



EMPLOYMENT AND DISCRIMINATION TRIBUNAL
NOTIFICATION OF TRIBUNAL'S DECISION

On a complaint made to the Employment and Discrimination Tribunal, as specified below.

Tribunal Hearing held on:

20-24 November, 2006; 24-26 and 29-31 January, 2007; 21-23 and 26-28 February, 2007

Between

Applicant: Mrs Stephens and **Respondent:** States of Guernsey, Education Department

Tribunal Chair: Mr Peter Woodward

Side Members: Ms Helen Martin and Mr Roger Brookfield

Nature of Complaint:

During the period April 1985 to 30 April 2006 Mrs Stephens was employed in various educational posts by the States of Guernsey, Education Department (and its predecessors) culminating in the appointment to post of Head Teacher for the Le Rondin Special Needs School. Mrs Stephens claimed under The Employment Protection (Guernsey) Law, 1998 as amended, that she had been unfairly dismissed by a decision of the Board of the Education Department on the 10 January 2006.

This claim was opposed by the States of Guernsey, Education Department, which for its part, claimed that in dismissing Mrs Stephens they had no further option open to them, as there had been an irreconcilable breakdown in her professional relationships.

Tribunal's Decision:

After carefully considering all the evidence of both parties and their submissions, and giving due weight to the size of the organisation and the available resources to deal with this dismissal, the Tribunal finds under the provisions of The Employment Protection (Guernsey) Law, 1998, as amended, that Mrs Stephens was unfairly dismissed.

Amount of Award (if applicable) :

An award of £27,470.00 is ordered in accordance with the provisions of The Employment Protection (Guernsey) Law, 1998 as amended.

NOTE: Any award made by a Tribunal may be liable to Income Tax

Any costs relating to the recovery of this award are to be borne by the Employer

Signature of Tribunal Chairman: Mr Peter Woodward

Date: 16 April 2007

The detailed reasons for the Tribunal's Decision are available on application to the Secretary to the Tribunal, Commerce and Employment, Raymond Falla House, PO Box 459, Longue Rue, St Martins, Guernsey, GY1 6AF

REASONS FOR TRIBUNAL'S DECISION

The Law referred to in this document is The Employment Protection (Guernsey) Law, 1998, as amended.

1.0 The Claim

During the period April 1985 to 30 April 2006 Mrs Stephens was employed in various educational posts by the States of Guernsey, Education Department (and its predecessors) culminating in the appointment to post of Head Teacher for the Le Rondin Special Needs School. Mrs Stephens claimed under The Employment Protection (Guernsey) Law, 1998 as amended, that she had been unfairly dismissed by a decision of the Board of the Education Department on the 10 January 2006.

This claim was opposed by the States of Guernsey, Education Department which, for its part, claimed that in dismissing Mrs Stephens they had no further option open to them, as there had been an irreconcilable breakdown in her professional relationships.

2.0 Representatives

- 2.1 Mrs Stephens represented herself.
- 2.2 Crown Advocate McMahon represented the States of Guernsey, Education Department.

3.0 Witnesses

3.1 For the Applicant

Mrs A Chart
Deputy B De Jersey
Mrs C Gillman
Mrs H McGovern
Mr P Sebire
Mrs P Smith
Mrs T Stephens
Reverend L Vasseur
Mr A Wooley (Witness Statement)
Deputy D Le Cheminant

3.2 For the Respondent

Deputy H Adam
Mr M Benson
Ms N Bougourd
Mr D Bridel
Mr A Brown
Mrs J Dorey
Dr S Eckhardt
Mr F Flynn
Mrs V Guilbert
Miss S Hayward
Mrs Y Hodder
Mrs S Isbister
Mr J Lamb
Mr D Neale
Deputy M Ozanne
Mr A Warren
Mrs S Wheeler

4.0 Documents

- 4.1 For the Applicant: Documents identified as EE1 to EE 24 inclusive.
- 4.2 For the Respondent: Documents identified as ER1 to ER6 inclusive.

5.0 Findings of Fact

- 5.1 During the period April 1985 to 30 April 2006 Mrs Stephens was employed in various educational posts by the States of Guernsey, Education Department (and its predecessors) culminating in the appointment to post of Head Teacher for the Le Rondin Special Needs School.
- 5.2 It is not disputed that Mrs Stephens was dismissed by a decision of the Board of the Education Department on the 10 January 2006.

6.0 Preliminary Issues on the opening of the Hearing - 20 November 2006

- 6.1 Protocols were agreed with the parties to protect the names of any minors and their parents who might be referred to in testimony, or referenced in the bundles submitted by both parties. The Chairman drew attention to Royal Court Judgements, IFS Investments V Manor Park (Guernsey) Limited 2004 and Credit Suisse (Guernsey) Limited V Meyerhoff 2006 which in the opinion of the Chairman gave guidance as to when it would be appropriate for the Hearing to go ‘in camera’, whilst balancing the requirement that this should be primarily a public hearing. N.B. this guidance was repeated as each witness took the stand and this judgement has been written with the intent that this anonymity be preserved.
- 6.2 Advocate McMahon drew the attention of the Tribunal to the Royal Court ruling earlier in 2006, which had adjudged that there were no public law issues in relationship to the dismissal of Mrs Stephens and that this Tribunal Hearing had been deemed to be the correct legal vehicle to hear her claim of alleged unfair dismissal.
- 6.3 Advocate McMahon stated that his client would seek to prove that the dismissal of Mrs Stephens fell under section 6 (2) (e) of The Employment Protection (Guernsey) Law, 1998, as amended. It would be their submission that Mrs Stephens was neither dismissed for Conduct nor Capability but that she was fairly dismissed for ‘Some Other Substantial Reason’, namely the irreconcilable breakdown of professional relationships. His client would seek to demonstrate that they had repeatedly attempted a durable rapprochement between with Mrs Stephens and a significant number of her professional colleagues but to no avail.

7.0 Testimony given by Deputy Hunter Adam

- 7.1 Mr Adam is a States Deputy and was a member of the Board of the Education Department (the Board), which made the decision to dismiss Mrs Stephens from her post on the 10 January 2006. Mr Adam strongly rejected the assertion (EE1 Page 488) that either his past professional relationships, or those of his wife, affected his personal judgement in supporting the decision to dismiss Mrs Stephens.
- 7.2 Mr Adam stated that as a member of the Board he had been aware of the recommendation to second Mrs Stephens to the Le Rondin project prior to the formal opening of the school and, given the complexity of the challenges in combining a number of educational establishments under one roof, he was supportive of this secondment.
- 7.3 Mr Adam stated that he had visited Le Rondin several times prior to the opening and during the Autumn term of 2005. It was his opinion that whilst there were teething problems with the

heating and ventilation systems, as well as issues with fire doors and lift buttons, these were not of an insurmountable nature and were to be expected of a newly-commissioned building.

- 7.4 Mr Adam stated that he came to the Board meeting on 10 January 2006 with an open mind and that no written materials had been provided to him before that meeting. He confirmed that the list of issues, to be found in EE1 Page 509, were the basis for his decision to support the dismissal and that he relied in significant measure on the inputs provided by Mr Neale and his Senior Management Team (SMT), however he stressed that he had listened to both parties prior to coming to his conclusion to support the decision to dismiss.

8.0 Testimony given by Deputy Martin Ozanne

- 8.1 Mr Ozanne is a States Deputy and, as Minister of Education, chaired the Board meeting of 10 January 2006, which determined the dismissal of Mrs Stephens.
- 8.2 Mr Ozanne confirmed, with reference to ER1 Pages 73 to 88, the vision of Le Rondin as an educational resource which was to be of a very high standard, and had been conceived and built to replace outmoded and inadequate facilities, including the Mont Varouf School and the Longfield Centre.
- 8.3 Mr Ozanne had visited the Mont Varouf School whilst Mrs Stephens was in post as Head Teacher of this establishment and had formed the view it was well run. He confirmed that he supported the secondment of Mrs Stephens to the Le Rondin project team prior to her final appointment as Head Teacher for this facility.
- 8.4 At the official opening on the 21 July of Le Rondin, he formed the opinion that the facility was virtually ready for use and that by the time it opened to pupils on 8 September 2005 that it had met all the standards required by the Fire Department and Building Control and was “fit for purpose”. Mr Ozanne referred to “snagging lists” which still needed attention after 8 September 2005 but indicated this was a normal process with a new building.
- 8.5 Mr Ozanne confirmed that the list of issues, to be found in EE1 Page 507, were an accurate record of the alleged difficulties with Mrs Stephens and constituted the grounds for dismissal. Mr Ozanne also testified that no other presentational materials were submitted to the Board members prior to 10 January 2006 and that the Board relied on verbal inputs from members of the SMT.
- 8.6 Under cross examination from Mrs Stephens, whilst he conceded the handover of the school from the contractors had occurred only shortly before 8 September 2005, that it was still fit to receive pupils. Mr Ozanne confirmed that he had received the “secret dossier” dated 16 January 2006 (EE1 Pages 459 to 465), purportedly listing complaints from employees at Le Rondin, however he believed that subsequent witnesses would be able to deal with these issues better than him.
- 8.7 Mr Ozanne confirmed that he was aware of a breakdown of relationships between Mrs Stephens and other senior professionals whilst she was still in post at the Mont Varouf School but still supported her appointment to Le Rondin in the hope that the situation could be “turned round”.
- 8.8 Mr Ozanne confirmed that Mr Neale assisted the Board on the 10 January 2006 but was not a “decision maker”. He testified that the decision to dismiss was made for the welfare of the rest of the staff and the pupils. He confirmed, on further questioning from Advocate McMahon, that he supported the SMT view that there was no other choice.

9.0 Testimony given by Mrs Yvonne Hodder

- 9.1 Mrs Hodder was an experienced educationalist in the area of “Special Needs” and was appointed, in 2003, as Project Operations Manager to lead a major “change project”. She had known Mrs Stephens professionally for some twenty years, and working relationships had been good during the mid 1990s. However, as time progressed, it became progressively apparent that Mrs Stephens was not able to work flexibly, was unwilling to compromise and reach agreements with fellow professionals, found it difficult to accept the views of others and continuously complained as to the level of support received from central educational services. Mrs Hodder also testified that Mrs Stephens made unsupported allegations against fellow professionals and seemed to have a preference to work in isolation rather than with her colleagues. Mrs Hodder attempted to raise these issues confidentially with Mrs Stephens in the hope that she would change these behaviours.
- 9.2 Mrs Hodder related the events of a meeting she held with Mrs Stephens on 26 June 2002, (ER1 Pages 119 to 123 refer), where much of the above was communicated by her to Mrs Stephens in an apparently informal reprimand. However, it was made very clear by Mrs Stephens that she had no intention of changing her behaviour and apparently challenged senior staff to formally reprimand her. Shortly after, on the 12 July 2002, Mrs Stephens sent a seemingly very emotional and arguably insubordinate fax to Mrs Roots, a member of the SMT, without observing normal courtesies of confidentiality. In turn, Mrs Roots indicated her intention to Mr Neale to treat this as a formal conduct issue. However, Mrs Hodder interceded and finally an apology was offered to Mrs Hodder but not, apparently, directly to Mrs Roots. No further action was taken.
- 9.3 Turning to the Le Rondin project, Mrs Hodder testified to her increasing concerns over the ability of Mrs Stephens to cope efficiently and at the appropriate level with her new role. A four-hour meeting was held between Mr Neale, Mrs Stephens and Mrs Hodder on 16 January 2004 (EE1 Page 37 to 47 refers). Mrs Stephens seemed, to Mrs Hodder, to be seeking far too much reassurance than was necessary in taking on her new role at Le Rondin. A subsequent meeting on 24 February 2004 again required more reassurances to Mrs Stephens (EE1 Pages 48 to 52 refer). In the meantime, consideration was given to transferring Mrs Stephens into the project team (ER1 Pages 206 and 207 refer). A formal offer of Head Teacher Designate for Le Rondin was issued to Mrs Stephens on the 29 March 2004 (EE1 Page 53 refers) and arrangements put in place to relieve Mrs Stephens from her normal Head Teacher duties at Le Rondin.
- 9.4 Mrs Stephens took on this role in April 2004, however by May 2004 there was already serious confrontation occurring over staffing levels for Le Rondin. Mrs Hodder was so upset by Mrs Stephens’s behaviour during the meeting on 12 May 2004, and her refusal to consider any other than her own staffing proposals, that she wrote formally to Mrs Stephens expressing her concern. Mrs Hodder stated that by now she was seriously considering making a recommendation that Mrs Stephens be withdrawn from the role. However, Mrs Hodder stated that as she was so “desperate for Mrs Stephen to succeed” that she did not follow through on this possibility.
- 9.5 By June 2004 there was a further deterioration in the relationship between Mrs Stephens and members of the Project Team, and Mrs Stephens was openly critical of Mrs Isbister, amongst others, of being capable of performing her appointed role, and Mrs Stephens was apparently not performing to her agreed job description in significant areas (ER1 Pages 311 to 312 refer). Mrs Hodder prepared a memorandum to confront these issues, including fundamental problems over formal authority, but it was never sent (ER1 Page 318 refers).
- 9.6 Moving forward to March 2005 (EE1 Page 153 refers), Mrs Stephens made written allegations of harassment by Project Team members, and formal investigations were launched in the

following months. Mrs Hodder stated that team members did not wish to meet with Mrs Stephens on a one-to-one basis such was the level of distrust. Further testimony was given by a subsequent witness as to these allegations and the outcome of the enquiry.

- 9.7 Testimony was given on subjects ranging from site responsibility, multi-agency working, school nursing provision, to Mrs Stephens' vacation arrangements; and these will be referred to in subsequent witness testimony. Mrs Hodder then stated that whilst the formal handover from the contractors was delayed from May 2005, it was her opinion that the site was ready to receive the pupils on 8 September 2005.
- 9.8 Mrs Hodder testified, under cross examination by Mrs Stephens, that she considered the lack of attendance by Mrs Stephens to scheduled meetings and her obstructive tactics when she did attend were conduct issues, however she did not pursue them formally.
- 9.9 Mrs Hodder confirmed that the notes of a meeting between herself and Mrs Stephens on 26 June 2002 (ER1 119 refers) remained on file indefinitely and contained reference to either herself, Mrs Roots or Mr Neale as senior members of staff giving Mrs Stephens a formal reprimand. However, in the event, it did not happen
- 9.10 In referring to her meeting with Mrs Stephens on 11 June 2004 Mrs Hodder stated that she did not take seriously the offer by Mrs Stephens to seek another role and stated that, in her opinion, none of the many issues flagged in that meeting were examples of capability. Mrs Hodder testified that this document was not shared with Mrs Stephens and was only an aide memoire for her personal use (ER1 Pages 305 to 308 refer).
- 9.11 Mrs Hodder described the "Slotting Process" which was used to identify staff for Le Rondin from existing educational establishments, such as Le Mont Varouf, and the deadlines for decision making once an offer of new employment was offered. Subsequent testimony from other witnesses will refer to this process.
- 9.12 Mrs Hodder testified that, from June 2004 to September 2005, Mrs Stephens did not, in her own words, "engage proactively with the team" and added that she had made public statements in the same period that Le Rondin was not fit for the purpose.
- 9.13 Mrs Hodder gave extended testimony on the meetings held between Mrs Stephens and the Project Team to review anticipated staffing levels for Le Rondin. The systems used in the UK to determine staff pupil ratios were also explored in depth. From this testimony it was clear that there was fundamental disagreement between Mrs Hodder/Mrs Isbister and Mrs Stephens. It was stated that Mrs Stephens shouted at other members during at least one of these meetings and employed very negative body language, whilst seemingly taking very little interest in the presentations by others. Mrs Hodder stated that, in comparison with comparable schools in the UK, the proposals by herself and Mrs Isbister were generous.
- 9.14 Mrs Hodder also referred to formal allegations made by Mrs Stephens in May 2005 against a number of senior staff. Subsequent testimony from other witnesses explores the issues raised by these allegations and how they were dealt with.
- 9.15 Mrs Hodder also gave testimony on other meetings held with Mrs Stephens on issues such as "Sensory Rooms" and other similar issues. It was noted, in a memo dated 17 September 2004 (EE1 Page 112 to 116 refers), that Mrs Stephens left the project meeting prior to its conclusion. Mr Bridel gave subsequent testimony on this issue of early departure from such meetings.
- 9.16 Mrs Hodder repeatedly stated that she had no formal responsibility to discipline Mrs Stephens.

Turning to events at Le Rondin post-8 September 2005 and Mrs Stephens' concerns over pupils and site security (EE1 314 to 319 refers), Mrs Hodder expressed the opinion that these concerns were exaggerated and were expressed in inappropriate language. Mrs Hodder also stated that Mrs Stephens had refused point blank to take responsibility for fire and safety on the site. Mrs Hodder also stated that she did not agree that pupils should have been delayed from starting at Le Rondin to a later date.

- 9.17 Mrs Hodder was referred to her notes of the 13 September 2005, which detailed numerous behavioural issues with Mrs Stephens, and she observed that she thought it perfectly reasonable for her to tell Mrs Guilbert to record incidents involving Mrs Stephens that she found threatening, demeaning or harassing.
- 9.18 With reference to her memo to Mr Lamb on 1 December 2005 (EE3 Refers), and the alleged lack of proper supervision of an autistic pupil by Le Rondin staff, Mrs Hodder stated that she did not know the whereabouts of Mrs Stephens on that day and thought it her duty to send the memo directly to Mr Lamb.

10.0 Testimony given by Mrs Shona Isbister

- 10.1 Mrs Isbister has been the Special Educational Needs and Educational Services Manager since April 2005. Prior to this she was Pupil Services Manager from August 2003 and her career before these appointments included roles in Scotland and Singapore. She holds qualifications in Psychology and in Educational Psychology. Until 2003 her contact with Mrs Stephens was limited, but as she took on a new role in that year her responsibilities included provision of advice to all schools including Mont Varouf. Additionally, as the new major projects began to take shape, Mrs Isbister found herself working alongside Mrs Stephens on the Le Rondin development. The relationship was already deteriorating, as evidenced by the complaint made to Mr Neale in March 2004 by Mrs Isbister, when Mrs Stephens had put the phone down on her during a professional discussion. (ER1 Page 101a refers).
- 10.2 A major area of conflict throughout the rest of 2004, and still very evident in September 2005, was over proposed staffing levels for Le Rondin; despite well researched proposals developed by Mrs Isbister, using UK guidelines Mrs Stephen would not accept the proposed pupil staffing ratios and her repeated recitation of her needs derailed other important issues; similar and concurring testimony on this issue was subsequently given by Mr Bridel and others.
- 10.3 Project meetings with Mrs Stephens were fractious and Mrs Stephens made highly damaging comments about her colleagues, including the allegation that Mrs Hodder had "caged" a pupil in the recent past. This allegation, which was strongly refuted by Mrs Hodder, was apparently never withdrawn. Also, Mrs Isbister was clearly disturbed by the reaction of Mrs Stephens to Mr Benson, a support specialist, deliberately turning her back on him during a meeting and being "generally discourteous" to him. Notes developed by Mrs Stephens on 9 July 2004 (ER1 Pages 94 and 95 refer) are indicative as to how she saw her relationship with project colleagues, which she characterised as sometimes "insulting" on their part.
- 10.4 Contact with Mont Varouf was similarly not very effective. A purportedly routine visit by Mrs Isbister and Miss Hayward, on 1 July 2004, was viewed by Mrs Stephens as very concerning and she thought their presence had greatly increased staff insecurity during a difficult period of change. (EE1 pages 83 and 84 refer). The issue was escalated by Mrs Isbister to Mr Neale believing that Mrs Stephens had unreasonably aggravated the issue by her own actions; namely with a school-wide memo complaining about the visit, thus turning a minor problem into a major event with all Mont Varouf staff involved.
- 10.5 Also, Mrs Isbister was very concerned that Mrs Stephens had bullied the parents of a pupil, as evidenced in file notes to be found in ER1 Pages 180 /181 and pages 218 to 221, and that there

had been a lack of appropriate disclosure by Mrs Stephens of key notes. The parents made a decision to withdraw the child from Mont Varouf and would not return the pupil to the school.

- 10.6 As Autumn 2004 arrived the situation had further deteriorated, Mrs Stephens had apparently told Mrs Hodder she could not work with Mrs Isbister and their contact lessened whilst becoming more antagonistic and formal. Mrs Isbister hoped that Mrs Stephens would be using some of the time away from the Mont Varouf School and the project team at Oakvale and Longfield, developing relationships with future Le Rondin staff but, despite this being in her job description, it was apparently only very rarely actioned, i.e. only two recorded visits to Oakvale by Mrs Stephens in the period September 2004 to July 2005. Also, Mrs Isbister experienced great difficulties in contacting Mrs Stephens from time to time, an example can be found in ER1 Page 298, where the lack of her availability caused serious interviewing scheduling problems for other staff. This issue being escalated to Mr Lamb.
- 10.7 In May 2005, Mrs Stephens raised a formal complaint against Mrs Isbister which required a formal enquiry by a senior Human Resource professional. Testimony on this process was given subsequently by Mr Warren. The practical outcome of this complaint was to seriously derail the Project Team in a vital period just prior to the opening of Le Rondin, as Project Team members were not prepared to meet with Mrs Stephen on a one-to-one basis and were guarded in their communications with her. Mrs Stephens deliberately shunned her during the official opening of Le Rondin on July 21, 2005. The allegations were dismissed; however by August 2005, Mrs Isbister believed that there had been an irrecoverable breakdown in her relationship with Mrs Stephens.
- 10.8 Mrs Isbister stated that she believed Le Rondin was ready to be opened on September 8 and hoped that there might be some opportunity to re-establish a working relationship, however this was not the outcome. The Autumn term was characterised by disagreements over “Inter Agency” working and Mrs Stephens continued to make inaccurate and unsubstantial allegations that Mrs Isbister was bullying and harassing her whilst making repeated and unreasonable demands for support.
- 10.9 Under cross-examination, Mrs Isbister stated that the issue of capability in relation to Mrs Stephens had been raised in a meeting chaired by Mr Neale and attended by herself, Mr Bridel, Mrs Hodder, and Mrs Dorey, in June 2004 (ER1 Page 303 refers).
- 10.10 Mrs Isbister confirmed that she had contributed to a list of complaints against Mrs Stephens and reviewed with Mr Lamb (EE1 Page 133 refers), and had submitted her evidence on these issues orally.
- 10.11 Mrs Isbister confirmed she had provided oral evidence as part of the process described for the Board Meeting held on 10 January 2006 (EE1 Page 426 refers) and that her evidence had focussed on “Collaboration Problems”, “Breakdown of Trust” and “Cumulative Difficulties”; she did not provide written evidence.
- 10.12 Clarification was sought by Mrs Stephens from Mrs Isbister, referring to EE1 Page 65, EE8, EE1 and Page 272.3 (and other relevant documentation), as to the evolution of Le Rondin staffing projections from May 2004 onwards, and the basis on which these numbers were grounded. Mrs Stephens contended that the lack of clarity of these projections would have added to staff insecurity, whereas Mrs Isbister reaffirmed her opinion that all the various projections indicated increased staffing for 2005 over 2004, and also allowed for extra pupils over 2004 numbers, and therefore would not agree this was a valid observation.
- 10.13 Mrs Isbister was referred back to her memo of 5 July 2004 to Mrs Stephens, which she had copied to Mr Neale due to her level of concern over unacceptable conduct by Mrs Stephens (EE1 Page 83.2 refers), and reiterated her testimony that she had “not been there to check up”

on Mont Varouf and that she had reasonably assumed some level of prior communication between Mrs Stephens and her deputy, Mrs McGovern, before the visit.

- 10.14 A series of emails were reviewed (EE12 refers) relating to the withdrawal of a pupil from Mont Varouf and alleged unprofessional conduct by Mrs Stephens. Mrs Isbister insisted that there had been telephone contact between her and Mrs Stephens whilst this issue was live. Mrs Stephens had not been invited to attend subsequent meetings as, once the child had been removed from the School, the parents had made it clear that the pupil would not return at a later date.

