**IN THE CROWN COURT**

**AT LIVERPOOL**

Order No: T.20167064

The Queen Elizabeth II Law Courts

Derby Square
Liverpool, L2 1XA

Date of hearing: 2nd October 2017

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**Before:**

HIS HONOUR JUDGE CUMMINGS, QC

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|  | **R E G I N A** |  |
|  | **- v -** |  |
|  | **ROBERT SMEDLEY****CHRISTOPHER JOHN JOYNSON** |  |

**MR J. DYER** and **MS L. WRIGHT** appeared on behalf of the **PROSECUTION**

**MR S. SWIFT** appeared on behalf of the defendant **SMEDLEY**

**MS F. HUSSAIN** appeared on behalf of the defendant **JOYNSON**

**PROCEEDINGS**

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MR SWIFT: Your Honour, I am very grateful for the time; I just needed to take some further instructions on a recently served document.

JUDGE CUMMINGS: Thank you very much – we are ready for the jury..?

MR DYER: Yes. Perhaps the officer could return to the witness box?

JUDGE CUMMINGS: Of course; thank you. We will take a break at around twenty to 12, something like that. (The Jury entered court). Thank you very much – yes, Mr Dyer?

MR DYER: May it please your Honour. Members of the jury, where we had left off last week, we were looking at the formal admissions document which you hopefully still have and we had reached paragraph 11 of that document and we were going through some of the items in the jury bundle. If I take you to paragraph 11 of the formal admissions – *this* document – I am just going to read that paragraph to you: “Prosecution jury bundle divider 9 contains exhibit DW697466 which includes staff expenses claim forms submitted by Christopher Joynson in the course of his employment at Edge Hill University and copies of invoices SI/39, 50 and 51..” – again, apologies for the old exhibit references but you will see here they are CJEHU/22, 22(b) and 27.

 I am going to pause there and look at the documents behind divider 9 – you will have to turn it sideways, members of the jury. You should see *this* page, it has got an exhibit reference and it says “Comparison between consultancy invoices and staff expense claim forms.”

DETECTIVE CONSTABLE WAINWRIGHT, recalled

Examined by MR DYER

MR DYER: Officer, is this an exhibit that you prepared?

A. It is, yes.

Q. If we turn over to page 2 we see an invoice, it is labelled SI/51 but we can see from the invoice number – it is not printed very well but it is a CJEHU invoice number 22. If we were to turn to divider 6 we would find another copy of that at page 23 of divider 6 but we would be looking at the same invoice. Here, officer, you have marked on this one “Claims for work”, is that right?

A. That is correct, yes.

Q. Those claims for work come from where?

A. This exhibit *here* is the old exhibit SI/51, the invoice number 22, so what I’ve done here is taken a screenshot of that and the date down the left-hand column of the invoice.

Q. So those dates there are just repeating the dates within the body of the invoice, are they?

A. Yes, that is correct.

Q. Right, so they are claims for work on those days – it is March of 2010 – and we can see that the work claimed for is “Saturday master class provision” and there is a daily rate of £425; “evening master class inductions” which are two hours and there is also some preparation and support but there are no dates for that, is that right?

A. Yes, that is correct.

Q. So that is page 2. Page 3, if we could just look at that. What is this?

A. This again is a copy of Mr Joynson’s expense claims and down the left-hand side I’ve just copied the dates from the previous sheet, so where on page 2 Mr Joynson has claimed for consultancy work, on page 3 he has claimed expenses as an Edge Hill employee.

Q. So this expense claim form, this is an employee staff expense claim form, is it?

A. Yes, I believe so, yes.

Q. Essentially it is travel expenses, is that right?

A. Yes.

Q. We can see this one is from 8th February to 19th March so it covers part of the period in the invoice?

A. Yes.

Q. Only part of it, is that right?

A. Yes, the dates I’ve highlighted, yes.

Q. You have listed the dates from the invoice again down the left-hand side?

A. Yes.

Q. And if we look across we can see 2nd March – it is handwritten so it is not all that clear but it refers to Ormskirk. Some of these locations that are written on here, are they postcodes or..?

A. I think they are car registrations.

Q. They are car registrations, all right, but it refers to Ormskirk and we can see there is a mileage and a mileage rate. It is not a very big claim on 2nd March - £16.80, is it not?

A. Yes.

Q. Can you see that?

A. Yes.

Q. That is for a meeting.

A. Yes.

Q. The next one on the dates from the invoices is 5th March, is that right?

A. Yes.

Q. Where is that journey, can we tell?

A. I think it is pronounced Anik(?) to home via Gateshead, 219 miles, £87.60.

Q. Right, so that is a trip on the..?

A. 5th March.

JUDGE CUMMINGS: So that is one of the Saturday master class dates, is that right?

MR DYER: It would be if it was a Saturday but of course unfortunately it was not – we will look at the sequence of events in a moment, your Honour.

JUDGE CUMMINGS: Okay, yes.

MR DYER: It is in fact a Friday, it seems, but it is labelled a Saturday master class.

JUDGE CUMMINGS: Yes.

MR DYER: The next one is 9th March and I think again it is a short trip?

A. 30 miles, and I believe it’s the car registration to Gateshead possibly it says.

JUDGE CUMMINGS: Do you know that to be a car registration?

A. From memory I think it is Mr Joynson’s old Audi possibly, although he’s shaking his head at me.

Q. CH60 is a Wirral postcode, is it not?

A. Is it? I could be wrong on that one.

JUDGE CUMMINGS: Anyway, it can be checked, can it not?

MR DYER: In any event it is a short journey down - 30 miles, is that right, on the 9th?

A. Yes.

Q. The 9th is a day when there is an evening master class induction, if you look back over the page?

A. Yes.

Q. The 12th, is this to Dudley?

A. Dudley via somewhere, yes, 188 miles.

Q. It is a meeting, we can see – it is not all very legible but we can see there is a meeting. It is a 188 mile trip and that is 12th March. If we look back at the invoice, 12th March, there is a claim for a Saturday master class on that day, is that right?

A. Yes.

Q. There are two days here that are not covered by this staff expenses claim form, is that right?

A. Yes.

Q. If we move to page 4, this is a different invoice, is it not?

A. Yes.

Q. It is in the same time period, the beginning of March 2010?

A. Yes.

Q. But you have listed the dates from this invoice, which is 22(b)..?

A. Yes.

Q. We can see there are claims here for “additional teaching hours as agreed.” It is each three hours and there are eight dates in March, is that right?

A. Yes, a total of 24 hours at £45 per hour.

Q. You have listed some of the dates there, and then at page 5 we have – in fact it is the same document, is it not?

A. Yes.

Q. Just so we can look at the dates and compare them to this invoice. We can see 2nd March and 3rd March, those short journeys to meetings that are recorded there on page 5, is that right?

A. Yes, that is correct.

Q. 9th and 10th March, again relatively short 30 mile trips. 16th and 17th March, longer trips. Can you read those? 16th March..?

A. 16th March is a journey to Aspull return, 69 miles, £27.60 and then a journey to Preston return, 118 miles which is £47.20.

Q. And that is for a meeting?

A. Yes, that is correct.

Q. On 16th March what was the reason for the expense?

A. It says “S to S meeting”, presumably Steps to Success meeting.

Q. Over the page at page 6, is this a summary for a particular day – Tuesday, 9th March 2010?

A. Yes, it is, yes.

Q. Does it list what is claimed on that day under invoices and staff expenses?

A. Yes.

Q. On that day, two hours for evening master classes on one invoice, three hours for additional teaching and there is also 30 miles for a meeting in Liverpool – staff expenses – is that right?

A. That is correct, yes.

Q. If we just pause there a moment and have a look at our colour chart, Sequence of Events Chart, if we turn to page 6 and look at 9th March we can see it is a Tuesday, 9th March – towards the top of the page, members of the jury. On here, just to remind the jury, the light blue is the date work is allegedly carried out, is that right?

A. That is correct, yes.

Q. The dark blue is the date of the invoice, is that right?

A. The date the invoice is dated, yes.

Q. Yes, so 9th March here, this is when work is allegedly carried out, and we can see that in fact the entries here correspond to what we have just looked at – evening master class induction, two hours; additional teaching, three hours and there are staff expenses on that day as well; travel to Toxteth for a meeting. Does that reflect the same evidence?

A. Yes.

Q. It has been transposed on to this document?

A. Yes, that is correct, yes, the same thing.

Q. If we could move on back to the jury bundle just for a moment and then we can come back to the Sequence of Events Chart. The jury bundle - divider 9, page 7. We are moving on towards the end of March now, is that right?

A. Yes, March 2010.

Q. So this is 23rd and 24th March, two other dates when there were said to be additional teaching hours and that is on that invoice. Over the page, page 8 – this is the staff expenses. I think actually the dates are wrong along the top, are they not?

A. Yes.

Q. Because we can see from the document it is from 22nd March actually to 23rd April, can we not?

A. Yes.

Q. So there is an error there, but on the expense claim details are there entries for 23rd and 24th March?

A. Yes. Haswell to somewhere, 454 miles for a meeting and Haswell to somewhere else return 66 miles for a meeting. I can’t quite read what it says.

Q. Right, so if we then turn over to page 9 we have an analysis of that day, 23rd March?

A. Yes.

Q. These are the claims on the two invoices and the staff expenses. Three hours additional teaching, two hours evening master class inductions and then 454 miles – it says Haswell to Sunderland via..? What is that short for?

A. Presumably Nothumberland.

Q. Northumberland. Just looking at the Sequence of Events Chart – it is the same page, members of the jury – for 23rd March and in fact looking at 9th March as well, was Mr Joynson on leave or not?

A. No.

Q. Can we turn over to page 10 of divider 9 and just look at another date. This is SI/39 so we can see it is CJ invoice 27 and it says Saturday 10th September 2011, and this one is a Saturday: “Saturday master class co-ordination and teaching” on that day, £425 is the claim. Over the page do we have the expenses claims for that period?

A. Yes. The mileage claimed is I believe 214 miles, £53.40.

Q. Do we know where that is?

A. I think it’s one postcode to another postcode.

Q. Yes. Let us look at the Sequence of Events at page 11 of this – the top of page 11 of our Sequence of Events. 10th September we have got the Saturday master class, that is the invoice we have just looked at, the CJ invoice 27, and the staff expenses on that day. It is a Saturday. Staff expenses, you have indicated for a conference, is that your reading of the note alongside the staff expenses?

A. Yes, I think it says “conf”, an abbreviation of “conference.”

Q. And are they postcodes on that entry?

A. The postcode, yes; now I’ve re-read it, L39 4QP looks like the University’s postcode, I think.

Q. Right, so hence on the Sequence of Events you have said “to Edge Hill” – travel to Edge Hill?

A. Yes, that is correct.

Q. Thank you; that is all we need to deal with in divider 9. I am just going to continue reading from the formal admissions, members of the jury. We are up to paragraph 12: “The following documents relating to Fosse Primary School are in the prosecution jury bundle at divider 10.” The purpose of reading this to you, members of the jury, I know it is in the index to the jury bundle but it tells you the locations of some of the exhibits, where they were found. “The following documents relating to Fosse Primary School are in the prosecution jury bundle at divider 10. (a) Document entitled Fosse Primary School dated April 2009 from the Kingston USB stick” and the exhibit reference is there – that is page 1. As we go through them you will be able to see what they are – if you turn over the page to divider 10. So that is page 1. “(b) is a payment request form for the Fosse Primary School project dated 10.12.09” – that is page 2 and that was produced by Peter Townley from Edge Hill University records. “(c) is a letter from TDA to Robert Smedley enclosed purchase order dated 24th July 2009” also produced by Peter Townley from Edge Hill University records – that is pages 3 and 4. “(d) is a document entitled Fosse Primary School, Leicester” produced by Peter Townley from Edge Hill University records – it is page 5 and it jumps to page 8. “(e) is an internal Edge Hill email dated 20th January 2010 relating to an invoice for £4,500 relating to Fosse Primary School” – that is page 9. “(f) is a draft report prepared by Professor Ashley, valuation of pilot at Fosse Primary School. It is dated October 2009 with annotations by Robert Smedley recovered from the Kingston USB stick” with the exhibit number there. It is pages 10 to 23. Just to remind you, members of the jury, the USB stick was recovered from Frankby Road – it is dealt with in paragraph 1 of the admissions. Finally, “(g) documents entitled Steps to Success publication case study 1 with amendments” recovered from the same Kingston USB stick and that is at pages 24 to 25. The other documents in that jury bundle you will remember the witness David Lowe dealt with the two invoices in that section.

