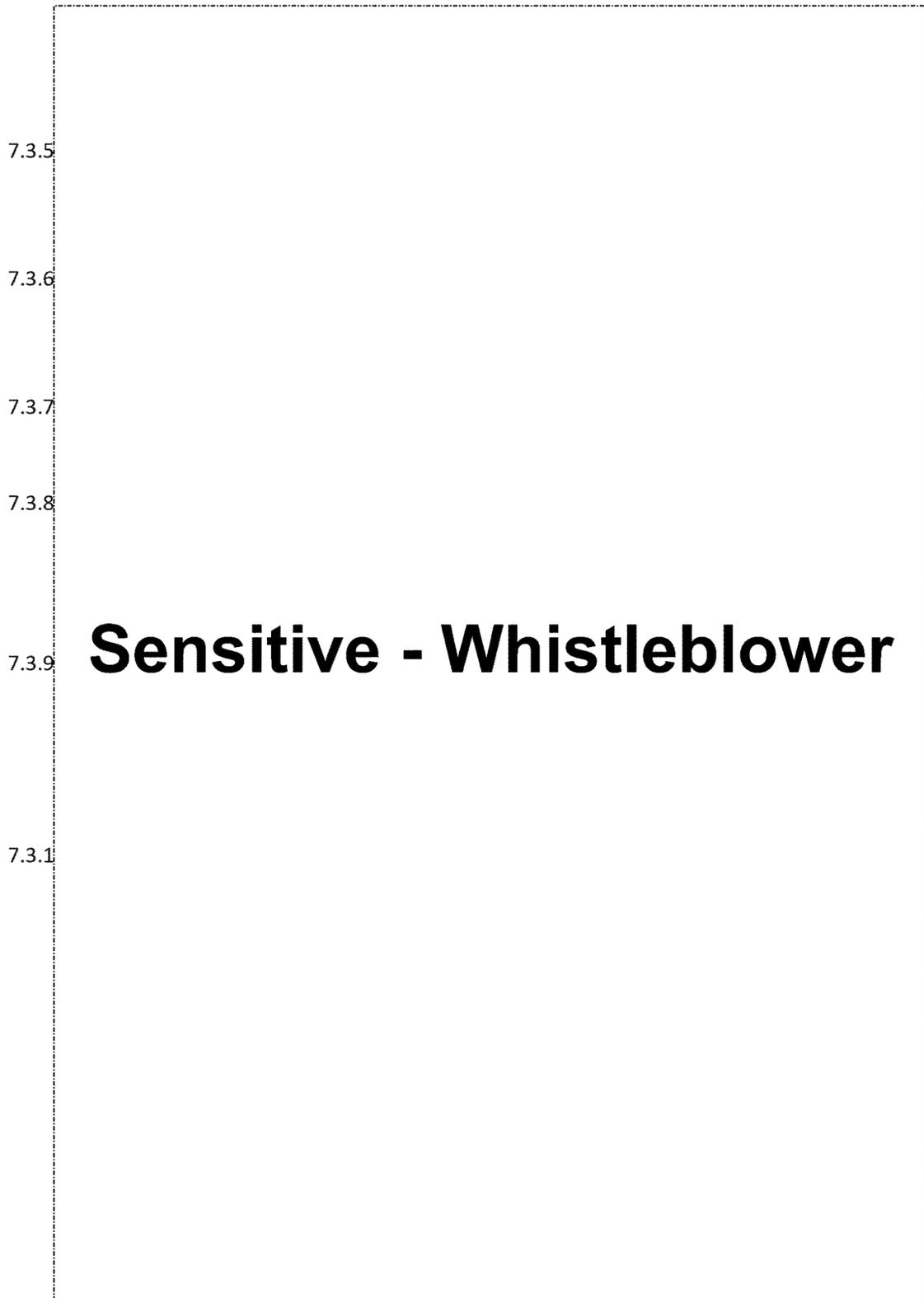
7.3.1. The evidence relating to the wider allegations, and 7.2 and 7.6, is repeated here.