11.0 Testimony given by Miss S Hayward

- 11.1 Miss Hayward is the Principal Educational Psychologist for the States of Guernsey and has held this post for the last twenty-five years; her role has a special focus on those pupils who have learning difficulties.
- 11.2 Miss Hayward had known Mrs Stephens throughout her time in post and contact increased as Mrs Stephens took on more senior roles. However, in 2001, there were indications that the working relationship was deteriorating. A dispute over a pupil admission to Mont Varouf School led to Mrs Stephens sending a critical memo to Miss Hayward (ER1 Pages 95 to 103 refers). Miss Hayward testified that since that event there was an escalation of antagonistic behaviour by Mrs Stephens toward her.
- 11.3 In 2003, there was a further illustration of the problem with the working relationship when Mrs Stephens took exception to a single word in a six-page report and that word reflected the view of a parent, not necessarily the view of Miss Hayward. It was not possible to amend the report and such was the reaction of Mrs Stephens to this that she now took to ignoring Miss Hayward, would just walk away from her when they met, and took no account of her inputs. At the request of Mrs Roots, the Deputy Director at that time, Miss Hayward submitted a list of issues (ER1 Page 167 refers).
- 11.4 Tensions were further heightened with Mrs Stephens asking for information on possible pupil admissions, which Miss Hayward stated was not readily or practicably available and that this request was yet another example of recurring “unreasonable demands” made by Mrs Stephens on the Educational Psychology Service (ER1 Pages 256 and 257 refer).
- 11.5 Testimony was given by Miss Hayward on the “Annual Pupil Review Process” conducted by teaching staff and educational specialists such as Miss Hayward. Examples of the content of such a review can be found on page ER1 283 and, in the opinion of Miss Hayward, this review conducted in February 2005 illustrates yet again that her professional advice was being disregarded by Mrs Stephens and that during such reviews she believed she was being belittled in front of others by Mrs Stephens. Her formal complaint to Mrs Stephens is evidenced in ER1 Page 284; and this, in turn, led to Mrs Stephens writing to Mr Neale on the 3 March 2005 making a formal complaint of harassment against Miss Hayward (EE1 Page 153 refers).
- 11.6 By May 2005, Miss Hayward had submitted to Mr Warren a written response to a range of allegations by Mrs Stephens (ER1 Pages 301 and 302 refer); she refuted all the allegations.
- 11.7 Mr Warren found no basis for the allegations by Mrs Stephens and informed Miss Hayward of this outcome in June 2005. Miss Hayward sought to maintain courteous behaviour toward Mrs Stephens but there was no change in the behaviour of Mrs Stephens toward her and she spoke to Mr Neale and other members of the SMT during the summer of 2005, prior to the opening of Le Rondin, indicating that, in her opinion, all trust had broken down and that she could no longer work with Mrs Stephens. Her meetings with Mrs Stephens were now conducted with a

third party always being present, as a one-on-one meeting between them was no longer possible.

- 11.8 On the 16 September 2005, Miss Hayward attended Le Rondin, at the personal request of Mr Lamb, to review some significant behavioural difficulties being experienced by three pupils. The request had been instigated by Mrs McGovern. Whilst on site Miss Hayward reported that she was met with great hostility by Mrs Stephens and “was cut dead” in front of other staff (EE1 306 and 307/ER1 362 and 363 refer). Miss Hayward concluded it was no longer tenable to have contact with Mrs Stephens.
- 11.9 In cross examination by Mrs Stephens, Miss Hayward stated that she had not contributed to the list of issues compiled by the SES staff at the request of Mr Lamb (EE1 Page 133 refers).
- 11.10 Miss Hayward did not recall the memo to her from Mrs Stephens, sent on 1 December 2003, listing desired support from the Educational Psychology Service (EE17 Refers). In reviewing it, she stated that it was a large list and she considered it more of a “wish list” than a list of possible deliverable services developed via a collaborative discussion between them.
- 11.11 Further testimony was given on Pupil Admission Panels and Miss Hayward testified that they had formalised this process for Mont Varouf due to the inability of Mrs Stephens to deal with unpredictable and un-forecast admissions.
- 11.12 Miss Hayward confirmed that she did give inputs on her perceptions of Mrs Stephens to Mr Neale, Mr Lamb and to Mr Warren prior to the opening of Le Rondin, but she did not make allegations against Mrs Stephens, rather she expressed her concerns about working relationships and her inability to build one with Mrs Stephens due to her behaviour. Miss Hayward confirmed that she did not submit any written evidence on these issues at this time, or later in 2005.
- 11.13 Before being excused from the witness stand, and in answer to questions from Advocate McMahon, Miss Hayward stated that she was confused as to the role of Mrs Stephens at the yearly pupil reviews in the academic year September 2004 to July 2005. It was her opinion that during this year Mrs Stephens should have taken advantage of her “designate role” to spend far more time with schools, other than Mont Varouf, to aid the integration of pupils and staff into Le Rondin.

12.0 Testimony given by Mrs S Wheeler

- 12.1 Mrs Wheeler was appointed to her role of Health and Safety Officer (H&S) for the States of Guernsey Education Department in 2003. Her primary duties and roles include guidance, advice, and training, as well as providing an auditing and monitoring service on H&S issues. She came into more regular contact with Mrs Stephens as a member of the Le Rondin Project team. Meeting minutes from 20 June 2005 indicate that Mrs Stephens had been working with Mrs Wheeler prior to the opening of Le Rondin on H&S requirements (EE1 Page 241 refers).
- 12.2 Mrs Wheeler testified that she gave a formal input to Mr Bridel that the Le Rondin facilities were compliant and safe at the end of August 2005. The Fire Service and Building Control had given their approvals and, in the words of Mrs Wheeler, “there were no risks sufficiently large to prevent the building opening”. Mrs Wheeler gave more detailed testimony on the various safeguards and security systems on site, however it was her opinion that staff also had supervisory responsibilities and then explained what she understood by a “secure building” versus a “building with security”. The intent was to equip Le Rondin with sophisticated security systems but it was not the intention to “lock up the pupils”.

- 12.3 Mrs Wheeler refuted the allegation by Mrs Stephens in an email dated 7 September 2005 that “the LR building is not yet fit for purpose” (EE1 Page 297 refers); and also did not believe that pupil security was seriously compromised by the problems with fire doors, highlighted by Mrs Stephens in an email dated 13 October 2005 (EE1 Page 354 refers).
- 12.4 Mrs Wheeler rejected the assertion by the Applicant that a child running out of the front doors of Le Rondin constituted a “Near Miss” in H&S terminology, nor the incident where a child locked himself into a toilet, and that, again, the issue was one of proper staff supervision.
- 12.5 By the end of September 2005 Mrs Wheeler had become increasingly concerned that Mrs Stephens was not communicating with Mrs Hodder, who had taken over site responsibility, and she was acting as a “go between”. She was also concerned that safety issues being raised were symptomatic of issues other than of building security.
- 12.6 Under cross-examination Mrs Wheeler agreed that her professional relationship with Mrs Wheeler had been, and remained, agreeable.
- 12.7 Mrs Wheeler did not agree that there was necessarily a higher security risk with children who cannot respond to verbal command, rather the issue was one of appropriate pupil staffing ratios matched to need; and given the pupil staffing ratios for Le Rondin in September 2005, there was no need, in her opinion, to phase the introduction of pupils into the new facility.
- 12.8 More testimony was given by Mrs Wheeler on door locks, lift buttons, access to the School hall and other elements of building security, and whilst she conceded that some modifications became necessary in the Autumn term of 2005, she was still of the opinion that, with appropriate supervision, the risks involved were at the lower end of the scale and acceptable.

The Hearing was adjourned to January 2007

- 12.9 Testimony was recommenced with Mrs Wheeler and, under continued cross-examination by Mrs Stephens; she recalled an incident on 9 September 2005 when she was on site at Le Rondin and, witnessing a pupil using a lift in an unauthorised fashion, ran up the stairs and intercepted the pupil. Mrs Wheeler agreed that she only had a broad understanding of “pupil restraint” regulations, but insisted in this matter she was chasing the lift, not the pupil.
- 12.10 Mrs Wheeler stated that there were differences between the security provisions at Le Rondin in comparison with Mont Varouf and Longfield; however account also had to be taken as to proximity of roads, traffic, external risk factors etc between the old site and Le Rondin.
- 12.11 Mrs Wheeler agreed with the recommendation by Mrs Stephens made in June 2005 that a mid-term Health and Safety review would have been appropriate at the Le Rondin site in Autumn 2005.
- 12.12 Mrs Wheeler gave further clarification on fire safety arrangements at Le Rondin, including a description of the “compartmented” design of site to aid phased evacuation of the building in the event of fire.
- 12.13 Advocate McMahon clarified with Mrs Wheeler, before she was excused from the witness stand, that the decision to open Le Rondin was a “consensual decision making process including Mrs Stephens”; and confirmation that all legal requirement in relation to H&S had been fully met.

13.0 Testimony given by Dr S Eckhardt

- 13.1 Dr Eckhardt is a self-employed Consultant Paediatrician who has been contracted to provide professional support to the States of Guernsey since 1999 and had many previous years experience in the UK.
- 13.2 Dr Eckhardt worked with Mrs Stephens at Mont Varouf and was asked to give input on Le Rondin as it was planned and built. Dr Eckhardt had formed the view, from her experience of working with Special Needs children, that applying strict chronological age groupings would not be appropriate. However, Mrs Stephens disagreed and was not at all flexible in considering this approach for Le Rondin.
- 13.3 Dr Eckhardt made reference to a pupil (Child D) who was removed from Mont Varouf at the request of the parents, who had formed the opinion that the school had not appropriately involved them in the discussion of some critical issues, and had held a meeting to discuss “D” without their involvement. The parents formed the view that Dr Eckhardt had shared in some form of alleged “cover up” and, as a result, her relationship with the parents was totally undermined. This was distressing to Dr Eckhardt, as she believed it was the actions of Mrs Stephens in this affair which had not been appropriate.
- 13.4 In cross-examination by Mrs Stephens it was confirmed by Dr Eckhardt that Mrs Hodder had chaired the contentious meeting which had discussed child “D” and not Mrs Stephens. Dr Eckhardt also confirmed that it was difficult to establish common understanding with the parents of child “D”.
- 13.5 Dr Eckhardt recalled that there had been an alteration to the dosage of Diazepam to the pupil “D” being administered at the school, but was a reasonable alteration and had been requested by the parents after consultation with the child’s GP.
- 13.6 Dr Eckhardt clarified some of the issues surrounding the operation of the Le Rondin Steering Committee, and associated working groups, and was then excused from the witness stand without further examination.

14.0 Testimony given by Mr Matthew Benson

- 14.1 Mr Benson oversees the provision of the Hearing and Visual Impairment Services (HVIS) for schools across the Island and recalled his first meeting with Mrs Stephens on the 1 July 2004. Apparently, this meeting did not go well; Mrs Stephens was neither amicable nor friendly and she questioned his ability to provide the services required by Mrs Stephens’ pupils. Subsequent meetings in the Autumn of 2004 were infrequent and were marked by disagreements between Mrs Stephens and Mr Benson as to demarcation issues between their two spheres of responsibility. Mrs Stephens seemed to be totally uncompromising and not prepared to discuss options where the school could be more self-sustaining in provision of HVIS.
- 14.2 Turning to the “Annual Review” of Pupil “E” (EE1 160 refers) conducted on the 8 February 2005, Mr Benson testified that Mrs Stephens left this meeting somewhat abruptly prior to Miss Hayward giving her professional view on the pupil and he was surprised that she did not return promptly. He expressed the view that this was unreasonable behaviour on the part of Mrs Stephens, and was not an isolated incident on her part.
- 14.3 Under cross-examination by Mrs Stephens, Mr Benson insisted he had never indicated to her that there would be a reduction in service provision for Mont Varouf. As far as Le Rondin was concerned, there was prioritisation of HVIS in Le Rondin toward mobility and sensory

training versus “classroom support”, Mr Benson was very concerned that HVIS staff should not be used as general teaching staff.

- 14.4 Mr Benson agreed that he had attended meetings with Mrs Stephens in the period 2004/2005 which were not minuted and therefore it was not possible to judge the frequency of their contact by only referring to written minutes or notes of meetings.
- 14.5 On being handed back to Advocate McMahon, Mr Benson testified that he thought that by her actions on the 8 February 2005, Mrs Stephens had “cast a slur on Miss Hayward’s professionalism”
- 14.6 Prior to being excused, Mr Benson summarised his view that “as long as Mrs Stephens got what she wanted, then she was amicable, but not otherwise”.

15.0 Testimony given by Mrs Valerie Guilbert

- 15.1 Mrs Guilbert is currently a Deputy Head at Le Rondin School and has been employed in teaching roles in Guernsey for over twenty years
- 15.2 Her first contact with Mrs Stephens was at the Longfield School; Mrs Stephens was Deputy Head at the time whilst Mrs Guilbert held the role of a Nursery Teacher. During this period her professional relationship with Mrs Stephens was apparently somewhat variable and Mrs Guilbert was distressed when she was accused by her of leaving a child unattended in a paddling pool; the matter was only resolved with the intervention of Mr George, the Head Teacher at that time
- 15.3 Mrs Guilbert also testified to a breakdown in relationship between Mr George and Mrs Stephens which was evidenced by lack of attendance by Mrs Stephens to staff meetings, negative “body language” and resorting to communication via note only.
- 15.4 Contact between Mrs Stephens and Mrs Guilbert was limited once Mrs Stephens took on the Headship of Mont Varouf and Mrs Guilbert took the role of Acting Head at Longfield, however, with the approval of the Le Rondin project, Mrs Guilbert was appointed to a designate post as one of the two future Deputy Heads of Le Rondin
- 15.5 As a member of the future SMT for Le Rondin, Mrs Guilbert attended regular meetings of that team. Mrs Guilbert recalled that these meetings were run with a Mont Varouf “ethos” which allowed little consultation between team members and that Mont Varouf processes and procedures were given precedence over any other way of potentially running the new school, particularly when it came to issues such as curriculum where the Mont Varouf model was not appropriate for children coming from Longfield with less severe learning disabilities. Also all joint training sessions for staff prior to the opening of Le Rondin were conducted at Mont Varouf and Mrs Stephens only made a few visits to Longfield in the first half of 2005.
- 15.6 As Mrs Guilbert vacated Longfield and set up the “resource base” in Le Rondin she had anticipated leading some of the staff training, putting forward policy proposals and reviewing/enhancing curricula. The reality was that none of this happened and Mrs Guilbert felt marginalised by Mrs Stephens. In addition Mrs Guilbert became increasingly concerned she was not treated as having equal status with her Deputy Head colleague Mrs McGovern.
- 15.7 Mrs Guilbert recalled that on 8 September 2005 an autistic child had attempted to run away from her and Mrs Stephens, observing this action, had abruptly told Mrs Guilbert to get back to her teaching wing, and when Mrs Guilbert challenged this she was told by Mrs Stephens that she must not argue in public with her. A file note from Mrs Hodder refers (ER1 349), and confirms Mrs Guilbert was in tears over this issue.

- 15.8 As the Autumn term progressed Mrs Guilbert observed that the school was being run in a “crisis management” mode, despite her own view that the school was “fit for purpose”. Staff were frequently complaining to her that they had been spoken to inappropriately by Mrs Stephens and morale was low, there was little opportunity for staff to raise issues, such as “pupil groupings”, and some staff were openly stating they wished they had not come to the school. However, Mrs Stephens seemed to give little attention to these issues and focussed her attention on the building and her continuing perception that the school was understaffed. Mrs Guilbert raised her concerns with both Mrs Hodder and Mr Warren during the Autumn term 2005.
- 15.9 Under cross examination by Mrs Stephens attention was drawn to another file note from Mrs Hodder dated the 13 September 2005 (ER1 359 refers) which recorded that Mrs Guilbert had claimed she had written records going back many years as to threats, demeaning comments and acts of harassment by Mrs Stephens toward her. However Mrs Guilbert stated that none of these written records still existed as she had destroyed them shortly prior to the opening of Le Rondin; it was her belief that Mrs Stephens had “turned over a new leaf”. Further Mrs Guilbert confirmed that these notes, when in existence, had never been shared with Mrs Stephens, rather that she had kept such confidential records as she had been advised by others to do this.
- 15.10 Mrs Guilbert agreed that she and Mrs McGovern had complementary teaching skills and experiences and she was comfortable in their assigned roles playing to their strengths.
- 15.11 Responding to a question from the Tribunal, prior to standing down from the witness stand, Mrs Guilbert stated that situations which arose at Le Rondin in Autumn 2005 were not “emergencies” despite being represented as such by Mrs Stephens.

16.0 Testimony given by Mr Alan Brown

- 16.1 Mr Brown is currently Head of Oakvale School, which provides education for Special Needs pupils between 11 to 19 years of age. He is an experienced Head Teacher and, in addition, has many years of experience in the Special Needs field.
- 16.2 Mr Brown stated that the provision in Guernsey of Special Needs support was in his opinion better than that of the UK in terms of staffing ratios, building provision and overall commitment to pupil requirements.
- 16.3 As with Mrs Stephens, he was appointed in a designate role, prior to taking up current post, via a “slotting process”. He found this methodology worked well and was able to accept his own role and job description with only minimal issues to be resolved.
- 16.4 As a key team member of the implementation of the new Special Needs policy he was, like Mrs Stephens, required to coordinate disparate needs from several educational establishments, liaise and collaborate with all “stakeholders” and in particular have a close and ongoing relationship with members of the Project Team.
- 16.5 Mr Brown stated that during the period leading up to the opening of Le Rondin and his own transition into current role he enjoyed amicable, professional and effective collaborative working relationships with key members of that Project Team, including Mr Bridel, Mrs Hodder, Mrs Isbister and Miss Hayward. However, during the project meetings he had not observed the same working relationship between Mrs Stephens and these officers; and indeed Mrs Stephens stayed totally focused on teacher-pupil staffing ratios, despite their being more generous than UK laid down standards.

- 16.6 Mr Brown testified that his expectation during 2004 and 2005 was that he would have a close working relationship with Mrs Stephens working on curricula, hosting joint staff meetings, in joint reviews of UK establishments and discussing staffing requirements. In the event, little of this happened. Mrs Stephens only visited his school two or three times during the year leading up to the opening of Le Rondin.
- 16.7 Also of concern Mr Brown found that staff currently working with him, who would have normally transferred to Le Rondin as a result of the reorganisation, resisted attempts to have them transfer and expressed the wish to stay with Mr Brown and Oakvale. Mr Brown raised concerns with Mr Lamb, Mrs Isbister, and Mrs Dorey but in the event no transfers between his staff and Le Rondin were achieved.
- 16.8 Mr Brown had attended the official opening of Le Rondin and thought the school was fit for purpose and, as to the issue of “runaway children”, he thought this was more a problem of pupil management than building security. In his view Le Rondin was “fundamentally safe”.
- 16.9 His working relationship with Mrs Stephens remained distant in Autumn 2005 and was not helped by the firm refusal of Mrs Stephens to provide limited nursing support from Le Rondin to Oakvale during this term. Similarly, when he offered the support of Oakvale staff to assist pupils in their transition to Le Rondin, this offer of help was rejected.
- 16.10 Following the suspension and subsequent dismissal of Mrs Stephens he took up the role of Acting Head at Le Rondin and found morale to be low, that the staff felt “deskilled” and the staff were also divided into camps dependent on which school they had transferred from.
- 16.11 Under cross-examination by Mrs Stephens and in response to questions from the Tribunal Mr Brown denied that he and his SMT at Oakvale had led a sustained campaign of opposition to the Special Needs development plan. The issue was that some two thirds of Oakvale staff held the view that a “generic institution” might not meet pupil needs, in the event this did not turn out to be true.
- 16.12 Mr Brown agreed that he did have an “open door” to visit Le Rondin in Autumn 2005 but the primary issue in this period was that his Oakvale staff did not have a similar ability to visit and aid pupil transitions into Le Rondin.
- 16.13 Prior to being excused from the witness stand Mr Brown refuted the allegation by Mrs Stephens that he had not spoken to her prior to contacting Mr Lamb on the nurse provision issue (EE1 303 refers) and, as he believed the nursing provision was for Special Needs pupils in general, that he was entitled to make such a request

17.0 Testimony given by Mrs Jocelyn Dorey

- 17.1 Mrs Dorey had been employed by the Education Department in a number of personnel- related roles since 1988, and was appointed as Project Personnel Manager in March, 2003.
- 17.2 In that role Mrs Dorey worked with other officers from the Education Department to devise a process by which existing teaching staff could be “slotted” into new roles as defined by the new structure. The process started from the top down, slotting Heads and Deputy Heads first.
- 17.3 As Mrs Stephens had already been recruited into the role of Head of Mont Varouf, with the formal commitment that she would take on the role of Head of Le Rondin (ER1 170 refers), Mrs Dorey stated that it should have been a relatively rapid process to agree the job description for the Le Rondin role; indeed the same process applied to Mr Brown, who met the December 2003 deadline with ease, requiring only minor amendments to his job description.

- 17.4 In contrast to Mr Brown, it became evident that Mrs Stephens had many issues with her proposed job description (ER1 178 refers) and a series of items in the bundles were used to illustrate this (notably ER1 212, EE1 48-52, EE159-62 refer). Issues of staffing, curriculum, school policies and inter-agency relationships were amongst the issues raised. It needed the personal intervention of the Director of Education to resolve these issues and he spent over eight hours with Mrs Stephens to come to an agreed job description. A final deadline was set for Mrs Stephens to confirm her acceptance of this document by 16 March 2004, and this deadline was only met with minutes to spare.
- 17.5 Once acceptance was given the next task was to work with Mrs Stephens on the staffing for Le Rondin. This also proved difficult and whilst it was agreed, after significant discussion with senior officers and the Director, to have two Deputy Heads appointed to Le Rondin rather than the one originally planned, the difficulties with Mrs Stephens over staffing levels continued. Such was her resistance to proposals by the Project Team that much other project work was disrupted or not started. By June 2004, it became necessary for a meeting to be convened with Mr Neale, Mr Bridel, Mrs Hodder, Mrs Isbister and Mrs Dorey to consider how the situation could be resolved (ER1 302-303 refers). However, recommendations made during this meeting to relieve Mrs Stephens from her Mont Varouf duties were not accepted by her and the relationship with the project team continued to be poor.
- 17.6 Evidence of continuing difficulties between Mrs Stephens and the Project team can be found in the minutes of a meeting (EE1 121 refers) conducted on 20 October 2004. Mrs Stephens would make no concessions as to how Visual Impairment services could be provided in Le Rondin and the meeting became so tense and heated that Mrs Hodder left it for several minutes to calm down.
- 17.7 Throughout the first half of 2005, Mrs Stephens continued to lobby very hard for extra staff and was not prepared to accept that Le Rondin had been given a “generous staff allocation”. However, this was not the only outstanding staff issue; after extensive discussion with the Civil Service Board it was decided that a Site Caretaker should be employed alongside the School Caretaker, and the Site Caretaker would report to whoever was assigned the site role. Mrs Stephens had indicated she did not want the site role, she only wanted responsibility for her school, but she took the contradictory stance of wanting day-to-day supervision of caretaking staff. Mrs Stephens was also opposed to the idea that the three administrative staff on the Le Rondin site would be used flexibly for both school and site needs and offered no reasonable explanation for her opposition despite, in the opinion of Mrs Dorey, the advantages of having a shared resource across the site. In her opinion it took an inordinate amount of effort to arrive at a workable arrangement and the file note of the 9 September 2005 written by Mrs Dorey (ER1 353 refers) illustrates how complex the issues of control had become due to the obdurate and unreasonable stance taken by Mrs Stephens and that she insisted on having written instructions from Mr Lamb. Further testimony on this issue was given by Mr Neale.
- 17.8 Mrs Dorey had visited Le Rondin frequently prior to its completion and shared the view of the Project Team (EDP) that the school was fit for purpose, however she had concerns that insufficient effort had been made by Mrs Stephens to integrate the teachers coming from different Guernsey schools and from the UK. She also expressed concern that Mrs Stephens had postponed staff training with insufficient justification.
- 17.9 Mrs Dorey testified it was the role of the EDP to define and develop the training required by Mrs Stephens to take on her expanded role at le Rondin.
- 17.10 Under cross-examination Mrs Dorey agreed that not all members of the EDP were educationalists and not all of that team had prior experience of teaching Special Needs pupils.

