Written submission by Kim Weeks (SHW0028)

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1 This written evidence is a case study which shows the government is failing to provide access to justice for sex discrimination, harassment and violence against women because of inadequacies in the employment tribunal system (ET) and law.

2 Whereas the ET may consider itself subject to Rule 2A, the ‘overriding objective’, it does not have to treat women fairly. The principles of CEDAW and the EU Directive are not included in Employment Tribunals’ rules, procedures and practice directions particularly regarding the complaints procedures when a woman feels discriminated against or victimised by the ET.

3 The evidence from my case shows that the Employment Tribunal systematically made false findings of fact and used other strategies, such as derisive language so that I would lose my case and be victimised for bringing the claims whilst an appeal was denied on the grounds that these intentional ‘errors’ were not a breach of my human rights or misconduct or consider ‘points of law’.

4 It is not in the rules or regulations but is a custom, a series of practices which entitles the tribunal to make a finding of fact contrary to the evidence. This practice which includes examples of epistemic injustice does not raise a question of law and therefore cannot be appealed against. However, a finding contrary to the evidence may cover up sexual harassment, perjury, and be contrary to other human rights but the tribunal does not have to investigate and therefore did not.

5 This case shows how the rules, procedures and practices in the Employment Tribunal may assert man’s right to harass and do violence against women and girls with impunity and how they maintain power and harm the women who challenge them. These customs and practices should be abolished in accordance with the EU Directive for example.

6 However, there is not currently a safe and effective means for women to raise discrimination, victimisation or unfair treatment claims against Employment Tribunals (ET) in the UK because they regulate themselves.

7 Employment Tribunals are not bound by the Equalities Act 2010. ETs are not in reality held accountable by the Human Rights Act either. This is because of HRA s(9) a complaint against the Tribunal has to be heard through the appeal system so that the same people who are considering your complaint are at the same time considering whether you should be allowed to appeal. Consequently unlawful tactics such as 'no reasonable prospect of success' and threats of costs are used to deny an appeal irrespective of its merits, the law, or justice whilst any complaints can be denied without properly being investigated.

8 The Employment Appeal Tribunal Rules 2, 3(1)- 3(7) and 3(8)- 3(10) and Practice Directions needs to be reviewed to account for any errors of fact or misconduct committed by the Tribunal which breaches human rights or violates CEDAW or the EU Directive; and paragraph 13 of the Practice...
Directions which details how complaints against Employment Tribunals are conducted must be amended to protect women.

9 Paragraph 13 of the EAT Rules should be reviewed. Paragraph 13.2 should ensure that a decision about a complainant's appeal is not made until any complaint is properly investigated. At this time, there is no real duty imposed on the tribunal to fairly investigate any complaint against themselves. This is especially the case as paragraph 13.3 suggests the EAT may investigate a complaint if a decision is taken at sift to proceed with an appeal. The incentive therefore is to deny an appeal to avoid having the tribunal investigated when a woman complains.

10 Paragraph 13.6.3 of the Practice Directions which entitles the Tribunal Service to award costs against Claimants who bring complaints against them needs to be abolished. This will particularly disadvantage women and other vulnerable groups who are more likely to suffer victimisation or judicial mobbing as in this case.

11 Complaints of discrimination or victimisation against the ET needs to be independently reviewed if the tribunal denies wrongdoing despite clear evidence of bias, discrimination or victimisation.

12 The employment tribunal needs to include a victim's code for women who are alleging sexual harassment, victimisation or violence similar to that used in the criminal justice system.

13 An urgent review needs to done to determine whether the apparent low success rate of sex discrimination cases is due to the misconduct of the tribunal service.

I am mindful not to burden the committee with too much evidence because the tribunal fabricated all the judgements against me. I will provide a brief outline of the case study for the committee to consider and can produce any evidence requested.

14 **Background:** From 2007 I raised concerns about students’ complaints of sexual harassment, which I also witnessed; bullying and harassment of a female colleague; data and other irregularities at Newham College in East London where I taught psychology. This case is compounded by the report of student harassment, as well as the bullying and harassment and violence towards women at work of which the evidence is clear.

15 The documentary evidence shows that Newham College not only failed to act to protect the women and students but that they also precipitated a backlash against me for making the disclosures. I was subjected to threats and sexual harassment, on-going bullying and obstruction in my work, rumours and a smear campaign, amongst other reprisals. These were matters of undisputed fact.

16 It was also undisputed that despite being informed of the bullying and harassment the College took no steps whatsoever to investigate or stop the harm. The Director of Human Resources stated during tribunal proceedings that management had been told not to respond to me if I asked for help, which I repeatedly did as detailed in email and other documentary evidence.
17 As no effective action was taken, I continued to be subjected to bullying and sexual harassment over the year and I was injured following my staff room chair being tampered with on two occasions on 29th April and 9th May 2008 by the men I had reported.

18 I was absent from work from July 2008 and have not been able to work since. I needed counselling and physiotherapy for the back and neck and was suffering from various stress related illnesses including anxiety and panic attacks. There are various medical records available and it is not disputed that I became ill having made disclosures and having been subjected to bullying and harassment.

19 Following a ‘Back to Work’ interview in September 2008 when I was threatened by Newham College to “drop all allegations” or “trouble with follow you” amongst other comments which traumatised me, I was hospitalised on 6th October 2008 for four days, suffering a number of stress-related illnesses. The documentary evidence shows that instead of being supported back into work, I was told to leave the College's employment.

20 Consequently in November 2008, I raised a complaint with the Employment Tribunal (ET) in East London in accordance with the Public Interest Disclosure Act and the Sex Discrimination Act (now the Equalities Act 2010). The Sex Discrimination Questionnaire clearly showed a prima facie case of harassment related to sex against the College who provided no defence.

21 However, I have never received protection, justice or remedy for the injuries I have suffered because of the victimisation by the Employment Tribunal which suggests a failure in the ET rules, regulations, procedures and law.

22 The Employment Tribunal: The hearings were heard from January 2010 and completed in December 2013 when the second costs judgment brought against me was delivered. Despite proving I had been subjected to sexual harassment, and that the College had acted contrary to PIDA and SDA, I not only lost my cases but I was subjected to costs and the most degrading mobbing by the tribunal.

23 The documentary evidence shows that despite my case being clear and the College having no defence, in January 2010 the ET systematically made false findings of fact to conceal the perjury and wrongdoing committed by Newham College, including covering up evidence of the sexual harassment of students and sexual harassment and violence against women. This was not considered a breach of their duty, misconduct or contrary to human rights by the tribunal service.

24 Having falsified evidence in relation to the student’s harassment, the ET falsely accused me of ‘inventing’ it, then used this, together with other falsified evidence to argue that I should not be believed on any matters including the detriment I suffered. They then systematically edited out any evidence that supported my claims. These acts are unlawful but the ET refused to change what they had done.
25 Being bullied when giving my testimony: Generally the ET process was traumatic. For example, to be 'equal' the same amount of time was allocated to the parties to cross examine witnesses. That meant I had 4 days to question 10 witnesses, and the Respondent had 4 days to cross examine just me.