 Admissions paragraph 13, moving on: “The prosecution jury bundle dividers 11 to 15 consist of some of the documents recovered from Edge Hill University Human Resources file relating to Christopher Joynson and emails sent in relation to the positions that he held.” We have read from those, of course, during the prosecution case.

 Paragraph 14: “The prosecution jury bundle divider 16 contains copies of the declarations for the register of interest to the Board of Governors of Edge Hill University, completed by Robert Smedley on 21st January 2011, 23rd January 2012 and 24th January 2013.” The additional documents behind that were produced during the evidence and you will see them within that divider. You will see the letter, you will remember, that was produced and so on.

 The next paragraph of the admissions, paragraph 15: “The resignation letter and accompanying statement of Robert Smedley dated 13th July 2014 are in the prosecution jury bundle divider 21 at pages 1 to 8.” If we look at that, members of the jury, it is a letter addressed to Dr John Cater.

Q. I am going to ask, officer, if you could read the letter which is at pages 1 and 2, if you could read that for us?

A. The letter is dated 13th July 2014 and it is addressed to Dr John Cater at Edge Hill University. “Dear John, I am writing to inform you that I wish to resign from my post as Pro-Vice-Chancellor and Dean of Education. I am aware of my six months’ notice period but would appreciate the University considering a leave date of the end of July 2014. I recognise that this seems very soon but hopefully what follows will provide you with some of the key reasons why consideration of this date would be appreciated. Coming to this decision has been the most difficult decision of my life and I do feel that I owe you an explanation. A letter of resignation isn’t the appropriate place to write in detail so I’ll keep to the key factors that have influenced my decision.

 “As you know, since Autumn 2012 there have been two occasions when I have considered resigning from my post. The first, in November 2012, was due to the very damaging and inappropriate behaviours of the then Deputy Vice-Chancellor, Professor Bill Bruce. These behaviours were not only directed at me but two of my senior colleagues as well. In fact, he was putting on pressure on me at the time to restructure and displace these colleagues from their positions. At the time I came to the conclusion that my position had become untenable due to what Bill Bruce had written and said to me in relation to my abilities and those of my senior colleagues in the Faculty. He was continually pushing for me to focus on matters that were not the core business of the University and I know we discussed these matters in great detail at the time. That discussion was very helpful and you convinced me that I should not resign, which I accepted and decided to carry on.

 “The second more recent incident has been the outcome of our 2014 Ofsted inspection which resulted in the University losing its Outstanding status across two of its three age phases. Again, we discussed this in detail and I did explain that I felt the University needs a different Dean of Education and one that would take a completely fresh look at strategy and approach. In fact, the Union ECU had at the same time been pressing the issue of bullying in the Faculty of Education and although at no time had they openly pointed the finger at me, it is clear that I am the common factor over the past 14 years. Your response to both these issues has been supportive and I thank you for that. In fact, following the Ofsted outcome I have driven things forward with the Faculty in such a way that no-one would ever know, hopefully, that I had intended to resign.

 “Unfortunately, a third incident has occurred in the past two weeks related to payments made to a consultant whilst he was also employed full-time with the University – see my separate full statement. This dates back to 2009/10 and spans almost three years’ delivery of additional work that I requested and approved. I know why I had requested this work and it formed part of a set of creative strategies to deliver partnership activities linked to TJ Funding, PPD funding and secure partnerships. Although I know I had discussions with Bill Bruce, I had not asked for formal approval and it had not occurred to me that such approval would be required. It was clearly a wrong decision on my part and one that in my view has created a situation which is difficult to recover from and a situation which by its nature has resulted in a loss of confidence in me by the University. In addition, I believe that my action has placed the University at risk. This is something I take very seriously and I don’t believe that I can continue to work in a position of responsibility.

 “As I reflect on the position I now find myself in and why I am so sure that this is the correct decision for me and the University, I recognise that my confidence and self-esteem has never recovered from the behaviours of Bill Bruce over a period of time whilst he was my line manager. It is my view that without my confidence and self-esteem I will not be able to carry out my role to the level rightly required by the University. My confidence and self-esteem can take knocks and has done on many occasions but I now feel so badly knocked that I believe I would put my health at risk by continuing in my role. For example, on Friday we had the follow-up meeting with UCU regarding the bullying allegations and although I can manage those situations I am only prepared to take so much implied criticism.

 “This, together with personal pressures on me at home, are the key reasons for requesting an early resignation date of the end of July 2014. This is a good time of year to leave and everything is set up in the Faculty to deal with the clearing period and the start of term. I believe in my Faculty team and have the utmost confidence in them to deliver to the highest level. The time seems right for a change for the Faculty and a new Dean seems a great place to start moving forward such change.

 “I would like to take this opportunity to thank you and Steve for your support over the many years we have worked together and I know that Edge Hill University will continue to grow and to develop into the future. Very best wishes, Robert Smedley.”

Q. If we move over the page, this is the statement that goes with that letter and I will read this to the jury. It says: “Private and Confidential Incident. Robert Smedley, Dean of Education, requested a full-time member of staff, Christopher Joynson, to undertake additional work as a consultant, C.J. Consultants or Associates, over a period of time and approved the work undertaken.

 “Statement. In what follows I am attempting to provide a context and accurate reflection on events linked to the above incident which covers the period from approximately September 2009 to Easter 2013. What I provide is context and I am not offering this as any kind of excuse for what I now understand to be wrong and highly inappropriate. The Faculty of Education has grown and developed considerably over the past ten years and it has been my job to secure such growth in business income and recruitment has continued to take place to support the University in its ambition to grow and invest more heavily. The majority of the Faculty’s work has at its foundation partnership with schools, colleges and organisations, for example local authorities, private agencies, exam boards and consultancy companies and agencies.

 “Partnership work was fundamental to the success of one major project for the University that sat within my line of responsibility, namely the delivery of the largest Post-graduate Professional Development (PPD) contracts contracted with Training and Development Agency (TDA), Teaching Agency (TA) and then the National College (NC) in the country. These contracts spanned 13 years in total and resulted in tens of thousands of teachers being recruited and registered to PPD modules as part of the delivery of the contracts. The success of these contracts depended on the University registering teachers to modules, usually the first module of an MA education programme claiming the available funding to then support teachers to complete. One of the significant challenges in the delivery was actually encouraging teachers, schools, local authorities, private training organisations to obtain registrations at the initial point of contact with their teacher audiences.

 “In an attempt to overcome this inertia and lack of engagement it was agreed at University senior level that an amount of funding up to £100 would be paid to such partners for each registration secured. The funding could then be used by the partner to provide support to either invest or use the funding for alternative activities. It was agreed by the University that how partners used the support funding was not the business of the University. Although this strategy was relatively successful with some organisations registering over 500 teachers in batches of activities, they were also requesting other partnership-type activities linked to improvement, development and enhancements. For example, in the case of Coventry Local Authority what could we offer their schools in partnership with the local authority that would sell the partnership and improve what schools were delivering to the community? Such activities could be used in exchange for the agreed partnership payment per registration and in some cases this worked as a strategy to secure new registrations and continuing registrations.

 “Another significant project of the Faculty over the past five years has been the delivery of the largest SENCO and dyslexia contracts in the country with very significant recruitment targets each year of contract. These contracts span the length and breadth of England, with the Faculty using a strategy of venues across the country, usually schools and/or local authority basis. To secure recruits, teachers, for the programmes the Faculty used a number of strategies, including its strategy of offering a partnership menu of enhancements - for example, whole day CPD taster programmes. The Faculty delivered to target for each contract and secured significant additional income for each year for the University. The Faculty’s work in SENCO and dyslexia continues today but is now self-sustainable. This work doesn’t happen in isolation and is used as part of the numerous activities on the partnership menu.

 “At the same time as the Faculty delivering such major national contracts as PPD, SENCO and dyslexia, it was trying to play a key role in supporting the University in hitting its in-year HEFCE targets, firstly part-time and full-time students and then more latterly full-time. The Faculty was pleased to be able to respond positively to such challenges that the University set and was always keen to take on such a challenge and rise to that challenge. In the majority of cases year after year it succeeded in playing an important role and supporting the University by recruiting in-year students. These in-year students came mainly from partnerships that the Faculty was either pursuing as new partnerships or established partnerships that could be enhanced by such in-year professional development programmes.

 “One very successful HEFCE project that the Faculty led was the Employer Engagement project CFEE. Originally it had been envisaged that the project would run and recruit students across all three Faculties to secure additional funding for the University. However, in reality the Faculty of Education was the only Faculty that actually delivered anything major as part of the contract. Due to the success the contract was extended and in addition we were able to secure a new CFEE transition project. All of the CFEE work related to partnership work with external organisations and the recruitment of mainly staff working in schools and colleges.

 “To secure such partners, and in particular recruits, the Faculty offered some funding as per PPD registrations but also offered other forms of partnership enhancing activities usually linked to school improvements and development. This proved successful and was a key factor in the success of all the CFEE contracts. In fact, as part of the first contract HEFCE audited the project to look at the types of partnership activities arrangements that had been agreed and were taking place as part of the delivery. I led on this audit for the University and the auditors were satisfied with the types of different enhancement activities that were in place. The argument that I used was that partnership isn’t an exact science and you simply have to be flexible in what you offer such organisations, i.e. listen to them and then try and meet their needs.

 “Alongside these major activities which each had very ambitious targets to meet the Faculty was delivering against the largest Initial Teacher Training (ITT) targets in the country. As the largest provider in the country, the Faculty has always prided itself on delivering high quality along with quantity and this was recognised by Ofsted in April 2011 when ITT provision secured 33 Grade 1s against each of 33 reporting inspection cells, the only provider in the country to secure such an outcome as part of the pre-2012 ITE inspection framework.

 “The most significant challenge for any provider of ITT is securing high quality placements for the trainees. As the largest provider in the country, this is a significant challenge and one that can only be achieved by relentless partnership work with schools and colleges. The challenge is so significant for the Faculty that over the past five years it had needed to grow its partnership beyond the north-west of the country in an attempt to secure schools in any part of the country. In many cases, schools will not engage in ITT and the funding of £500 for a secondary trainee per placement and only £350 for a primary trainee has never been sufficient to persuade those schools thinking about becoming part of ITT.

 “In an attempt to overcome such inertia and sitting on the fence the Faculty offered numerous and varied partnership activities to try to secure buy-in from such schools and make the Faculty of Education at Edge Hill University a very different type of HEI provider. Such activities have never been set in stone or definitive in any way; in fact they needed to be quite fluid and ideas that can be presented as part of meetings, discussions to secure partnership agreements. However, what has proved successful is offering a fluid menu comprising of CPD programmes, free whole day master class activities for children, offering free SENCO training for a small number of staff.

 “In the Autumn Term of 2010 we then saw the government’s white paper “The Importance of Teaching” which further fuelled the partnership with HEI fire by driving a strategy of school-led ITT provision and with schools being actively finding strategies that work, driving those strategies forward and rejecting or refining those that don’t work. I am a driven professional who wants success for the Faculty and the University and consequently I am always prepared to try things to see if they work. My philosophy is it is far better trying and failing rather than never trying at all.

 “In 2008, Chris Joynson, who was an ex-trainee working in Leicester, made contact with the Faculty to see what type of school improvement enhancements the Faculty could offer his school as part of a partnership. This initial conversation led to a taster master class at the school which involved a number of colleagues, including myself, developing a whole day event linked to improvements in mathematics. In 2009, I had decided that it might be worth trying to expand our work, offering whole school activities, taster master classes and a programme of such classes for children. I was aware of two colleagues I had worked for previously in the delivery of master classes in Cheshire and North Wales and was also aware of the successful work we had delivered with Chris in Leicester. I have known Chris’s father for over 20 years and I remember contacting him to see if he could put me back in touch as Chris had moved back home to the north-east.