- 17.11 Mrs Dorey also testified that, in drawing up the job description for Mrs Stephens, professional teaching institutions had been consulted as well as senior Education Department Officers.
- 17.12 Mrs Dorey did not deny that numerous draft documents and policies had been submitted by Mrs Stephens to the EDP in Autumn 2003 (EE1 35 refers), but she did contest the point that Mrs Stephens was only allowed to attend EDP meetings when Le Rondin was being discussed.
- 17.13 Mrs Dorey confirmed that a firm salary offer for the Le Rondin post was made to Mrs Stephens on the 29 March 2004, some thirteen days after Mrs Stephens was required to meet a deadline to commit to the post.
- 17.14 Further testimony was given on Mrs Stephen's job description and letter of appointment (EE1 53, 55, 201-202); Mrs Dorey confirmed a further revision to the job description occurred in June 2005.
- 17.15 Mrs Dorey confirmed that Mrs Stephens was notified of the meeting in June 2004 when senior members of the EDP team met with Mr Neale to discuss how best to manage Mrs Stephens and maximise her contribution to the Le Rondin project. During this meeting Mr Neale had raised the issue of potentially taking capability proceedings, however Mrs Dorey claimed she did not know what Mr Neale meant by this statement.
- 17.16 Further testimony was given on the staff approval process and consequent recruiting efforts. Mrs Dorey stated that it was unfortunate that Treasury and Resources and the Education Department Human Resources function had moved "goal posts"; also there had been some delays in completing job descriptions for Teaching Assistants. This resulted in some delays in placing advertisements and that two posts needed to be covered by supply staff during Autumn 2005. (EE1 183 and EE1 246 3.9, 3.11, and 3.12 refer).
- 17.17 Further testimony was given on caretaking roles, contract cleaning and pupil dining arrangements in Autumn term 2005. (EE1 55, 223, 292 refer); and in response to a question from the Tribunal Mrs Dorey confirmed that it was within the discretion of the individual Head Teacher to decide where pupils may eat or dine on school premises. Mrs Dorey confirmed that contract cleaners had been hired because of a work overload on the caretaking staff. Mrs Dorey also confirmed that Mr Neale had directed that Mrs Hodder would take responsibility for the caretaking staff for the Autumn term 2005.
- 17.18 Prior to being excused from the witness stand Mrs Dorey responded to some final questions from Mr McMahon. Mrs Dorey confirmed that the job description for Mrs Stephens had evolved through necessity in 2004 and 2005, as it needed to describe her responsibilities toward the EDP and her "designate" period.
- 17.19 Mrs Dorey clarified earlier testimony on staff training arrangements for Le Rondin prior to the acceptance of pupils on 8 September.
- 17.20 Mrs Dorey gave further evidence on the role and scope of the Site Caretaker and that Mrs Stephens was involved in the interview and selection process for this role.
- 17.21 Mrs Dorey confirmed her belief that by seconding Mrs Stephens to the EDP she became a full member of this team and that Mrs McGovern was fully responsible for Mont Varouf School in this period in her "Acting" role.

18.0 Testimony given by Mrs Nicola Bougourd

- 18.1 Mrs Bougourd is an experienced media specialist and is the Communications Manager for the Education Department; her role in relation to Le Rondin is to ensure that all “Stakeholders” are kept informed.
- 18.2 Mrs Bougourd started working with the EDP team in 2003 and observed that a problem arose with the proposed Le Rondin School uniform. Mrs Stephens had not sufficiently involved the parents from the three schools which were being integrated into Le Rondin and parents turned down her proposed school colours. Finally, with the help “Wigwam”, a parents association, a survey was conducted and a school uniform was agreed.
- 18.3 Mrs Bougourd was a regular attendee to the EDP meetings and testified that Mrs Stephens’s attendance was not regular or very collaborative when she did attend. Mrs Stephens left the EDP meeting as soon as the Le Rondin issues were concluded and this meant that Mrs Stephens missed out on the opportunity to learn from other projects. In answer to a question from the Tribunal, Mrs Bougourd confirmed that Mrs Stephens was the only attendee who left the meeting early. Mrs Bougourd also testified that Mrs Stephens was so concerned about staffing issues during these meetings that she would not let the EDP move on to other important subjects, the effect of this was to raise stress levels within the project team.
- 18.4 It was also evident that Mrs Stephens was very concerned as to the readiness of the building and this seemed to detract from her primary role to ensure that both staff and pupils were as ready as possible to commence the Autumn term 2005.
- 18.5 Mrs Stephens was reluctant to be involved in the development of the publicity brochure, which was intended to publicise a major island achievement, and act as a major vehicle for recognising the many sponsors who had supported the project. Mrs Stephens seemed to be very concerned as to the readiness of the building. Her reluctance to be involved communicated itself to other staff and made the whole development process more difficult. (ER1 295 refers).
- 18.6 Mrs Bougourd visited Le Rondin frequently in 2005 and took members of staff, sponsors and parents on site visits during this period. Mrs Bougourd formed the view that although builders were still on site that Le Rondin was ready to accept pupils in September 2005; a draft of a press briefing prepared late in August 2005 was a fair summary of the view of the EDP team at that time (EE1 289 refers).
- 18.7 Testimony was given on the reluctance of Le Rondin staff to support potential open days and it was implied that Mrs Stephens had not done enough to encourage staff to support such activities.
- 18.8 Mrs Bougourd testified that she had become aware that Mrs Stephens had threatened the closure of Le Rondin early in the Autumn term 2005 following an incident with pupil “R”.
- 18.9 Under cross-examination Mrs Bougourd explained how the primary planning document for the Le Rondin project was developed in September 2004 and that the primary need in this process was for each EDP member to understand their role.
- 18.10 Mrs Bougourd agreed that Mrs Stephens had been included in an October 2005 newsletter for and that she had personally thanked Mrs Stephens on October 11, 2005 for effective support during the Lord and Ladies Taverners visit. (EE1 343 refers).

- 18.11 Mrs Bougourd testified that it was in conversation with Mr Lamb and Mr Bridel that she was alerted to the news that Mrs Stephens wished to close the school down after the incident with pupil "R".
- 18.12 Prior to leaving the witness stand Mrs Bougourd, in response to a question from the Tribunal, expressed the opinion that it was not abnormal to have stress in a project such as that of the Le Rondin development, however Mrs Bougourd also saw significantly more frustration amongst project team members than was evident in the sixth-form college project, and much of this was due to Mrs Stephens.

19.0 Testimony given by Mr Derek Bridel

- 19.1 Mr Bridel is a qualified accountant who commenced employment in 1986 with the States of Guernsey which latterly included project work. He moved into Education in 2002 and was charged with defining the plan process for a number projects including Post 16 Education, Special Needs and other Secondary school projects. In 2003 he was appointed to the Senior Management Team as Project Manager for the EDP plan and is currently Assistant Director for Planning and Projects reporting to the Director of Education.
- 19.2 In the period 2003 to late 2005 Mrs Hodder reported to him as the Project Director for Special Needs.
- 19.3 His initial contact with Mrs Stephens was in 2003, as one of the senior teaching staff involved in the creation of key concepts for the future of Special Needs provision.
- 19.4 From April 2004 onwards, the contact between them significantly increased and she participated in Project Team meetings. His initial view was that Mrs Stephens worked hard and would cooperate when things were going well for her, but when it came to conflicts of issues with colleagues she became aloof, used aggressive body language and in his word some "very stern language".
- 19.5 It was her primary responsibility to bring staffs together, create a new and unified curriculum and introduce new working practices which would address a broad range of pupil disabilities and it became obvious to Mr Bridel very quickly that Mrs Stephens was not allocating time as required in her "designate" job description. He discussed this view with Mrs Stephens in various one-on-one meetings.
- 19.6 Mr Bridel attended the meeting in June 2004 with Mr Neale (ER1 302 refers) and in his opinion the meeting was held to review the position, review options and provide solutions. In reviewing the situation it was evident that Mrs Stephens was not able to split her time 50:50 between the project and her continuing duties at Mont Varouf. Additionally, Mrs Stephens had told Mr Bridel and Mrs Hodder that she was stressed and not coping with teamwork. She stated she could not work with Mrs Isbister or Mrs Grainger and that she was the only person who could do much of the work required. The primary outcome was that Mrs Stephens should be seconded to the Project team and be line managed by Mr Bridel; and this was done to ensure that her inputs to the project could be maximised.
- 19.7 Mr Bridel then referred to EE1 112-116 which was a minuted record of the meeting of the Project team on 17 September 2004; and this minute recorded Mrs Stephens leaving the meeting prior to its completion. Mr Bridel testified that he had been told by Mrs Stephens that she did not wish to waste her time by staying to the end of the meeting and had requested that Le Rondin issues be covered first. Mr Bridel thought this ill advised as there was much for Mrs Stephens to learn by remaining to the end of the meeting; however he agreed that she could routinely leave the meetings early.

- 19.8 The Tribunal noted in EE1 112-116 that items relating to Mrs Stephens, such as 2005 holiday arrangements and further items relating to the construction of Le Rondin, were discussed after her minuted departure. The question was put by the Tribunal to Mr Bridel that as her line Manager why he did not insist she stay for the remainder of these meetings; given the importance he attached to her attendance. Mr Bridel responded by stating that he made repeated requests that she stay but would not insist on this.
- 19.9 The Tribunal asked Mr Bridel if he did not view this refusal to attend as a matter of discipline. In responding to this question, he stated that he viewed it as an area for seeking compromise, and he wanted to make the best of the situation. Finally from early 2005 revised arrangements were put in place whereby Mrs Stephens would meet Mr Bridel each Friday morning and liaise directly with him; in the event her attendance to EDP meetings tailed off such that by April she was no longer in attendance.
- 19.10 Mr Bridel also drew the attention of the Tribunal to his email to Mrs Stephens of the 17 November 2004, EE1 125 refers, which alleged she had been rude and confrontational at project review meetings as well as being abrupt in her language and demonstrating an unwillingness to be constructive. Mr Bridel stated that he had sent this email as he did not know her whereabouts despite repeated requests that she regularly inform him of such. When they did eventually meet to discuss the contents of the email Mrs Stephens was very forceful in her rebuttal of the email and thought it disgraceful that her name had been used in this email.
- 19.11 Mr Bridel testified that Mrs Stephens had been “extremely rude” as to his own professional background and did not respect him in his role.
- 19.12 Mr Bridel then referred to EE1 137 – 141 which was a minute of a meeting attended by Mrs Stephens with Mr Neale, Mr Lamb and himself on 8 December 2004. This meeting was called to address the various issues relating to Mrs Stephens including her interface with EDP team Project, her physical working conditions in an open plan office, her lack of contactability by her Line Manager and others, and her desire to work out of Mont Varouf until Le Rondin was ready. In the event various concessions were made to Mrs Stephens however she did not hold to her side of the agreement. For example, despite the minuted note that Mrs Stephens should “aim to spend an average at least equivalent to one day per week at Longfield and Oakvale, although week by week it may vary” this did not happen and Mrs Stephens fell significantly below this standard. Mr Bridel indicated there could be little doubt in Mrs Stephens mind as to this requirement as it was further detailed in a minuted meeting between Mrs Hodder and Mrs Stephens on 16 December 2004 (EE1 142 refers). In response to a question by the Tribunal, Mr Bridel stated that he did not view this lack of compliance as insubordination on the part of Mrs Stephens, he stated that teachers have different expectations.
- 19.13 Turning to the state of readiness of the Le Rondin building Mr Bridel stated that with her non-attendance to the EDP meetings Mrs Stephens was not gaining a full picture of progress being made. Also, Mr Bridel believed that in her meetings with parents and staff in Spring/Summer of 2005 that she had unnecessarily heightened their concerns as to whether the school would be ready for September 2005, and he was further alarmed when Mrs Stephens appeared to disassociate herself for the official opening ceremonies and the development of the le Rondin brochure. On 10 July 2005, Mrs Stephens formally indicated in a memo to senior officers that in her opinion the occupation of the school by staff should be delayed until September 2005; however Mr Bridel disagreed even though the builders would be on site throughout the summer.
- 19.14 Mr Bridel testified that further complications were created by the lack of trust that EDP members had in Mrs Stephens, given the allegations she had made against Mrs Hodder, Miss

Hayward and Mrs Isbister earlier in 2005. At least five senior members of the team did not wish to meet her on a one-to-one basis, and would only meet her on an accompanied basis.

- 19.15 In response to a question from the Tribunal, Mr Bridel stated that he did not conduct an appraisal with Mrs Stephens as her Line Manager. He stated this was the responsibility of Mr Neale.
- 19.16 On 30 August 2005 there was a critical “Commissioning” meeting of the EDP team with Mrs Stephens and Mr Bridel. Its purpose was to consider whether there were any “showstoppers”, which were defined as items which must be completed prior to pupils being admitted to the site. It was consensually agreed that there were no such items and the school could open on 8 September 2005. (EE1 290 refers). A further meeting on 7 September between Mr Lamb, Mr Bridel and Mrs Stephens dealt with four further issues, none of which was deemed a “showstopper”. In summary all legal approvals had been obtained and all the relevant authorities had given their consent to the opening.
- 19.17 The days following the opening of Le Rondin were marked by continuing complaints by Mrs Stephens that the building was not safe and for example door handles were not positioned appropriately. Worse it appeared that Mrs Stephens was liaising directly with the contractors and this was not her role (EE1 304 refers). Mrs Stephens was adamant that this was not so and accused Mr Bridel of harassment in his email.
- 19.18 Mr Bridel testified that it was normal in a building such as Le Rondin to have “snagging” issues and it was not untypical to deal with these via interim fixes, ensuring no health and safety issues, prior to a permanent long term resolution. However Mrs Stephens did not seem to understand this and wanted permanent fixes immediately. Mr Bridel took all the issues she raised back to the EDP team and they found it very demotivating; issues were constantly being revisited and given other EDP priorities was very stressful for them. (EE1 350-351 refers) and Mrs Hodder informed him that she wished to resign due to her total frustration with the situation.
- 19.19 With reference to his attendance to the meeting on 10 January 2006, chaired by Minister Ozanne, Mr Bridel informed that meeting that relationships had broken down with Mrs Stephens throughout the EDP team, and in his opinion the impact of this was so great that it was impacting significantly on other key projects. The prospect of developing “Special Needs” provision in line with the plan was not possible whilst Mrs Stephens remained in post
- 19.20 In answers to questions from the Tribunal Mr Bridel conceded that all projects were stressful but Mrs Stephens escalated all minor issues into major ones. He also stated that whilst there were many examples of her rudeness it was her style and did not merit formal proceedings. Mr Bridel also stated that whilst the disengagement of Mrs Stephens from the project was of major concern it was not documented. He stated that whilst Mrs Stephens may have been a good leader in a small school such as Mont Varouf it was a different “scenario” when she took on the responsibility for pupils with multiple learning disabilities. He confirmed that he had never warned Mrs Stephens that her job was in jeopardy despite his concerns and his role as her Line Manager whilst seconded to the project team.
- 19.21 Under cross-examination Mr Bridel could not recall any document which specifically gave him line management responsibility for Mr Stephens.
- 19.22 Further testimony was given on a range of issues relating to activities in Autumn 2004 and in particular the email of 17 November 2004 (EE1 125 refers) in which Mr Bridel had made a number of criticisms about Mrs Stephen’s behaviour. Mr Bridel stated that it was not intended as a critique of her performance and whilst there was no documented resolution the issues raised in the email had been dealt with in subsequent one on one meetings.

- 19.23 On being referred to EE1 133 “Review of EDP Working Arrangements” Mr Bridel agreed that the list of items contained in this document were not part of a minuted meeting. It was a list of issues that the EDP staff had with Mrs Stephens and a list of issues that were presumed to be those of Mrs Stephens that had been developed on 6 December 2004. He confirmed that none of the “EDP” issues were specifically submitted by him.
- 19.24 Referring to the allegation by Mr Bridel that he was often not aware of her whereabouts in and had complained of this in an email on 4 June 2005 Mr Bridel was asked if he had realised that the lack of response by Mrs Stephens might have been due to a half term holiday. In response Mr Bridel stated he did not recall this.
- 19.25 Mr Bridel agreed that the “Practical Completion Date” for Le Rondin had moved back from the planned date of 16 May 2005 to the 5 September 2005, however the builders had granted beneficial access to Education staff from July which permitted much of the pre Autumn term 2005 work to be done.
- 19.26 Mr Bridel disagreed with Mrs Stephens over the functioning of Fire Doors, in his opinion they were fit for purpose and were approved by the Fire Brigade and any minor issues had been resolved with the help of the Health and Safety Officer. Further testimony was given on safety issues (EE1 298, 350,358 and 361 refer) and Mr Bridel was firmly of the opinion that resolution of these issues was far more to do with pupil supervision rather than physical aspects of the building.
- 19.27 Mr Bridel refuted that there was any unacceptable risk from the non-functioning of the “call assist alarm function” (EE1 348 refers).
- 19.28 Mr Bridel conceded that the flat roof at Le Rondin did leak and that buckets were required to catch the water.
- 19.29 Mr Bridel agreed that the boiler/central heating system could not cope, the temperature in the corridors fell to approximately 13 degrees centigrade and the classrooms were cold. In the event 17 heaters were purchased over the winter period 2005 to 2006.
- 19.30 Mr Bridel was asked when the termination of Mrs Stephens’ contract was first discussed at the SMT. In response he stated that this took place on the 22nd September 2005, he could not direct the Tribunal to any written record in the bundle of this item being discussed on that day. (The tribunal made a formal request for these minutes to be produced and Advocate McMahon agreed to their production if they existed).
- 19.31 In response to a question from the Tribunal as to the ambient temperature in the school falling below 16 degrees centigrade, Mr Bridel stated that the situation had been dealt with in hours.
- 19.32 On being passed back to Advocate McMahon the witness confirmed his understanding that Mrs Stephens should have been working completely under her Head Teacher role “designate” once she was seconded to the project team.
- 19.33 Mr Bridel was surprised that Mrs Stephens was not available during August 2005 and had taken a vacation, members of the EDP had committed to take no more than one weeks vacation during this month.
- 19.34 Mr Bridel was referred to EE1 227 and confirmed that he had written this email to Mrs Stephens on the 31 May 2005 as he had not met her for over a month and he had had difficulties in contacting her by other means. The contact issue was compounded by the repeated refusal by Ms Stephens, without good reason, to accept the provision of a mobile

phone.

- 19.35 Mr Bridel repeated his assertion that the school was fit to be occupied in September and that every issue raised by Mrs Stephens had first and foremost to be considered in light of Health and Safety issues.
- 19.36 Mr Bridel prior to being excused from the witness stand emphasised that the situation had deteriorated once the Autumn term 2005 had commenced despite his hope that the situation would improve once the term had commenced and he saw no alternative to the dismissal recommendation by the SMT.

20.0 Testimony given by Mrs Pauline Smith

- 20.1 Mrs Smith is a qualified Physiotherapist who has held a variety of posts in her speciality since 1969 and subsequently moved into roles dealing with paediatric issues. She became Head of Paediatric and Learning Disability in 2001. The Tribunal notes that Mrs Smith was called as a witness by the Applicant, but due to scheduling issues was heard prior to the completion of testimony from the Respondent's witnesses.
- 20.2 Mrs Smith confirmed that in this role she had frequent contact with Mrs Stephens at Mont Varouf and the professional relationship with her was effective. Participation in pupil reviews by her service was welcomed and she stated that based on her experience of working with Mrs Stephens she was happy to anticipate a renewed working relationship with Mrs Stephens at Le Rondin.
- 20.3 Mrs Smith gave testimony on charitable donations made to Le Rondin and the issues surrounding the hydrotherapy pool in Autumn 2005.
- 20.4 Mrs Smith as part of her role gave input to the EDP team and observed that whilst they seemed to consider the advice she offered it "sometimes seemed to be lost in translation".
- 20.5 Under cross-examination by Advocate McMahon Mrs Smith agreed that the Le Rondin building was far better as a venue for therapeutic activities than Mont Varouf.
- 20.6 Mrs Smith stated that she also enjoyed good working relationships with Mrs Hodder, Mrs Isbister and Miss Hayward.
- 20.7 Mrs Smith could not recall any obvious tensions between Mrs Stephens and Mrs Hodder when she saw them working together and drew the same conclusion for Mrs Isbister and Mrs Stephens. She could not recall observing a joint meeting between Mrs Stephens and Miss Hayward.
- 20.8 The witness could not recall Mrs Stephens ever critiquing any of these three officers in her presence and when requested offered her own view as to what constituted "collaborative inter-agency working".
- 20.9 Mrs Smith agreed that as part of her duties she had occasional contact with Mr Lamb, Mr Warren and Mr Neale and was not aware from these contacts that there were any problems with the continuing employment of Mrs Stephens.
- 20.10 Prior to being excused from the witness stand Mrs Smith agreed with Mrs Stephens that it was wise to anticipate overruns on projects and make contingency plans; for example the planned continuing use of the Mont Varouf pool when the Le Rondin pool was delayed and then the use of the pool at the St Pierre Park Hotel when this was not feasible.

Return to Respondent's witness testimony.

21.0 Testimony given by Mr Andrew Warren

- 21.1 Mr Warren was appointed to the role of Head of Staffing Services in January 2005 and as such was a member of the SMT reporting to the Director of Education. Prior to this he had undertaken a number of senior roles including that of Head teacher for Forest Primary School. Whilst in that post Mr Warren had experience of moving into a newly constructed school building.
- 21.2 Mr Warren led the Tribunal through a number of documents in the Respondent bundle and his comments were as follows. ER1 1 1-40 constitutes the "Conditions of Service" for schoolteachers in Guernsey and with some variations also covers Head Teachers. Mrs Stephens was subject to these conditions. ER1 41 – 54 is a UK generated document which details the "National Standards for Headteachers" and is very relevant to Guernsey Headteachers; whilst there are differences in governance from UK schools the skills are the same. In summary, the standards require that pupils should receive the best possible standard of education whilst the Headteacher should also be a leader to their staff, coordinate service provisions and maintain excellent communication with parents. ER1 55-72 are the procedures for the management of conduct and capability applying to teachers and lecturers in Guernsey, and given Mrs Stephens role as a Headteacher of several years standing she would have been familiar with these terms.
- 21.3 Within a few weeks of his appointment on the 23 February 2005 Mr Warren met with Mrs Stephens and during this meeting she raised the issues of her daughter's possible appointment to the Le Rondin staff and more generally her concerns as to the potential staffing levels. Mrs Stephens told him that there were already concerns being expressed by staff and parents that the proposed levels would be inadequate and submitted an estimate of required staffing ratios. Mr Lamb was aware of Mrs Stephens' disagreements on this issue with EDP members and decided that it would not be advisable to make a personal comment on these issues. (ER1 285 -286 refer).
- 21.4 Shortly after this meeting Mrs Stephens sent Mr Neale a letter on 3 March 2005 alleging that she was being harassed by Officers of the Education Department and that a letter she had received on that date was yet another allegation as to her behaviour which Mrs Stephens thought were without merit (EE1 153 refers). Following discussions with Mr Neale and his written advice (EE1 177 refers), Mr Warren received a letter dated 15 April 2005 from Mr Woolly, the NUT Regional Secretary, seeking a meeting with him and Mrs Stephens EE1 181 refers).
- 21.5 The requested meeting took place on 13 May 2005 and was wide ranging. Issues discussed included the working relationships with Officers from the Education Department, her freedom to deploy school staff as she thought fit, the cover provided to Mont Varouf during her secondment to the EDP and the unsatisfactory resolution of unfounded allegations by parents as to the administration of medicine to a pupil on the Mont Varouf site. These allegations are set out in detail by Mrs Stephens in ER4 10-15.
- 21.6 Mr Warren conducted an investigation into these allegations and in particular the allegations as to the behaviour of Mrs Hodder, Mrs Isbister and Miss Hayward. Mr Warren's findings did not substantiate any of the allegations and exonerated all three of these Officers (ER4 16-40 refers).
- 21.7 Subsequent to his report, meetings were held with the three officers to establish if relationships with Mrs Stephens could be repaired through mediation or any other mechanism, but he

concluded the prospects of success would be slight. He discussed his conclusions with Mr Neale and also contributed to the SMT discussions on these issues in September 2005.

- 21.8 Mr Warren as a function of his role became involved in the thorny problem of site caretaking at Le Rondin and who would take responsibility for this function and how any decision on the management of this role would be reflected in Mrs Stephens' job description. The eventual solution was "stopgap" in nature and caused further between Mrs Stephens and Officers of the Education Department. Mr Warren also testified that Mrs Stephens took inappropriate action to resolve lunch break cover at Le Rondin, upsetting many of the Teaching Assistants, and it took the personal intervention of Mr Neale to resolve the issues arising from this.
- 21.9 Mr Warren visited the Le Rondin site prior to September 2005 and thought the facilities were excellent. However as the Autumn term 2005 progressed he became aware of significant staff discontent over issues such as lack of continuity of curriculum and stressful operational procedures. In the meantime relationships between Mrs Stephens and senior members of the EDP team did not improve. The SMT reviewed all the negative inputs coming from many sources concluded that "enough was enough", and agreed that Mr Neale should approach Mrs Stephens to see if any way forward could be agreed, in the event it could not.
- 21.10 Mr Warren testified as to his involvement with Mrs Stephens' Advocate and the Department's own legal advisers and the attempts to achieve a Compromise Agreement. However by the end of November he had concluded that there was no other option but to dismiss Mrs Stephens.
- 21.11 Mr Warren then sought advice on what procedures should be followed both from State HR Department as well as seeking legal advice. He concluded that it was not appropriate to base any dismissal on conduct or a capability and so it was not appropriate to advise Mrs Stephens on any process related to these categories of dismissal. Mr Warren was also well aware that only the Board of Education could sanction the dismissal of Mrs Stephens and accordingly sent Mrs Stephens an email on the 6 January 2006 confirming the process to be followed on 10 January 2006 (EE1 424 refers).
- 21.12 Mr Warren confirmed that as a member of the SMT his views had been sought by Mr Neale and was part of the unanimous decision to recommend dismissal. Finally Mr Warren confirmed that with reference to minutes of meeting of 10 January 2006 (EE507-517 refers) his role had been to present the case for dismissal on behalf of the Education Department. In his opinion the case was factual and evidence based. He testified that minutes were an accurate record for the period when he attended the meeting.
- 21.13 Under cross-examination Mr Warren stated that none of the Conduct or Capability procedures found in ER1 55- 72 were relevant to Mrs Stephens and that on legal advice under section 6.3 of the conditions of service (ER1 9 refers) there was no provision for appeal.
- 21.14 With reference to EE1 222, 233, 263, and 267 Mr Warren gave further testimony on the site role.
- 21.15 Mr Warren could not recall stating to Mrs Stephens that she should have a friend or colleague present for the meeting on 16 December when Mr Neale confirmed her suspension prior to termination of the contract.
- 21.16 Mr Warren gave testimony on the negotiations between the Department and Mrs Stephens Advocate in Autumn 2005 and emphasised the desire at that time to achieve negotiated settlement, which would minimise the damage to Mrs Stephens's professional reputation.