26 I faced a degrading 'battering' for hours at a time in front of the men who had harassed and injured me, was repeatedly called a liar without there being any evidence against me. As I was telling the truth about my case, Counsel resorted to wrongly accusing me of saying I had a son with autism instead of a daughter. This was totally irrelevant to the case and very distressing, but the Judge allowed it to continue, glaring at me with this awful expression. At one point, I nearly fainted and the College were allowed to call out and jeer.

27 The ET state 'There were times when we felt that the Claimant was making things up as she went along. The most obvious example of this is the reference she made during cross examination to having an autistic child at home'.

28 Counsel had come in the next day and apologised to the judge (but not to me) saying she had made a mistake and I had not claimed to have a son with autism. The judge concludes that 'This was the most significant example' of my 'making it up as I go along' ....'Whether or not Ms Weeks had the previous day referred to a son or a child is immaterial, what is significant is the way she dealt with the point when it arose...'

29 The 'making it up as you go along' is actually what the ET and College can be shown to have done.

30 Being voiceless, falsifying testimonies: The ET felt entitled to falsify my testimony and the testimonies of others to undermine my case. They do not consider this misconduct even when it has serious consequences for the woman and society.

31 One example of this (but there are many) is the falsified account by the College of the student harassment reported in the September meeting. The College forged the note of this meeting, and provided perjured accounts of what I had said. I made this clear during proceedings. However, what I said I had reported was not included in the Judgement. Instead the ET attributed the College's forged account to me, then contradicted themselves in the next paragraph saying I had not said it. I was then accused of 'inventing' the College's forged account which was not what I had claimed.

32 At paragraph 102 of Judgment 3203429 the ET stated 'During September 2007 the Claimant reported to Ms Besly allegations that Mr Watson had been sexually harassing female students. This allegation was passed on to Mr Harris by Ms Besly. In turn, Mr Harris met with the Claimant and took details from her as to the allegations that she was making. The first is that in May 2007 a student had reported to her that she did not like the way that Mr Watson looked at her, she had felt that it was in a sexual way. That particular student had said that she didn't want to take the matter further and had since left the College. Secondly, in January or February 2007 she said that she had witnessed Mr Watson say to a student who was warming herself at a radiator, words to the effect, "come over here and I will show you how to warm up". The third incident was that the claimant claimed to have
witnessed Mr Watson pass through a door, close to a female student who had looked startled. In neither of these two latter incidents had the students concerned made any complaint. Only one of those students from those three incidents was named'.

33 This is what the College alleged was reported and is the perjured account. This is not what I stated I had reported when giving my evidence nor does the documentary evidence support this or as noted in the ET’s findings in paragraph 103 of their Judgment which contradicts paragraph 102.

34 At paragraph 103 of Judgment 3203429 the Tribunal state 'We note that in the course of her evidence the Claimant had suggested that the third incident had occurred in 2008. When it was pointed out to her that the note of this meeting with Mr Harris which records all three incidents, is dated September 2007, her immediate reaction was to say that the Respondent had amended the note for the purposes of this Hearing, rather than to acknowledge that she might have made a mistake in answering the question as to when that third incident had occurred. Mr Harris and Ms Besly hotly denied any suggestion that they had amended this or any other document. We accept their evidence.....'

35 The ET accepted the College’s accounts despite having previous College reports to Ofsted and Newham Children Services which were different to the account provided by the College to the ET. Instead the ET used this to undermine my credibility, the full evidence of which I can provide when I was the only one being consistent.

36 The strategy of the ET was to manipulate or falsify evidence to undermine my credibility to accuse me of lying when they knew I was telling the truth.

37 Falsely representing what was in emails: For example, to pervert justice the ET wanted to accuse me of ‘inventing’ the second chair incident. They made false findings of fact to conceal the perjury and failures of the college whilst amending evidence to make it appear that I had not reported the second chair incident.

38 So, whilst in paragraph 182 of Judgment 3203429, the Tribunal notes that the 7th August email to Newham College refers to the two chair incidents; that I had complained ‘about the alleged chair incidents a second time’; the Tribunal amends this to ‘the chair incident’ in paragraph 229.14 of Judgment for the purpose of accusing me that I had only reported one chair incident.

39 This was not an error by the Tribunal because they also perverted the meaning of other emails including my email of 15th September 2008 to Newham College. The Tribunal suggested in paragraph 183 of their Judgment that I had asked in the 15th September email that ‘someone examine her chair which she said had been preserved’.

40 In fact I had referred to two chair incidents not one. I stated in the 15th September email, ‘Its really important that I am able to voice any safety concerns and return back to work as soon as possible. You also mentioned that ***** had contacted me for a meeting about the chair ‘accidents’. I am not aware of this, although I believe she did email a questionnaire on health and safety. I do feel examinations and reports should be made on the chairs (the back of which of one of them is
currently in the security guard’s office on the ground floor) and I would be happy to meet with ***** if she feels necessary. On 9th May, following the second accident, ***** was not available so I informed the site supervisor who did ask maintenance men to investigate and they should have information....’

41 Further the ET then also collaborated with the College to state that an investigation of the one chair was completed by the College when this was not true. This can be shown to be a fabrication instigated by the ET judge as the Director of Human Resources was denying that this was done when he coerced her to change her testimony.

42 By suppressing and falsifying this and other evidence which is available, I could be accused of not only inventing the second chair incident but of doing so to ‘harass’ the men, meaning I could be re-victimised for reporting my injuries. This was particularly traumatic because of the physiotherapy I had endured as well as being punished for the men's violence towards me.

43 This was not the ET 'weighing' the evidence but their basing their decisions on facts they knew were false and would result in my losing my case and being victimised. This is not seen as misconduct in the UK but a 'judicial decision' which is privileged and cannot be challenged. I have many more examples of bias throughout the judgment and proceedings.

44 **Suppressing evidence to undermine claim:** For example, to conceal the evidence of the sexual harassment and to undermine the claim by suggesting a 'lack of objection' or 'the occasional use', the ET make a false finding of fact at 191.4 of the judgement 'The Claimant and Ms Francis had been subject to sexual harassment and bullying - new' suggesting that Ms Francis and I had not raised concerns about harassment and bullying before my grievance against the College on 29th September 2008. This meant they then had to suppress, edit or falsify over a year's evidence to the contrary which was a substantial task.

45 Whereas the ET had to pervert a significant body of evidence to conceal the complaints which occurred for over a year up to this date, they also ignored findings in their own judgement. This again was an error that could not be appealed against though my suggestion was this should have been dealt with as misconduct.

46 For example, the ET had to suppress evidence of the College's perjury and evidence that I had reported bullying and harassment concerns to Martin Tolhurst, the Principal and to various managers over a period of a year as evidenced by emails and reports to support their false finding at para 191.4 above. This is a typical example of testimonial injustice. However what is notable is injustice is the purpose of the ET. It is intentional, not only that the Claimant will lose her claim but be punished for bringing the claim.