 “At the time, Chris had set himself up in a self-employed capacity working with schools on ICT and mathematics projects. I approached him and asked if he would be willing to run some master classes for us as part of our growing partnership menu. The rationale was simple; it was about us being able to offer a master class or series of master classes to schools and/or local authorities anywhere in the country to help to deliver one or more of the numerous targets outlying within the context described above. This work then led to me approaching Chris to undertake other partnership work for us as he had proved himself to be excellent at developing good links with schools. He undertook work securing placements for us in the Autumn Term of 2009 due to capacity issues in the Faculty and the continuing problem of placements. In 2010, Chris applied for and secured a full-time post in the Faculty as a Partnership Development Officer (PDO). His work was specifically about securing placements and recruiting teachers to the numerous professional development programmes and contracts but not delivering enhancement activities within hours or outside of hours.

 “In 2010, following Chris’s appointment to a full-time post, some of the enhancement master class work that Chris had undertaken as C.J. Consultants Associates in the previous Autumn Term (2009) needed to be paid for and consultation took place between myself, Chris and the Faculty Finance Manager in the University Finance Department, Helen Adams. Helen checked out the situation and confirmed that Chris was set up as self-employed. Chris provided the Faculty and Finance Department with his UTR number at this time.

 “As the challenges for the Faculty continued to grow due to increased targets - projects, contract and income targets – I continued to drive strategies forward with a very fast moving climate of delivery for the University. I was keen to pursue the offering of the partnership menu to established partners as well as new partners where we might secure PPD registrations and recruitment of PD programmes, recruitment to HEFCE targets and ITT placements. I persuaded Chris to undertake Saturday master class sessions across the country with new schools that we wanted to secure into the partnership. For example, we wanted to secure a significant partnership in Trafford with an alliance of schools and we now deliver our leadership programmes this alliance along with ITT placements. Due to the increase in work, I passed on to Chris the details of my two ex-colleagues from Cheshire and North Wales that might be interested in working with his consultancy. I know that my two ex-colleagues took on some of the work for C.J. Consultants Associates as they spoke to me about the work they had done in Coventry and Shropshire.

 “I now fully appreciate that I made multiple errors in asking and persuading Chris to undertake work with us as C.J. Consultants Associates. Firstly, I had automatically assumed that because we had paid C.J. Consultants Associates for work following initial consultation with Helen Adams, that I could continue to allocate work and pay for it in this way. At the time and currently I was aware that full-time University staff were paid by the University as ATs on top of their full-time salary. In some cases the grade is higher than the full-time position grade; in fact the pink claim forms have an approval section designed to facilitate this type of additional payment. I am not presenting this as a logical argument for why I approved payments to C.J. Consultants Associates because I had never consciously thought of it in that way but the University does support additional payments to full-time staff.

 “Secondly, I fully recognise that the work being allocated and authorised was for significant sums of money when viewed cumulatively over a 12 month period. As part of the approval process I had not checked how the work was adding up and overall relied too heavily upon trust.

 “During the period covered by this statement I was line managed by a new Deputy Vice-Chancellor, DVC Professor Bill Bruce. Bill was appointed as the Pro-Vice-Chancellor academic and then became DVC following a refinement of structure and roles. Bill had a particular style of management which was controlling to the point of ensuring that anyone in his line only spoke to him about issues of development and strategies. In fact, if he knew you had spoken to the other DVC or VC then he would confront you and drill you as to why you had shared information with these other two senior colleagues. Again, I am not offering this as an excuse as to why I behaved inappropriately in relation to this particular incident but a style of this kind, which also included bullying, creates additional unnecessary pressure on top of the numerous pressures related to my role as Dean of Education. It does not promote an appropriate working environment; in fact it simply creates unnecessary pressure and anxiety. Bill always had updates with me quite regularly and I know that I spoke to him on a number of occasions about the numerous challenges and in particular the strategy of delivering a partnership menu, including all the master classes. Bill himself was interested in master classes as he had led many in his time as a mathematician at Liverpool University for high fliers.

 “What I never did is formally ask for permission to use a full-time member of staff as a consultant to deliver additional out-of-hours work due to lack of capacity. I regret this now but it genuinely never crossed my mind for the reasons that I have tried to capture above. The work stopped at Easter 2013. Since then I have not requested or approved any other work from C.J. Consultants Associates. We now have in place a full-time post linked to all school improvement activities and master classes and a full-time post linked to school University projects. In addition, the University has invested in additional Partnership Development Officers and all of these posts have created a significant capacity for the Faculty to focus on, driving those partnership strategies that work.

 “At all times I have operated with the best of intentions and although I accept that now, with a fuller understanding of all the facts and risks, that my actions have been inappropriate at no time did I intend to put the University at risk. I have had a relatively successful career to date, with over 17 years of that career spent at Edge Hill University, and at no time during my career have I ever made such a serious error. However, I do recognise the seriousness of my actions in this particular case and I have fully reflected on my actions in reaching my decision to resign from my post.

 “My letter of resignation provides details of why I have come to the decision to resign from my post and thank you for taking the time to consider the facts as presented in this statement.” That is signed off Robert Smedley, Pro-Vice-Chancellor and Dean of Education, 13th July 2014.

 Just going back to the formal admissions, members of the jury, we are up to paragraph 16: “The letter dated 12th August 2014 sent by Christopher Joynson to Denise Hill, Deputy HR Director at Edge Hill University, following a suspension is in the prosecution jury bundle at divider 22.” So this is pages 1 to 4.

JUDGE CUMMINGS: Before or after the break, Mr Dyer?

MR DYER: We could read these. It is a matter for your Honour but these are not as long.

JUDGE CUMMINGS: Thank you.

MR DYER: I was going to ask, officer, if you could do some reading now of this one. Page 1 is the letter of 12th August 2014.

A. Okay. This is the confidential letter dated 12th August 2014 addressed to Denise Hill, Deputy Director HR at Edge Hill University. “Dear Miss Hill, I returned home from my two week holiday to find three letters from HR, one dated 28th July 2014 informing me that I have been suspended pending an investigation; a second one dated 31st July 2014 informing me that the matter was being referred to a disciplinary panel, and a third letter dated 8th August 2014 which included a pack of evidence indicating that you had not had a response from me further to the letter of 31st July 2014.

 “Having been away for two weeks to return to this set of correspondence has been traumatic, extremely overwhelming and intimidating. This is the first time that these matters have been raised with me as issues and the suddenness and urgency seems unreasonable. My leave has been booked officially and authorised by my line manager and the Faculty has these details, so I am surprised that a formal process has been implemented and progressed from the stage of suspension to disciplinary without any attempt to talk to me whilst I am on leave. The approach suggests that an outcome has already been decided without any opportunity for me to be notified, involved, seek professional advice and make a response.

 “Having consulted the University’s formal disciplinary policy it would appear that the process being undertaken doesn’t align with the actual policy. The policy states: ‘The purpose for carrying out an investigation is to determine if there is a disciplinary case to answer. Investigations will be conducted objectively and fairly and will be completed as quickly as possible but without compromising their comprehensiveness. The investigating manager will meet with the employee to investigate the areas of concern, assess any evidence and, if appropriate, meet with any witnesses.’

 “From my point of view the investigation part of the process has not been followed in line with the policy. Having consulted the University’s Code of Practice, it would appear that the following principles are not being applied: ‘They are fair, equitable and transparent to all staff and applied in accordance with equality legislation. They are applied consistently and fairly.’

 “Due to the serious concerns on my part, I have now urgently sought legal advice and this is why this letter is arriving with you later than I would have preferred. I wish to provide some background information which is relevant to my whole case before responding to the individual allegations stated in your letter of 31st July 2014.

 “In November 2013 I was diagnosed with severe Type 2 diabetes which has proved to be very difficult to regulate. My line manager had been supportive and accommodating when I have been taken to hospital or I have needed to take some leave. Over the past year my health has deteriorated due to my condition and this resulted in me requesting on a number of occasions a step down from my full-time post to two or three days per week. On each occasion this request was turned down but no explanation provided. I made the most recent request as part of my performance review in July and when this was turned down again I asked for it to be recorded as part of the review but I was told this was not possible. I realise that part-time is not always possible but due to on-going health problems and my need for more flexibility I had hoped that the University might have been more accommodating.

 “I had always enjoyed a good working relationship with Peter Townley, Associate Dean, until March 2013 when Peter suddenly turned on me and was extremely aggressive in a one-to-one meeting in his office. The incident was so harrowing that I told him I needed to leave but he continued to be aggressive and bullying. I left his office in tears and immediately had to leave campus and find somewhere quiet to compose myself. Following this incident he then continued to bully me and deliberately ignored me whenever he saw me. I reported my concerns to Anita Walton, Head of PD, and her response was that he was like that with her all the time and you just needed to learn to live with it. I did also share this information with my current line manager who was supportive in helping me overcome the damaging experience. Peter is known throughout the Faculty for his bullying and aggressive behaviours – no-one wants to work with him or be line managed by him. I notice that in the documents that you have provided with your letter of 8th August 2014, Peter is a witness. Peter Townley is not a reliable witness and has always held a grudge against me since the incident in March 2013.

 “These concerns and incidents, together with the University’s approach to my suspension and disciplinary process, has left me with no alternative but to notify you of my immediate resignation as of the end of this letter. I have been fortunate enough to secure another post which is due to start in the Autumn Term. I have made my line manager aware of this. With regard to the specific allegations being made against me to be considered by the disciplinary panel I do wish to provide the following response:

 “‘Failure to make full disclosure of information likely to be prejudicial to an offer of employment during the recruitment process.’ I have forwarded to you on email my original application which I sent electronically Wednesday, 18th November 2009 at 2.33 pm to HR when I applied for my original post. You will see that I had consulted with HR about the difference between convictions and cautions and noted this on my application form. HR confirmed that only convictions were required. I made it clear that if further information details should be needed regarding cautions then they could be provided and included this on my application form. At my interview, Peter Townley did not ask for any further details. Following my appointment, HR did not request any further details. I therefore thought I had done everything I needed to do and certainly didn’t fail to disclose information. The document that you have provided with your letter of 8th August 2014 includes statements by Peter Townley regarding the number of cautions on my CRB and the nature of any caution. What he states is totally inaccurate and I have no idea what concrete evidence he has to support such slanderous statements. My CRB disclosure will prove this. Peter Townley also states that I am Robert Smedley’s (the Dean’s) godson; this is also not true.

 “‘Failure to follow University procedures in relation to contract work.’ My consultancy work started before I began my full-time post at Edge Hill and came about as a result of Robert Smedley, Dean of Education. I undertook different forms of work but mostly working through Louise May and Peter Townley on their requests to support more and more partnership work. I enjoyed this work and then applied for a suitable partnership post when one was advertised. Once I started to work full-time for Edge Hill I remember a discussion with Dave Lowe, Finance Manager, about how my consultancy gets paid, given that I was then in full-time employment at the University. This was resolved and the University was supportive and helpful in ensuring my consultancy was set up properly so payments could be made. I know that Robert Smedley was aware of this, Dave Lowe was aware and someone senior in the Finance Department. I note the email correspondence in your evidence document to support this.

 “External work was requested over a number of years due to the success of the different models and my business networks. I facilitated wherever possible and it proved to be successful in meeting targets and generating additional benefits for education. I had never thought there was a problem as senior managers in the University were aware, supportive and appreciative. I have read the evidence documents that you have provided and with reference to contract employments (paragraph 22.2) as far as I was concerned the Institute was aware. Yours sincerely, Christopher Joynson.”

MR DYER: Thank you. I wonder if that is a convenient time, your Honour?

JUDGE CUMMINGS: Thank you – 20 minutes, please, ladies and gentlemen. You, too, officer. (The jury and witness left court). Anything arising? (No response). Thank you very much – 20 minutes, please.

SHORT ADJOURNMENT

MR DYER: Members of the jury, in the admissions we are up to paragraph 17: “Following his resignation, Christopher Joynson made a claim against Edge Hill University to the Employment Tribunal. The grounds of claim received by the tribunal office on 19th December 2014 are at 22, pages 5-7.” That is where we are up to, it is the Grounds of Claim document – I hope you can see. I apologise for the quality of the print but I think I will be able to read this to you. You will see it is the Employment Tribunal in Liverpool. Mr Christopher Joynson is the claimant and Edge Hill University the respondent and it is Grounds of Claim. If I now read the body of that to you:

 “1. The claimant was employed by Edge Hill University (the University) from 1st February 2010. The claimant resigned without notice by letter dated 12th August 2014. “2. The claimant was subject to a number of events which took place during his employment which contributed to creating a different working environment for the claimant. The claimant’s working environment and the University’s significant failures over the period from 28th July 2014 to 12th August 2014 led the claimant to losing all trust and confidence in the University as his employer and resigning from his employment.