- 21.17 Mr Warren stated he had not been able to communicate to Mrs Stephens before the 5 January 2006 the procedure that would be followed on the 10 January 2006 as he had been seeking legal advice and did not respond to Mrs Stephens when she questioned if he thought this was reasonable time scale to allow her to prepare for the meeting. He also testified that as there was no provision for an appeal process in Mrs Stephens conditions of service that on legal advice it was not offered to her, although he did state that if the issue had been one of conduct or capability a committee would have been formed from the members to allow a subsequent appeal process.
- 21.18 Mr Warren stated that it was decided to limit the testimony to the nine points detailed in the minutes of the 10 January 2006 meeting and communicate these points orally.
- 21.19 In response to a question from the Tribunal Mr Warren stated that suspension was not only used in the case of misconduct but also when there was urgent cause or need to ensure removal of risk. Mr Warren also clarified some other points of testimony prior to being excused from the witness stand.

22.0 Testimony given by Mr Frank Flynn

- 22.1 Mr Flynn has been an Assistant Director Resources since October 2000 and is a Chartered Accountant responsible for all financial aspects of the Education Department.
- 22.2 Mr Flynn testified in camera that Mrs Stephens had not, in his opinion, dealt with a confidential report appropriately and the Guernsey Data Protection Commissioner had become involved. Mr Flynn took the view that “Data Release” should be the principle rather than “Data Withhold” and Mrs Stephens had opted for the latter principle in this case rather than the former. (ER1 198 refers).
- 22.3 Mrs Stephens had sought and received appropriate advice but had then sought to reinterpret it. Detailed testimony was given as to how the situation evolved. The effect of this behaviour was to create significant workload for two senior officers and an unwanted reputational issue with the Data Commissioners.
- 22.4 Mrs Stephens cross-examined Mr Flynn prior to the ‘in camera’ session being concluded and put it to him, with a rationale, that there were pressing and unique reasons why she withheld the data; Mr Flynn did not accept this.
- 22.5 Mr Flynn then turned his attention to the issue of salaries and the process / methodology which had been used to determine Mrs Stephens’ salary as she transitioned out of her Mont Varouf role took on her “designate” role and then finally assumed full responsibility for Le Rondin.
- 22.6 Mr Flynn stated that wherever there was flexibility in the determination of her salary that he had used a “generous calculation” and in the event the proposed salary was one of the highest in Guernsey for a primary school teacher. However Mrs Stephens queried the calculations and suggested a salary for the le Rondin role which would have been very close to the salary paid to the head of the Grammar School who has responsibility for 1000 pupils and 35 staff. However Mrs Stephens was insistent, involved her union representative and requested details of appeal procedures that she could pursue. Concessions were made and Mrs Stephens was set a deadline to accept the Le Rondin post, in the event she met the deadline with seven minutes to spare. The effect of this procrastination was to slow down progress with all the other appointments that needed to be made to ensure that le Rondin was correctly staffed.
- 22.7 Mr Flynn was aware of some frustrations with Mrs Stephens by officers of the Department but could give little direct testimony; however he was in attendance at the SMT meeting which recommended her dismissal and concurred with this recommendation.

- 22.8 Under cross examination by Mrs Stephens the witness clarified previous testimony and repeated his assertion that Mrs Stephens had taken far more time than necessary to formally accept her role at Le Rondin.

23.0 Testimony given by Mr John Lamb

- 23.1 Mr Lamb is the Deputy Director of Education and was appointed to this role in mid 2004 having undertaken a range of teaching and other educational posts since 1974.
- 23.2 Mr Lamb drew the attention of the Tribunal to a letter from Mr Michael Rolfs dated 3 June 2002 in which Mr Rolfs expressed his apprehension about working with Mrs Stephens in the capacity of Deputy Head at Mont Varouf School. Mr Lamb testified that as this apprehension seemed to be affecting his well being he was seconded away from Mont Varouf until he left Guernsey (ER1 118 refers).
- 23.3 Mr Lamb then drew the attention of the Tribunal to a written parental complaint against Mrs Stephens on 8 November 2002 alleging that Mrs Stephens had roughly manhandled a pupil whilst in her presence. Mrs Stephens offered an alternative version of events alleging the parent had attacked her. An investigation was conducted but Mr Lamb stated that others close to the incident i.e. teachers did not want to volunteer information and no further action was taken. Mr Lamb alleged that he had also been alerted to three other parental complaints against Mrs Stephens (ER1 137 refers).
- 23.4 Mr Lamb confirmed testimony from previous witnesses for the Respondent that the process of gaining acceptance by Mrs Stephens to her job description had been far less straightforward than with other staff, and this delayed other important project activity.
- 23.5 Mr Lamb referred to the letter from Mr Neale dated 19 July 2004 to the Applicant as to her future seconded role with the Project team (EE1 97 refers). He stated that his role was not only to provide support to Mrs Stephens but also to provide a monitoring role on the standards of education that would be delivered by the Le Rondin project. Mr Lamb also confirmed that it had been agreed with Mrs McGovern that she would take on the role of Acting Head Teacher for Mont Varouf for the academic year 2004/2005.
- 23.6 Despite the secondment Mrs Stephens continued to conduct pupil reviews, sign herself as the Head Teacher and attend lunch times at Mont Varouf. When challenged on these issues Mrs Stephens stated that these were areas in which Mrs McGovern had least competence and wanted support.
- 23.7 With reference to EE1 133 which summarised both the issues of EDP members and Mrs Stephens the witness stated that he gathered these inputs together in individual meetings with these individual and then presented the document to the SMT. The individuals who gave input were never brought together by Mr Lamb as a group to discuss these issues. It was decided that SMT members give extra guidance and support to each of these individuals.
- 23.8 With reference to the minutes of the meeting held on 8 December 2004 with Mrs Stephens (EE1 137-142 refers) Mr Lamb testified that Mrs Stephens had never personally disagreed with him, but he noted tension was high between herself and a number of other officers.
- 23.9 The witness referred to the letter of complaint by Mrs Stephens against Miss Hayward (EE1 153 refers). This was triggered by a letter sent by Miss Hayward to Mrs Stephens. Mr Lamb confirmed that as her Line Manager he had assisted Miss Hayward with redrafting the original letter before it was sent. In response to questions both from Advocate McMahon and from the Tribunal he testified twice that he had shown Mr Neale the revised letter before it was sent; he

then sought to recant this testimony when asked a third time. Mr Lamb confirmed that he was not involved in the formal investigation that followed the sending of these letters.

- 23.10 Mr Lamb testified that he had chaired the weekly “SEN Restructure Meetings” and observed that Mrs Stephens constantly raised the issue of proposed staffing levels for Le Rondin. He stated there could be no final decision on this issue until May 2005 due to “Treasury and Resources” processes. However this final approved staffing was still not accepted by Mrs Stephens and her team; further demands for extra staff were made by Mrs McGovern and Sandra Santos on the 13 July 2005 (ER1 336-337 refers) and this put extra workload on his officers to respond to these request.
- 23.11 In response to a question from the Tribunal Mr Lamb could not recall specifically discussing the grievance procedure with Miss Hayward in 2004 but as with others there was a desire to put grievances on record but not use formal procedures.
- 23.12 With reference to EE1 202-203 Mr Lamb testified that Mrs Hodder was regularly updating contingency plans however there would have been tremendous disappointment if Le Rondin had not become operational in September 2005 and indeed in his opinion the school was fit for use on that date and this had been confirmed to him by all relevant authorities.
- 23.13 Mr Lamb confirmed testimony from other witnesses that the issue as to who should manage the site caretakers had been complicated by the position taken by Mrs Stephens, and the meeting held a few days before the Autumn term 2005 to resolve the impasse had lasted over 5 hours, and had been exhausting. It was very concerning that Mrs Stephens was considering defying the instruction given by Mr Neale and it was only after overnight consideration that she relented.
- 23.14 In response to questions from the Tribunal Mr Lamb was not sure if the delayed move of Mrs Stephens from her “designate role” to Headteacher of Le Rondin had any effect on her pay but could confirm that whilst there was no formal “exit interview” process for Mrs Hodder that it would have been normal for a Line Manager to discuss reasons for resignations with subordinates.
- 23.15 In a further response to questions from the Tribunal Mr Lamb stated that it would have been difficult to proceed with formal misconduct proceeding against Mrs Stephens as individuals were not prepared to come forward and allege misconduct. On the issue of capability he believed that advice and guidance had been given by Mr Neale, himself and others, however they were dealing with deep character defects which put her at odds with other staff. He also knew now that Mr Neale had informed Mrs Stephens as part of the informal process that he might need to move to formal process for conduct or capability if the situation did not improve.
- 23.16 Mr Lamb stated that it was well known that Mrs Stephens became stressed as each school year progressed, but it was hoped that she would follow the pattern of previous years and become less stressed once Le Rondin was open to pupils.
- 23.17 Mr Lamb was asked by the Tribunal if, given Le Rondin was such a bigger challenge for Mrs Stephens than her role at Mont Varouf, consideration was given to withdrawing the role from her prior to commencement in September 2005? Mr Lamb responded by stating that the SMT had not given consideration to this, however Mrs Stephens had put it forward as an option but had then reaffirmed her desire to take up the role.
- 23.18 Mr Lamb testified that although he had hoped that once the term began that matters would improve that, on the contrary, they became worse. He was aware of staff morale being low at Le Rondin and that staff were still divided into “camps”. Mrs Stephens was still encouraging

staff to complain about staffing levels and in her letters to parents there was implied criticism of the school building. Meanwhile the relationship between Mrs Stephens and the senior officers had not improved. Finally Mr Lamb stated it was his opinion that Mrs Stephens had “contempt” for the Politicians at the Board of Education. Overall these issues, and the time and attention required to deal with them, were seriously hampering the service provision to the rest of the island. Mr Lamb testified that he recommended to Mr Neale that a solution had to be found to provide Mrs Stephens with a “dignified exit”.

- 23.19 Responding to a question from the Tribunal Mr Lamb agreed that ideally Mrs Stephens should have met with the Senior Officers as a group to attempt to resolve issues but the view of himself and other SMT members was that conciliation would have no chance of success.
- 23.20 On the 23 September 2005 Mr Lamb met with Mr Wooley, the NUT regional Representative, and informed him of the SMT view. Further contact was attempted with Mr Wooley circa 25 September 2005, but he was not available. Subsequently, there was contact with Mr Wooley who then informed Mr Lamb that his services had been dispensed with by Mrs Stephens circa 24 September 2005.
- 23.21 Mr Lamb testified that he was not involved in the detailed negotiations that took place with Mrs Stephens in October / November 2005 but agreed with other SMT members that adopting any formal process against Mrs Stephens in this period was not appropriate. He was in agreement with the recommendation that termination of contract should be based on the irretrievable breakdown of relationships; this recommendation was made with great regret.
- 23.22 Mr Lamb confirmed the minutes of the 10 January 2006 (EE1 507 refers) were an accurate record and that in his opinion the case put correctly to the Board.
- 23.23 Under cross-examination Mr Lamb agreed that Mrs Stephens discharged her professional duties meticulously whilst at Mont Varouf.
- 23.24 Mr Lamb confirmed that it was normal to have a cut off date for staffing every year, and the cut off date in 2005 was little different than in previous years.
- 23.25 Mr Lamb clarified several points of testimony regarding Mrs Stephens’s secondment period to the EDP and the protocols for attendance to the weekly meetings in 2005.
- 23.26 Further testimony was given over challenges facing le Rondin staff as described in EE1 147 and Mr Lamb was in general agreement with those challenges.
- 23.27 On being handed back to Advocate McMahon Mr Lamb agreed the challenges described in EE1 147.4 did not adequately represent the need for continuing and collaborative work between Le Rondin staff and Senior Education Officers.
- 23.28 In response to a question from the Tribunal Mr Lamb confirmed that once development needs were identified for teachers and Headteachers then it was the role of his department to try and put in place solutions/resources to support these needs. Mr Lamb was then excused from the witness stand.

24.0 Testimony given by Mr Derek Neale

- 24.1 Mr Neale trained in the UK and undertook a number of teaching roles before coming to Guernsey in 1987. In the ensuing years he became Assistant Director, Deputy Director and was appointed to his present Directorial role in 1996. He is a trained and accredited OFSTED inspector.

- 24.2 Mr Neale testified that although to his knowledge he had been involved in the appointment of some 28 Headteachers he was not instrumental in the appointment of Mrs Stephens to this role. His deputy at the time, Mrs Roots, together with Miss Hayward and Mrs Hodder had formed the appointment team for Mrs Stephens.
- 24.3 Mr Neale drew the attention of the Tribunal to ER1 1, 'Conditions of Service' document and specifically to ER1 7 where the grievance procedure can be found. Mr Neale stated that it was not meant to be punitive and is a progressive procedure, from the initial informal stage to the further formal stages if required. Mr Neale indicated that Mrs Stephens had been covered by this procedure including the period when she was seconded to the EDP team in 2004/2005.
- 24.4 Mr Neale testified that the statement in section 5 on ER1 8 was incorrect as the document ER1 55-72 was in fact the codified disciplinary procedures and would have been applicable to Mrs Stephens.
- 24.5 Mr Neale referred to ER1 64 and stated that he always makes a distinction between wilful misconduct and something that is not acceptable. He defined two types of incapability; the first being the inability to meet standard through no fault or not through lack of desire versus the wilful inability to attain capability. He stated that he thought if genuine attempts to achieve capability were being made, he would work with whatever agencies to help, e.g. by role change, extra training or exploring any other avenues that might assist. Mr Neale confirmed that he had discussed with Mrs Stephens in April 2004 the possibility of reassignment but that had not been her wish.
- 24.6 Referring to page ER1 9 and paragraph 6.2, referring to "Suspension from Post", Mr Neale stated that his understanding was that suspension should be seen as a neutral act. He stated you should only suspend when you determine that to leave an individual in post would be unwise. However, he also had the concern that a suspension within a school committee becomes known to many individuals very quickly and unfortunately judgements are formed; particularly in a small community such as ours. There is the risk that the issue then spirals out of control and pupils and parents form a view which is difficult to change. Mr Neale also stated that he generally tried to ensure that there was a colleague or friend of the individual at a suspension meeting; but sometimes there is the need to take immediate action, for example in the light of an alleged criminal action.
- 24.7 Mr Neale stated that he did not have the authority to dismiss a teacher. It was his practice to stand aside from an investigation and then his role was to advise the Board on procedural matters based on legal requirements and also in relation to human resource policies.
- 24.8 On the issue of Right of Appeal, Mr Neale stated that the dismissal of Mrs Stephens was a full Board issue rather than it being considered by a panel drawn from the Board. He drew the attention of the Tribunal to paragraph 6.3 on page 9 of ER1, and stated that this is clearly separate from section 5 of the same disciplinary procedures. Given that the reason for the dismissal of Mrs Stephens was for "some other substantial reason", it was their submission that her dismissal fell under paragraph 6.3.
- 24.9 Mr Neale then drew the attention of the Tribunal to pages 21, 22 and 23 of ER1, relating to Conditions of Employment of Head Teachers in Guernsey. Mr Neale stated he had been involved in drawing up these conditions when he himself was a Head Teacher and a Union representative. He summarised the role of a Head Teacher as that of a Senior Officer with a specific site responsibility whose role was to provide education for children in accordance with policies and procedures laid down by the Education Board. In particular, he drew the Tribunal's attention to paragraph 2 on page 21 of ER1 in terms of the leadership role of the Head Teacher. Mr Neale stated that there were also other requirements in this document which related to the issues with Mrs Stephens, for example, paragraph 4.4, which requires the

maintenance of relationships with organisations representing teachers and other persons on the staff of the school. There was also the expectation that the Head Teacher would maintain effective professional relationships with the Director of Education and the Officers of the Education Department and he noted the use of the words in paragraph 3 that the Head Teacher should consult such individuals where it is appropriate. He stated that even if not explicit, there is an implicit underlying rule that there be trust and confidence on both sides.

- 24.10 Mr Neale expanded on the required relationships between a Head Teacher and Officers of the Education Department. He stated that there should not be an “us and them” culture, indeed there should always be “we” relationship between the Head Teacher and the Officers.
- 24.11 Mr Neale stated that he had first come into contact with Mrs Stephens in the mid-1990s and had become aware of problems at Longfield School where she was then a Deputy Head. There had been a personality clash between herself and Mr George, a colleague at the same establishment, and he had expressed disquiet about his working relationship with her. Mr Neale characterised it at the time as a personality clash due to the differences in their working styles. Indeed, Mr Neale stated that during this period, Mrs Stephens had applied for many senior roles, but had not been successful, these roles being in the mainstream educational sector. His view was that she had not been appointed as she was seen as a difficult person to work with. Noting these difficulties he tried to discuss them with Mrs Stephens and tried to give feedback and support so that she would understand what failings people were seeing in her and how they could be overcome. In his feedback, he told Mrs Stephens that in discussing her applications with other Officers, it came across that she was not perceived as “very warm”, that “it had to be her way or not at all”, and that her general demeanour was not conducive to a sharing or participative style of interaction with others.
- 24.12 In response to a question from the Tribunal, Mr Neale stated that no disciplinary action was taken over the Longfield issues and the clashes between Mrs Stephens and Mr George. However, he was aware that it had got to the point where they were not talking to each other and conducting their professional relationship with each other via written communication only. Mr Neale stated that in his opinion the malaise of Mr George was in some part contributed to by the behaviour of Mrs Stephens towards him. Notwithstanding this, they did appoint Mrs Stephens into the Acting Head role when Mr George went on extended medical leave.
- 24.13 The Headship of the Mont Varouf School became available in the late 1990s and it was a difficult role to recruit for in terms of expertise and background. There is a UK shortage of such Special Needs staff plus if an applicant was to come from the UK that would require a major life change for them. In the event, Mrs Stephens was the best available local candidate and was appointed. On her appointment, Mrs Stephens was told that this role would lead to a future role in charge of the Le Rondin School.
- 24.14 As part of the preparation for this role, Mrs Stephens was encouraged to visit Special Needs schools in the UK to gain a view of how things were done in a broad range of such establishments. However, in the event, Mr Neale was dissatisfied with Mrs Stephens’ attendance to these off-island visits, she only reluctantly agreed to a minimal number of visits and this limited a broader perspective of what was going to be required for the Le Rondin project.
- 24.15 With reference to the Mont Varouf Validation Report of 2001, EE1 Pages 17 to 19 refer, Mr Neale stated that it had praised the Mont Varouf School, however Mrs Stephens had chosen to take issue with the draft report and seemed to have lost sight of the fact that the document belongs to the reviewing body and not to herself. In the event, it illustrated a breakdown of communications between herself and Officers of the Education Department which was to become a recurrent theme over the next few years.

- 24.16 Mr Neale gave testimony on the States debate of April 2002 and other subsequent events that led up to the decision that Le Rondin would be established to cope with a whole range of disabilities unlike the then model of segregation by type of disability. The debate about what was the most appropriate model was quite heated amongst the teaching community in Guernsey and in particular staff at Oakvale were not persuaded that it would be an appropriate model. This opinion also seemed to be coloured by the fact that some of the Oakvale staff had indicated that the prospect of working with Mrs Stephens was somewhat daunting; they had the perception of her being somebody who was difficult to work with and there were problems about her perceived management style. There was also the concern that she would impose her own view of curriculum without consulting others and that she did not model collaborative working.
- 24.17 Mr Neale then turned to ER1 117 which is a letter from Mrs Stephens, dated 31 May 2002, in which she queried whether her current role at the Mont Varouf School would translate itself into the Headship of Le Rondin. Mr Neale stated that he was surprised to have received such a letter as he thought the expectation had been well and truly set when she had been appointed to the Headship of Mont Varouf. It seemed to Mr Neale that she was raising concerns that were unnecessary and in turn this was creating uncertainty with other teaching staff.
- 24.18 Mr Neale testified that it was not the case that each member of staff had to apply for a role in the new school, indeed, there was a philosophy of job protection and given this philosophy, only Mrs Stephens and Mr Brown would be considered for the two posts of Primary and Secondary Special Educational Needs Heads. He stated that this was a massive reorganisation for Guernsey and needed a clearly defined project structure with a Project Operations Director and Mrs Hodder was appointed to this role. In creating this project structure, Mr Neale appreciated that it was a novel structure for Guernsey and somewhat in advance of current practice in the UK.
- 24.19 Mr Neale then drew the attention of the Tribunal to ER1 126 and ER1 127/8. In a very abrupt memo to Mrs Root, the then Deputy Director, Mrs Stephens had complained about a transport issue and stated that she regarded the Department of Education as a service provider, in the case of Mrs Root, she did not believe the service was being provided. Mr Neale stated that on receipt of this communication Mrs Root was very angry, indeed he had never seen her angrier. Mrs Root told Mr Neale that she would like to have sacked Mrs Stephens; however, in the event, they did meet to discuss the issue and although not initially minded to accept an apology from Mrs Stephens, in the end Mrs Root did accept such an apology and this remained on file until the dismissal of Mrs Stephens.
- 24.20 In response to a question from the Tribunal, Mr Neale stated that despite the inappropriateness of Mrs Stephens' conduct, no formal steps were taken under Education procedures. It was considered a heat of the moment behaviour, but it also demonstrated a developing pattern of behaviour which we were still hoping to resolve without needing formal processes.
- 24.21 Referring to EE1 37 through 47, which are the minutes of a meeting between Mrs Stephens and himself on Friday 16 January 2004, Mr Neale stated that Mrs Stephens had required immense detail on the contents of her proposed job description for her new role at Le Rondin. In his mind, there were three substantive issues to be dealt with:
- (i) Continuation at Mont Varouf as Head Teacher until the Le Rondin project was achieved;
 - (ii) Secondly, the preparatory phase for Le Rondin; and then
 - (iii) Finally, her assignment to the role of Head Teacher at Le Rondin in September 2005.