47 So, whereas I had claimed that I had discussed bullying and harassment with the Principal in my meeting with him, he had denied this.

48 In his witness statement to the Tribunal and when giving his evidence during proceedings, Martin Tolhurst, the Principal denied that I had informed him of any bullying and harassment. He stated at paragraph 14 of his witness statement for example 'I don’t have any recollection of her raising complaints of bullying, sabotage or harassment by them......Had Kim Weeks raised allegations about bullying or harassment, the College has a comprehensive and clear policy for dealing with such issues, and I would have referred it to HR to deal with at the time....’ and this was reiterated
throughout his statement and during proceedings in January 2010 and during the Unfair dismissal hearing throughout 2012 to December 2013 when proceedings were concluded.

49 However, evidence before the tribunal about information shared between Martin Tolhurst and management in their email exchanges during February/March 2009 stated that following my meeting with Martin Tolhurst ‘The investigation Martin asked Peter Harris to undertake was to investigate the allegation of bullying and harassment by UCU.... Also that during my meeting with Martin Tolhurst, ‘Her main gripe was the alleged bullying and harassment...’

50 Also the evidence from the correspondence and reports to Ofsted prepared by Martin Tolhurst over a period of time during April/May 2009, Mr Tolhurst stated he had approached me for a meeting ‘because of senior management concern over the content of a statement made by another member of staff regarding alleged bullying of two staff by some UCU (trade union) elected officers’.

51 It was noted in Martin Tolhurst’s correspondence to Ofsted that I also had made allegations of bullying against UCU officials suggesting that an independent consultant had been ‘concerned with KW’s (Kim Weeks’) allegations of bullying by UCU officers. A Faculty Director subsequently instigated such investigations....’

52 The consultant had noted evidence of bullying and harassment, but the tribunal refused my request for an order in relation to this. Another College witness also changed her statement when giving her evidence and said that bullying and harassment had been discussed. Instead the ET suppressed all the evidence against the College so they could accuse me of lying about my discussion with Mr Tolhurst which had serious consequences for me and went to my credibility not his.

53 For example, the Tribunal state in paragraph 16 of the Costs Judgment in September 2010 ‘At paragraph 85 we considered what had been said in a meeting between Ms Weeks and the Chief Executive, Mr Tolhurst. There was a conflict of evidence between the two as to what had been said. We concluded that we accepted Mr Tolhurst’s evidence that a conversation along the lines alleged did not take place. We were satisfied that if allegations of bullying and harassment had been made by the Claimant in this conversation, Mr Tolhurst would have acted and ensured that it was dealt with straightaway’.

54 Once again, despite the evidence I was accused of lying whilst the College were permitted to commit perjury. The ET were to argue they are entitled to do this with evidence.

55 This and other similar false findings, then undermined the sex discrimination case and my credibility which appeared intentionally muddled by the ET to deny justice. They also used other strategies to ensure my case was lost and I was victimised.

56 **Removing evidence and omitting the claim of sex discrimination against the College so the woman can be punished for bringing a claim**: I had stated in the ET1 ‘The Claimant maintains that she was subjected to sexual harassment contrary to Section 4A SDA referred to in paragraphs 75 and 148 and the failure by the Respondent to respond appropriately to reports by the Claimant of sexual harassment’. The case against the College was primie facie. They had been informed of bullying and sexual harassment for over a year, and did not dispute that they had not taken any steps to address it. In fact during proceedings the Director of Human Resources stated that management had been told specifically not to respond to me. However, the ET removed the complaint against Newham College from my claim, without my agreement, and made Mr Sweeney the respondent. My
objections were denied. This act by the ET was considered an error that could not be appealed against and left me with a more demanding case to establish.

57 Committing perjury was not considered relevant to the College's credibility or the case. The Tribunal failed to take into account their own findings; edited out evidence that I had informed Newham College that I was being subjected to harassment related to sex and that the matter had been referred to UCU to deal with; that I had been ‘upset’ by misogynist comments and made a number of errors of fact which always disadvantaged my case whilst providing an advantage to Newham College.

58 Derisive and emotional language was used to discredit me, such as the harassment claims being considered by the ET as ‘outrageously fantastic and beyond any credibility whatsoever’ which bore no relation to the evidence but could be used to victimise. It was the victimisation by the tribunal for bringing the claims which is very difficult to bear and should never have happened.

59 I will just provide a brief example of the sex discrimination case, but there are many more examples of unfair and unlawful treatment. Irrespective of the evidence I was blamed every time the College did something wrong. Using language to incite contempt was key to that. The 'outrageously fantastic' allegation in response to my sexual harassment claims by the ET was used to discipline and dismiss me for example, but it had no bearing to the facts but was a vehicle for victimisation that I was not provided the means to stop. The ET constantly treated me less favourably than the Respondent and the men.

60 So for example the claim noted in paragraph 235 of the Judgement 'that he (Mr Sweeney) made jokes about the difficulty of telling the difference between a fat women and a pregnant women [sic]' was considered 'outrageously fantastic'.

61 Mr Sweeney made misogynist comments throughout the tribunal hearing accusing me of disliking men and of having ‘an anti-male mindset’ which is untrue. He asked them to “punish me” for bringing the claim. I hope you can imagine my feeling having been bullied and injured by Mr Sweeney.

62 The Tribunal had established in paragraph 70 of the Judgment that Mr Sweeney had sent to me the ‘screaming woman’ animated cartoon of a woman having her breasts squeezed. The EAT later has stated that the cartoon was “offensive, disgusting and unacceptable” whilst Mr Sweeney stated he had found it amusing.

63 In paragraph 71 of the Judgment the Tribunal established that Mr Sweeney had lied to them when he said he did not remember sending the cartoon. This did not go to his credibility however when he denied laughing about the pregnant women joke. Further the Tribunal note in paragraph 71 that Mr Sweeney ‘was in the habit of sending “amusing” emails to his colleagues’.

64 However, what the Tribunal suppressed was that Mr Sweeney admitted regularly sending other jokes related to sex. Mr Sweeney refers to this in paragraphs 123-124 of his witness statement. He states regarding internet jokes ‘Usually these get passed around as light humour to lighten our stressful workloads and were often funny and inoffensive digs at both men and women in the
workplace’.

65 In paragraph 124 of his witness statement he suggests most of the jokes came from his wife or female members of staff which he ‘thought funny enough to circulate to the A level team. In fact, the majority were depicting men as buffoons – again totally harmless stuff which I believe helps rather than hinders relations between men and women’.

66 The point which was clear to the Tribunal was that Mr Sweeney who regularly circulated sex related jokes was found to have sent at least one offensive, misogynist cartoon which he had lied to them about. Even if the ET decided that he had not laughed at a joke about a pregnant woman, my assertion that he had should not have been considered outrageously fantastic or without any credibility for the purpose of awarding costs against me and punishing me.

67 In fact I was disciplined and dismissed because of the ET's use of the words 'outrageously fantastic', words which bore no relation to my claims or the facts whilst Mr Sweeney was then considered 'my victim' for bringing the claim. This was particularly distressing because he had been allowed to injure me following the two chair incidents which the ET had condoned by tampering with the evidence.