7.3.2

7.3.3

**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

7.3.14

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**Sensitive - Whistleblower**

**7.4. JD shouted at and/or raised her voice at staff**

7.4.1. The evidence relating to the wider allegations, and 7.2, 7.6 in particular, is repeated here.

Evidence - Shouting at

7.4.2

**Sensitive - Whistleblower**

7.4.3

7.4.4

7.4.5

7.4.6

**Sensitive - Whistleblower**

7.4.7

7.4.8

Evidence - Shouting at

7.4.9

**Sensitive - Whistleblower**

7.4.1

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**Sensitive - Whistleblower**

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7.4.1

Evidence - Shouting at Sensitive - Whistleblower

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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Evidence - Shouting at **Sensitive - Whistleblower**

7.4.20

**Sensitive - Whistleblower**

7.4.21

7.5. JD **Sensitive - Whistleblower**

7.5.1. The evidence set out above in relation to the events of **Sensitive - Whistleblower** is repeated here.

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7.5.4

**Sensitive - Whistleblower**

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7.5.6

7.5.7

**Sensitive - Whistleblower**

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7.5.9

**7.6. Belittling, berating and/or patronising**

7.6.1. The evidence relating to the wider allegations, and 7.2, 7.3 and 7.4 in particular, is repeated here.

Evidence- Treatment of: **Sensitive - Whistleblower**

7.6.2

**Sensitive - Whistleblower**

7.6.3

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7.6.6

**Sensitive - Whistleblower**

7.6.7

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7.6.9

# Sensitive - Whistleblower

7.6.1

Treatment of Sensitive - Whistleblower

7.6.1

# Sensitive - Whistleblower

7.6.1

# Sensitive - Whistleblower

Treatment of [redacted] in general

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7.6.1

7.6.1

# Sensitive - Whistleblower

7.6.1

Evidence - JD's Failure to Listen

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7.6.1

**Sensitive - Whistleblower**

7.6.1

7.6.2

JD's Evidence

7.6.2

**Sensitive - Whistleblower**

Sensitive - Whistleblower

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

7.6.3

## **Sensitive - Whistleblower**

Treatment of  in general

7.6.3

## **Sensitive - Whistleblower**

### **7.7. Micromanagement**

Evidence: 1-1s

7.7.1

7.7.2

7.7.3

## **Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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# **Sensitive - Whistleblower**

7.7.1

7.8. JD

**Sensitive - Whistleblower**

**Sensitive - Whistleblower**

Evidence- Recognition Platform

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7.8.2

7.8.3

**Sensitive - Whistleblower**

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# **Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**7.9. JD breached, or spoke openly of an intention to breach, Post Office Limited processes**  
**Evidence**

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7.9.3

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**JD's evidence**

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

— evidence

7.9.1

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**Sensitive - Whistleblower**

7.9.2

7.10. The content of the meeting between Jane Davies and [redacted] on [redacted] together with previous interactions between them, and whether either party exhibited unacceptable behaviour during or leading up to this meeting.

Evidence re the meeting

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

JD's evidence re the meeting

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# **Sensitive - Whistleblower**

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# Sensitive - Whistleblower

Evidence re: Behaviour in the run up to the meeting

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# Sensitive - Whistleblower

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# **Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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7.11. The above are alleged to be a pattern of behaviour which has created and/or contributed to a lack of trust in the working relationship between JD and staff. Further it has created and/or contributed to a toxic working environment which has led to individuals resigning and/or being absent and impacting on their health.

7.11.1

**Sensitive - Whistleblower**

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# **Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

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**Sensitive - Whistleblower**

**APPENDICES**

- APPENDIX 1: Terms of Reference
- APPENDIX 2: JD's response to the Terms of Reference
- APPENDIX 3: Company Policies
- APPENDIX 4: Transcripts
- APPENDIX 5: Documents received from Company and witnesses