- 24.22 There were issues over the precise use of words, over authority and power, and how the school would operate both as a centre for other agencies as well as a school. A very fundamental issue was the amount of time that Mrs Stephens would allocate to her designate role while still in charge of Mont Varouf, and Mr Neale saw this as a significant stress level for Mrs Stephens. Of equal importance there was the issue of team working versus working on her own, Mr Neale conceded some of the work could be done independently by her, but much needed teamwork, for example in the design and development of the school, in the fact that Le Rondin would be very different in character in terms of the range of special needs, ages of children and the nature of the new premises. Also a team had already been established for Le Rondin from the Education Department who had expertise in staffing, curriculum and in terms of school organisation and this team needed to define processes and systems, this could not be done by Mrs Stephens in isolation.
- 24.23 A subsequent meeting was held on Tuesday, 24 February 2004 in an attempt to agree all the necessary changes to the job description and follow up on what had occurred in the intervening weeks. Mr Neale testified that he and Mrs Stephens had agreed to certain issues. Firstly, they were running out of time, it was urgent that a Senior Management Team be brought together for Le Rondin and this restructuring and the recruitment of all downstream staffing was now being delayed by this disagreement over the content of the job description. Again Mr Neale expressed his surprise at the level of detail required by Mrs Stephens, for example wishing to change the word “advise” in the job description “offer opinion”. This latter point indicating, in Mr Neale’s opinion, a desire of Mrs Stephens to move away from her proper responsibilities.
- 24.24 Following the meeting of the 24 February it was agreed that Mrs Stephens would split her time 50:50 - 50% still at Mont Varouf and 50% on the developmental needs for the project of Le Rondin. It was only at the end of March 2004 a contract could be issued and the outstanding issues on salary resolved. Mr Neale testified that this delay in agreeing her role created significant problems not only in the staffing of the new school, but also it delayed other critical issues and one of the most critical being the design of the new school.
- 24.25 Referring to testimony already given by Mrs Isbister, Mr Neale agreed that it was unprofessional behaviour on the part of Mrs Stephens when she abruptly put the phone down on Mrs Isbister during a heated discussion over pupil “TT”. Mr Neale agreed that it was insulting to Mrs Isbister. As a result of receiving this letter, Mr Neale accepted an appointment request from Mrs Stephens in the hope that he could resolve the issue. However, in the event, the meeting which took place on 15 April 2004 between Mrs Stephens and Mr Neale raised issues that were more significant than this one event. Mrs Stephens asked that it be a confidential meeting and not recorded which Mr Neale regarded as somewhat bizarre. “I told her that I had received complaints not only from staff, but also from the UK charity MENCAP, and from parents”; indeed the parents of pupil “D” had demanded she be sacked over the disputed “denial of data issue”. Mr Neale also informed her that the President of the Board of Education had received anonymous complaints about her from parents and he, Mr Neale, had also heard allegations that staff had been intimidated by her. Mr Neale testified that he listed all these issues to her and her response was that she knew she deserved to be punished, but it was her very strong desire to stay at Mont Varouf School.
- 24.26 Despite Mrs Stephens’ request to stay at Mont Varouf testified that he had explored other options with her. Example, he suggested possibly a planning role for both of the Special Needs schools, rather than taking on the role as Head Teacher for Le Rondin. He also discussed a role which might involve defining equipment for Special Needs schools. However, Mrs Stephens made an emotional appeal to him, stating that Mont Varouf was the only thing that was of significance in her life and, as such, she could not bear to leave Mont Varouf. Further, that she had difficulties in leaving the Island over night, and did not wish to undertake study visits in the UK. She stated that she would accept a formal reprimand. Mr

Neale responded that he would not go this route; however he warned her that her interpersonal skills must improve. Mrs Stephens committed to change her ways. The meeting of 15 April 2004 also reviewed her current professional working relationships with a number of the Education Officers, particularly as Mrs Stephens seemed unwilling to respect them or to work with them. Mr Stephens was scathing in her view of Mrs Isbister, stating that she was not her intellectual equal and Mrs Stephens also was very critical about other staff; indeed, the only person she professed to have loyalty to was Mrs Hodder. Mr Neale stated that he found it difficult to move forward with these issues, particularly as, in hindsight, he felt he had been exposed to a form of emotional blackmail by Mrs Stephens in her demand to stay at Mont Varouf.

- 24.27 In response to questions from the Tribunal, Mr Neale conceded that she may have been suffering from stress, however, in his view, it would have been even more stressful if she had been required to leave her post at Mont Varouf, it was, in his words, “a catch 22”. Mr Neale testified that he thought the best way to deal with any job related stress was to create a situation in which she had more time to work on the project. Mr Neale stated that during the meeting he had come to realise that much of what she should have been doing in her project role was not occurring. It was a necessary way forward, a new solution.
- 24.28 Mr Neale stated that this desire to seek a new way forward resulted in him holding a meeting with Derek Bridel, Yvonne Hodder, Shona Isbister and Jocelyn Dorey on 10 June 2004. The purpose of this meeting being to discuss how Mrs Stephens could be assisted and how she should be appropriately involved with the project team. As the meeting progressed, Mr Neale formed a view as to the stance that was being taken by the various attendees; from the viewpoint of Mrs Isbister and Mrs Hodder, they just wanted to make things better. From the viewpoint of Mr Bridel, it was vitally important that the project be delivered. Additionally, there was also the issue that he had formed the view that Mrs Stephens was stressed and this needed a formal response. The issue was increasingly one of isolation, Mrs Stephens was not working collaboratively or as part of the team. It was also clear to Mr Neale that the planned allocation of Mrs Stephens’ time between Mont Varouf and the project was not working, there was a need to totally free up Mrs Stephens and focus her on the project. Mr Neale agreed that they had discussed her capability and how she was coping with the new challenges of the Le Rondin project, but they did not consider the issue a disciplinary one. Mr Neale went so far as to propose that capability procedures might be implemented, but Mrs Isbister and Mrs Hodder made it clear that they would prefer the issues were resolved informally.
- 24.29 Mr Neale was referred to notes of a meeting held between Mrs Hodder and Mrs Stephens subsequent to 10 June 2004. In these notes, Mrs Hodder stated that a fourth option had been proposed by Mrs Stephens, that she leave her job and move to another, rather than accept any of the other three options which were on the table. Mr Neale testified that he had not seen this note as it was not formally put on the record. In addition, Mrs Hodder had decided that this was not a serious request and had not been expressed as such; nevertheless, Mr Neale stated that he had raised the issue subsequently with Mrs Stephens in July 2004 and had again raised the issue of her possibly taking an alternative role.
- 24.30 A meeting between Mrs Stephens and Mr Neale took place on 9 July 2004 and notes that were prepared for this meeting by Mrs Stephens can be found in her bundle (EE1 94, 95, 96). Mr Neale agreed that those notes represented the issues discussed; there was a lack of mutual confidence between Mrs Stephens and senior educational staff, and also the practical issues of leaving the Mont Varouf site in the hands of her Deputy. In particular there was the issue of lunchtimes, where Mrs Stephens believed she was still needed to assist in helping the pupils and helping the staff at Mont Varouf and this was not something the educational officers saw as a priority.

- 24.31 Mr Neale stated that this meeting was not confrontational and that he attempted to be as supportive as possible. In response to a question from the Tribunal, he did not think that there was merit in bringing Mrs Stephens together in a group meeting with the Education Officers.
- 24.32 The outcome of 9 July meeting and subsequent conversations on 14 and 15 July resulted in Mr Neale sending a memo to Mrs Stephens detailing the way forward. In this letter (EE1 97 refers), Mr Neale stated that, subject to Board approval, that for the academic year 2004 to 2005 Mrs Stephens would be seconded full-time to the project team and Mrs McGovern would act as Head Teacher of Mont Varouf until the school closed. This letter also went on to confirm the need for Mrs Stephens to think about “the reasonableness of her interaction with other colleagues and the need to use professional courtesy at all times”. Finally, this letter allowed for a review of these arrangements at the end of the Autumn term 2004.
- 24.33 Mrs Stephens responded to the letter of 19 July a few days later, on 24 July 2004 (EE1 99 refers). Mr Neale was very disappointed with this letter, it indicated to him a shifting of the ground by Mrs Stephens. In the letter she clearly indicates her great reluctance to relinquish operational responsibilities for Mont Varouf and there seems to be little acceptance that it is her behaviour and lack of courtesy and lack of team working which is causing many of the problems between herself and the Education Officers.
- 24.34 A review of Mrs Stephens’ secondment occurred in early December 2004 as committed, and in attendance were Mr Bridel and Mr Lamb, as well as Mrs Stephens and Mr Neale. In advance of this meeting, Mr Lamb and Mr Bridel had taken soundings from various interested parties and the feedback was not good. They reported that relationships were still damaged and difficult, Mrs Stephens was complaining that her efficiency was impaired and that she needed access to documents at Mont Varouf. The project team members also believed that Mrs Stephens had not been visiting other schools such as Longfield, Oakvale etc, as committed as part of this secondment. It would seem in summary that the plan that had been so carefully prepared in July 2004 was not working. It would need to be reviewed and a fresh plan would need to be set for 2005.
- 24.35 A subsequent meeting was held on Tuesday 8 December 2004, again with Mr Neale, Mrs Stephens, Mr Bridel and Mr Lamb in attendance (EE1 137 refers). It became apparent to Mr Neale in this meeting that issues were multiplying, not only were there serious professional relationship problems with three senior educational officers but also with Mr Brown, the Head Teacher from Oakvale refusing to transfer to Le Rondin and this was creating reputational problems as the issue became known to the public. In addition, Mrs Stephens was still claiming harassment from the senior educational officers. While some thought was given to bringing them together in a group meeting with Mrs Stephens, it was decided that individual mediation was the preferred route. The minutes indicate that Mrs Stephens was being given very clear directions, for example it required that she should attend a weekly meeting with Mr Lamb every Monday morning, that she should maintain a desk and a presence in the EDP office every Friday and attend the weekly project team meetings on a regular basis. That she should always be contactable by members of the project team and that she should leave a schedule when she was going to be away from the project office, and, in addition to this, there was also the requirement that she should average at least the time equivalent to one day per week in each of the establishments, Longfield and Oakvale. As a concession, it was granted that Mrs Stephens could use Mont Varouf as her work base, but it was made clear that this would need to be with the agreement of the Acting Head Teacher and that Mrs Stephens should in no way intercede in the running of the school, although it was understood that in terms of strategic planning, she would still have a role to play in Mont Varouf, as this would lead to the integration into the Le Rondin project.
- 24.36 The start of the year 2005 saw no relief from continuing problems; there was the issue of Mrs Stephens’ daughter wishing to apply for work in Le Rondin, and Mrs Stephens believing that

her application had not been dealt with appropriately by others. There was also the complaint made by Mrs Stephens as to Miss Hayward, an allegation of harassment by Miss Hayward. Mr Neale saw no choice but to start to use some form of formal process to deal with the allegations being made by Mrs Stephens. However, he was still not sure what remedy Mrs Stephens wanted. In the event, Mr Warren conducted a full investigation into all the allegations that Mrs Stephens had made toward Miss Hayward, Mrs Hodder and Mrs Isbister. Mr Warren's report can be found in the document ER4 and in that document it is clear that, having conducted a full investigation, Mr Warren found no merit in any of the allegations.

- 24.37 Mr Neale testified that these allegations and the need to address them formally could not have come at a worse time. Le Rondin was behind schedule and not yet operational, Mrs Stephens was still very concerned about her perception that Le Rondin was understaffed and, equally, there were complaints from staff about the lack of involvement by Mrs Stephens in various aspects of the project. In answer to a question from the Tribunal, Mr Neale stated that Le Rondin was a particularly complicated project in comparison with the Hautes Capelles and the Forest projects; these had been single school replacements, whereas the Le Rondin project was acquiring the integration of three existing schools.
- 24.38 At the end of the Summer term 2005, Mr Neale believed there was urgent need for follow up with Mrs Stephens and he sent her a memo on 8 August requesting that they meet as soon as possible after his return from leave on 15 August. When they did subsequently meet, it was not a good meeting. The relationship with Mrs Hodder seemed to be working, but Mrs Stephens was implacably opposed to working with Mrs Isbister and Miss Hayward. Mr Neale suggested mediation to try to resolve the issues between them, but Mrs Stephens rejected this. In response to a question from the Tribunal, Mr Neale stated that he had not informed Mrs Stephens that her job was in jeopardy, as he did not wish to be punitive.
- 24.39 Mr Neale then met with Miss Hayward, Mrs Isbister and, finally, Mrs Hodder. Miss Hayward was extremely doubtful that a working relationship could be maintained with Mrs Stephens, and Mrs Isbister had no trust or confidence in the working relationship that she had with Mrs Stephens, and Mrs Hodder felt that her trust in Mrs Stephens had been betrayed. Such was the intensity of Mrs Hodder's feelings on the subject, that she indicated on September 19 that she was going to resign her post by the end of the year. Mrs Hodder briefed Mr Neale on angry exchanges that had occurred between herself and Mrs Stephens. She stated that she felt demeaned by Mrs Stephens and that her health was suffering. In summary, she was demotivated and demoralised.
- 24.40 Mr Neale was aware that as the school opening date of 8 September approached there had been some problems with the building, but he had been assured by Mr Lamb and by other senior staff that there were no "show stoppers", and indeed Mrs Stephens had been one of the individuals who had indicated that there no "show stoppers". Mr Neale personally toured the school on the evening of 7 September and thought it fit to open the following day. He also considered the staffing more than adequate, with 20.2 full-time equivalent Teachers, 17.6 full-time equivalent Teaching Assistants, plus an additional 2.6 full-time educational staff to assist with familiarisation and settling in issues into the new school.
- 24.41 Mr Neale then turned to the issue of site responsibility. It had been his hope to appoint a Facilities Manager but, as Mrs Dorey had testified, they had only been allowed a site caretaker and a school caretaker. Mrs Stephens had expressed in very clear terms that she did not want to run the whole site, but she also made it abundantly clear that she was not willing to share the building in the way that the Le Rondin vision had been set up and neither was she prepared to relinquish the responsibility of the caretakers to another manager. This created a total impasse. Mr Neale had to resort to a direction and insist that she relinquish control of the caretakers.

- 24.42 Le Rondin opened on 8 September and, as has been testified by other staff, Mrs Stephens raised enumerable problems and, in doing so, took valuable resources away from other projects, including Oakvale and the Sixth Form College. On 22 September, the General Secretary of the NUT visited the Island together with the Regional Representative, Mr Wooley, they were due to attend a formal dinner, however they also took the opportunity to visit Le Rondin and to see a number of staff at the site that evening. The following day, Mr Wooley met with Mr Lamb and Mr Neale and they described to him all of the issues that they currently had with Mrs Stephens, for example the reputational damage being done to the service, the refusal of staff to work with Mrs Stephens, the staff absence, the Senior Officer discord, the fact that parents were being encouraged to view the school as not fit for use and a problem of poor supervision of children due to lack of thought-through procedures. They told Mr Wooley that everybody had run out of ideas and conciliation had been refused.
- 24.43 Mr Wooley was fully aware of all of these problems in his letter, written on 24 August 2006 (EE1 520-521 refer).
- 24.44 Following the meeting with Mr Wooley, Mr Neale then met with his full SMT. All of them indicated there were no more options available and that they were at the end of the line. In their opinion, the educational service to Guernsey was being seriously damaged by this whole affair. It was agreed that Mr Lamb would contact Mr Wooley and that at the same time Mr Neale would meet with Mrs Stephens.
- 24.45 Mr Neale subsequently met with Mrs Stephens on 27 September 2005 (ER1 374/EE1 322 are the notes of this meeting as recorded by Mr Neale and Mrs Stephens). Mr Neale testified that this was not a meeting out of the blue; he believed that Mr Wooley had broached these issues to Mrs Stephens and he refuted any allegation that he had raised his voice in the course of this meeting. He stated that any allegation that he had done so was a downright lie.
- 24.46 In response to a question by the Tribunal, Mr Neale stated that evidence of inappropriate communication by Mrs Stephens to parents could be found in documents EE1 314, ER1 347 and ER1 338.
- 24.47 Mr Neale was referred to EE1 322/323, this document being Mrs Stephens' record of the meeting of 27 September 2005. Mr Neale confirmed that he had suggested he might instigate capability and conduct proceedings if a way forward could not be found. But he had not stated that he would use such proceedings to remove her; that, in his words, "was a step too far". He also testified that he had told her that due to budget cuts, there was now no opportunity open to offer her another post. He testified that it was, again in his own words, "a scurrilous lie" that he had told Mrs Stephens she would never be employed as a Teacher again in Guernsey. He had not done it then, on 27 September, nor subsequently.
- 24.48 When asked if Mrs Stephens acknowledged that the situation had reached the point of no return, she expressed the opinion that conciliation would not work. She blamed the officers in the Education Department, she called Mr Bridel a complete idiot, and in this meeting she did not accept any share of the responsibility for the state of affairs. As to incentives that he might have mentioned to Mrs Stephens in order that she go quietly, he responded by saying that he was trying to be realistic and he was hoping to arrive at an agreed and dignified exit for Mrs Stephens. They discussed the options of timing, possibly that she should depart at the end of term, or the end of the school year. And in response to a question from the Tribunal, Mr Neale stated that it was his opinion that once it was known that Mrs Stephens was going to leave, then pressures would reduce and they could be more relaxed about an agreed leaving date. Mr Neale added it was not unique to arrange a staged exit for a Teacher over a six to twelve month period.

- 24.49 In response to questions from the Tribunal, Mr Neale confirmed that the meeting of 27 September was not followed up by any formal letter to Mrs Stephens. Mr Neale also indicated that he had not thought it appropriate to suggest that she have a colleague in attendance, as he had gone along as a colleague to warn of formal procedures, not to instigate them. He stated that he had attended the meeting believing that Mrs Stephens had already spoken to Mr Wooley and was aware that he would be discussing these issues. He confirmed that he had not formally communicated with the Board prior to 27 September 2005 as to the action he was taking, it was his opinion that he was still dealing with an operational issue at the time.
- 24.50 On 4 October 2005 a number of Board members visited the school, this is a routine yearly process for each school, and not all members necessarily attend each visit. Mr Bridel and Mr Neale accompanied the Board on the visit and it was not a particular success. This in main part was due to Mrs Stephens' attitude, she was joyless and very negative and her view of the building was extremely critical, she would only point out that which was wrong with it, not the positives.
- 24.51 In response to a question from the Tribunal, Mr Neale stated that a formal appraisal system had been introduced into the Education Department in the 1990s, starting with junior staff. However, at the time of Mrs Stephens' dismissal she had not yet been included in this process. He added that she would have been appraised for the first time in 2005, but had formally requested that that process be deferred and it had been agreed to defer to the following year.
- 24.52 On 12 October Mr Neale received a letter from Collas Day Advocates (EE1 344 refers) and was surprised to receive such a letter as he was still expecting to speak to Mr Wooley rather than to Advocates. In response to this letter, Mr Neale referred the issue to their legal advisors and it was decided to enter into formal negotiations with Mrs Stephens' advisors. The negotiations were handed over to Mr Warren as Head of Human Resources, and the bundles include various letters indicating how these negotiations progressed until late November. Mr Neale was further surprised when a letter was received from Collas Day on 29 November (EE1 399 refers) which purported to bring to an end any negotiations. In this letter Mrs Stephens indicated that she had no desire to have her employment terminated and that any proposals that had been made by the Education Department were unacceptable.
- 24.53 Following receipt of this letter, Mr Neale reviewed the situation and came to the following conclusions:
- (i) The professional relationships with Mrs Isbister and Miss Hayward were irreparably broken with Mrs Stephens;
 - (ii) The school was not working in any integrated way with other functions on the site;
 - (iii) Mrs Stephens was not operating in a collaborative way with any of her colleagues and was being destructive; and
 - (iv) The relationship with Mr Brown at Oakvale was also in a very poor state.
- 24.54 Mr Neale stated that in his ten years as Director he had not had such a serious risk to the Service. On the basis of this assessment he then spoke to the Board of Education on 13 December and indicated that it was his intent to suspend Mrs Stephens and recommend her dismissal. In accordance with paragraph 6.3.1 to be found on ER1 page 9.
- 24.55 The meeting with Mrs Stephens took place on 16 December and Mr Neale informed Mrs Stephens that he had no option but to suspend and that he would recommend dismissal. The grounds for the recommended dismissal was set out in the letter dated 19 December (EE1 422 refers).

- 24.56 Mr Neale stated that Mrs Stephens had been advised of the opportunity to have a colleague present at the meeting on 16 December but had declined to take up that option.
- 24.57 Mr Neale stated that the justification for her termination was as set out in the minutes of the Board meeting dated 10 January 2006 (EE1 507 refers).
- 24.58 In response to a question from the Tribunal, Mr Neale stated that the letter of 19 December 2005 (EE1 422 refers) should not be construed as an end of contract letter and effective dismissal, despite the fact it indicates a cessation of pay and benefits on 30 April 2006. Mr Neale stated that those paragraphs should be read in conjunction with the opening paragraph of the letter confirming suspension and the recommendation to the Board that a dismissal should take place. In response to a further question by the Tribunal, Mr Neale stated that he thought it was not appropriate to issue any disciplinary or capability warnings post 26 September 2005 as negotiations were underway and could be compromised by the issue of such warnings.
- 24.59 It was put to Mr Neale by the Tribunal that, with hindsight, should he not have adopted formal procedures earlier in the hope of achieving a different outcome. Mr Neale stated that by moving into formal procedures, it was highly probable that such a process would become a public issue and that he had preferred to use the informal guidance in 2004 and in 2005 to try and achieve a positive result.
- 24.60 Under cross-examination by Mrs Stephens, Mr Neale gave further testimony on his view of Mrs Isbister's qualifications as a Psychologist, some further clarification on off-island study trips, the Mont Varouf versus Le Rondin lunchtime routines, and the dispute over allocated nursing time for Le Rondin versus Oakvale School.
- 24.61 With reference to ER1 55 Conduct and Capability Procedures, Mr Neale confirmed that a copy of these procedures was not normally sent to individuals on their appointment to role. However, in her role as a Deputy Head, and subsequently as a Head Teacher, Mrs Stephens would have been well aware of such procedures from at least 1999, in his opinion.
- 24.62 Mr Neale gave explanatory testimony as to the concept of design and build which was the contractual procedure used for the Le Rondin contract.
- 24.63 With reference to the meeting chaired on 10 June 2004 by Mr Neale (ER1 302/303 refers), Mrs Stephens put it to Mr Neale that he had no grounds for moving into capability procedures at that time. The witness responded by stating that there were clear and compelling reasons to validate that there were major problems with the performance of Mrs Stephens.
- 24.64 With reference to the letter of 29 March 2004 (EE1 53 refers), which confirmed Mrs Stephens' appointment as Head Teacher Designate for Le Rondin School. Mrs Stephens asked what were the reporting lines once she became the Head Teacher Designate. In response to this question, Mr Neale said that her formal reporting line was still to him, however, she also had reporting lines to Mr Bridel and Mr Lamb at that time, and that those were different from his line management.
- 24.65 Mr Neale was referred to EE1 133, a document prepared by Mr Lamb, which was entitled "Review of EDP Working Arrangements". Mrs Stephens put it to Mr Neale that this was evidence of a collective attempt by Officers to find fault with her. In responding to this question, Mr Neale disagreed and stated that it was a balanced view that had been gathered by Mr Lamb after careful discussion with others.
- 24.66 With reference to ER1 126, this being a fax sent to Mrs Root on 12 July 2002 by Mrs Stephens, to which Mrs Root took great exception, the question was put to Mr Neale, why did

he not agree with Mrs Root that this was a sackable offence? Mr Neale responded by saying that such action would have been inappropriate; however the language and the rudeness in the fax were a significant issue.

- 24.67 Mr Neale was referred to EE157, this being a letter dated 16 February 2005 sent to Mrs Stephens by Miss Hayward. Miss Hayward was considerably vexed as she had attended a pupil review and, in her opinion, her inputs had been totally disregarded by Mrs Stephens. It was put to Mr Neale that he had seen this letter before it was sent to Mrs Stephens, he replied he had not seen this letter prior to it being sent. The Tribunal notes that this testimony is in variance with that given initially by Mr Lamb.
- 24.68 Mr Neale was referred to EE1 314, this being an email from Mrs Stephens to Mrs Hodder dated 21 September 2005, raising issues of pupil security. In this email, Mrs Stephens indicated that she had written to all parents, advising them that some activities in the hall for some pupils will be cancelled until further notice and until a risk assessment has been undertaken. Mr Neale stated that any Teacher who sent out such an email to parents had abdicated their responsibility and it was a “dereliction of duty”. Mr Neale stated that it was Mrs Stephens’ duty to ensure that children were safe at the school at all times.
- 24.69 Mr Neale gave further clarifying testimony as to meetings between himself and Mrs Stephens during October and November, and references were made to the ongoing negotiations between the Education Department and Mrs Stephens’ Advocate during that period.
- 24.70 Mrs Stephens questioned Mr Neale as to why there had been no provision for an appeal to her dismissal. Mr Neale stated that it was the opinion of the Education Department that Mrs Stephens had recourse to other action under the 1998 Employment Protection Law.
- 24.71 Mr Neale testified as to the events of 16 January 2006 when he met with Deputy Brian De Jersey.
- 24.72 Mr Neale reiterated his testimony that he had no recollection of personally saying that he would never employ Mrs Stephens again and that, to the best of his knowledge, Minister Ozanne had never made such a statement either.
- 24.73 Prior to being excused from the witness stand, Mr Neale confirmed a design basis for the Common Room at Le Rondin and clarified the accuracy of statements to be found on page EE1 516 as to the conduct of the meeting on 10 January 2006.
- 24.74 Mr Neale confirmed that Mrs Stephens, in his opinion, did not relish an administrative role and that she had been consistent in this view over the period 2004 and 2005; she did not wish to be anything other than a Head Teacher.