68 These are only some of the examples which I can provide, which clearly shows that the ET was prejudiced against me and breached their duty so that I would lose the claim and could be victimised. In these circumstances there is no support for a woman to raise concerns about unfair treatment or to bring an appeal.

69 Raising a complaint and appealing: On 7th May 2010 I tried to appeal detailing the substantial amount of 'error' and bias in the judgment and tried to use 'perversity' as a ground for appeal but there is no effective means of doing this in the UK.

70 I also wrote to the Office of Judicial Complaint on 17th June 2010 raising concerns that the Tribunal had discriminated against me and treated me unfairly. They replied on 18th June 2010 that 'Neither the Lord Chief Justice, the Lord Chancellor nor officials in this Office, is able to consider or intervene with complaints about judicial decisions. The only way in which a judicial decision can be challenged is by appeal to a higher court. The term 'judicial decision' encompasses issues relating to the way in which a judge chooses to handle a case; decisions made on the evidence that will be considered and/or dismissed; the weight attached to evidence that is considered, the final outcome of the case and other ancillary things such as costs and sentencing. The principle of judicial independence from government means that these things can only be challenged via the legal process, on appeal if so advised'.

71 Complaints against the Tribunal are dealt with in accordance with the EAT Rules and Practice Directions paragraph 13, which is not a statutory process and the Tribunal Service is not bound by it. This means that women are not provided with any real legal entitlement or protection during the complaints procedure when they feel wronged. Any investigation of a complaint of bias or improper conduct does not have to involve the complainant. There is no duty placed upon the Tribunal
Service to consult or include the complainant or anyone they do not want to. The complainant should be involved in the process.

72 In accordance with para 13.2 the Judge or Registrar may postpone the decision to sift and ask the complainant for particulars and/or whether s/he wants to proceed with the complaint; may seek evidence or witness testimonies of the acts complained of from the parties involved; and may seek comments from the employment judge and lay people complained about but there is no particularly duty to do so.

73 The Employment Appeal Tribunal (EAT) may also decide to provide to parties copies of the witness statements, affidavits and various to the parties involved but they are not bound to do so. Nor are they bound to seek these documents. In fact, the Tribunal Appeal Service do not have to produce any evidence of a proper investigation at all if indeed they complete any investigation. For example, there is no requirement to even question the judge who is the subject of the complaint.

74 It is also a disadvantage that the same people considering the complaint are also making the decision as to whether the woman can appeal. Having to persuade the appeal judges that they want to investigate and/or hold a colleague to account for serious misconduct including lying about evidence and covering up perjury is a challenge. This is especially so when the woman is unrepresented, already wronged and viewed as having the potential to bring the tribunal into disrepute. In short, she faces a mobbing.

75 As my case shows, the Tribunal can and do ignore and suppress evidence of their own wrongdoing. In accordance with the HRA s(9) the Claimant is therefore faced with 'the sift' having to bring a complaint of discrimination or bias against the Tribunal using the same appeal process intended for her primary case. As a consequence, in accordance with para 13.3 of the Practice Directions and the appeal process, this provides too much opportunity for the Employment Appeal Tribunal to unfairly dismiss both cases to avoid any proper investigation of a complaint or further embarrassment. Whereas the woman should be protected by her statutory rights, HRA s(9) by having her complaint properly addressed, this can denied.

76 The principles of CEDAW, the EU Directive and a woman's human rights should be clearly apparent in the EAT rules and regulations including how complaints of human rights breaches are dealt with. Instead, the appeal process and complaint procedure is made difficult and insurmountable.

77 On 24th June 2010 the Employment Appeal Tribunal alleged that two pages were missing from my application therefore it was considered out of time. I tried to appeal against this decision on 29th June 2010 which initially was denied by the EAT and challenged by Newham College and had to appeal for my right to appeal which was heard in December 2010. The appeal process itself did not make allowances for my duties as a carer to my disabled daughter or family responsibilities i.e. a relative died and I had to organise the funeral. There were no allowances for this.

78 I complained amongst other matters of inequality, of sexism, of being unfairly discredited despite the documentary evidence and being victimised for bringing the claims. I argued that ‘the concealment of wrongdoing by the College whilst undermining my credibility defies any sense of social justice’.....‘I deserve a proper explanation as to what went wrong at the Tribunal and feel the Appeal Tribunal would be in a position to do that’.
In the meantime, the Tribunal Judgment based on the perjury and false findings of fact was used by Newham College to unfairly discipline and dismiss me in May/June 2010. This was very traumatic and humiliating. To be accused of inventing the second chair incident and other detriment that had made me very ill, together with the student harassment, ended my career.

Also, the Costs hearing on 7th September 2010 followed ‘the facts’ of the Tribunal, whether these breached human rights or not, there are no means to challenge a judgement that was wrong to the extent that it was. I was told errors have to be treated as ‘facts' which was absurd. So I had to pay costs for acts I had not done.

I was in the position of trying to raise a complaint against the Tribunal for unfair treatment; of bringing an appeal dated 7th May 2010 for the January 2010 judgment and also of bringing a claim of unfair dismissal in accordance with the Public Interest Disclosure Act and the Sex Discrimination Act all of which were doomed to fail because there is no means of challenging false findings of fact or unfair treatment either through an appeal or through a fresh claim.

All the judges asserted the right for a judge to falsify facts. That is the truth that they would not put in writing but is the reality for vulnerable claimants. In writing they would put 'errors' that could not be appealed against.

The appeal process is also not effective for claimants who have been treated unfairly by the ET, because inevitably they will need a re-hearing of evidence which the EAT will not do even if issues of inequality, discrimination and victimisation are raised but perhaps maybe especially if these issues are raised, they will shut it down. The ET will never admit any failings because they do not have to and it appears more expedient to intimidate particular women who raise concerns.

As there are no procedures in place specifically for dealing with complaints of sex discrimination against the tribunal, the Claimant who has already been discriminated against faces a judicial mobbing and an appeal and complaint process which is traumatic and meant to eliminate the problem for the ET.

I wrote to the EAT on 18th August 2010, requesting that additional evidence was included because ‘the degree of bias, error and apparent sexism in the Judgement required the full time available within which to make the appeal, especially bearing in mind the domestic responsibilities that had to be attended to. The Judgement also caused considerable distress. The order details my concerns and provides evidence of the Respondent misleading the Tribunal and also raises the issues of R tampering with evidence and my not having a fair hearing (which was not properly dealt with by the ET). This document therefore illustrates some of the bias in the Judgement’.

Newham College could simply deny this additional evidence stating in their email of 18th August 2010 ‘I refer you to Paragraph 6 of the Practice Directions (Employment Appeal Tribunal – Procedure) 2008 (the “Practice Direction”)….. In particular, I refer to Paragraph 6.4 which states that no bundle containing more than 100 pages should be agreed or lodged without the permission of the Registrar or order of a judge. As the bundle is already in excess of 100 pages, due to the core
documents requested by the EAT, we are not in a position to agree to any additional documentation being included in the bundle….' I then had to approach the EAT who advised me to prepare an essential reading list for the Registrar to consider.