 “3. The claimant claims he was constructively dismissed and the dismissal amounted to an unfair dismissal. The claimant suffered a discrimination arising from his disability.

 Under the heading “Background”:

 “4. The claimant was engaged by the University as a consultant from September 2009.

 “5. The claimant was employed by the University from 31st January 2010 as Partnership Development Officer. In September 2010 the claimant gained promotion to Partnership Development Co-ordinator and in September 2012 the claimant was promoted to the role of Assistant Head of Professional Development. In September 2013 the claimant’s role changed to lead School-Led Partnerships.

 “6. The claimant was engaged by the University outside the scope of his employment as a consultant from September 2009 and throughout his employment for the University.

 “7. The claimant received good reports for his performance at the University during probation meetings with Anita Walton, Head of Professional Development, and latterly with Nicola Whiteside, the Associate Dean..

 And then under the heading “Discrimination arising from disability”:

 “8. In November 2013 the claimant was diagnosed with Type 2 diabetes. At all material times the claimant was disabled within the definition set out in section 6 of the Equality Act 2010. At all material times the University knew that the claimant was disabled.

 “9. Since his diagnosis, the claimant’s health deteriorated and he started to experience increasing difficulties managing his disability. The claimant raised the difficulties he was experiencing to Nicola Whiteside and made numerous requests to reduce the number of days that he was required to work. The claimant’s most recent request was made at his performance review with Nicola Whiteside in July 2014. The claimant requested for his request to be recorded as part of the performance review; the claimant was told this was not possible.

 “10. On each occasion the claimant’s request was rejected by the University.

 “11. The University’s failure to grant the claimant’s request was a breach of its duty to make reasonable adjustments.”

 Under the heading “Constructive Dismissal”:

 “12. The claimant enjoyed a good working relationship with Peter Townley, Associate Dean, until March 2013. In March 2013 the claimant had a one-to-one meeting with Dr Townley in his office. Dr Townley was extremely aggressive towards the claimant. The claimant was bullied by Dr Townley from March 2013 onwards. The claimant reported the issue to Anita Walton, the Head of Professional Development, who failed to take action or adequately respond to the issue which he had raised.”

 Under the heading “Events from 28th July 2014 to 12th August 2014”:

 “13. The claimant was on annual leave from 24th July 2014 to 8th August 2014.

 “14. The claimant’s annual leave had been booked officially and authorised by his line manager, Nicola Whiteside. The University had this information and it was readily available. The claimant was away from his regular address from 26th July 2014 to 8th August 2014 and thus could not have access to his post during this period. The claimant returned to his regular address on 8th August 2014 to find three letters from the University. The first letter was dated 28th July 2014 and informed the claimant that he had been suspended from work pending an investigation. Concerns raised about the claimant related to..” and it is not very clear but “disclosure under CRB and potential irregularities in the University’s Financial Regulations and staff expenses claims and declaration of an interest relating to external contracting.

 “The second letter was dated 31st July 2014 and informed the claimant that the matter was under investigation and had been referred to a disciplinary hearing. A disciplinary hearing was to be held on 14th August 2014 and the University requested confirmation by 5th August 2014 the claimant will attend the hearing.

 “The third letter was dated 8th August 2014 and due to the claimant’s failure to respond to the second letter requested confirmation that the claimant would attend the disciplinary hearing on 14th August 2014.

 “The claimant responded to the three letters on 12th August 2014. The claimant decided to resign from his position at the University at this point because of the following reasons: the accusations, which are denied, being made against the claimant as part of the disciplinary procedure; that the University’s disciplinary procedure was commenced and progressed by the University despite the University’s knowledge that the claimant was on annual leave; the University’s failure to follow its Code of Practice; the University’s failure to follow its formal disciplinary policy and the overall approach taken by the University in dealing with the claimant over this period. In addition the treatment of the claimant over this period as well as the deterioration of his relationship with Dr Townley meant that he lost all trust and confidence in the University as his employer.

 “The claimant felt that it was no longer possible for him to continue in his role; as such the claimant resigned from his position at the University with immediate effect in his letter of response dated 12th August 2014.

 “On 25th September 2014 the claimant was arrested by the police in relation to the allegations of dishonesty. The claimant denies the allegations in full. The claimant has not been charged and has been bailed with no conditions to 25th February 2015. Accordingly the claimant makes the following claims: (a) discrimination arising out of disability; (b) unfair dismissal; (c) breach of contract and (d) unpaid holiday entitlement.” The name of his solicitors is recorded under that.

 I was going to finish the reading of formal admissions. Go back to paragraph 18 – I think I can read through the rest of these admissions now without interruption so if you would go back to those formal admissions, members of the jury. You will see at paragraph 18, this is under the heading “HMRC” – Her Majesty’s Revenue and Customs – “and Companies House information.” 18: “Christopher Joynson has never filed any self-assessment tax returns for the years 2009/10; 2010/11; 2011/12 or 2012/13.”

 19. “Christopher Joynson filed a tax return for the year 2013/14 on 19th January 2015. That tax return indicated that he had carried out consultancy work with a turnover of £69,779 and net profit after expenses of £41,498. The schedule to that tax return indicates that the work related to self-employment Forward Education.”

 20. “Christopher Joynson filed a tax return for the year 2014/15 on 29th January 2016. That tax return indicated that he carried on a trade in cleaning work with a turnover of £1,808 and a net loss of £7,516.”

 21. “Forward Education Limited was incorporated on 15th January 2014 with Christopher Joynson as the only shareholder and the only director. An application by the company to be struck off the company’s register was signed by Christopher Joynson and received by Companies House on 9th July 2014. Christopher Joynson dated that document 20th June 2014 and no accounts were ever filed by Forward Education Limited.”

MR DYER: Just pausing there, officer, in relation to paragraph 19 of these admissions there is reference to a tax return indicating a turnover of £69,000 and we can see net profit after expenses of £42,000 or so. In relation to that, is there an indication that any payments had been made to staff or anything like that?

A. No, there was not, no.

Q. Wages?

A. No wages.

Q. I am going to move on to the next part of the admissions, members of the jury. Police cautions. Paragraph 22: “Christopher Joynson received a police caution on 11th December 2001.”

 23. “Christopher Joynson received a police caution on 27th November 2007 for obtaining a pecuniary advantage by deception, the allegation relating to a fixed term contract with Lillington Primary School.”

 Under the heading “Kenneth Clough”:

 24. “Kenneth Clough was the grandfather of Christopher Joynson. He was born on 20th July 1927 and he died on 25th August 2015. The causes of death are recorded as (1) Advanced Idiopathic Pulmonary Fibrosis..”, that is a serious problem with the lungs and (2) Dementia Hypertension and Chronic Kidney Disease.”

 25. “25 Moor Lane, York was an address at which Kenneth Clough lived with his wife.”

 Other matters:

 26. “Edge Hill University files and notebooks kept by Peter Townley were destroyed in September 2015 when he retired.”

 27. “Robert Smedley’s University office desktop computer contained only two folders of documents but these were not relevant to the issues in the trial.”

 28. “The contents of Robert Smedley’s University laptop are no longer available.”

 29. “Edge Hill University has indicated that there is no record of Christopher Joynson being issued with a University-issued laptop.”

 30. “Robert Smedley’s electronic Edge Hill diaries beyond 2009 and 2010 are no longer available.”

 Finally, 31: “Christopher Joynson did undertake student registrations.”

MR DYER: That concludes the formal admissions. If you would just bear with me one moment, officer, I am going to ask you to have a look at *this* document if you would, if I could pass that forward to you (*same handed*). Could you please just indicate what that is?

A. This is a document describing the Steps to Success programme at the University. I believe this is one of the documents that I recovered from computer hardware recovered from Mr Smedley’s house at Frankby Road.

Q. At this stage can you say which device it was you recovered it from?

A. Not without checking back at the office, no.

MR DYER: Perhaps you could check that in due course. I am going to ask that the jury have copies of this, your Honour, and it goes right at the back of the jury bundle.

JUDGE CUMMINGS: Any objection?

MR SWIFT: Your Honour, no, I have seen the document.

JUDGE CUMMINGS: Ms Hussain..?

MS HUSSAIN: No, thank you.

JUDGE CUMMINGS: Thank you very much.

MR DYER: There are sufficient copies here – so it is behind divider 24 right at the back, so it will be pages 11 and 12. It goes behind the Steps to Success publication.

JUDGE CUMMINGS: Are the pages numbered?

MR DYER: Yes (*same distributed)*. Officer, is it right that this appears to be an earlier draft of the Steps to Success Evelyn Primary School section at page 9, just a couple of pages before, is that right?

A. Yes, that is correct, yes.

Q. It appears to be an earlier draft of that and there are comments which appear to be from Mr Smedley in the margin, is that right?

A. Yes.

Q. I am not going to read through that, the jury can read that for themselves. Officer, could I ask you now to have a look at the colour Summary of Evidence Chart or Sequence of Events Chart that we have? If we in fact turn to page 23, the last page, there is a key at the bottom, is there not, on the left-hand side for some of the entries, is that right?

A. That is correct, yes.

Q. The blue all relates to C.J. Consultants, is that right?

A. Yes, that is correct, pale blue and dark blue.

Q. The reason for the two blues is because the light blue refers to the date the work was allegedly carried out?

A. Yes, and dark blue the date the invoice itself is dated.

Q. But some of the entries on those invoices are not dated, is that right?

A. That is correct, yes.

Q. But insofar as you can determine the date a light blue entry appears, is that right?

A. Yes.

Q. Forward Education is just pink – there is only one pink on here rather than two. Is that because there are no dates for the work other than “second term” or a month or something like that?

A. Yes, that is correct, the Forward Education invoices were not very specific on the exact date the work was allegedly completed.

Q. So all of the entries on here for Forward Education, the pink ones, are all dates of the actual invoices, is that right?

A. That is correct.

Q. The date of the invoice rather than the date of the work?

A. Yes, that is correct.

Q. We can see on your key you have referred to “lieu days earned and used” and they are in lilac, is that right?

A. Yes.

Q. You have recorded not only the day it has accrued, that it is earned, but also the day leave was taken on the back of it, is that right?

A. Yes, that is correct.

Q. And has that come from the information that Phil Jones gave to you?

A. Yes, that is right, yes.

Q. Yellow are payments from Mr Joynson to Robert Smedley, is that right?

A. Yes.

Q. We can see generally on this very page there are a number of payments but there are also other entries in relation to salary, is that right?

A. Yes, that is correct.

Q. And we see, if we look at the columns, we see “CJ EHU salary”, is that recorded in the white boxes throughout this?

A. Yes.

Q. And it does not actually give the salary payments for Fosse on here, does it? If we look at the start it is just the Edge Hill salary, is it not?

A. Sorry, yes, his wage as a teacher in the school.

Q. That column is for Edge Hill salary?

A. Yes.

Q. Just looking at the key again, we can see green relates to payments for work on 119a Frankby Road?

A. Yes.

Q. Just remind us, how are you able to be so specific about relating the payments to Frankby Road?

A. Two ways. Firstly, on the bank statements Mr Joynson had very efficiently put on the transaction the address for the work, and secondly I identified a number of outgoing cheques where Mr Joynson had made payments. When I got copies of those cheques back I could see it was for the same build as it was also giving direct bank transfers to.

Q. Thank you. In red we have “key events” and it is primarily changes in employment and job title, is that right?

A. Yes.

Q. Or perhaps on occasion change in salary, is that right?

A. Yes.

Q. Also on here have you included the annual leave information for both Mr Joynson and Mr Smedley?

A. I have, yes.

Q. We can see that on this very page, the annual leave that was taken in July 2014, is that right?

A. Yes.

Q. Thank you. If we just go back to the beginning of this document, the first date for which work is claimed is 12th December 2008, is that right?

A. Yes, that is correct.

Q. But the actual invoice – we can see the invoice is number 1, CJEHU/1 – the actual invoice is over the page, is that right?

A. Yes, 28th September 2009.

Q. So it is some nine-and-a-half months later, is that right?

A. Yes.

Q. On these entries the exhibit reference we can tally with the work done. We can look at page 1 and see the invoice number and the exhibit number, SI/73..?