This concluded testimony from the Respondent

25.0 Opening Statement by Mrs Stephens

- 25.1 Mrs Stephens alleged that in dismissing her, the Education Department had failed to act reasonably or fairly. Referring to Human Rights Convention Article 6, Mrs Stephens claimed that she had not had a fair hearing and that there had not been an “equality of arms”.
- 25.2 Mrs Stephens referred to various UK Employments Laws and, in particular, the three-stage disciplinary process introduced in the UK in 2004. In her own dismissal she alleged there had been no identifiably fair procedure, and that there had not been an adequate, urgent, or substantial reason for a fair dismissal. In summary, her employers had failed to act reasonably.

- 25.3 Mrs Stephens referred to the Commerce and Employment Guide to Performance Management, which she believed was relevant and noted that, in this guide, underperformance may be due to inadequate training, misunderstood expectations, lack of a clear job description and lack of clear definition of roles and responsibilities.
- 25.4 As regards her dismissal, Mrs Stevens stated that she was provided with a “jump, or be pushed” option on 27 September 2005; and the final decision to dismiss was based on the inputs of only three Senior Educational Officers.
- 25.5 Mrs Stephens stated the backdrop to this was that the Le Rondin School was opened prematurely and there were only days to prepare for the arrival of pupils versus the months that should have been provided for. The net result of this was to place a totally unreasonable pressure on herself and on the staff of the school.

End of Opening Statement by Mrs Stephens

26.0 Testimony given by Mrs Chantal Gillman

- 26.1 Mrs Gillman is employed as School Nurse at Le Rondin, and previously held this post for three years at the Mont Varouf School. Prior to this appointment, she had in excess of fifteen years’ experience as a professional Nurse.
- 26.2 Mrs Gillman testified that she had a good working relationship with Mrs Stephens and felt well informed on issues relevant to herself. Mrs Stephens always took the time to fully consult her on required medical facilities; and they teamed up to write joint policies on allergies, feeding protocols and other procedures that should be applied to pupils.
- 26.3 Testimony was given in camera with reference to pupil “D” and the levels of medication given to this pupil whilst in attendance at Mont Varouf School. Mrs Gillman had been advised that the dosage should be increased but did not have appropriate medical authorisation for this. It was with the assistance of Mrs Stephens that this issue was resolved and Mrs Gillman testified that there was no evidence of Mrs Stephens trying to distress anybody, including the parents.
- 26.4 With reference to the “personal notes” disclosure dispute, referred to in other testimony, it was Mrs Gillman’s recollection that she was advised by Mrs Stephens that it was her choice to retain these notes, shred them, or send the records to Education; she believed that they were personal notes.
- 26.5 Under cross-examination by Advocate McMahon, further testimony was given as to how the dosage protocols for Pupil “D” were changed with appropriate medical authority, and Mrs Gillman confirmed that she had a good relationship with the parents of Pupil “D” throughout the time the pupil was in attendance at Mont Varouf.
- 26.6 In a resumed public hearing, Mrs Gillman was asked by Advocate McMahon to compare and contrast Mont Varouf with Le Rondin. Mrs Gillman testified that Mont Varouf had various problems such as narrow corridors, sloping playgrounds and there were wheelchair access issues, whereas Le Rondin was spacious and assisted in promoting pupil independence.
- 26.7 Mrs Gillman confirmed that her professional relationships with Mrs Hodder, Miss Hayward and Mrs Isbister were good and had remained so.
- 26.8 With reference to the request from Oakvale School for nursing support in the Autumn term 2005, Mrs Gillman confirmed that the request for her support came from her Line Manager, Debbie Pitman.

- 26.9 With reference to the exit from the medical area, Mrs Gillman testified that it would have been relatively easy for a child to operate the thumbscrew mechanism, however, there was a key as well and the room was normally locked when not in use.
- 26.10 Mrs Gillman was asked to comment on how the teaching staff were getting on together at Le Rondin School during the Autumn term 2005. In response, Mrs Gillman found this hard to comment on as she stated she had maintained a distance from all of the teaching staff. Prior to being excused from the witness stand, Mrs Gillman confirmed, in response to a question from Mrs Stephens, that there were fire door exits from the treatment room and therefore there was always a need to supervise pupils whilst they were there.

27.0 Testimony given by Mrs Alison Chart

- 27.1 Mrs Chart is the School Administrative Assistant for Le Rondin and prior to this appointment held the same post at Mont Varouf from May 2001.
- 27.2 Mrs Chart described the process by which Educational Psychologists were informed of pupil reviews and given the opportunity to attend in person at the school. It was Mrs Chart's experience that whilst the school sent out a full listing of the pupil reviews that were scheduled to occur, that often the Educational Psychologists did not reply in writing and sometimes it would require telephone chasing in order to determine if attendance was planned.
- 27.3 Mrs Chart recalled a visit by Miss Hayward to Le Rondin shortly after the term had started. Mrs Chart recalled she was taking dictation when Miss Hayward appeared. Miss Hayward thought that she was expected as she had sent an email previously; however, she did not believe that Mrs Stephens had not seen this email and insisted on an answer rather than allow Mrs Chart and Mrs Stephens to conclude their business. Eventually Mrs Stephens had to demonstrate to Miss Hayward, using her computer screen that the email had not arrived. Mrs Chart considered Miss Hayward had been rude and that Mrs Stephens had been patient and showed courtesy.
- 27.4 Mrs Chart gave testimony as to how the special equipment budget was organised and the authorities that needed to be sought for expenditure.
- 27.5 Mrs Chart testified that there were problems with access doors into Le Rondin, because of the lack of a card reader. Also, the buttons to allow exit were positioned at hip height and a child could easily exit a security door, and there were no subsequent barriers as the external doors opened automatically to the outside. Further, there were problems with the internal doors, which would jam open.
- 27.6 Mrs Chart testified that as the winter set in the building became very cold, she had to sit at her desk in a coat and the classrooms were similarly very cold. There were problems with the ducting, and she became aware that they had used black bin liners as a temporary measure to try to resolve these problems. Despite these very, very cold conditions, there were no remedies applied in the Autumn term 2005, however Mrs Chart noted that the caretakers bought 17 heaters early in 2006 in an attempt to rectify the very cold temperatures.
- 27.7 Mrs Chart testified to other issues with the building, including the discolouration of the cold water, but she was not aware that Mrs Stephens had ever threatened to shut the school during the Autumn term 2005, in her opinion Mrs Stephens' actions had been reasonable.
- 27.8 Recalling the morning of 27 September, Mrs Chart stated that Mr Neale had arrived at approximately 8.30am and then left approximately an hour later. Straight after this meeting, Mrs Stephens told her that she had been sacked and asked Mrs Chart for the telephone number of the Union representative. It seemed to Mrs Chart that Mrs Stephens was in a state of shock.

- 27.9 Mrs Stephens recalled that on 20th December 2005, Mr Neale, in visiting Le Rondin, announced that Mrs Stephens would not be coming back. From this statement Mrs Chart assumed that a decision had already been made to dismiss her.
- 27.10 Under cross-examination, Mrs Chart could not recall Miss Hayward being rude to Mrs Stephens on any other occasion other than the one just testified to. She also stated that she enjoyed a good professional relationship with Mrs Isbister and also with Mrs Hodder. She was not aware of any major issues in the working relationship between Mrs Stephens and Mrs Hodder.
- 27.11 Recalling the Autumn of 2005, Mrs Chart agreed that there had been some divisions between the staff because of past relationships at Longfield and Mont Varouf and it tend to be natural groupings. She also stated that these groupings were, to some extent, driven by natural pupil groupings as well. Following this testimony the witness was excused.

28.0 Testimony given by Mrs Helena McGovern

- 28.1 Mrs McGovern is currently a Deputy Head at Le Rondin and previously acted as the Head for Mont Varouf whilst Mrs Stephens was seconded to the EDP. Mrs McGovern has over twenty years' experience in the teaching field and specialised in the area of Special Needs from the early 1990s.
- 28.2 Mrs McGovern was directed to ER1 175. This is a series of emails which indicate that she was in tears after a discussion with Mrs Stephens over pupil security. However, with hindsight, she thought that Mrs Stephens did not victimise or pinpoint people for corrective issues and indeed preferred group sessions to counsel and advise a better way forward. In her opinion there are always extra risks with Special Needs children because they do not understand the danger or risks in their immediate environment as well as normally abled pupils.
- 28.3 With reference to EE1 100, Mrs McGovern testified that there was a smooth handover from Mrs Stephens to her when she became Acting Head for Mont Varouf, and the agreed duties listed in this document were quite satisfactory. Further to this point she stated that Mrs Stephens did not renege on these duties and she did not interfere with the operational issues that were the responsibility of Mrs McGovern during the period Autumn 2004 until Summer 2005, and Mrs Stephens did not sign herself as Head Teacher of Mont Varouf during this period.
- 28.4 Mrs McGovern testified to a difference of opinion between herself and Mrs Stephens and Mrs Isbister over the transfer of a pupil at Mont Varouf to the College of Further Education. They disagreed with the view that this pupil could take care of himself at the College and subsequently the pupil was lost in town due to a mix up over taxis and, until he was found, this caused great distress to his parents.
- 28.5 In relation to pupil "D", Mrs McGovern thought that the Mont Varouf School had done its utmost to assist the parents and that Mrs Stephens had been scrupulous in her treatment of the child, as well as trying to maintain all effective communication channels with the parents.
- 28.6 In relation to pupil "R", Mrs McGovern testified that this was a young pupil with major social and emotional difficulties who also suffered from seizures. Early in the Autumn term 2005, Miss Hayward came to Le Rondin to review the total school environment in relation to this pupil and suggested the moving of five members of staff to different duties; Mrs McGovern thought that this was not a practicable solution. Despite further suggestions on pupil management from Miss Hayward, his behaviour remained extremely difficult and it was only with the support from a UK specialist, who then subsequently reviewed the case, that

strategies were put in place that achieved a good resolution. Under cross-examination and in responding to questions from Advocate McMahon, Mrs McGovern suggested that the lack of an invitation to parents to attend a particular meeting might have been more the responsibility of Mrs Hodder rather than Mrs Stephens, as it was Mrs Hodder who had chaired that particular meeting. In response to questions as to the behaviour of pupil "R", Mrs McGovern agreed that they were aware of his potentially challenging behaviour before the move to Le Rondin; however they seemed to become worse once he arrived at the new school. Mrs McGovern gave testimony on pupil "C" and issues relating to this pupil.

- 28.7 With reference to EE1 83, relating to the visit of Miss Hayward and Mrs Isbister to the Mont Varouf School on 24 June 2004 to view the lunchtime protocols, Mrs McGovern stated she was somewhat puzzled by the questions that were put by Mrs Isbister during her visit, and was somewhat disappointed that neither she nor her colleagues received any formal feedback after this visit had occurred. She did not agree that the staff felt insecure during this visit, her issue was that the children were being spoken about in front of themselves by Miss Hayward and Mrs Isbister during this visit.
- 28.8 Mrs McGovern was asked her opinion of the staff allocation for Le Rondin which was being proposed in March 2004. Mrs McGovern stated that she thought the teacher/pupil ratios were fine, but there were insufficient Teaching Assistants, and indeed other members of the Le Rondin designate SMT also expressed concern over this issue. With reference to EE1 184 and 185, a document dated 20 April 2005, which was a subsequent meeting of the Le Rondin designate SMT, Mrs McGovern stated that they still had continuing issues as a team over the proposed staffing for Le Rondin later in the year. Mrs McGovern stated that the purpose of EE1 184/185 was to describe the staffing needs in some detail and have this data provided to Mr Lamb. Finally, with reference to ER1 336, which was a memorandum dated 13 July 2005 from Mrs McGovern and Ms Santos to Mr Lamb, the witness stated that it was not written at Mrs Stephens' instruction, and indeed was written at their own initiative as they still had concerns over the proposed staffing levels.
- 28.9 Mrs McGovern, in reviewing EE1 272, which was a memorandum from Mr Lamb to Mrs McGovern and Ms Santos on 27 July 2005, stated that this was the first written document that she had received on the staffing issue. She thought the letter very complex and was baffled by various technical references contained within it. Also she noted that Mr Lamb had referred to an extra 2.6 FTE temporary Teaching Assistants, however Mrs McGovern found it difficult to relate the allowed hours to the figure of 2.6 FTE. In the event, Mrs McGovern testified that final allocation was given to Le Rondin only on 16 September 2005.
- 28.10 Testifying as to the readiness of Le Rondin, Mrs McGovern expressed her frustration at not being allowed access to the building during the summer period without the express approval of Nicky Bougourd and/or Mrs Hodder. She recalled that it was in mid-August that the school lacked many basic facilities, there were no computers, no telephones, no fax machine, and dust sheets were everywhere. Mrs McGovern concluded this point by stating that building work had not ceased as the term started.
- 28.11 Mrs McGovern testified that on the opening of the school on 8 September 2005, the staff were confronted by multiple problems, the paging system was not working and it was necessary to revert, in the case of a child having a fit, to a staff member having to go into the corridor and shout for support. Mrs McGovern counted ten or more buckets to deal with leaks in just one corridor alone, and there were buckets in other wings. The temperature issues continued to be of great concern as the central heating was faulty. She recalled that in November 2005, a measurement was taken after break with 13°C recorded in the corridors, and a classroom at 17°C.
- 28.12 Contrary to allegations, Mrs McGovern stated that Mrs Stephens had never breached confidentiality with parents and had not commented on staffing levels to them.

- 28.13 Turning to the events of 27 September 2005, Mrs McGovern knew Mr Neale was in the school and was meeting with Mrs Stephens. Mrs McGovern testified that she overheard raised voices coming from the Head Teacher's study and that Mr Neale's voice was more evident. After Mr Neale had left, she met with Mrs Stephens and saw that she was in some state of distress, she communicated to me that she had been told that she would never work again on the Le Rondin site. Mrs McGovern testified that she contacted Mr Lamb and related this conversation, Mr Lamb responded by stating that he had no knowledge of the sacking. Mrs McGovern informed Mr Lamb that Mrs Stephens had left the site and noted that on the following day Mrs Stephens called in sick.
- 28.14 Mrs McGovern gave some testimony on an incident with a child which caused Mrs Stephens to suffer an injury.
- 28.15 Mrs McGovern expressed the fact that she was "gutted" by the suspension of Mrs Stephens in late December 2005.
- 28.16 In summary, she had had a good professional relationship with Mrs Stephens that Mrs Stephens had a good vision for the school, knew what were the necessary structures and systems to make it operational, and assisted others with their professional development. Possibly at times she did not listen enough to staff concerns, but she was dedicated to the pupils.
- 28.17 Under cross-examination by Advocate McMahon, Mrs McGovern stated that she got on well with Yvonne Hodder and enjoyed an effective professional relationship with her.
- 28.18 Advocate McMahon drew Mrs McGovern's attention to ER1 175 in which, apparently, Mrs Stephens had driven Mrs McGovern to tears over a pupil management issue. Mrs McGovern responded by saying the tears were due to her anxiety and not driven by any reaction to this incident by Mrs Stephens, and that her crying was in private.
- 28.19 Mrs McGovern gave testimony as to her professional working relationship with Mrs Isbister, Miss Hayward and others.
- 28.20 With reference to EE83 1, this being a letter sent to Mrs Isbister by Mrs Stephens on 28 June 2004, Mrs McGovern does not recall seeing this letter at the time.
- 28.21 With reference to EE1 121, and the recommendation from Senior Education Officers that a member of the Le Rondin staff take on MDVI provision, it was Mrs McGovern's opinion that the current staffing at Le Rondin would not permit this.
- 28.22 Mrs McGovern compared and contrasted staffing levels in September 2005 with February 2007 and confirmed that while the teaching staff remained at the same FTE, that there had been a small increase in Teaching Assistants and that the pupil roll had risen from 68 to 96.
- 28.23 Mrs McGovern gave further testimony on study trips that she attended in the UK and on her visit to Le Rondin prior to its opening. She also gave the Tribunal her vision for Le Rondin.
- 28.24 In response to a question from Advocate McMahon, Mrs McGovern could not remember how long she had stayed in her office on 27 September whilst the meeting between Mr Neale and Mrs Stephens was progressing. She stated she could not hear words, but given the raised voices, she decided that it was better she left her office and went elsewhere in the school.

- 28.25 In response to a question from Advocate McMahon, Mrs McGovern stated that she did not think that Mrs Stephens was working out her notice period in the Autumn term 2005, after September 27. It was her hope that this would not happen.
- 28.26 Asked to comment on Mrs Stephens' demeanour after 28 September, Mr McGovern stated that she was "flat"; she continued to do her job but lost some efficiency. However, her demeanour was still okay with the staff and her relationship with Mrs Guilbert remained professional at this time, as it was with all other staff.
- 28.27 Advocate McMahon returned to the issue of the allegations that Mrs Stephens had made against three senior Education staff earlier in 2005. He asked Mrs McGovern if she was aware of those allegations, and she responded that she had become aware of these when Mr Warren visited and spoke to her. She stated she was not told the outcomes and did not discuss the issue further with Mr Warren.
- 28.28 In response to a final question from Advocate McMahon, Mrs McGovern stated that during the Autumn term, Mrs Stephens did not instigate any discussions about her professional relationship with Mrs Isbister, nor did she discuss the view of the senior Education SMT.
- 28.29 Prior to being excused from the witness stand Mrs McGovern could remember little of the questions that she had been asked by Mr Warren during his investigation into Mrs Stephens' allegations. She confirmed that she could recall no policy document being issued by the Education Department on Le Rondin staffing levels. However, she did recall plans of Le Rondin being displayed at Mont Varouf prior to its completion and this gave all the staff the opportunity to see the plans and make comment. Mrs McGovern concluded by giving some final additional testimony on the lunchtime visit in 2004 at Mont Varouf by Miss Hayward and Mrs Isbister and confirmed that Oakvale did not use the same formatting for pupil requests as they were using in Le Rondin. The witness was excused from the stand.

29.0 Testimony given by Mr Phillip Sebire

- 29.1 Mr Sebire is the Assistant Estates Manager at States Education Department and was in this post during the Autumn term 2005.
- 29.2 Mrs Stephens drew his attention to EE1 328, in this email from Mr Sebire to a number of Education Officers he had raised some safety concerns, re Le Rondin, and by alerting the officers in this email he hoped to avoid any future incidents. Mrs Stephens asked what response did he receive from the recipients of this email. Mr Sebire stated that he was told by his immediate boss that he was not being a team player and he should not make these comments. However, Mr Sebire was in disagreement with this, he thought it was his responsibility to bring these issues forward and ensure that they were resolved. Also, Mr Sebire expressed concern that he was not privy to the snagging list, given that the role of the Estates management is to offer advice for speedy resolution of any items on the snagging list.
- 29.3 In response to a question by Advocate McMahon, Mr Sebire described the organisational linkage between Estates management and the EDP team.
- 29.4 Advocate McMahon put it to Mr Sebire that as the Estates management team had not taken formal responsibility for the building; it was the role of the contractors to deal with any snagging or other problems at that point in time. In response to this question, Mr Sebire stated they had a need to familiarise themselves with the mechanical and electrical issues related to the building and resolve any budgetary issues, for example, which department pays for what building. Also Mr Sebire testified it was necessary to know what was listed on the EDP snagging list to avoid duplication of work between the contractors and Estates management. It

was Mr Sebire's opinion that receiving the snagging list in late November 2005 did not aid prioritisation for any future works that were required to be done on the Le Rondin site.

- 29.5 Mr Sebire confirmed that he visited the Le Rondin site every 10 to 14 days during the Autumn term 2005. His primary focus during these visits was to deal with issues pertaining to the ventilation system. The witness was excused after he had given this testimony.

30.0 Testimony given by Reverend Linda Le Vasseur

- 30.1 Reverend Le Vasseur informed the Tribunal that her professional association with Mrs Stephens commenced in 2001 and in her role as an Assistant Priest would visit Mont Varouf School on a weekly basis. Reverend Le Vasseur testified to joint work conducted by Mrs Stephens and herself to raise charitable funds for school equipment.
- 30.2 Reverend Le Vasseur confirmed that the professional relationship continued as Mrs Stephens transferred to Le Rondin School and that subsequently during the Autumn term Mrs Stephens informed her that she had been offered money to leave but did not think that she was doing the right thing by leaving her post.
- 30.3 Reverend Le Vasseur testified that prior to the opening of Le Rondin; she had spoken with a Senior Educational Officer who had stated that they had the intention to get rid of Mrs Stephens from her role as Head Teacher of Le Rondin.
- 30.4 Under cross-examination, Reverend Le Vasseur disclosed that the Senior Educational Officer who had revealed the intention that Mrs Stephens be removed from her post was Mrs Hodder. Further, that this discussion had occurred before the official opening of Le Rondin. Reverend Le Vasseur confirmed that nobody else would have heard this disclosure at the time and that she concluded it would not be appropriate to inform Mrs Stephens of this discussion.
- 30.5 Reverend Le Vasseur gave further testimony on fund raising activities prior to being excused from the witness stand.

31.0 Testimony given by Deputy Daniel Le Cheminant

- 31.1 Deputy Le Cheminant is a long-serving member of the Education Board and knew Mrs Stephens primarily from her role as Head of Mont Varouf School.
- 31.2 Deputy Le Cheminant confirmed that he had visited Le Rondin on 4 October 2005 along with other Deputies and that Mr Bridel was present, as well as Mrs Stephens.
- 31.3 Deputy Le Cheminant confirmed that he had received telephone calls from Mrs Stephens, on or about 21 November 2005, and that Mrs Stephens was concerned about the retention of her post. He subsequently raised the issue at the Board meeting of the 22 November 2005 and was advised that it could not be discussed at that time as there were ongoing discussions being held with Mrs Stephens which might need to be brought to the Board formally at a later date.
- 31.4 Deputy Le Cheminant was referred to the minutes of the Education Board meeting held on 10 January 2006 (EE1 507 to 517 refers). Deputy Le Cheminant is recorded in these minutes as having raised the issue of his telephone call with Mrs Stephens in November 2005 to ensure that the other participants did not see this as a conflict. He noted that the evidence against Mrs Stephens was given in oral form and that having heard this he did not believe there was sufficient justification for dismissal. He suggested that there was still the opportunity for all the parties to be brought together to try to achieve resolution. However, this recommendation was not actioned, the decision was taken to dismiss with Deputy Le Cheminant dissenting from this decision.

- 31.5 Under cross-examination by Advocate McMahon, Deputy Le Cheminant recalled that he was regularly updated at the Board meetings on the progress of the Le Rondin project and vaguely remembered that Mrs Stephens had been seconded to the EDP project team.
- 31.6 Deputy Le Cheminant testified that he would have been satisfied that Le Rondin was a much improved facility from the Mont Varouf if it had been finished properly.
- 31.7 Recalling his visit together with other Deputies on 4 October 2005, Deputy Le Cheminant did not recall any particular atmosphere or untoward indicators that Mrs Stephens was not acting as she should. However, he recalled that she did point out certain issues that might need correction and that when Mr Bridel responded to these issues; Deputy Le Cheminant recalls not being entirely satisfied that those issues would be dealt with quickly. Deputy Le Cheminant did not recall the comment by Deputy Wendy Morgan, that it was a “joyless visit”.
- 31.8 In response to further questions, Deputy Le Cheminant confirmed that he understood it not to be a disciplinary issue and that the Board meeting was formed as an Appeal Committee and that the appeal was against a decision to dismiss made by Mr Neale. Deputy Le Cheminant thought that Mrs Stephens had done an excellent job and he recalled Mr Warren during the meeting of 10 January 2006 stating that there was no impropriety in regard to pupils or parents. The issue was one of a breakdown of relationship between Mrs Stephens and members of the SMT.
- 31.9 Deputy Le Cheminant testified that he was not aware that any other member of the Board on that day had any conflict of interest in hearing this issue.
- 31.10 Deputy Le Cheminant confirmed that he had confidence in the SMT but was not always confident in the procedures that they used, for example, whether they retained adequate minuted records relating to critical issues.
- 31.11 Deputy Le Cheminant expressed his concern that Mr Neale remained with the Board after Mrs Stephens and her Advocate had left the meeting and that prior to the decision being made by the Board, Mr Neale took the opportunity to deny that some of the statements made by Mrs Stephens were true.
- 31.12 At this point in his testimony Deputy Le Cheminant recalled that these minutes (EE1 507 to 516 refer) were amended the following month. As Deputy Le Cheminant had a copy of these amendments, they were entered as item EE24.
- 31.13 Deputy Le Cheminant confirmed that he had cast a dissenting vote and that of course the majority view should always prevail; but he then stated that does not always necessarily make the decision right.
- 31.14 Prior to being excused from the witness stand, and in response to a question from the Tribunal, Deputy Le Cheminant stated that he believed Mr Warren had made every attempt to put the case for the SMT fairly.

32.0 Testimony given by Deputy Brian De Jersey

- 32.1 Deputy De Jersey confirmed that he had attended a meeting with the Director of Education on 16 January 2006 and sought the reinstatement of Mrs Stephens to her post.
- 32.2 With reference to the materials in the bundle labelled EE5, Deputy De Jersey confirmed that those documents had been received by himself.