87 The revised Practice Directions (Employment Appeal Tribunal – Procedure) 2013 paragraph 8 affirms the restriction regarding evidence. However, in particular paragraph 8.3 now allows only 50 pages in the core bundle and does not state how any evidence of bias or unfair treatment by the Tribunal may be permitted. This will particularly disadvantage women who are more likely to have been unfairly discredited contrary to the evidence and will need to have evidence re-heard as in my case. As I stated to the EAT on 16th August 2010, that I felt ‘further disadvantaged’ because I was the wronged party in the process and had more to do including facing an unfair costs hearing which could not be challenged.

88 The EAT will only consider appeals based on, what they view are points of law and not errors of fact which is where they place the issues they don’t want to deal with. Malicious acts even discrimination or victimisation during the judicial process is not considered misconduct or a breach of human rights or unlawful but provided the privilege of judicial decision which is a custom that has no place in a modern court of law.

89 Even if a woman can prove that a Tribunal was biased against her, this could simply be considered an error which cannot be appealed against, as in my case when sexual harassment and violence was condoned by the ET falsifying facts and using other strategies such as derisive language noted.

90 At the hearing on 13th December 2010, the EAT agreed to extend the time limit and allowed my appeal application to be properly constituted. However, on 9th February 2011 the EAT informed me the right to appeal had been denied in accordance with Rule 3(7). In these circumstances a judge or registrar can dismiss an appeal if they consider it has no reasonable grounds. They are not obliged to consider the evidence of any discrimination or victimisation so do not. The principles of CEDAW and the EU Directive are simply not in the rules.

91 The Deputy Registrar informed me the Notice of Appeal did not raise a question of law... ‘This means that it is not the function of this Appeal Tribunal to re-hear the facts of a case or to review an Employment Tribunal’s decision on those facts’. In the opinion of His Honour David Richardson (written in bold) ‘Parliament has given the Employment Appeal Tribunal jurisdiction only to deal with appeals on question of law. In most cases Employment Tribunals apply established principles of law and decide the case on the facts, in the process of which they also decide where necessary which witnesses they believe. In such a case there is no appeal to the Employment Appeal Tribunal. Questions of fact are for the Employment Tribunals to decide.... I have read with care the reasons of the Tribunal and the Notice of Appeal of the Claimant. The Tribunal decided the case on the facts and on its view of the credibility of the witnesses. The Claimant’s Notice of Appeal is a lengthy commentary on the Tribunal’s reasons, complaining of the Tribunal’s conclusions about her credibility and of the Tribunal’s conclusions of fact. I understand that she is disappointed to have lost these issues; but almost all cases have winners and losers, and if the case is won and lost on the facts
and on issues of credibility there is no appeal. I do not think the Notice of Appeal discloses any question of law with any real prospect of success’.

92 There had been numerous examples provided of the ET falsifying facts and in error undermining my credibility hence the length of the appeal. They were not obliged to address the content of the complaint.

93 Rule 3(8) states that when notification of Rule 3(7) is given, the claimant has 28 days to re-submit a fresh Notice of Appeal which I did on 2nd March 2011. On 11th April 2011 the EAT provided an order that the appeal be stayed so that I could amend the Notice of Appeal and reduce it from 56 to 20 pages. This was considerable work that meant some of the evidence against the tribunal would have to be removed.

94 The EAT also sent a letter on 11th April 2011in response to the complaint that did not address any of the evidence.

95 The letter dated 11th April 2011 from His Honour Judge Serota QC considered ‘that the Notice of Appeal presently appears to contain a large amount of complaints about findings of fact which the Employment Appeal Tribunal has no jurisdiction to entertain and that the allegations of bias against the Employment Tribunal are no more than complaints as to [the] Employment Tribunal having made findings with which the claimant disagrees or taking case management decisions within its wide remit.’

96 This is not true but a standard response to claimants. A wronged woman faces a compounded injustice. Not only has the first case been lost because of the misconduct and failings of the Tribunal Service which cannot be addressed using an effective complaints procedure, but an appeal can also be denied by the Tribunal Service to avoid dealing with any misconduct. As in my case, the Employment Appeal Tribunal Service could simply unfairly assert from behind closed doors that the complaint was 'unsubstantiated' without having to address any evidence; whilst suggesting that the appeal disclosed no reasonable grounds and unfairly dismiss both without a proper hearing of the facts. These are not the only difficulties a woman facing prejudice at the tribunal would face.

97 I amended and re-submitted the Notice of Appeal and this was again denied on 20th July 2011. The EAT reiterated the reasons already provided that it disclosed no point of law with a reasonable prospect of success. The number of pages presented which included my complaint against the ET was complained of and considered by His Honour Judge McMullen QC ‘a disproportionate approach to the issues...The allegations of perversity fail to surmount the high threshold.... The Employment Tribunal preferred the evidence of the other side. That is what it is there to do: to make decisions on the facts....The Employment Tribunal was entitled to regard the Claimant’s evidence as incredible and fantastic. The judgment of Browne-Wilkinson J is of assistance in approaching appeals based on alleged misapprehension of the facts:

“An error of law can be shown if a tribunal has failed to make a finding of fact as to which there was uncontroverted evidence, or has made a finding of fact contrary to all the evidence.
It is equally clear that there is no error of law where there is some evidence pointing in one direction and some evidence pointing in the other direction, and the Industrial Tribunal has preferred one set
of evidence to the other. A finding contrary to the weight of the evidence is not a question of law.....
It is not a question of law simply to show that there was far more evidence pointing in the opposite
direction. It is for the Industrial Tribunal to make its decision as to the weight of the evidence and to
make findings as to what the position was.” Whereas the EAT acknowledged I was ‘a litigant in
person’ it was also pointed out that ‘equality of treatment’ meant ‘whoever presses on with a
doomed case after due warning faces the same risk on costs...’.

98 I was not allowed to present my evidence to support my claims that the ET had acted unfairly.
Instead the rules and regulations entitle the EAT, at para 13.6.3 to threaten anyone who raises a
complaint against them with costs which compounds the injustice and distress.

99 Having been denied the right to an appeal, on 6th August 2011 I applied in accordance with Rule 3(9)
for an oral hearing to decide whether the appeal could proceed. I also requested permission to
provide fresh evidence which included another email from a student confirming that she and two
others had approached me to raise concerns of sexual harassment against my colleague just as I
reported in September 2007. This was important because the allegation that I had invented these
students’ complaints which had been covered up and lied about by the College, had undermined my
credibility and unfairly identified me as a ‘false accuser’ which was horrifying after I had made the
report to protect my students.

100 The application for the oral hearing took place on 18th November 2011. The reporting of the sexual
harassment of students obviously had public interest but also the consequences of the ET making
ersors about this were clear.