A. Yes.

Q. And the light blue, and then over the page we can see the invoice is on page 2 at the top, is that right?

A. That is correct, yes.

Q. So in fact, just on the top of page 2 we can see there is a series of three invoices submitted at the end of September/start of October – there are three, are there not?

A. Yes.

Q. We can see it is CJEHU/1, 2 and 3, is that right?

A. Yes.

Q. If I could just ask you to look at page 5, this is the time or late February is the time when Mr Joynson is formally appointed as the Partnership Development Officer, is that right?

A. Yes, in the red in the centre.

Q. You have identified a payment on 4th February – the yellow entry – it says “CJ payment to RS”?

A. Yes.

Q. £2,457.

A. Yes.

Q. Is that from an analysis of the bank accounts of each of the defendants?

A. It is, yes.

Q. Can I just ask you, whilst I am asking you about bank accounts, Mr Joynson’s accounts – we have heard in the admissions there is reference to an HSBC account and a Santander account?

A. Yes.

Q. In fact, one account was used for C.J. Consultants and one for Forward Education, is that right?

A. Yes.

Q. Did you look to see whether there was any evidence of payments to staff, in particular the individuals Ken, Terry, Gina and Graham, those individuals?

A. I did, yes.

Q. Did you find any evidence of payments to staff or to individuals with those names?

A. No, I did not, no.

Q. To what extent did you look at outgoing payments? What enquiry did you make?

A. I looked at the behaviour on the bank account, particularly if it changed around about the time that the invoices for the secondment-type staff work started to come out, to see if there were any large withdrawals of cash, any large outgoing cheques, if there were a sort to identify the cheques, get copies of the cheques off the bank. I could find no evidence of any ongoing payments.

Q. Was there a change at the time when the secondment---

A. No.

Q. A change in the operation of the bank accounts?

A. No.

Q. Could I just clarify the evidence in relation to mobile telephones which we dealt with on Friday?

JUDGE CUMMINGS: Could you give me a moment, please. (*Pause*). HSBC for the C.J. Consultants payments?

A. That is correct, yes, your Honour.

Q. And Santander for Forward Education?

A. That is correct, your Honour.

JUDGE CUMMINGS: Thank you.

MR DYER: Mobile ‘phones. I just want to make sure it is clear, the only mobile ‘phone you seized was that of Mr Smedley, is that right?

A. That is correct, from his car when he handed himself into the police the day after the search warrants.

Q. And so when you spoke of screening a ‘phone on Friday it was a reference to Mr Smedley’s ‘phone?

A. Correct, yes.

Q. In relation to Mr Joynson, did you seize any ‘phone or not?

A. I searched his car for it twice and I couldn’t find his ‘phone in that car.

Q. Right, so just to be clear you have not analysed any telephone of Mr Joynson, it is just Mr Smedley?

A. No, I couldn’t find it.

MR DYER: Thank you; if you wait there, there may be some questions for you, officer.

Cross-examined by MS HUSSAIN

MS HUSSAIN: Officer, you did not search the home address of Mr Joynson in Northumberland, did you, his parents’ address?

A. I didn’t, no.

Q. And there was no search of his grandparents’ address, the Moor Lane address in York?

A. No, I didn’t, no.

Q. You have never been able to access or examine any Edge Hill University laptop that may or may not have been issued to Mr Joynson?

A. No, the University tell me they have no record of him being issued a laptop.

Q. So you asked the University, did you?

A. Yes.

Q. When did you make that request of the University roughly?

A. I couldn’t guess.

Q. Was it this year or was it---

A. It would have been last year, when the defence started asking for material from it.

Q. So once the proceedings had commenced in court?

A. Correct, yes.

Q. As part of the court pre-trial preparation process?

A. Correct, yes.

Q. So some time in 2016, is that right?

A. Yes.

Q. But the answer you got was they had no record?

A. Correct, yes.

MS HUSSAIN: Thank you very much.

MR SWIFT: No questions, thank you, your Honour.

JUDGE CUMMINGS: Thank you. Mr Dyer..?

MR DYER: I do not have any re-examination; does your Honour have any questions for the officer?

JUDGE CUMMINGS: No, I do not. Thank you very much, officer.

The witness withdrew

MR DYER: Your Honour, we have a short witness; I suspect she will not take very long. It may be that I can distribute some documents while we are waiting. I think your Honour has this schedule – I think your Honour should have had this morning an A3 document? Yes.

JUDGE CUMMINGS: Thank you.

MR DYER: It is a separate document, your Honour. It is a fairly discrete part of the evidence; I was going to keep it separate. If I could distribute six copies to the jury (*same distributed)*. This witness is going to assist with this document, your Honour.

JUDGE CUMMINGS: Shall we give it an exhibit number? I appreciate it is not going in a file – I think we are up to 18.

MR DYER: Yes, I think that will be right.

JUDGE CUMMINGS: Would you mind, ladies and gentlemen, just writing “exhibit 18” somewhere on the document? Is there a convenient way of describing this document, a short title?

MR DYER: Yes. What it is, for the benefit of the members of the jury, these are all individuals who have been named by the defence as people in a comparable position, so it is a comparative schedule of income, if I can put it in that way. So it all relates to other members of staff, employees who have been named by the defence.

JUDGE CUMMINGS: As having received additional payments in some capacity?

MR DYER: Yes.

JUDGE CUMMINGS: All right, so analysis of payments to other staff members, is that it?

MR DYER: Yes, your Honour.

JUDGE CUMMINGS: Is the next witness dealing with this document?

MR DYER: Yes. I can say for the members of the jury that there is a page for each employee and I think there are nine in total. A separate page for each and in fact there is a separate row really for each academic year as you will see. It only deals with years from 2009 and 2010 up to 2013 and 2014 – that is the time period we are concerned with.

JUDGE CUMMINGS: Yes.

NICOLA MARIANNE WRIGHT, Affirmed

Examined by MR DYER

MR DYER: Could you give your full name to the court, please?

A. Nicola Marianne Wright.

Q. Thank you. I think it is right that you work in the Human Resources Department at Edge Hill University?

A. Yes.

Q. Were you asked last week, or I think perhaps before that, to compile information on certain staff who worked at Edge Hill?

A. Yes.

Q. To give information as to salary, in particular payments that had been made to them as employees?

A. Yes.

Q. I think a colleague of yours was asked to gather information on consultancy payments as a separate task?

A. Yes.

Q. So that is not something that you have dealt with but you dealt with the other aspect of it, is that right?

A. Yes.

Q. That information, once gathered, was put into a schedule, is that right, for each employee?

A. Yes, a spreadsheet.

Q. A spreadsheet. Could I ask you to have a look at a copy? (*Same handed*). We have called this exhibit 18, your Honour. The first page, I think it should have the name of Wendy Dixon at the top, is that right?

A. Yes.

Q. It gives all sorts of information but we can see along the top, just looking at the top line, it gives a start date at Edge Hill?

A. Yes.

Q. 28th September 2010 in this case. Is that the first time they are employed at Edge Hill?

A. Yes.

Q. If appropriate there is a leaving date as well, is that right?

A. Yes.

Q. As far as Wendy Dixon is concerned she still works there, is that right?

A. Yes, it is.

Q. We can see in the first column it lists the accounting years from 2009 up to 2013/14, is that right?

A. Yes, it is.

Q. If we just look at 2009/10, for each year you have got “post start date” and “post end date” and here we can see her start date – 28th September 2010 – and that post actually went on right up until 2014, is that right?

A. Yes.

Q. We can see the post title is “visiting lecturer” but actually no payments were received, is that right?

A. Yes, it is.

Q. We can see, if we look right across that row, there are simply no payments in that year, is that right?

A. Yes.

Q. Do you know why it would be that she would be on the system and not actually paid?

A. If they were previously paid within the previous calendar year and the post hasn’t been yet disestablished.

Q. Right. The same applies to the following year, is that right?

A. Yes.

Q. There is no payment?

A. Yes.

Q. And then 2011/12, here we can see there is again “visiting lecturer, Faculty of Education” and you have got a costs centre code there. It is a foundation degree so it is to do with that, is that right?

A. Yes.

Q. And we can see here it says “Salary start date; salary end date” but what kind of payment is this that has been made here?

A. It would be a payment for some type of work that has been arranged with the Faculty.

Q. We can see it says “visiting lecturer” so it is not payment as part of a salaried post, is it?

A. No.

Q. So this is a visiting lecturer and in that year it is £1,860, is that right?

A. Yes.

Q. During those three accounting years we have just looked at there are no payments of salary at all, it is just that visiting lecturer payment?

A. Yes.

Q. And then we come to 2012/13 and here there are a number of entries, is that right?

A. Yes.

Q. If we look at these, there is an entry for a visiting lecturer - post title – and also two entries for “associate tutor.” There are different post numbers – can you tell us the difference between those?

A. Associate tutors are paid at different grades, so the 80007 represents being paid at Grade 7 and 80008 at Grade 8.

Q. Right, so there are no payments as a visiting lecturer we can see in this year?

A. No.

Q. But then as associate tutor we can see the cost reference for the department is “primary.” “Associate tutor, Faculty of Education” and we can see actually under “grade” it tells you the different pay grades, is that right?

A. Yes.

Q. What is “Spine point”?

A. “Spine point” is – within a University sector we have a 51 spine point salary pay spine and that one, for example, 80007 is point 27 of that spine which represents the equivalent to £27,854.

Q. I see, so the point value, is that an annual equivalent salary?

A. Yes.

Q. So here £27,854 is the annual equivalent salary, is it?

A. Yes, it is.

Q. That is a Grade 7?

A. Yes.

Q. A Grade 8 is £31,000, is that right?

A. Yes.

Q. Annual equivalent?

A. Yes.

Q. The actual payments made as associate tutor in that year are £71 and £241, is that right?

A. Yes.

Q. There is another entry here which is, correct me if I am wrong, a salaried post, is that right?

A. That is right, yes.

Q. A senior lecturer in primary and early years and we can see the start date there is 1st November 2012 and it ends in 2013, but we can see the annual salary there is the point value – yes?

A. Yes.

Q. Just over £42,000 and the actual salary paid in that accounting year, does that appear in the next box, £31,000?

A. Yes, for the gross salary, yes, between the November---

Q. That is the gross salary, so before deductions?

A. Yes.

Q. So here in this accounting year we have got the £31,541 but that is gross?

A. Yes.

Q. And in addition there is just over £300-odd as an associate tutor, is that right?

A. Yes.

Q. In that same accounting year – this is information provided by your colleague in relation to invoices, is that right?

A. Yes.

Q. And in fact this is the only one of these individuals who has consultancy work invoices, but this actually does tell you the date of work and the invoice date, does it not?

A. Yes, it does.

Q. So if we look along the yellowish row there, “Date of work: July 2011; invoice date January 2013”, is that right?

A. Yes.

Q. So in other words, an invoice might not actually be submitted in the year that the work was done?

A. Yes.

Q. And then the total of those payments we can see listed there and it actually also tells you the nature of the work, does it not, under “consultancy” - marking and moderation and so on?

A. Yes.

Q. The final accounting year, 2013/14, there are no consultancy payments, no visiting lecturer payments and in fact no associate tutor payments either, is that right?

A. That is right.

Q. So all there is, is the salary that is paid as a senior lecturer, is that right?

A. Yes.

Q. And it is £43,745, is that right?

A. Yes.

Q. And so in relation to each of the individuals we have here, does it follow a similar pattern?

A. Yes, it does.

Q. If you would just look at the next page, I think it is David Callaghan, is that right?

A. Yes.

JUDGE CUMMINGS: You say “it” follows a similar pattern – you mean the layout?

MR DYER: Yes – sorry, in general terms the layout, accounting years and so on and the information that is given – but I think you have provided all of this information because it all relates to payments other than invoices---

A. Yes.

Q. As far as Mr Callaghan is concerned we can see he first started in 2007, is that right?

A. Yes.

Q. And we can see a reference in the first accounting year we have got, “casual employment.” If we look right along to the end you will see it is £370-odd. So casual employment – how is that paid, casual employment? Is it different to associate tutor?

A. It is claims based, so somebody will undertake the work and then at the end of the month will put in a claim which is then paid the following month.

Q. Right, and is that paid through PAYE or not?

A. Yes, it is.

Q. In that year we can see there is a payment for casual work and a payment to visiting lecturer and together they add up to £500-odd in addition to a gross salary, is that right?