- 32.3 Under cross-examination, Deputy De Jersey confirmed that EE5 and the documents contained therein were only sent to Mrs Stephens on 22 November 2006.
- 32.4 With reference to EE1 450 to 452, Deputy De Jersey confirmed that this was a letter that he sent to Deputy Ozanne on 4 January 2006. In this letter, he asserted that he believed that Mrs Stephens was performing her job role appropriately and that she had legitimate concerns over the state of the Le Rondin building and over the level of staff that she had been provided with.
- 32.5 Deputy De Jersey testified as to his meeting with Mr Neale on 16 January 2006 and his subsequent visit to Le Rondin on approximately 27 January 2006. Deputy De Jersey also drew the attention of the Tribunal to EE1 pages 459 through to 462. The witness was excused.

33.0 Testimony given by Mrs Jane Stephens

- 33.1 Mrs Stephens read from a pre-prepared witness statement which was entered into the bundle EE23 pages 1 to 47 refer. This witness statement was read in full. The Tribunal noted any omissions and amendments made in oral testimony from the written submission.
- 33.2 The Tribunal notes that much of the testimony contained therein had already been adduced from previous witness testimony, documents contained in both the Applicant's and the Respondent's bundles; as well as by the extensive cross examination of Respondent witnesses. The Tribunal would however make particular note of the following.
- 33.3 Mrs Stephens stated that the senior officers, including Mr Neale very rarely visited Mont Varouf whilst she was in post and in consequence might not have had a full appreciation of the needs of pupils with severe learning difficulties.
- 33.4 Mrs Stephens referred to "Validation Report" carried out by independent UK assessors, which was critical of Miss Hayward in that she was not adequately involving the school prior to pupil placemen. The witness statement also contained testimony given "in camera" by Mrs Stephens relating to pupils and this highlights the tensions that can build between a school and parents despite every effort being made to provide an appropriate educational provision for pupils.
- 33.5 Mrs Stephens confirmed that she found working in the EDP office challenging, and she was without all of the administrative support that had been available whilst in post as head of Mont Varouf.
- 33.6 Mrs Stephens stated that she had not been aware that the meeting with Mr Neale on 15 July 2004 constitutes the giving of "informal advice" under any disciplinary code until she received Mr Neale's letter of the 19 July 2004, nor had she agreed to a formal secondment as stated in this letter.
- 33.7 Mrs Stephens refuted the allegations that she had not spent appropriate time at Oakvale, Longfield and Mont Varouf during her seconded period, or that she had taken inordinate project team time to challenge proposed staffing allocations.
- 33.8 Mrs Stephens testified in detail as to the stresses and strains on both her and her staff due to late building completion, but was adamant that she had never given a media briefing on this issue.
- 33.9 Mrs Stephens thought the arrangement for supervising the Le Rondin caretakers was ill conceived and thus had raised a significant challenge; but she had finally conceded to Mr Neale and took his direction on this issue.

- 33.10 In the days leading up to the 27 September 2005 Mrs Stephens was not alerted to the serious discussions being held with her union representative by Mr Neale and thus had no advance warning of what was to take place on that date. When Mr Neale did meet with her he asked her to tender her resignation or she would be dismissed.
- 33.11 Mrs Stephens alleged that much of the tension between herself and Education Officers in the Autumn term 2005 was due to her raising legitimate concerns as to the state of the building and related safety issues.
- 33.12 Mrs Stephens related the events of the 16 December and contrary to testimony from the Respondent she was not subject to a “neutral act of suspension” on that day; rather Mr Neale stated that he was dismissing her.
- 33.13 From Mrs Stephens’s recollection, the Board meeting on 10 January 2006 lacked specific allegations, did not allow her to call witnesses and did not include the names of the officers who had made allegations against her.
- 33.14 Under cross-examination, Mrs Stephens was asked who she blamed for her dismissal. In response to this question, she stated she thought it was a number of individuals and it was difficult to weigh the degree to which each was involved. But it was evident to Mrs Stephens that Mr Neale and the SMT had failed to support her when she was “uncomfortable” or provide due process or provide evidence of her alleged shortcomings. She thought little allowance had been made for the fact that she had dealt with a uniquely difficult situation in commissioning Le Rondin.
- 33.15 In response to a question, Mrs Stephens testified that it was her opinion that the Education Department should act in the principal areas of governance, legislation, and employment. As to the role of the politicians on the Education Board, she believed there was a grey area between the Education authority and that Board.
- 33.16 Mrs Stephens confirmed that she had seen Mr Neale as her Line Manager and that Officers of the Education Department, like Mrs Isbister, were there to support and monitor Special Needs schools.
- 33.17 Mrs Stephens confirmed that she was familiar with the procedures for the Management of Conduct and Capability Applying to Teachers and Lecturers in Guernsey, EE1 55 to 72 refer, and that she had used this procedure in recent years as the Manager of another Teacher.
- 33.18 Mrs Stephens was asked to review her relationships with a number of senior staff during the Autumn term 2005. Mrs Stephens testified that until July 2005, Mr Lamb had always been receptive and genial, however, as the term commenced he started to distance himself and took longer to respond to her requests. She made no attempt after 27 September to narrow this distancing as she understood after this date why he had distanced himself. With Miss Hayward she stated that they conducted business as they needed to; and that with Mr Warren, it was a case of a new relationship which was only at the development stage. She stated that she had seen no change in her relationship with Mr Brown, that they shared a lot in common and often telephoned each other. He was welcome to visit Le Rondin at any time and indeed did so during the Autumn term. Turning to her professional relationship with Mrs Guilbert, Mrs Stephens testified that Mrs Guilbert did not always understand of what was being asked of her and that Mrs Stephens had to accommodate to her pace of working; however, Mrs Stephens did wish her to be comfortable and that she should enjoy her role. Turning to the relationship with Mr Bridel, Mrs Stephens thought that it was little different from when she was a member of the EDP team, however it then deteriorated in September 2005, and Mrs Stephens referenced the email she sent Mr Bridel early in the Autumn term as to his alleged rudeness. Mrs Stephens added that she had sometimes been puzzled by his attitude, and she

was not sure if he intended to be obstructive or just did not understand the educational issues. In relation to Mrs Hodder, Mrs Stephens testified that she had shared a professional history that went back several years and had greatly enjoyed working with her, but it was her opinion that the new school projects had always been very stressful for her and were the cause of her eventual resignation from post. Her relationship with Mrs Isbister was limited to progress review meetings and she thought that during the Autumn term 2005 Mrs Isbister had asked little of her. She refuted the allegation that she had ever stated Mrs Isbister was not her intellectual equal and neither did she view Mrs Isbister as incompetent; however, she did agree that she had expressed the view that she did not have confidence in her at times. Mrs Stephens could offer no opinion on her relationship with Mr Flynn, as she saw him very rarely.

- 33.19 Mrs Stephens was asked to comment on her relationship with Mr Neale. She stated that she had had a lot more contact with him in the year preceding September 2005. That increasing contact confirmed the respect for him as a Line Manager; and the increased contact made it easier to speak to him in a more informal way. But the relationship changed after 27 September 2005. Mrs Stephens further testified that she had not lost respect for Mr Neale after 27 September 2005, but she was hurt. When asked if she had respect for any of the other individuals she had commented on, she stated that she had a strong respect for the endeavours of others when it benefited pupils and that she had a good level of professional respect for all her colleagues.
- 33.20 Mrs Stephens agreed that she had gained the impression there was a concerted effort to remove her from her post. She had initially traced this concerted effort to remove her back to the lunchtime visit by Miss Hayward and Mrs Isbister in June 2004, but with the benefit of the witness bundle and additional information, Mrs Stephens now believed she could trace this concerted effort back to earlier in the month of June 2004 when a number of Senior Officers met with Mr Neale. After June 2004, she believed there was increased scrutiny on her activities from a number of Senior Officers in the Education Department.
- 33.21 Mrs Stephens gave further clarification on her professional relationship with Mr George whilst at Longfield School and then her subsequent appointment to the Headship of Mont Varouf.
- 33.22 Mrs Stephens was referred to her fax of 12 July 2002 to Mrs Root (ER1 126 refers) and was asked if she thought this had been a proper way to address a Senior Officer. Mrs Stephens responded by stating that it was not. However, she refuted the allegation that this fax reflected a typical attitude displayed by her to other Senior Officers which could be summarised as “give me what I ask for and we will get on fine, otherwise I will make a fuss”. Mrs Stephens also refuted the allegation that she had used such an expression to Mrs Isbister.
- 33.23 Mrs Stephens conceded that it was true that she was not too concerned about what people personally thought about her, however, she was very concerned about their professional view of her.
- 33.24 With reference to negotiations for the Head Teacher post of Le Rondin at the end of 2003 and into 2004, she thought the time spent on these negotiations was very appropriate. She stated that there were a lot of issues to be resolved, roles to be understood, and there was the complexity of the other agencies being located on the Le Rondin site. All of these issues made such negotiations over the job description inevitably lengthy.
- 33.25 Referring back to the phone call between herself and Mrs Isbister on 25 March 2004, Mrs Stephens stated she could recall an unsatisfactory ending to this telephone discussion and the reason for this is because Mrs Isbister had raised her voice and Mrs Stephens had indicated that she would need to put the phone down due to this.

- 33.26 Mrs Stephens could not recall a meeting on 15 April 2004 with Mr Neale, where she had stated to Mr Neale that she deserved to be punished. Neither did she recall Mr Neale saying that her job was at risk, she could not remember the meeting.
- 33.27 Mrs Stephens gave further testimony on meetings with Mr Benson, Mrs Isbister, and Mrs Hodder during 2004. Mrs Stephens stated that she could not remember making any comment about Mrs Hodder caging a pupil.
- 33.28 Mrs Stephens was asked whether she had accepted or rejected Mrs Isbister's estimates for staffing Le Rondin in the late spring early summer of 2004 and in response to this question Mrs Stephens stated that her major issue at that time was the composition of the SMT for Le Rondin.
- 33.29 With reference to a memo issued on 19 May 2004 by Mrs Hodder, in which she was critical of Mrs Stephens' refusal to compromise or discuss alternatives on the staffing levels, Mrs Stephens could offer no explanation as to the difference in the view that Mrs Hodder had taken of that meeting and her own. Advocate McMahon then moved on to the meetings that were held between Mrs Stephens and Mrs Hodder in the period 11 June 2004 to 18 June 2004 (EE1 77 and ER1 304 to 308 refer). Mrs Stephens stated that she was coping with the dual demands of Mont Varouf and the EDP project team by working evenings and Saturdays and that this, in the long-term, was not a sustainable solution for her. However, she was concerned as to the solution being proposed by Mrs Hodder that she should move into the project office as this would leave Mont Varouf understaffed. The Tribunal reviewed the draft memorandum to be found on EE81/82 dated 17 June 2004. From testimony given by Mrs Stephens, she did not know if this memo was ever sent to Mr Neale. The Tribunal notes that this memorandum includes criticism by Mrs Stephens towards Mrs Hodder and Mrs Isbister, but it also raises the question as to what levels of authority they had and who was line managing Mrs Stephens at this time.
- 33.30 Mrs Stephens testified that shortly after these meetings with Mrs Hodder, the visit to Mont Varouf by Miss Hayward and Mrs Isbister occurred and in Mrs Stephens' view the visit was conducted to disapprove her assertion that she needed a one-for-one replacement at Mont Varouf if she was to move into the project team office.
- 33.31 Mrs Stephens testified it was difficult to explain to school staff why Miss Hayward and Mrs Isbister had visited at the lunchtime and as for her subsequent letter being copied to all Mont Varouf staff, Mrs Stephens stated it was on the advice of Mr Lamb that she put a copy of the letter in the staffroom.
- 33.32 Advocate McMahon then moved on to the meetings that occurred between Mrs Stephens and himself in the period 9 July to 15 July 2004 and his subsequent letter dated 19 July 2004 (EE1 97 refers). During those meetings, Mrs Stephens had alleged harassment by members of the EDP and she stated that it seemed to her that Mr Neale expected her to resolve these issues but it was a collective responsibility to resolve it, and the responsibility was not hers alone. When asked by Advocate McMahon whether she wanted formal action against the alleged harassment, Mrs Stephens responded that she wanted some "refereeing of the issue" and that by the end of the year it was her view that these allegations needed to be firmed up and put on a disciplinary footing. She remembers stating to Mr Neale that it was like boxing at shadows.
- 33.33 Mrs Stephens was directed to EE100, this being the minutes of a meeting held between herself and Mrs McGovern on 12 August 2004. In this memorandum, there is a note that Jane and Helena would work together to improve relationships with SEN Officers. Mrs Stephens was asked to clarify this statement and stated that it was after the lunchtime visit in June of that year and both she and Mrs McGovern thought that there was a need to establish a better relationship with Mrs Isbister and others.

- 33.34 Mrs Stephens described the Autumn term 2004 and her frustrations at being away from Mont Varouf. It was her belief that whilst she was working out of the EDP office, enquiries by the officers as to her movements were intrusive and of a far greater order than was applied to anybody else in that office. As to her early departure from project meetings, Mrs Stephens testified that she had time constraints and that as it was an open office, it was better to leave the project area rather than remain and overhear the rest of the project meeting. Early in the Autumn term 2004, 16 September 2004, Mrs Stephens had sent a memorandum to Mr Neale requesting that he lift her restriction on involvement with Mont Varouf School (EE1 119 refers). Advocate McMahon put it to her that this was a very premature request to return to Mont Varouf, given the arrangements made at the end of the previous term. In responding to this, Mrs Stephens stated there was a new policy about transport and she wanted to speak to Education Officers and Mrs McGovern to ensure that the issue did not arise again. She stated that she “did not interfere because she was told she should not”. Additionally, she also viewed this as a strategic issue and believed that her terms of reference agreed Mr Neale allowed such strategic oversight to continue at Mont Varouf.
- 33.35 With reference to meetings held between Mr Neale and Mrs Stephens on 6 and 8 December 2004 (EE1 132 and EE1 135 refer), Mrs Stephens testified that she did not have a problem with the word “secondment” and with reference to the Review of EDP Working Arrangements, Mrs Stephens wished to respond formally to the issues that had been raised.
- 33.36 Mrs Stephens was asked how she saw others in terms of seniority in relation to herself. She stated that Mr Neale was her Line Manager, that she “worked to Mr Lamb”, and that he was a higher status than her; and that she had equal status to other Head Teachers.
- 33.37 Mrs Stephens strongly contested the view that the Review of EDP Working Arrangements was a discussion document; rather she saw it as making allegations against her.
- 33.38 Mrs Stephens was asked how much time she had spent during her secondment at Oakvale and at Longfield. She responded to by saying that due to timetabling of pupil reviews in the three different schools, and the need for staff to be in different venues, this was not a simple task. Also, she needed to take into account issues such as Mrs Guilbert knowing her transferees very well, and knowing that she would be transferring with them to Le Rondin; so, again, there was an issue of balance in who needed Mrs Stephens’ time.
- 33.39 Mrs Stephens was referred to minutes of a meeting held between herself and Mrs Hodder on 16 December 2004, listing her expected work routines in the Spring and Summer terms of 2005. Mrs Stephens agreed that it laid out the requirements for inter-school liaison, but then stated that it quickly became apparent that these were not practical requirements.
- 33.40 With reference to the letter sent to Mrs Stephens by Miss Hayward on 16 February 2005 (EE1 157 refers), Mrs Stephens stated that she was disappointed to have received such a letter; she thought the relationship with Miss Hayward and herself was settling down and she did not think there was substance in this complaint.
- 33.41 Mrs Stephens was directed to the memo sent to her on 21 March 2005 by Mr Neale (EE1 177 refers), and was asked what construction she put on this letter. Mrs Stephens responded that she took it as a direction by Mr Neale to make a complaint, she stated she had been reluctant to make a complaint about Mrs Hodder at that time, but later in the year, due to her “coercive action”, came to realise that she was part of the collective effort to harass her.
- 33.42 Mrs Stephens was asked to comment on the notes of a meeting held on Friday 13 May 2005 between herself, Mr Wooley, her Union representative, and Mr Warren. (EE1 211 refers). Mrs Stephens stated that her primary intention was to have the level of scrutiny by the Officers

cease, she did not want to make allegations and she thought she was ambivalent in this view, which is reflected in these notes.

- 33.43 Mrs Stephens was asked why did she not keep time clear for the project meetings to ensure her attendance. She responded by saying that she had many other commitments to Deputy Heads, consultants and many other individuals involved in the project.
- 33.44 Mrs Stephens was asked whether Mrs Guilbert had expressed concerns about taking on a Deputy Headship at Le Rondin. Mrs Stephens responded that there had been lengthy discussions between them, as to the composition of her team, the curriculum that would be adopted, and that hopefully her concerns had been resolved.
- 33.45 Mr Warren wrote to Mrs Stephens on 29 June 2005 informing her that Mr Warren had concluded his investigation into her allegations and had found them without merit. Mrs Stephens was asked what her reaction was to this letter (EE1 264 refers); she stated that she hoped that this was the end of the matter. Advocate McMahon asked Mrs Stephens how important she thought it was to have working relationships with Miss Hayward, Mrs Hodder, and Mrs Isbister as the Autumn term commenced in September 2005. Mrs Stephens responded by stating that she still expected advice and support from Miss Hayward to the school staff and this to the same level as was offered at Mont Varouf. As to Mrs Isbister, she was not exactly sure of her role, but expected her to support Le Rondin. Mrs Stephens did agree that on 22 August 2005 she did express sorrow to Mr Neale about the complaints she had made, however, she testified that “whilst she spoke of some continuing difficulties, she never pulled down the shutters on these relationships. She believed that once the school was operational, that many of these issues would resolve, and “a business as usual” ethos would be re-established”.
- 33.46 Mrs Stephens confirmed she had attended the “show stopper meeting” (EE1 290 and 291 refer), and confirmed that whilst she still had concern over many issues, she did not challenge the show stoppers.
- 33.47 When asked as to the importance of site management issues, Mrs Stephens stated it was important for her to know who had dedicated powers and to what level. She agreed the meeting on 1 September 2005 between herself, Mr Lamb, Mr Neale, and Mrs Hodder was lengthy, but she stated that she needed to gain a clear understanding of “security of functioning of the site” in the case of fire or a similar emergency. Mrs Stephens agreed that she thought at the time she should still have had responsibility for the school caretaker; however, Mr Neale overruled her on this point. She thought that her challenge to Mrs Hodder in this meeting was appropriate, and whilst it might have not been viewed as conciliatory, the needs of the pupils overrode any such considerations.
- 33.48 Mrs Stephens was asked whether she had been overwhelmed by events in the first few days following the school opening on 8 September 2005. She responded there were lots of things to be done, but she was not overwhelmed.
- 33.49 In response to the question, did she think that during Miss Hayward’s visit, early in the Autumn term 2005, that Miss Hayward had been rude towards her? Mrs Stephens responded by stating that she was surprised at the insistence of Miss Hayward in wanting to look at her email inbox. Mrs Stephens said she had no recollection of being hostile to her; rather that she was surprised by this insistence.
- 33.50 With reference to the meeting between Mr Neale and Mrs Stephens on 27 September 2005 (EE1 322 and ER1 374 refer), Mrs Stephens stated that she had no recollection of Mr Neale asking whether she had been in recent contact with Mr Wooley; neither did she subsequently relate to Mrs McGovern that Mr Neale would go to the Press. What she recalled telling Mrs

McGovern, was that it was suggested by Mr Neale that he and the Education Officers would develop a “story” to account for her departure from Le Rondin. She confirmed that she was not aware that Mr Neale could not terminate her employment, and that power only resided with the Board, she was certainly not aware of this at the time of that meeting.

- 33.51 Advocate McMahon asked Mrs Stephens that if she thought on 27 September she had been dismissed, why then did her Advocate subsequently propose a termination package. Mrs Stephens responded that she had been advised by her Advocate that it was reasonable to put forward such a suggestion.
- 33.52 Additionally, she believed she could no longer count on professional advice from Mr Neale.
- 33.53 Following the 27 September Mrs Stephens still did not think that it was a problem of irretrievable relationships, she was under the impression that Mr Neale’s major concern was that Mrs Stephens had shared, inappropriately with others, her view of the state of the school.
- 33.54 With reference to the letter from Advocate Richardson on behalf of Mrs Stephens dated 11 October 2005 (EE1 344 refers). Mrs Stephens did not see that letter as having contained an admission that trust and confidence had broken down, merely that on legal advice the letter had included a “Plan B”.
- 33.55 In response to further questions from Advocate McMahon, Mrs Stephens thought that her performance as Head Teacher at Le Rondin in the period October/November 2005 had been improving, despite the constraints of the building.
- 33.56 When asked by Advocate McMahon why she had contacted Deputy Le Cheminant on 21 November 2005, Mrs Stephens responded by stating that she was puzzled about the reaction of the Board during their visit on 4 October. Apparently they had not been briefed on her imminent departure. She stated that she preferred to contact Deputy Le Cheminant rather than Minister Ozanne as she knew him better than anybody else on the Board.
- 33.57 With reference to her relationship with the Senior Officers during the Autumn term 2005, she had not heard any complaint or difficulty in relation to herself, other than Mrs Hodder’s resignation. Mrs Stephens testified that she met with Mrs Isbister in the middle of October 2005, and redrafted the document with her, and thought that this process had been successful.
- 33.58 Advocate McMahon asked her was she not unhappy about her allegations not having been supported by Mr Warren, and Mrs Stephens responded that as she had taken no further action, this should have been the best evidence of what she felt.
- 33.59 Advocate McMahon put it to Mrs Stephens that if she thought she was already dismissed prior to the end of 2005, why did she attend the Board meeting on 10 January 2006. In response, Mrs Stephens stated that even though she knew she had little hope of reversing the decision, she wanted the opportunity to put her case to the Board. Mrs Stephens also stated that she was particularly concerned that she only became aware of the process from Mr Warren in early 2006, as to how the Board would conduct itself on 10 January.
- 33.60 Advocate McMahon put it to Mrs Stephens that at the meeting of the Board on 20 January, Mr Warren had not raised any issues on behalf of the SMT that she was not already aware of and prepared for. In response to this question Mrs Stephens stated that her preparation was “her best attempt”; as she did not have a list of allegations she did not know what evidence would be presented, therefore she prepared a “catch-all” statement for the Board. It was her opinion that there was no continuing breakdown of relationship; there may have been an interruption to some relationship, but not a final breakdown.

- 33.61 It was put to Mrs Stephens that surely it was clear to her that a disproportionate amount of time was being spent at Le Rondin by Senior Officers of the Education Department. Mrs Stephens responded by saying that there were many issues relating to admissions, policies, buildings issues etc, and this was the reason that the Officers needed to dedicate time to Le Rondin.
- 33.62 Mrs Stephens agreed with Advocate McMahon that the Board members on 10 January had a choice, to either believe the SMT, or her case. Mrs Stephens responded by saying it was the Education Board's responsibility to test the truth; in her opinion, the allegations were not proven and there was no proof that there was an irretrievable or irreconcilable breakdown of relationships.
- 33.63 Mrs Stephens agreed that there was an article in the Guernsey Press on 20 December 2005 as to her impending dismissal but refuted very clearly any allegation that she had made such a statement to the media personally or indeed had authorised anybody else to do so.
- 33.64 Mrs Stephens stated that she was pleased that Deputy De Jersey had taken an interest in her predicament and confirmed that she had seen the letter that he had submitted on 4 January 2006 to the Education Department listing his concerns.
- 33.65 Mrs Stephens confirmed that on receipt of her dismissal letter of 11 January 2006 (EE1 447 refers), that she did then approach the media and stated that she wanted the freedom to speak and did not want a financial inducement that would prevent this.
- 33.66 Prior to being excused from the witness stand, Mrs Stephens confirmed that Deputy Jones had sought her reinstatement but without success.