101 In the skeleton argument I stated ‘The fresh evidence submitted suggests that the ET’s finding that
the Claimant made up the allegations discussed with Peter Harris in September 2007 is wrong and
that my credibility was unfairly undermined. As stated in the Notice of Appeal para 8, R’s misconduct
prevented C from having a fair analysis of her reasonable belief and good faith and in para 11, the ET
erred and should have noted that C had reported R to prescribed persons when determining good
faith in accordance with Street v Derbyshire Unemployed Workers Centre [2004] IRLR 687 EWCA. If
the EAT is unable to substitute the ET’s decision, then the matter should be remitted back to the ET’.

102 The additional evidence also supported that Newham College had committed perjury and falsified
documents to pervert justice and the false allegations this misconduct was based on could be shown
to have been used by the ET to denigrate me and undermine my credibility. They then used this to
deny me justice regarding my detriment claim. I plead with the EAT to consider the prejudice in the
ET’s judgement.

103 I stated ‘The ET did not deal with other instances when R (Respondent) fabricated the evidence to
pervert the case for example, the minutes of Henry Tiller’s disciplinary. The ET ignored these concerns
but the matters have to be dealt with. As well as undermining my credibility, the suggestion that C
(Claimant) had made false allegations against a male colleague, hardened the mindset of the ET
against her and her reasons for issuing proceedings. This deprived C of a fair hearing. The ET state
and providing as an example her ‘allegations of sexual misconduct against her work colleague, Mr
There were aspects to some of the allegations that Ms Weeks made that had an element of the unlikely about them and which became incredible as she attempted to explain…

Using the example, of ‘false allegations’ in paragraph 57.1, the ET then generalise C’s lack of credibility to her detriment claim and essentially strike out the claims of ‘misogynist comments, sexual harassment, bullying’ [para 57.2]. However, this assertion by the ET is a value judgement. That C should not be believed equates with her not deserving justice or the protection of the law. The distaste of the Claimant is expressed in para 54 of the J, and this allegation of ‘an intelligent and articulate person’ who ‘take a grain of truth and then embellishes and exaggerates’ until ‘it takes on the appearance of something quite different’ is used by the ET to protect the perpetrators of the harassment and to punish C. This ‘impression’ is not ‘from the documentary evidence’ as suggested by the ET but contrary to it. At some point, irrespective of the evidence before it, the ET decided that C should not win her case and took it upon themselves to suppress and distort the evidence to advantage R against C. The EAT’s assertion that the ET has the right to prefer R’s evidence over C is only lawful if it is based on the evidence, which it is not. The EJ undermined C by editing out evidence that supported C’s case; missing out emails and/or noting the emails but not commenting on R’s failure to act; inferring that action had taken place when no action was claimed by R; stating the opposite of what actually happened; and by blaming and denigrating the victim.

Examples of the ET’s bias were provided. I listed how the ET had systematically removed evidence that I had informed the College of being bullied and harassed so the College could not be held liable and I would unfairly lose the harassment claim.

I stated ‘But the EAT should note that ET edited out these words from the evidence and other words related to the stress C was suffering which is more evidence of the bias of the ET. For example in C’s emails related to detriment the EJ omits that she is ‘affected’ by the threats [19th September, 2007]; ‘embarrassed’ [5th October 2007]; is ‘upset’ by misogynist comments [13th November 2007]; is being caused ‘considerable embarrassment and stress’ and is ‘uncomfortable and fearful at work’ [5th March 2008]; and that her right to work in a safe environment was being violated [30th April 2008]. Although the EJ states in paragraph 122 of the J that during Ms Laurent Hughes telephone meeting with C that there were not any complaints of ‘harassment, sabotage, or of disparaging comments about women…’ Ms Laurent Hughes’ written account also notes that C had stated that she was feeling ‘demoralised’; that her personal rights were being breached; that she was being excluded, was unhappy and the situation was ruining her life. C stated that she was being laughed at by the men and ‘picked on’ but this is not mentioned by the ET when it should have been included. The ET then undermine C’s credibility in para 55 of the J, without providing specific examples of what they mean, and having suppressed evidence that supported her claims’. Further all references to sex discrimination were edited out of the evidence by the ET. Other examples provided in the 3(10) skeleton argument include:

I was told of threats and that the men were ‘planning’ action against me by Tim Carey including that I was going to ‘burn’, ‘have my career ruined’ and be ‘hit on all sides’ by the men if I was a witness
against Henry Tiller’. All established as fact. The EAT have ignored my complaint that the ET had edited out the part of the email on 30th November 2007 that referred to this [para 34-35 of the Notice of Appeal p15]. The ET misdirected itself as in para 7.4 of the J as being a complaint against the behaviour of Tim Carey when it was not. Instead of focusing on why the men were not investigated by R, the ET ask whether C had had a relationship with Mr Carey, and are critical of her [para 58 of the J]. The invasion of my privacy and my texts were irrelevant to the complaint which was never dealt with because the evidence that the context of the threats was C being a witness for R was excluded from the Judgement.

108 Further, as well as C’s email 30.11.07 to Mr Carey copied to Peter Harris and Cynthia Hyman, the EJ also took the opportunity to suppress other direct references made by C to R about being victimised for being a witness for the College despite these emails being included in the Judgement. Notably in C’s email of 16th October 2007 when she stated she was being blamed and made a target; her email of 14th November 2007 to Brian Johnson and Peter Harris; and her email of 7th August 2008 all raised concerns about being victimised having made disclosures. By not including these references the ET did not have to consider causation, s48(2) PIDA or whether R had discharged the burden of proof’.

109 It can be shown that the intention of the ET was to deny my claims by editing, falsifying of the facts and other strategies. That cannot be disputed.

110 I also pointed out it was the EAT’s duty not to tolerate the victimisation of women who bring sex discrimination claims although the evidence shows they victimised me.

111 I stated ‘There is also another point of law, that the EAT is obliged to consider. At what point is it lawful for the Employment Tribunal Service to punish a woman for raising claims of harassment. In many sex discrimination cases it appears when the woman proves sufficient facts on part of her case, that is enough to avoid victimisation. I, in fact, provided evidence for all my claims though the ET decided not to include all these facts in the Judgement. In para 15 of Richmond Parmacology Ltd v Dhaliwal [2009] IRLR 336 it states it is important to ‘have regard to all the relevant circumstances’ when considering claims which presumably means including R’s failure to act. The EU directives are clear, that a woman should not be subjected to any discrimination whatsoever, or be victimised for raising a complaint. However, the EAT suggest that the ET ‘was entitled to regard the Claimant’s evidence as incredible and fantastic’ and for this C was punished. The ET explained why C should have to pay costs for raising her harassment related to sex claim in paras 28 and 29 of the Cost Judgement. However, there is a shift from accusations that C’s claims were ‘fantastic’ or ‘incredible’. The ET confirm that there were ‘grains of truth in many of the allegations’ and make reference to their ‘rather strong expression in describing the allegations as “outrageously fantastic and beyond any credibility”’. They state the reason for the strong statement is ‘because these allegations were blown up….’ The ET heard during the Cost Hearing that they had ignored evidence supporting the claims in para 235 and that I had suffered and been made very ill by the harassment. In part they have acknowledged this because ‘outrageously fantastic and beyond any credibility’ is not the same as something ‘blown up’ out of ‘grains of truth’. However, the ET erred because they made no findings of fact in relation to the claims in para 235 despite evidence being available in Mr Sweeney’s
statement to HR [para 148 of the J]; Mr Sweeney’s witness statement and his testimony. The EAT should have deduced that from the Appeal applications. Without knowing what the ET considered these grains of truth are in relation to the claims in para 235, it is difficult to know to what extent the ET were entitled to punish C for ‘blowing up’ the claims or whether their actions amounted to victimisation as claimed by C’.