A. Yes.

Q. Of £27,191, is that right?

A. Yes.

JUDGE CUMMINGS: How does the gross salary come to albeit slightly more than the point value?

A. It can be for various things. It could be in relation to overtime that someone has undertaken.

JUDGE CUMMINGS: Thank you.

MR DYER: How do you claim for overtime?

A. Claims for overtime is by a form that is signed off by the director of the area.

Q. Right, and how is it paid? Is it hourly rates or..?

A. Yes, hourly rates.

Q. As far as Mr Callaghan is concerned, if we just look at the salary that he is paid we can see in the following year – 2010/11 – he still has a gross salary of a similar amount, is that right?

A. Yes.

Q. Just a little less, and then the following year as well just a little less again - £26,778, is that right?

A. Yes.

Q. And then in the following year again a similar amount - it is about £27,000 each year, is that right?

A. Yes.

Q. In the final column there are additional payments that we can see that he has had during these periods, is that right?

A. Yes.

Q. If we look at 2012/13, in that year we see there are a number of entries. There is casual employment but there is nothing paid for that; learning technology development is his salary, is that right, £27,000?

A. Yes.

Q. And then additional payments as associate tutor at the different levels, 7 and 8, is that right?

A. Yes.

Q. So here we have £1,400-odd and then £10,400, is that right?

A. Yes.

Q. So they are additional payments paid as an associate tutor, is that right?

A. Yes.

Q. This one in the final year for him – 2013/14 – we can see again his salaried position in the first line and then over the page additional payments there as associate tutor?

A. Yes.

Q. So something over £7,000 there. Those associate tutor payments – in fact there is a visiting lecturer payment as well – are they all paid through PAYE with deductions?

A. Yes.

Q. So are they gross figures again?

A. They are, yes.

MR DYER: Thank you. Your Honour, I do not propose to go through each of the individuals; the figures speak for themselves. I think we have seen the way in which they are recorded on these.

JUDGE CUMMINGS: Thank you.

MR DYER: Thank you very much. I do not know if there are any questions for the witness?

MS HUSSAIN: No, thank you.

Cross-examined by MR SWIFT

MR SWIFT: Just a couple if I may. Whilst you have that page open, I hope, at Mr Callaghan’s..?

A. Yes.

Q. If I read this correctly the 2012/13 and 2013/14 payments as associate tutors and VLs have been paid at a higher rate than salary, is that right?

A. In this case, yes.

Q. We know that by looking at the spine point equivalent.

A. Yes.

Q. Could you turn, please, to the next person – Kaval Priestley Bird? I am not sure whether you would be able to help with this or not; that shows payments in similar fashion. If this person was seconded from a school, would the payments go direct to the school rather than the person?

A. Seconded into a school from the University?

Q. Seconded from the school to the University.

A. Right, okay.

Q. Is it correct that payments would then be made directly to the school?

A. I’m not sure; we wouldn’t be paying the person if they were seconded into us. I think the school would still make the payments – I’m not too sure, that’s not my role, I’m sorry.

Q. Do you understand the question or not? What I am suggesting is if someone was being paid a salary by a school but seconded into the University to help..?

A. Yes.

Q. Then isn’t it correct that the University would be paying the school so it would not necessarily show up on these figures?

A. Yes, it wouldn’t necessarily show up on these figures; unfortunately, because it is not on the HR system I wouldn’t be able to advise too much further on that.

MR SWIFT: I will not press you further on that.

JUDGE CUMMINGS: And it would not show up on these figures because these are figures for the individual, is that right?

A. Paid by the University, yes.

MR SWIFT: I have no further questions, thank you, your Honour.

MR DYER: I do not know if your Honour has any questions of the witness?

JUDGE CUMMINGS: I do not. Thank you very much for coming. You are free to go; please do not discuss your evidence with anyone who is due to give evidence.

The witness withdrew

MR DYER: Your Honour, we are coming to the close of the prosecution case. I do not formally close my case just yet but perhaps this is a convenient time?

JUDGE CUMMINGS: Certainly. When should we resume?

MR DYER: I think my learned friends may be in a better position to – for my part, I am content to resume whenever the jury have had a chance to have a proper lunch.

JUDGE CUMMINGS: Yes.

MR SWIFT: Your Honour, may I ask for a slightly longer lunch to take stock and assess and take further instructions? If I could suggest half past 2?

JUDGE CUMMINGS: Very good – 2.30, ladies and gentlemen, thank you. (The jury left court). Anything I ought to know or not? Anything to raise?

MS HUSSAIN: Just to assist, your Honour, because I think it would help everybody if we knew where we were going. We have an idea. I do not expect Mr Joynson to be giving evidence, therefore the only other aspect---

JUDGE CUMMINGS: I will need to deal with the formal words in relation to that.

MS HUSSAIN: Of course, and obviously anything can change between now and when we resume but that is my anticipation and the reason why I am mentioning this is because it will assist your Honour in managing what we do with the jury. The only other matter that needs to be determined as part of his case is what happens, if anything, vis-a-vis Mr Wright’s letter and that will require a short legal argument just to assess that position.

JUDGE CUMMINGS: Yes. You are making an application of some kind?

MS HUSSAIN: I am. I have just formulated – I think the position differs. Obviously if he does not give evidence then I really need to go back to see what the value of the evidence is and why I would seek its admission and the basis upon which I would invite your Honour to exercise your discretion ultimately.

JUDGE CUMMINGS: Yes, all right, noted. As ever you make any application or no application as you consider appropriate; if an application is made then I will determine it on its merits having heard all sides.

MS HUSSAIN: Yes, and then it is a question of what your Honour does with the jury this afternoon and then over to Mr Swift.

JUDGE CUMMINGS: Yes. Mr Swift, now may be a convenient time just to mention the position of the juror and the funeral. I understand that the funeral that the juror wishes to attend is Friday morning – I mention that so that you can factor it into the overall time-table. What do you anticipate wanting to do this afternoon?

MR SWIFT: A lot may depend on the time we reach when your Honour has determined the legal argument.

JUDGE CUMMINGS: Yes. It is really from the jury’s point of view because if we resume at 2.30 and there is, I do not know, perhaps a short amount of evidence to close the Crown’s case---

MR DYER: There is very little, I think. I just want to check really; there are one or two documents to insert.

JUDGE CUMMINGS: If there is to be any argument, I am inclined to think it may be better simply to release the jury until the morning because we have had a number of occasions now when we have given them times and in particular 10 o’clock starts and they have attended faithfully and nothing has happened. It is not a criticism; it is simply in terms of jury management. I think, rather than potentially have a situation where they are coming in at a quarter to 4 or they are told at a quarter to 4, “Actually we’re not going to need you”, I think it may be better simply to release them and have a fresh start in the morning. I should have asked, and of course you do not need to tell me, but do you anticipate your client will give evidence or not?

MR SWIFT: Yes.

MR DYER: I presume your Honour intends that the jury comes back at 2.30 in any event in order to see what is happening?

JUDGE CUMMINGS: Come back at 2.30 in any event. You continue and close your case and then, depending on time and depending also on whether Ms Hussain has an application, we will either proceed beyond the point of determination in respect of Mr Joynson, in other words whether he is giving evidence or not, or we will simply adjourn to the morning.

MR DYER: I may be wrong but I think the point my learned friend was making was that in order to deal with the application properly we ought really to know the position of Mr Joynson, whether he is giving evidence. I may be wrong about that but to deal with that stage of the case and then the application – that was my understanding.

MS HUSSAIN: I do not expect the decision as to whether he gives evidence to change. The only reason I said that was because it is an important decision and the defendant has right up until the moment of him being called upon to make that decision. If he had given evidence and he had given some positive evidence about the details to which Mr Wright speaks, then the details of the application I would go on to make and the features that your Honour would have to bear in mind would be different to that which would be applicable if the defendant did not give evidence. We would then have to look at “Well, what is the relevance of this evidence?” and I have already distilled that argument and it comes down to the evidence of Ms Jandu(?) and effectively her credibility as to whether she was ever informed as to the existence of his previous caution and then I need to grapple with the difficulty of it, effectively the source of the information being for a person who is unidentified save to the extent that we know from the letter it was a consultant at Monarch.

JUDGE CUMMINGS: I follow all of that; it is simply a matter of sequence from my point of view in terms of how things are dealt with when the jury are here.

MS HUSSAIN: Yes.

JUDGE CUMMINGS: Because unless you are saying that you would want to make a hearsay application in advance of your client’s decision whether or not to give evidence, unless you are saying that we can simply proceed in the orthodox way – the Crown close their case, you do or do not call your client to give evidence and as appropriate I deal with the statutory words.

MS HUSSAIN: That is right.

JUDGE CUMMINGS: And if so advised you indicate that there is an application and it may take time – or not as the case may be.

MS HUSSAIN: Your Honour, yes, that is exactly how I had anticipated it.

JUDGE CUMMINGS: I do not think it affects the sequence. Thank you very much – anything else at this stage?

MS HUSSAIN: No, thank you.

JUDGE CUMMINGS: Thank you. (Matters of time-table further discussed).

LUNCHEON ADJOURNMENT

In the absence of the jury

MR DYER: Your Honour, I have finished the prosecution case. There are a couple of documents I am going to ask the jury to insert into the jury bundle; they have been referred to during the evidence. One is a job description and one is a contract and so I am going to hand those out.

JUDGE CUMMINGS: Fine, this is uncontroversial, I take it?

MS HUSSAIN: It is at the defence request.

JUDGE CUMMINGS: Thank you.

MR DYER: I am going to read the statement of Maureen Wilkes, just to deal with her part in the schedule that has been produced. That is the prosecution case but I propose, having spoken to my learned friend, to indicate to the jury that it is correct that Mr Joynson does not have any criminal convictions. He has obviously indicated that on his form but it is correct that he has no criminal convictions.

JUDGE CUMMINGS: Yes. The cautions will need to be dealt with in a direction. As things stand, there is no explanation at the moment really what a caution amounts to and what the practical significance of it is. Is that something that can simply be dealt with by agreement?

MR DYER: I had anticipated that your Honour would simply deal with it in summing the case up.

JUDGE CUMMINGS: Ms Hussain, it is accepted, is it, that your client accepted cautions as per the formal admissions?

MS HUSSAIN: Yes.

JUDGE CUMMINGS: On the face of it – I say “on the face of it”, to a lawyer a caution indicates that there has been an admission of an offence leading then to the giving of the caution.

MS HUSSAIN: Yes.

JUDGE CUMMINGS: You are happy for a direction to be given that involves that explanation?

MS HUSSAIN: Legally that is the position. Had there been any challenge to that assertion then we would have had to have notified the Crown and the court and there is not. The defence case is that it was accepted. I think earlier on in proceedings your Honour asked me specifically what the defence case was in relation to particulars of Ms Jandu’s evidence and within that discussion I had indicated that it was a pragmatic way of dealing with the situation.

JUDGE CUMMINGS: Absolutely. He voiced what amounted to an admission for pragmatic reasons but the admission was not accurate. He had not actually committed the offence he was appearing to admit to.

MS HUSSAIN: That is right and that is the explanation I gave to your Honour in that discussion.

JUDGE CUMMINGS: That there is no evidence about it?

MS HUSSAIN: There will not be any evidence of it.

JUDGE CUMMINGS: Thank you.

MR DYER: I suppose I can also confirm that Mr Smedley has no convictions as well.

JUDGE CUMMINGS: Quite – very good. So those matters to deal with which will then conclude the Crown’s case or not..?

MR DYER: Yes, it will. All I was going to say is that tomorrow I will prepare an updated index just dealing with the other page numbers for the jury bundle.

JUDGE CUMMINGS: Thank you, but in terms of today you will close your case fairly shortly?

MR DYER: Yes.

JUDGE CUMMINGS: Thank you. Ms Hussain, what is the position, do you anticipate your client will give evidence or not?

MS HUSSAIN: No, there is no evidence to be called in his defence and then I will indicate – I do not know how your Honour wants to deal with it but there will be the matter of law which I do seek to advance. It is very short but it does need to be advanced in relation to the Monarch letter.

JUDGE CUMMINGS: All right, so we keep the jury while that is decided or release them until the morning? I suppose I ask you and Mr Swift jointly really.