112 During the oral hearing the Employment Appeal Tribunal agreed to allow an appeal if the grounds were amended and did not include the errors of fact or a complaint against the ET. Counsel who was part of the Employment Law Appeal Advice Scheme [ELAAS] volunteered to do this. The EAT simply refused to hear the complaint of bias. So I was left with a judgement based on the false facts which had no place in a court of law to hear part of my case.

113 The Employment Appeal Tribunal hearing: It is the case, that the tribunal appeal system does not have the jurisdiction to tell the truth when an error has been made by the tribunal, that is the law according to what I was told by the appeal courts. I feel it is more of a case of not having to tell the truth if it does not suit them. Errors of fact as with bias can also breach human rights and in that sense should be considered errors of law. This was rejected.

114 For example, in Kingsley v UK, 7th November 2000, ECHR 35605/97 the European Court of Human Rights held that a person will not have had a "fair hearing" by an "impartial tribunal" within the meaning of Art 6 of the ECHR if the Court has anything less than "full jurisdiction" as established by the case law on article 6. Thus if there are any restrictions on what an appeal court is able to review in a particular case it may be that a hearing by that court will not comply with Article 6. This was rejected in my case.

115 The EAT refused to admit the fresh evidence from the students detailing what had been complained about preferring to rely on what they knew was a false finding, that I had 'invented' these complaints. This finding was also key to undermining my detriment claim and credibility which the EAT also said there was no right of appeal despite clear evidence of bias.

116 This was wrong. The House of Lords has held that the overriding consideration to be taken into account is "....... whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased [Porter v Magill [2001]UKHL 67, [2002] 2AC 357, HL(E). The practical application of this test in the context of a complaint that an employment tribunal judge was biased would be to consider "If it would appear to a reasonably informed bystander that the Chairman was showing favour to one side unfairly as against the other, the Chairman would have acted in breach of [his][her] duty"."

117 However, when you are a LiP, the legal system provides no value to your person. This means that predominantly women, the poor and unrepresented have to endure the bias without recourse to justice as in my case.

118 Despite all the false of findings of fact, my case still satisfied the burden of proof in the sex discrimination case, so why did the ET make me pay costs and why did the EAT on 4th May 2012 dismiss the claim?

119 The EAT refused any fresh evidence, the email from the students confirming I had not invented any student harassment claims; they refused to reconsider evidence of the chairs or any false finding or
any misconduct by the ET hence covering up harassment and violence against me. They said all the facts had to be treated as true, because these were errors that could not be appealed against even though clearly it breached my human rights (which was denied). The reality was, I would not have a fair hearing, I would be denied my claims, and victimised again for bringing them.

120 This then meant they could circulate the false allegations, and further damaged my reputation using the false findings of fact to portray me as the woman who 'invents' things to harm people when they knew this was not true. Of course this also condoned and protected the men who had sexually harassed the students and women and also committed bullying and violence against women.

121 Further there were problems with the way the burden of proof and law was interpreted. The EU Directive which stipulates that when a person who feels they have been wronged establishes facts from which harassment can be presumed, the burden should pass to the Respondent. Having established facts from which harassment related to sex could be presumed, it was not the place of the Tribunal to find that I did not feel offended nor that the employer was entitled to ignore the concerns that I raised. However, they were able to use the law and their rules and procedures to do this whilst intimidating me with costs.

122 Part of the problem was whether it was reasonable under the circumstances to be offended. The 'screaming woman' cartoon was inherently offensive, yet because of the false findings of facts and evidence that had been suppressed, the tribunal and the EAT could infer that I was not offended even though I claimed I was. This was surreal but then means the woman if not offended, has brought a claim unreasonably. There is no protection from this kind of humiliation.

123 In part this was due to evidence of the complaints of bullying and harassment over time that had been suppressed by the ET ie the false finding that I did not complain therefore you were not offended which I could not challenge even though the documentary evidence was available. But also the false findings of fact which suggested the claimant was not to be believed if she said she was offended meant the EAT could use the judgement to deny my sex discrimination claim and be punitive against me.

124 There seems to be in the tribunal service a fundamental disrespect for the law and women’s rights, a misogyny which made them feel entitled to deny me, as a particular type of woman (which they had fabricated) the protection of the law and my right to remedy.

125 Having proved facts from which harassment could be inferred the Act allows a Respondent and EAT in some cases by denigrating the victim, to not have to provide an explanation, in order to deny the claim but also the victim blaming can result in punishment for the woman.

126 Whilst finding that the comments and the screaming woman cartoon were unwanted conduct I was denied the protection of the law because the Tribunal decided that in the circumstances they did not consider that Mr Sweeney had that purpose or that these acts could reasonably be considered
as having the proscribed effect ‘in the circumstances’ because I was not to be believed. This was wrong and contrary to the EU Directive, however UK law permits this.

127 The UK’s interpretation of the Directive is detailed in the Barton Guidelines referred to in Igen Ltd & Ors v Wong [2005] EWCA Civ 142. At paragraph 76 it states that ‘(9) Where the claimant has proved facts from which conclusions could be drawn that the respondent has treated the claimant less favourably on the ground of sex, then the burden of proof moves to the respondent’. But in fact it does not have to move to the Respondent.

128 Case law has established that ‘could’ does not mean ‘might’. Therefore there must be facts that suggest, in the absence of an adequate explanation from the Respondent, that sex discrimination would be inferred.

129 The Tribunal referred to Richmond Pharmacology Ltd v Dhaliwal [2009] IRLR 336 in paragraph 47 of the Judgement. There are three elements they note to a claim of harassment.

130 To clarify, in Richmond Pharmacology Ltd v Dhaliwal [2009] IRLR 336 it states ‘an employer should not be held liable merely because his conduct has had the effect of producing a proscribed consequence. It should be reasonable that that consequence has occurred. The claimant must have felt, or perceived, her dignity to have been violated or an adverse environment to have been created, but the tribunal is required to consider whether, if the claimant has experienced those feelings or perceptions, it was reasonable for her to do so….The issue is quintessentially a matter for the factual assessment of the tribunal. It will be important for it to have regard to all the relevant circumstances, including the context of the conduct in question’.