MS SWIFT: Your Honour, I would ask for the jury to be released, please.

JUDGE CUMMINGS: And a fresh start in the morning, yes. Are we ready for the jury then?

MS HUSSAIN: Yes.

The jury entered court

JUDGE CUMMINGS: Thank you very much. Mr Dyer..?

MR DYER: May it please your Honour, there is a statement of Maureen Wilkes, I think your Honour has a copy, it is a short statement dated 25th September of this year.

JUDGE CUMMINGS: Yes.

MR DYER: I propose to read that to the jury. Members of the jury, this is another statement to be read. It is a short one from a witness who has in fact given evidence, Maureen Wilkes, who is the Deputy Director of Finance. It is dated 25th September of this year and it deals with the spreadsheet that we have looked at this morning – it is the other member of staff who helped with that. It reads as follows:

 “I am the above-named person residing at an address known to the police. This is my statement regarding a spreadsheet that I helped complete. I work in the Finance Department of Edge Hill University and as part of my role I have access to the finance systems and the information held on them.

 “On Tuesday, 19th September 2017 a request was received by Edge Hill to produce a spreadsheet showing the following information..” and then it lists the information - job title, Faculty they are employed by, salary paid by the University through PAYE, total of any payments paid to them as an associate tutor and then number 4, the total of any payments paid to them as a consultant and number 5 the type of work claimed for if any payments made as a consultant.

 “The information was requested for each accounting year between 2009 and 2014 of those named below” and they are Wendy Dixon, David Callaghan, Kavel Priestley-Bird, Mrs Susan Taylor, William Johnson, Andy Robinson, Tony Liversage, Bernie Kerfoot and Jennifer Curtin. “As part of my role, I am able to address points 4 and 5” – that is the consultancy payments, members of the jury. “I took this information from the University’s records so it could be placed on a spreadsheet as requested. I am aware the completed spreadsheet was passed to Detective Constable Wainwright of the Lancashire Constabulary.”

 Next, members of the jury, there are a couple of documents, the last two that I am going to ask you to put in the jury bundle. If we just look behind divider 13, I am going to ask you to put this just behind page 4. Apologies for my numbering – it is wrong, it starts at 4(e) but I am going to prepare an index which will cater for that. This will go after page 4 in divider 13 – apologies for the numbering (*same distributed*). It goes behind divider 13 because it relates to – you will see the post title – it is the fixed term appointments contract. It is for the Assistant Head of Professional Development as you will see. It has been referred to within the evidence that you heard when witnesses were being questioned. I am not going to read it, your Honour, at this stage unless anybody wishes me to.

JUDGE CUMMINGS: No.

MR DYER: There is another document, this has been referred to as well, and this is to go behind divider 15 after page 8, so this will be page 8(a) onwards – I will just distribute those (*same distributed*). Members of the jury, you will see that this has been referred to when Nicola Whiteside was cross-examined. It is an email attaching the updated JD - job description. It is double-sided and that is the updated job description that was referred to during cross-examination.

JUDGE CUMMINGS: Thank you.

MR DYER: That concludes the evidence, your Honour. In relation to Mr Joynson, I can confirm that Mr Joynson has no criminal convictions recorded against him – you already know about the cautions that he has. As far as Mr Smedley is concerned, he has no criminal convictions and he has no criminal police cautions either. That is the prosecution case.

JUDGE CUMMINGS: Thank you very much. Ladies and gentlemen, the prosecution then have closed their case and that is always an important landmark in any criminal trial; the prosecution have called all of the evidence on which they rely and I now turn in principle to the defence. Ms Hussain, what is the position, please?

MS HUSSAIN: There is no evidence to be called in Mr Joynson’s defence.

JUDGE CUMMINGS: All right - as you know, there is a form of words that I have to deal with at this stage. Ms Hussain, have you advised your client that the stage has now been reached at which he may give evidence and if he chooses not to do so or, having been sworn without good cause refused to answer any question, the jury may draw such inferences as appear proper from his failure to do so?

MS HUSSAIN: I have, yes.

JUDGE CUMMINGS: I am very grateful. What next?

MS HUSSAIN: There is one matter of law that I would seek to raise with your Honour.

JUDGE CUMMINGS: I am very grateful that you flagged this up to me earlier. Ladies and gentlemen, and particularly since there have been a couple of occasions recently when I have asked you to come at a given time and we have not been ready, rather than risk that happening again now I am going to release you until tomorrow morning. So 10.30 if you would, please, ladies and gentlemen. I will deal with this matter of law and I hope we will then be ready to start fresh in the morning. Thank you.

The jury left court

JUDGE CUMMINGS: Ms Hussain..?

MS HUSSAIN: Your Honour, I am just sending to you a short document, literally just despatched now and really that document seeks to set out the argument as best I can and at its height.

JUDGE CUMMINGS: Yes.

MS HUSSAIN: I will need to expand on some of the features to be taken into consideration.

JUDGE CUMMINGS: I have received it – just give me a moment (*paused to read*). Thank you.

MS HUSSAIN: Does your Honour have available the actual letter?

JUDGE CUMMINGS: I will have; just give me a moment (*pause*). Letter dated 22nd June 2007 on Monarch Education notepaper, Stephen Wright to Jenny Perry.

MS HUSSAIN: Yes. By way of background, what is in evidence I think we are safe to say, and certainly not disputed by the Crown, is that Ms Jandu had made a complaint to the GTC and Warwickshire Council was charged with investigating that. What is not in evidence is obviously how this letter has come into our possession and that is because Mr Joynson was sent a pack from the GTC as to the material gathered. The part of the letter or the essence of the information that we are interested in is that which is detailed on the second page, the fourth paragraph starting “The consultant dealing with the recruitment..”

JUDGE CUMMINGS: Yes.

MS HUSSAIN: As I have restated within the body of the application.

JUDGE CUMMINGS: Yes.

MS HUSSAIN: I have included the reference to the anonymous hearsay as your Honour had certainly directed us to that part of *Archbold* and although it is anonymous in the sense that Mr Wright does not divulge the identity of the person we do know that it is a consultant. I think the way I put it is that it is not expressly stated but the likelihood is that this information that he conveys within the letter must have come either from a discussion with the consultant or information recorded in the course of their employment because Mr Wright purports, on the face of this letter, to be writing in his capacity as Head of Education, which is how he signs it off, which is the employment that he had at the time. Basically the application is based upon section 114(1)(d) as to whether the court is satisfied that it is in the interests of justice for it to be admitted. The relevance of this evidence is to deal with essentially the credibility of Ms Jandu but the effect of her evidence really was to lay the foundation for how it was that the second caution came about because the defendant went on to accept obtaining a pecuniary advantage by deception.

JUDGE CUMMINGS: Yes.

MS HUSSAIN: But it actually relates to the more significant issue, which is that that is the subject of part of count 4 which is the material non-disclosure of his cautions when applying for the job at Edge Hill University. So it is important from the perspective of the defence that what I had put to Ms Jandu was that she had been made aware of the fact of his caution at that time when she engaged him as a supply teacher before the fixed term contract. That is material because if the jury believe that he did do that, then that could affect in his favour their determination on the question whether he lied on the application form to Edge Hill so that is the importance from the defence perspective. The reality is Mr Wright, and it is ten years ago so it is hardly surprising that he has absolutely no recollection of the content of the letter; the most we have been able to get from Mr Wright---

JUDGE CUMMINGS: When was he first asked?

MS HUSSAIN: It was within days of his first response – I am just going to get the statement.

JUDGE CUMMINGS: Your instructing solicitor’s statement, Mr Munro, “On 14th September I had cause to trace Mr Wright..”

MS HUSSAIN: Yes.

JUDGE CUMMINGS: Just so I understand, why wasn’t this something that was pursued by the defence earlier?

MS HUSSAIN: We, as in the lawyers, pursued it when the documents were brought to our attention and what had followed was the document was discovered within a pack of papers that the defendant had - the actual GTC file.

JUDGE CUMMINGS: Thank you.

MS HUSSAIN: Therefore in addressing the various criteria that the court needs to consider, firstly the probative value of this evidence is as I have outlined potentially. Assuming it to be true – if the jury were to consider it to be true then it would reveal Mr Joynson, at least at that stage, being upfront about the fact of his caution. I accept it would not detract from the point that when it came to submitting the form, as Ms Jandu had outlined – I think she described it as some prevarication and as the admission makes plain it was in relation to the application for the fixed term contract, so he clearly on the face of it has accepted an element of deceit to be cautioned about it in the first place. How valuable the evidence is for the understanding of other evidence in the case, I have just referred your Honour to the impact it has on the particular of count 4. What other evidence has been or can be given on the matter, other than the defendant’s choice to give evidence about it, given the passage of time there is no other evidence that can be given about it. Mr Stockley---

JUDGE CUMMINGS: What about Mr Wright himself? What do you say about him?

MS HUSSAIN: He has stated categorically that he does not remember anything about it. He said the signature looks to be his. And when he was pressed upon it again as the email communication his own words state there is nothing further he can add. He has moved on from that sector; he has moved on from that job.

JUDGE CUMMINGS: Yes.

MR HUSSAIN: Mr Stockley is the other witness who was served by the Crown from Monarch. The court has not in fact heard from him because he could not recollect – I think the evidence he gave was no generic, no details as to the particular interaction that was had in relation to Mr Joynson and this school. The circumstances in which the statement was made are that which I have outlined - that is the best I can provide for the court’s consideration. Certainly the letter is addressed to Warwickshire County Council.

JUDGE CUMMINGS: The statement for these purposes is the relevant part of that letter.

MS HUSSAIN: It is.

JUDGE CUMMINGS: So it was made in response to or as part of an inquiry being conducted by the local authority.

MS HUSSAIN: It is, and I think what follows is when one looks at the letter, the parts that are in bold appear to be the questions that were asked of him. If one looks at page 1 he writes: “You have requested a response in regards to the following information..” and then in bold “information Mr Joynson gave to Monarch Education during the registration process” and the heading under that part which I seek to adduce – in fact it is the same, he does not split it further – “during the registration process.” In fact, it is just that the copying is so bad if one looks at the second page, just prior to the paragraph “I seek to adduce..”, that does appear to be in bold. “Information given to the Head Teacher prior to him undertaking work at the school whilst employed by Monarch” and then, two paragraphs on from that - that is in bold – “Provide the dates of all work Mr Joynson completed since 1st February 2007.” So it is a safe inference to make, I would submit, that in responding he appreciated that it was a formal enquiry of some description certainly being undertaken and he addressed his mind to those specific questions that were being asked.

 So far as the amount of difficulty involved in challenging the statement, I will leave my learned friend to deal with that. I do not suggest there is none but I think the difficulty we do have here is with the additional passage of time.

JUDGE CUMMINGS: At (e), “How reliable the maker of the statement appears to be?”

MS HUSSAIN: The only points I can really point towards is this is a gentleman who signs off as being Head of Education who clearly, one would imagine, holds a responsible position. It is in response to a formal enquiry and it is created in the course of his employment. Does your Honour mean the actual original---

JUDGE CUMMINGS: Yes. I will hear Mr Dyer but it is not as such Stephen Wright’s reliability that is in issue, is it? Well, maybe it is as well, I do not know, but the passage relied on – “The consultant dealing with the recruitment and placement of Mr Joynson clearly outlined to the Head Teacher the information on the CRB including the additional information.” That is part of the difficulty, is it not? It is difficult to identify who or what is the source of the key assertion that is made?

MS HUSSAIN: Yes, I agree, it is.

JUDGE CUMMINGS: So it is therefore difficult to assess their reliability.

MS HUSSAIN: Yes, it is. If one were to assume just for a moment – it is the use of Mr Wright’s expression that he “clearly outlined to the Head Teacher.” I accept that could be – the only two possibilities I can think of and there may be more – is he has either spoken with the recruitment consultant or has consulted documents or notes that were made but something has given Mr Wright the basis upon which to assert boldly there “clearly outlined to the Head Teacher the information on his CRB” but I cannot take it any further than that, I accept.

JUDGE CUMMINGS: To the extent, if any, that Mr Wright’s own reliability falls to be assessed, what do you say about the information you relayed to me to the effect that he was not necessarily very helpful and the ‘phone was switched off and that sort of thing?