131 The comments about women Directors who “did nothing but look nice”, remarks about “power dressed women” and the “Principal’s Harem” and similar expressions being said; Mr Sweeney’s dislike of “girlie chat”; his use of “drama queen” in the context of him raising his hand and voice; and the sending of the ‘screaming woman cartoon’ were inherently offensive acts on the grounds of sex which would create the proscribed environment. Although the case was disadvantaged by the concealing of the student harassment, threats and chair incidents for example there was still sufficient evidence to satisfy the burden.

132 The Tribunal conclude in paragraph 233 that ‘These are the facts from which we could conclude that the Claimant has been subjected to conduct related to her sex which has the purpose or effect of violating her dignity and of creating an intimidating, hostile, humiliating or offensive environment for her’. As noted in the Costs Hearing against me, the ET accepted that the burden had been passed to the Respondent who had no defence and had taken no steps at all to address the issues following my complaints although as noted, the ET removed without my agreement the complaint against the College.

133 However, in paragraph 234, once the burden had been satisfied the ET ask an additional question. They asked ‘Has such an environment been created? Clearly it had been because facts had been established of such, the burden had been satisfied and a Claimant had brought the complaint but this brought about an examination of the Claimant. The emphasis then, was on the ET’s construction of ‘false accuser’ a woman represented as undeserving who needed to be punished.
134 Even if the Tribunal's false allegations against me were true, the Tribunal's decision to not believe that ‘the Claimant was offended’ raises an issue with the Tribunal’s interpretation of the Directive and a woman who considers herself wronged.

135 The ET justify their decision by stating in paragraph 234.2 ‘Nor in the circumstances, do we consider that these particular words or similar that may have been used could reasonably have been considered as having that effect, even having regard to the Claimant’s perception. The cartoon was the most troubling aspect’.

136 They continue in paragraph 234.2 ‘but taking all the surrounding facts into consideration: the context of the comments, their very occasional use, the lack of objection at the time and the timing of the objection raised; on balance we find that they did not have and should not reasonably be regarded as having, the proscribed effect’.

137 As I was unable to have the bias of the ET properly investigated it was not possible to challenge the false findings of fact in paragraph 234.2 which denied me justice for example, 'lack of objection'; 'very occasional use'; 'context of the comments' etc. can all be shown to be based on false facts which would have been in the mind of the ET to undermine the claim.

138 However this then meant, that the harassment claim could be considered as being brought unreasonably despite having satisfied the burden, establishing facts of the harassment (and numerous more which were typically edited out by the ET). So as well as suffering bias from the ET, having evidence systematically suppressed but still satisfying the burden, I was accused of bringing a claim unreasonably to 'harass' the men, the men who had threatened me, physically injured me and put me in hospital from the stress. This was typically achieved by using derisive terms that I had 'exaggerated' the claims for example. Hence the law, the rules and regulations can be used by the tribunal to victimise women for bringing claims and I had to pay costs.

139 There will be issues when the circumstances or environment complained of, is considered to be about the character of the woman, the claimant and whether she should succeed in her claim.

140 The EAT accepted that the proscribed effect could occur with the ‘screaming woman’ cartoon which they found to be “offensive, disgusting and unacceptable”. They also stated in paragraph 20 of their Judgment 'The fact that terms that are plainly related to gender, such as “girlie chat”, “power-dressed women” and “harem”, are used only once in the course of a fairly lengthy period of time, again, would not prevent in an appropriate case, and with appropriate surrounding circumstances, those comments being seen to create the environment spoken of'.

141 However they stated they could not challenge the Tribunal finding that I was not offended by the cartoon or the comments or find it perverse. This was despite their finding that the cartoon was disgusting and they would expect a man to have been disciplined or dismissed for having sent it.

142 In paragraph 22 the EAT state ‘To find that it had created the proscribed environment would require: first, that she gave evidence that it had secondly, that that evidence was believed; and thirdly, that the Tribunal thought that it was behaviour that could in all the circumstances reasonably be
regarded as having the proscribed effect; in other words, it did not accept what the Claimant said about the effect on her. The Tribunal on balance found here that the cartoon did not, with everything else, have that effect; in other words, it did not accept what the Claimant said about the effect on her. The environment spoken of by the Act is the environment “for her”, i.e. for the complainant’.

143 Instead therefore reference was made to the false allegations against me in the judgement which I was not allowed to appeal against. The EAT in paragraph 23 state that they could not ‘say here that the finding of fact that there was no such environment as the Claimant claimed, in a context in which her claims in respect of other matters had been seen as heavily overstated, was perverse, and we must reject the appeal under this head’.

144 It was suggested consequently based on these false findings which incidently the EAT knew were wrong, that I had no dignity to violate. This suggests the judgement was being punitive. I was provided no protection from such acts as the EAT did not have to rehear evidence or to consider facts that were basing their decisions on were wrong.

145 This re-subjection to the comments and the offensive cartoon by the Employment Tribunal Service was humiliating and degrading. I have to suffer from these smears on my character every day.

146 The EAT felt justified to treat me less favourably based on errors of fact. The Tribunal did not allow me to occupy the position of truth even when the evidence supported what I said. The law should not entitle them as it does to deny me my experience when the act complained of is inherently sexist and it is reasonable to presume a woman would be offended. It is not up to them to decide then, that only a ‘type’ of woman would be offended ie the women the judge referred to, sitting on the panel. The judge explained that if the ‘screaming woman’ cartoon had been sent to one of those ladies, indeed Mr Sweeney would have been dismissed. This was demeaning. If I had been sitting on that panel I would never have allowed the Judge to speak about a human being like that.

147 The EAT whilst avoiding the Tribunal’s error of not passing the burden to Newham College informing me it was not an error of law, argued that because of ‘all the circumstances’ the burden had not been passed to the Respondent at all. The reality is the tribunal can make it up as they go along for certain claimants they do not consider equal before the law. There is no rule, regulation or law that will stop them.

148 Nothing happened to the men who had committed perjury, sexually harassed the students, bullied and harassed a female colleague out of her job, bullied and harassed me, left me injured and unable to work. All the people involved in the perjury during proceedings were advanced in their careers, my career ended and my health has been compromised.

149 The EAT denied me the right to appeal to the Court of Appeal. I learnt from the Court of Appeal who denied me an appeal regarding the PIDA claim that if I persisted pointing out the falsifying of facts by the ET I would have to pay “significant costs”. The Court of Appeal also denied me an appeal on the grounds that I could not challenge errors of fact and that this was not a breach of my human rights whilst knowing full well that it was.
The ET also struck out the unfair dismissal claim contrary to the sex discrimination act so I was disciplined and dismissed by the College using a judgement based on their perjury and tribunal 'error', without the right to remedy.

Consequently the Employment Tribunal Service is not fit for purpose and a risk to women. Questions have to be asked as to why so few sex discrimination cases heard in the tribunal are successful and whether there is systematic abuse of this kind. Ensuring complaints of unfair treatment against the tribunal are properly investigated is one way of determining this. There should also be specific procedures in the complaints and appeal system which includes references to CEDAW and the EU Directives and other instruments that protects women's rights.

March 2018