MS HUSSAIN: I have spoken directly with the person who had the communication, Mr Munro, and his assessment was that this was somebody – I think the ‘phone being switched off, he clearly responded after that. He never got to the bottom of – I do not think there is anything to suggest that he deliberately had switched his ‘phone off but he was presenting himself as somebody who just had, after all of these years, no idea. I asked Mr Munro the specific question, “Is there anything to suggest that he was being evasive for another reason?” and that was not his impression.

JUDGE CUMMINGS: Your solicitor’s statement: “I called the mobile number, I then found the number was unobtainable, then made a call from my work landline; it was unobtainable. I formed the opinion that the numbers had been blocked or were out of use.”

MS HUSSAIN: But there was communication with him since then.

JUDGE CUMMINGS: Yes, by the email.

MS HUSSAIN: Yes, and re-reading the email there did not appear to be anything unreasonable about his tone or stance. Those are my submissions.

JUDGE CUMMINGS: Thank you very much. Mr Dyer..?

MR DYER: Your Honour, the Crown object to the application to adduce the evidence. The Crown would say there are a number of problems with the document. First of all, there is no provenance. Nobody is able to produce this document. The only person, it seems, who could produce it is Mr Joynson; it has emanated from him. We do not have an original document; we do not have the document from any other source. Although a witness might be able to say, “That’s my signature on a copy”, there is no way of proving this document is a true and undoctored document. The Crown do not have a copy of it from any other source and so the most that witnesses can say, I suppose, is that “A letter such as this will have been sent, that appears to be my signature” and little else even if the witnesses are here. So that is, in my submission, an insurmountable hurdle in this case. Mr Joynson could give evidence, he could seek in that way to establish some kind of provenance but if he does not he cannot.

 As far as the document itself is concerned it is double hearsay and, as has already been pointed out, it is double hearsay that emanates originally from an anonymous consultant who we have not managed to identify and so it is an impossible task to establish the likelihood of it being reliable or to make any assessment as to that. In addition to that, there are obvious motives that present themselves to a recruitment agency potentially to make assertions as to knowledge and disclosure in circumstances such as this in which there is an investigation. I cannot say that has happened here but there is that potential.

 Finally, we did have a witness from Monarch Education, Mr Stockley. The Crown have not sought to adduce his evidence. Your Honour will know that this is not an issue that was raised in any defence statement at all; it is something that has arisen in the middle of the trial. The issue has been raised in the middle of the trial that in fact this was the position in relation to the CRB check at Lillington Primary. We have been asking what the issue was but we have not been told. We chose not to call Mr Stockley because the Crown took the view he did not take the case further but a review of his second statement – it is at page 258, your Honour. It is just two pages; I will let your Honour read that.

JUDGE CUMMINGS (*having paused to read)*: Thank you.

MR DYER: As far as he is concerned, at page 2 it says: “The CRB was put in process in December 2006 and was completed 16th May 2007”, which is of course closer to the time when everything came to a head and contradicts really, in my submission, what is said – received by Monarch on 22nd May – contradicts what is said in the letter. We have not sought to adduce that evidence from Mr Stockley. The letter seems to be suggesting that there was disclosure twice. That is when he went to work there through the agency – that will be in January – and then again when he was taken on, which was in February. So even such evidence as there is is inconsistent with his letter.

JUDGE CUMMINGS: So he started at Lillington Primary in February?

MR DYER: No, I think it was January.

MS HUSSAIN: January he was a supply teacher.

JUDGE CUMMINGS: Yes.

MR DYER: Through the agency.

MS HUSSAIN: And then the school took him on on a fixed term contract.

JUDGE CUMMINGS: Yes, beginning when? Just remind me. The letter: “Information given to the Head Teacher prior to him..” obviously that is Mr Joynson “..undertaking work at the school whilst employed by Monarch”, so that is prior to the February start date?

MS HUSSAIN: Yes.

JUDGE CUMMINGS: And “the consultant clearly outlined to the Head Teacher the information on his CRB” – according to Mr Stockley’s statement the CRB process was not completed until 22nd May, so some time later and about a month before Mr Wright’s letter. Is that your point, Mr Dyer, so far as that is concerned?

MR DYER: Yes. The Crown’s position is this document – how could it be presented to the jury; where is the provenance? It is going to be floated in front of them “This is a document, we can’t say where it’s come from, we can’t say where the original is, we can’t say what the provenance is; take it into account even though you don’t know who the original maker of the statement was so you can’t assess the weight of it.” Even though we know that there is other evidence which tends to contradict it which is not directly on the point that we are concerned with - we are concerned with the knowledge of Ms Jandu, of course.

JUDGE CUMMINGS: Yes.

MR DYER: All of those circumstances must mean, in my submission, that it ought not to be admitted.

JUDGE CUMMINGS: Thank you. Ms Hussain, what do you say about the provenance point? What would be the evidence before the jury that would establish that this statement was contained in a letter written by a representative of Monarch?

MS HUSSAIN: That is all I could say.

JUDGE CUMMINGS: What is it that enables you to say even that? What is the evidence of it?

MS HUSSAIN: I had understood, and I do not mean this critically, I can see that it forms part of the Crown’s objection, that if the court were to rule – and it is a circular argument – that it was admissible, then we could have agreed a formulation as between us to inform the jury that material gathered as part of the GTC inquiry was this letter within which it was stated that, but I can see there is a difficulty with that in the Crown’s submissions. I do not pretend that it is straightforward; obviously it is not.

JUDGE CUMMINGS: In the absence of an admission by the Crown, which it seems Mr Dyer is not making, then there is it appears no other evidence that would go before the jury to establish the provenance of this representation of fact.

MS HUSSAIN: No, but what I am asking the court to determine is whether in the interests of justice the court will allow me – I say to read part of it because the rest is not directly relevant – but effectively what I am asking is to place the letter before the jury and the jury would then be provided with the questions asked and the answers given.

JUDGE CUMMINGS: But there has to be some starting point. Before one considers the admissibility of a statement, whether it is written or verbal, there has to be some evidence that such a statement was written or uttered. One of Mr Dyer’s points is there is no such evidence. Even on your case there is no evidence because you are not calling your client, you are not calling Mr Wright, you are not making a hearsay application in respect of a statement by Mr Wright – there is simply no starting point.

MS HUSSAIN: I accept that is the position. Whether, in light of that, despite that the court could conclude it nevertheless remains in the interests of justice for the jury to receive this information, because that is effectively what I am asking for and there are situations in criminal trials where the interest of justice test is there for that reason, that do the circumstances that we are in, the defence, warrant the jury receiving evidence of this nature with the absence of such provenance? That is what it amounts to. And of course they will be given the caveats in due course, the use to which they can put this, the weight that they might feel able to attach to it will all be matters for their consideration and those features will no doubt affect the weight that they may feel they are able to give to it. So compensation can be driven to some extent in that way.

JUDGE CUMMINGS: Thank you.

R U L I N G

JUDGE CUMMINGS: In this case there is an issue regarding certain previous employment held by the first defendant, Mr Joynson, with a school, Lillington Primary School, and the issue relates to or involves consideration of whether there was or was not disclosure at the time of his securing employment at that school of the fact that he had a caution against his name. This centres on consideration of whether a CRB check was conducted by the employment agency through which he had obtained an initial placement at the school and whether, if such a CRB was carried out, the result of that was communicated to the school prior to Mr Joynson beginning certainly full-time employment at that school. It is the prosecution case that there was no such disclosure and the Head Teacher of the school has given evidence in this trial to that effect.

 The defence are in possession of a letter which, taken at face value – and I use that form of words because the Crown make no concession about it – taken at face value it is a letter on headed notepaper of Monarch Education, that being the employment agency in question, taken at face value signed by Stephen Wright, the then Head of Education at that agency according to the letter, and containing the following extract which the defence would seek to introduce into evidence. Sub-heading: “Information given to the Head Teacher prior to him undertaking work at the school..” – “him” for these purposes being Mr Joynson – “..whilst employed by Monarch.” It reads thus: “The consultant dealing with the recruitment and placement of Mr Joynson clearly outlined to the Head Teacher the information on his CRB, including the additional information, with the permission of Mr Joynson, ensuring that the Head Teacher had an understanding of the background information.” That assertion, if correct, plainly is flatly at variance with the evidence given by the Head Teacher during the trial.

 The issue to which this relates is a significant issue in the case in my judgment, not least because what essentially is said Mr Joynson did in respect of Lillington Primary School is similar to one aspect of what he is alleged to have done in his application for full-time at Edge Hill University, the application and contentions in it forming the basis of one of the counts on the indictment in this case.

 The defence seek to adduce the relevant part of this letter by way of a hearsay application and the application is made under section 114(1)(d) of the Criminal Justice Act 2003, the so-called interests of justice provision, this being in effect a catch-all provision allowing, in appropriate circumstances, for the court to admit hearsay in circumstances where the application could not be made within any of the other provisions in the section.

 The prosecution object to the application and they object on a number of grounds. The first ground is that they say that there is no proof of provenance. There has to be in effect a starting point for any hearsay application, there has to be some evidence before the jury that a statement was made before the jury can then go on with appropriate directions to consider whether or not they accept the truth of the statement relied upon. In this case, and really Ms Hussain ultimately was forced to concede that this is the position, in this case the defence simply do not have any evidence to put before the jury to establish provenance of this statement. They could in principle adduce evidence of provenance from Mr Joynson himself – he has elected not to give evidence as plainly is his right. In principle, evidence of provenance could be given by the author of the letter, Stephen Wright, the Head of Education. Ultimately the defence, having made enquiry of him, have accepted his position as being essentially that he cannot verify at this remove, ten years on, the contents of this letter and has no independent recollection about any of it so for that reason they do not seek to call him. They do not have any statement from him in respect of which they make any hearsay application and there is no other evidence that they seek to adduce to establish provenance.

 I am afraid in my judgment the application falls at the first hurdle. For completeness there are other problems with the application. The nature of the part of the letter which the defence seek to put in evidence is such that on the face of it, it either is or cannot be excluded as being anonymous hearsay. The letter is not absolutely clear in its terms but there is certainly nothing that clearly indicates that Mr Wright, even at the time of the letter, was claiming any direct knowledge of the relevant subject matter. On the face of it, the most natural reading of the passage that Ms Hussain seeks to put in evidence is that an unnamed consultant informed Mr Wright that he or she had communicated the relevant information to the school. If that is right then not only is it double hearsay but it is also hearsay emanating from an anonymous source and, as I canvassed with the parties the other day, the law in relation to that appears to be that anonymous hearsay is simply inadmissible; there is no power in the court to admit it.

 In terms of reliability, Mr Dyer points, without making any positive assertion to this effect in terms of the assessment that the court has to make at this stage, he points to the obvious motives potentially for an agency in the circumstances of this case, where essentially they were on the receiving end of an inquiry instituted by the local authority, for the agency to make assertions as to knowledge and proper disclosure precisely in order to avoid themselves being in trouble for not doing what they should have done and that is, without making any finding, a factor that I would have to take into account in relation to reliability.

 Finally, Mr Dyer points to the fact that there is in the prosecution served evidence, in the statements bundle, a statement from another representative of the employment agency, Monarch Education, a Mr Stockley – a statement from February of this year. Not a statement ultimately that has been put into evidence; the witness was not required and there was nothing ultimately that was relevant for the jury at the time the decision was made. But in that statement the witness Mr Stockley says that in respect of Mr Joynson the CRB, as it is termed, “The CRB was put in process in December 2006 and was completed on 16th May 2007, being received at Monarch on 22nd May 2007.” Pausing there, the relevance of that, taken at face value, is that on his account the outcome of the CRB check was only communicated to Monarch on 22nd May 2007 which was some months after Mr Joynson had started in his employed capacity at the school in February of that year and therefore on the face of it is inconsistent with the assertion that Ms Hussain now seeks to adduce into evidence by way of this hearsay application to the effect that Monarch were in possession of the relevant information as early as February and communicated it to the school at that time.

 For all of these reasons I refuse this application. It is in my judgment not in the interests of justice that this evidence should be admitted in this way and the application fails.

JUDGE CUMMINGS: Thank you – any other matters arising at this stage?

MS HUSSAIN: No, thank you.

JUDGE CUMMINGS: 10.30 – Mr Swift, do you anticipate your client will give evidence?

MR SWIFT: He will, your Honour, yes.

JUDGE CUMMINGS: I am very grateful, thank you.

A D J O U R N E D

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