34.0 Closing Statements

The Respondent

- 34.1 Advocate McMahon stated that this has been an unusual case for the Tribunal as most alleged unfair dismissals were related to conduct or capability; it was therefore his contention that procedural codes of practice issued by Commerce and Employment may have less relevance than was typical.
- 34.2 Advocate McMahon reminded the Tribunal that Human Rights Bailiwick Law 2000 came into force in 2006 and was not part of Guernsey law when the dismissal occurred. He stated that it would be wrong in law to take account of any statutory provisions in UK employment law, and that any UK case law cited by Mrs Stephens was not binding on a decision to be made by this Tribunal.
- 34.3 Advocate McMahon stated that the Tribunal should also take account of the firmly stated view that she did not believe that she had been guilty of any misconduct whilst in her employment or was not capable of performing her role. It was his contention that this case could be considered as a "reverse constructive dismissal" in that rather than this being a single "cataclysmic event" it was only after a culmination of events that the employer lost trust and confidence in their employee. The test of reasonableness in this dismissal is key; and whether, based on what the employer knew at the time, it was fair in dismissing Mrs Stephens.
- 34.4 Advocate McMahon reminded the Tribunal that Mrs Stephens 'Terms and Conditions' had not provided for an appeal process against a decision to dismiss.
- 34.5 Advocate McMahon reviewed the original submissions offered by Mrs Stephens in her form ET1. He observed that they did not challenge the reason to dismiss neither did it articulate why

that decision was wrong. He noted that in her testimony Mrs Stephens had downgraded her allegations of bullying to harassment; also of significance was that in Mrs Stephens's critique of others there is an implicit agreement that professional relationships were not working. Given the facts known to the Education Board on the 10 January 2006 they were justified in concluding that relationships were so damaged that in turn they were damaging the educational provision. As for the issue of a coercive agreement by others to remove Mrs Stephens from post this would have been "malice", and was not substantiated by the evidence.

- 34.6 The Tribunal were requested to set aside any media reporting related to this case and rather give weight to the testimony of the Respondent's witnesses. As a contrast Mrs Stephens could only give limited opposition with her testimony and that of her witnesses.
- 34.7 Advocate McMahon described the line management responsibilities for the Director of Education, described him as a non-executive, and stated that the Tribunal should view Mr Neale as a decent man who struggled to give evidence that was damaging to Mrs Stephens.
- 34.8 Advocate McMahon then summarised the testimony from a number of the Respondent's witnesses and in particular highlighted the view of Mr Brown that the Special Needs provision in Guernsey compares favourably with the United Kingdom. There was also mention of the poor relationship with Mr George in the late 1990s and the "contretemps" with Mrs Roots in 2002. Advocate McMahon thought they might be illustrative of underlying problems that seemed to recur; and in particular the inability to work flexibly with others and a lack of trust in professional colleagues. Testimony from more recent times from Mrs Hodder and others portray Mrs Stephens' reactions to events as "disproportionate". In summary the view of the Applicant seemed to be that "the ends justify the means".
- 34.9 Turning to the delay in agreeing her job description Advocate McMahon compared and contrasted the half hour meeting required by Mr Brown to achieve agreement with the many hours required by Mrs Stephens to achieve the same end. Mrs Stephens had also sought an unreasonably high salary and the subsequent delay caused by the negotiation over these issues translated itself into a delay for the whole Le Rondin project. At this point Mr Neale took action; he met Mrs Stephens on the 15 April 2004 and tried to counsel her on a way forward. However this meeting was not a success; during it Mrs Stephens accused Mrs Isbister of not being her intellectual equal and displayed an "emotional fragility". Mr Neale suggested that a role other than a headship might be more appropriate, but Mrs Stephens was adamant that she remain in role.
- 34.10 By June 2004 the situation had not improved, Mrs Stephens was working a six day week and the project team was frustrated with her working style. Senior officers met with Mr Neale and Mrs Hodder was deputed to put a range of options to her. Mrs Stephens saw this as the commencement of a coercive conspiracy; on the contrary it was a genuine attempt to achieve a more positive work routine for Mrs Stephens.
- 34.11 Throughout the Summer of 2004 there were continued problems with a number of senior officers. Mrs Stephens acknowledged to Mrs Hodder that the improvement of relationship issues was her responsibility, but no improvement took place.
- 34.12 From Mr Neale's point of view it was not a question of conduct or capability; but Mrs Stephens would not allow matters to be settled and then move on. The proposed staffing level for Le Rondin was a prime example; Mrs Stephens constantly revisited this issue and consequently derailed the progress of other elements of the project.
- 34.13 By 2005 formal allegations are made by Mrs Stephens against a number of senior officers. These are investigated by Mr Warren and are, in his opinion, without merit. In the wake of this investigation Mr Warren suggests a third party is enrolled to assist with rebuilding

relationships; but this proposal is met with responses from Miss Hayward and Mrs Isbister that their professional relationship with Mrs Stephens was irredeemably broken. Notwithstanding this view Mr Neale again proposes in August 2005 that this be attempted but Mrs Stephens was implacably set against such an intervention.

- 34.14 Advocate McMahon states that by this time the problem has reached “crisis proportions” and illustrative of this is the meeting held on 1 September 2005 in which Mr Neale finds himself with no alternative but for him to issue an instruction to Mrs Stephens in relation to her management of caretaking staff; and then subsequently had to advise her of the seriousness of not complying with this requirement.
- 34.15 As the school opens Mrs Stephens is far too focussed on the building and not on the pupils, she seems overwhelmed. She is requesting instant solutions to snagging issues. Meanwhile the relationships with Miss Hayward, Mrs Hodder and Mrs Isbister are even more dysfunctional. Mrs Stephens is projecting her own anxieties on both her own staff and the parents. Mr Neale, with the full support of his SMT, decides he must meet with Mrs Stephens on the 27 September 2005.
- 34.16 Mr Neale stated that his meeting with Mrs Stephens was not for the purpose of dismissing her; rather it was to explore all other possibilities. He conducted himself in a professional manner and did not raise his voice. His minute of this meeting is significantly different to the minute offered in evidence by Mrs Stephens.
- 34.17 The Board visits Le Rondin on the 4 October 2005 and this passes off without major incident, although Mrs Stephens is highly critical of the building. In the meantime there is not the expected contact with Mrs Stephens’ union representative; instead, a letter arrives from Mrs Stephens’ Advocates dated 11 October. Negotiations are subsequently entered into; however these are brought to an abrupt end by Mrs Stephens in late November.
- 34.18 Meanwhile the situation had continued to deteriorate and the overload of le Rondin issues was having a significant impact on other key Education Department projects. In addition morale at Le Rondin was very low and a number of staff are suggesting they wish to resign. Mr Neale and his SMT saw no other alternative than to suspend Mrs Stephens and recommend her dismissal. The Tribunal should note that as suspension was a neutral act that Mrs Stephens did not have a right to be accompanied at the meeting of December 16 2005.
- 34.19 The process on the 10 January 2006 did not contain specific documented allegations; it was rather a description of a pattern of past relationships which eventually deteriorated until they could not be repaired. Minister Ozanne and his Board were faced with the issue of many high calibre professionals testifying as to gravity of the issue, and in consequence came to their majority conclusion to dismiss.
- 34.20 Advocate McMahon stated that the Respondent had followed the rules of natural justice, and that their process had been procedurally sound and consistent with the contract of employment. The dismissal had been fair and reasonable.
- 34.21 Advocate McMahon did not seek any specific reduction in award if such was to be made by the Tribunal; it was his contention, on behalf of his client, that the dismissal was fair.
- 34.22 Mrs Stephens stated that the Education Department had failed to prove that it either irreconcilable or irretrievable breakdown had occurred, and as to damage to the Education Service that there appeared to be no evidence of this. Nor was there evidence that she would have turned down a formal reconciliation process if offered. Nowhere is there evidence of a substantial and compelling reason for this dismissal.

The Applicant

- 34.23 Minister Ozanne had testified that Le Rondin was “fit for purpose” and there were only a few “snagging issues”, but this was not true, testimony from Mr Bridel and others confirmed ongoing issues with the building.
- 34.24 Mrs Stephens asserted that she had been assured by Minister Ozanne of a fair hearing on the 10 January 2006, in the event it was a “rubber stamp” process of a decision already made by Mr Neale.
- 34.25 Mrs Hodder testified that her resignation was due to the behaviour of the Applicant, but this was not true. Further it was Mrs Hodder who had informed Reverend Le Vasseur prior to the 8 September 2005 that Mrs Stephens would not stay in post. Mrs Hodder had been deputed from time to time to deal with the alleged failures of the Applicant, but Mrs Hodder had no line management responsibility to do this.
- 34.26 Mrs Isbister testified that if all other Head teachers had been as demanding as Mrs Stephens she would have been overwhelmed. This was not a “like for like” comparison; “Special Needs” is more demanding than “mainstream education”. If there was a lack of policy and strategy for “Special Needs” provision this was not the responsibility of the Applicant. Finally, Mrs Isbister could only offer evidence of one half day when the Applicant had not been traceable by the EDP team.
- 34.27 Miss Hayward had alleged that the Applicant had walked away whilst in the midst of a pupil review. This was very possible; SEN schools often have urgent pupil needs. Further, Mrs Stephens stated that she had acknowledged Miss Hayward’s contribution in her review notes.
- 34.28 In reviewing testimony from other witnesses Mrs Stephens thought that Mrs Wheeler was not in a position to understand the problems of dealing with children with a mental age of less than three years and Dr. Eckhardt testified as to an informal and productive relationship with her. Mr Benson seemed to have an imperfect recall of events and it should also be noted that Mr Benson is a subordinate of Mrs Isbister. Mr Brown offered little of substance.
- 34.29 Mrs Stephens continued with her review of Respondent testimony by refuting the allegation by Mrs Bougourd that she had threatened to close Le Rondin. Mr Bridel was still the subject of an unresolved complaint against him by Mrs Stephens when he presented his views to the Board of Education on 10 January 2006 and was surely conflicted. Mr Flynn stated that her salary was generous but he was not in a position to confirm it when she was set a deadline for acceptance of the Le Rondin role in 2004.
- 34.30 Mrs Stephens detailed multiple concerns as to the role of Mr Warren; including the lack of provision of a fair process for the Board hearing on the 10 January 2006; and the subsequent lack of an appeal process. In his role as the senior HR professional for the Education Department he never warned Mrs Stephens that her job was in jeopardy prior to 27 September 2005.
- 34.31 Mrs Stephens referred to the testimony of Mr Lamb and his use of the expression “Learned Behaviours” in relation to her personality traits, these were not evidenced. Neither could Mr Lamb produce evidence of formal complaints made by parents. Mr Lamb had gathered a list of opinions about her in late December 2004 from a number of senior officers but never gave her the chance to respond to these opinions. Mr Lamb also failed to bring all the “key players” together to attempt a conciliated settlement in the group. It was ill judged by Mr Lamb to show the letter drafted by Miss Hayward to the Director of Education prior to it being sent to Mrs Stephens. Many of Mr Lamb’s stated reasons for her dismissal had little substance; for

example there was no evidence offered as to the unavailability of Mrs Stephens in summer 2005 nor was the alleged high staff absence at Le Rondin in the Autumn term 2005 evidenced.

- 34.32 Mrs Stephens stated that Mr Neale had not offered her appropriate support prior to 27 September 2005 and on that date he offered a stark alternative of resign or be dismissed. It was Mr Neale who proposed her dismissal to Board in January 2006 and it was Mr Neale who guided them to their conclusion. It should also be noted that if the dismissal had in reality occurred on the 27 September 2005 then testimony for any period after this was irrelevant.
- 34.33 Mrs Stephens reviewed the testimony from her witnesses and of particular note the testimony of Reverend Le Vasseur that the decision for her dismissal from role was already taken prior to the 8 September 2005. Mrs McGovern had testified to the unhelpful attitude of senior officers over a significant period of time. Deputy Le Cheminant testified that Mr Neale gave further evidence against Mrs Stephens on 10 January 2006 after she and her advocate had left the meeting.
- 34.34 The four-month delay in the Le Rondin project in 2005 should not be attributed to the Applicant; it was a problem with the building contractors.
- 34.35 Mrs Stephens conceded that she had initially refused to accept the Director of Education's direction on the Caretakers reporting relationships on the 1 September 2005, but had, after reflection, accepted this instruction.
- 34.36 The lack of availability of SMT minutes in September 2005 begs questions as to what procedures were followed by Mr Neale and his immediate team in coming to their conclusion that Mrs Stephens should lose her post.
- 34.37 Mrs Stephens asserted that the principles of natural justice were not observed in her dismissal. Allegations collected by senior officers were not communicated with any clarity; and on the 27 September 2005 she was confronted with a "jump or you will be pushed" ultimatum. When suspended on the 16 December 2005 she was treated as if she had committed gross misconduct and was banned from the school site. Finally the majority of issues raised by Mr Neale and his SMT as justifying dismissal related to events prior to the opening of the Le Rondin.
- 34.38 In concluding Mrs Stephens contended that if the Tribunal found for her that the award should be made in full. Included in her rationale was her loss of status in the community and the premature end to a fulfilling and absorbing career.

35.0 Conclusions

- 35.1 It has been argued by the Respondent that the dismissal was neither a case of misconduct nor a lack of capability. The Respondent claimed that the dismissal fell under the category of "some other substantial reason" as provided for in section 6 (2) (e) of the Employment Protection (Guernsey) Law, 1998, as amended. The Respondent has further claimed that in defining the dismissal as such that they could adopt different procedures than those they would apply to a misconduct or incapability dismissal.
- 35.2 The Tribunal is charged to make a determination of the question whether the dismissal was fair or unfair having regard to the reason shown by the Respondent and shall depend on whether in the circumstances (including the size and administrative resources of the employers undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissal.

- 35.3 Given the weight of testimony in this Hearing which might be considered as relating to the Applicants conduct or capability the Tribunal has chosen to deal with this testimony first. This is followed by a consideration of the processes and procedures adopted by the respondent in dealing with this matter; as well as conclusions by Tribunal on primary themes which appeared to underpin the Respondent's case.
- 35.4 It is evident from testimony that there are many significant examples of the Applicants alleged misconduct; the Respondent has drawn on such issues over a 10 year period. We have been told of incidents that apparently had a Deputy Director of Education demanding the Applicants dismissal, and the Director of Education, whilst giving testimony, accused the Applicant of "dereliction of duty".
- 35.5 The Education Department had at its disposal both Conduct and Capability procedures and yet they decided not to use these, not even at the initial stage of a formal oral warning. Testimony was given by the Respondent to events well before the turn of the century which they sought to use as illustrations of a long embedded problem, however in the opinion of the Tribunal this reinforces the strong perception that Senior Management failed to act effectively when it could have done so. Repeatedly, we were given testimony as to "concerns being raised", but the stance of Management seems to have remained that of hoping for better times and to rely on informal counselling. Even allegedly seriously inappropriate behaviour toward Miss Hayward, which was already evident by 2003, was not dealt with by an appropriate disciplinary measure, neither was the allegedly inappropriate behaviour during project meetings addressed. If the testimony is a true reflection of what occurred then the Tribunal has formed the view that a reasonable employer might have found this behaviour unacceptable with an employee of far more junior status than Mrs Stephens.
- 35.6 It would seem to the Tribunal that rather than engage the disciplinary processes at an early enough stage to both communicate the gravity of the situation, but still allow time for improvement, the employer failed to act. The Tribunal notes from his testimony that Mr Neale stressed the possibility that by using formal procedures the matter would probably enter the public domain. From this testimony it seemed to the Tribunal that Mr Neale was unreasonably hesitant to take formal action for fear of media interest. It is the opinion of the Tribunal that a reasonable employer would not have allowed matters to drift over a period of years and that there was a failure to call Mrs Stephens formally to account for any alleged serious misconduct.
- 35.7 As the time for the Le Rondin project came to fruition senior officers such as Mr Bridel gave testimony that there were serious concerns as to the Respondents ability to manage a school with a far larger staff and a significantly increased educational scope. The Tribunal does not doubt the unswerving dedication of Mrs Stephens to her pupils but testimony by Mr Lamb alluded to reduced capabilities under stress that, according to testimony, were well known throughout the senior staff of the Education Board.
- 35.8 Notwithstanding this testimony the Respondent sought to persuade the Tribunal that there were no issues of Capability in this case, however given testimony from many senior educational staff and a review of the National Standards for Head Teachers (ER1 Pages 41 to 54 refer) it is difficult to maintain this view. Whilst the Tribunal understands that these standards were not an explicit part of the contract of employment for Mrs Stephens their production by the Respondent, and related testimony, would seem to imply they were an important implicit part of her contract. From testimony given by Respondent witnesses it might be concluded by a reasonable employer that numerous areas of the standards were not met by Mrs Stephens. For example it was testified that she did not "work as part of the team", she would also seem to have often fallen short of the ability to "deal sensitively with people and resolve conflicts". The Applicant seemed on occasion to fail in "communicating orally and in writing effectively" and apparently took very little heed of the "views of others". The

Tribunal could list many more areas set out in these standards where, given Respondent testimony, a reasonable employer might have formally posed a challenge to the Applicant prior to her finally taking up her post at Le Rondin in September 2005. The tribunal notes from document ER1 302/303 that Mr Neale indicated in this meeting held in June 2004 his willingness to enter into “Capability Proceedings” if no way forward could be found. The Tribunal finds it hard to imagine that Mr Neale, with his many years of experience in senior educational roles, would have raised the subject with four senior officers unless he had in mind specific areas of concern over her capability. The Tribunal also found it disingenuous of Mrs Dorey, a seasoned Human Resources professional, that she stated she did not know what “capability” meant when raised in this meeting.

- 35.9 The Tribunal has a concern that there would seem to have been confusion over the line management of Mrs Stephens during her secondment to the EDP project; and testimony confirmed that rather than confront her apparently repeated failure to observe the requirements of her Line Manager she was allowed to isolate herself from the team. It would seem that she failed to comply with many of the oral and written requirements of her self professed Manager, Mr Bridel, in the period 2004 to 2005. The Tribunal found little clarity from the testimony as to who was managing Mrs Stephens during her period of secondment to the EDP team. It would seem, in the case of Mr Bridel, to imply he had responsibility for Mrs Stephens but have no authority over her. If correct, such an arrangement runs counter to the superior / subordinate employee relationships found in many employment contracts. Further confusion is present in the testimony of Mrs Stephens that she “worked to Mr Lamb”; and also evidence in the bundle that Mrs Hodder intimated to Mrs Stephens that a reprimand may be given to her for an alleged misdemeanour. The Tribunal accepts that such reporting relationships may be the norm in the Education Department, but might suggest there is scope for confusion. It is not clear to the Tribunal who had the authority to issue requirements to Mrs Stephens, and then subsequently expect the conformance of these requirements to an accepted standard.
- 35.10 Prior to concluding on this issue the Tribunal found that it was a surprising analogy when Advocate McMahon sought to portray the Director of Education as a “Non-Executive Director”. The Tribunal gained from testimony that “Line Management” is a primary function of the Director of Education. This is normally regarded in employment as an executive function with a consequent duty to take appropriate actions and invoke procedures as required.
- 35.11 The Tribunal notes from testimony by Mr Neale that a process of individual performance appraisal had been introduced for teaching staff in the mid 1990s; but had still not been implemented for Mrs Stephens in 2005. Given the apparent need to set clear expectations for Mrs Stephens the Tribunal is surprised that apparently nearly a decade had passed since the formal introduction of this process to teaching staff on the island and yet Mrs Stephens was still not subject to this process. The Tribunal also notes the lack of any formal development plan for Mrs Stephens in the period 2004 /2005; she was arguably taking on a considerably more challenging role with a significant increase in scope. A reasonable employer of this size, with the Respondent’s resources, might have been expected to offer more formal assistance. The Respondent testified that members of the EDP were there to assist her in her personal development; however without a codified and agreed list of personal developments this seemed to be more a hope than a firm intention. This might well have added to the stress of the Applicant at this time.
- 35.12 Stress levels were also reportedly very high amongst the senior project team at this time due to the behaviour of Mrs Stephens but no overt action seemed to be taken; even simple solutions such as sitting the project team down as a group, with Mrs Stephens in attendance, to try to resolve their interpersonal issues in an open and adult fashion was apparently not attempted.
- 35.13 Before turning to the Board Meeting on 10 January 2006 the Tribunal wishes to comment on procedural deficiencies which, when combined with arguably poor management processes,

increased the probability that concerns raised as to Mrs Stephens effective functioning would not be dealt with fairly and effectively.

- 35.14 The Tribunal notes from the evidence bundle that there is a record of a meeting held between Mrs Hodder and Mrs Stephens on 26 June 2002 which is highly critical of the behaviour of Mrs Stephens, and indicates a reprimand is to be given. In the event this did not happen. It is a matter of natural justice, and it is recommended management practice, that such documents should not lie on file indefinitely as a continuing alleged indictment of poor past performance.
- 35.15 Another critical document was the record of the meeting held on 11 June 2004 between Mrs Hodder and Mrs Stephens, this document clearly alludes to an offer by Mrs Stephens not to take the Le Rondin role, and to seek other options. It also included a summary of the options put to Mrs Stephens on behalf of Mr Neale. The Tribunal was very surprised to discover that Mrs Stephens did not receive a copy of what is arguably a key document relating to her subsequent dismissal. The Tribunal has formed the view that a reasonable employer of this size and resource would have a process in place to ensure that Mrs Stephens was provided with a contemporaneous copy of this document.
- 35.16 Mr Lamb testified that his officers wished their grievances against Mrs Stephens to be recorded but did not wish to use the formal grievance procedure. It seems to the Tribunal that this was a recurring theme and questions the apparent reluctance, gained from testimony by SMT members, to advocate the use of available procedures to their subordinates. It was their clearly stated intent of SMT members to use informal advice and coaching to resolve such issues; however a reasonable employer might reflect that there is a limit to the use of informal action to resolve serious grievances.
- 35.17 Reverend le Vasseur testified with considerable clarity that she was informed by Mrs Hodder, prior to the official opening of Le Rondin, that there was an intention to have the Mrs Stephens removed from post. If this recollection is correct then this would indicate that a final decision had already been made at a senior level well before the 27 September 2005. It certainly raises a question mark as to the credibility of some of the testimony given to the Tribunal by the Respondent, and also raises questions as to the nature of the decision making processes of the Education Department SMT in regard to this matter.
- 35.18 The most significant area of procedural concern is the lack of clarity as to when the dismissal decision was made, and by whom? Arguably the dismissal occurred during the meeting of 27 September 2005, when Mr Neale informed Mrs Stephens that she would have to leave her post. Effectively Mrs Stephens was told she must “fall on her sword and go”. The file note of this meeting prepared by Mr Neale (ER1 374/375 refers) stated that if she was not prepared to negotiate her exit then capability and conduct proceedings would be initiated. The Tribunal might reasonably conclude from this testimony that Mr Neale had already clearly identified areas of misconduct or incapability which merited formal process at that time. The Tribunal has the further concern that Mrs Stephens had no prior formal warning of the nature of this proposed meeting, nor was she advised to have a colleague present to give her support during this meeting. Mr Neale testified that he attended this meeting as a colleague wishing to advise Mrs Stephens of potential formal proceedings rather than instigating them. The Tribunal is not persuaded by this argument. His role must surely have formal authority in the eyes of his subordinates, and it is hardly credible that he could conduct this meeting as a colleague and deliver such a stark message. It is difficult not to regard such tactics as an “ambush” designed to achieve the compliance of Mrs Stephens with the minimum fuss.
- 35.19 The meeting between Mrs Stephens and Mr Neale / Mr Warren on the 16 December 2005 is again subject to procedural critique. Was Mrs Stephens advised to have a colleague in support? Did the Respondent actually tell her she was dismissed? The testimony from the parties on these issues is contradictory.

- 35.20 The letter of the 19 December 2006 (EE1 422 refers), confirming that which was communicated orally on 16 December, also had the potential to be misleading. It did not state that until the matter of dismissal was considered by the Board that pay and benefits would continue indefinitely, or at least as provided for under the contract of employment until the normal retirement date. On the contrary this letter states that pay and benefits will be paid until 30 April 2006, but not beyond this date. A reasonable employee, a layperson, might deduce from this communication that the act of suspension was not neutral and the decision to dismiss was already made, and irreversible.
- 35.21 Testimony from Deputy Le Cheminant indicated that more than a year after the Board Meeting of January 10 2006 he still thought that he had attended an appeal against a decision to dismiss that had already been made. The Tribunal has formed the view it might be reasonable to assume that Deputy le Cheminant might not have been alone in this opinion. The Tribunal is also concerned that given testimony from Deputy Le Cheminant that the minutes of the meeting of 10 January 2006 contained in the bundle (EE1 507 refers) were not the final agreed minutes. Only via the testimony of this witness, late in the proceedings, did the Tribunal discover that these minutes were amended in February 2006. The Tribunal is concerned at the limited notice Mrs Stephens was afforded as to the process which would be adopted for the meeting of 10 January 2006; and, further, that only a somewhat limited range of oral testimony was considered at the meeting and that apparently Mrs Stephens was deprived the ability to bring any witness to these proceedings.
- 35.22 Finally a major element of process is the opportunity for an employee to have an appeal against their dismissal. The Tribunal accepts that the Respondent can point to the explicit terms of Mrs Stephens' employment contract and notes the lack of an appeal process against a dismissal which is not by reason of conduct or capability. The Tribunal also notes that the Respondent had agreed these general terms with the employee representative body. However this does not resolve the issue as to the implied terms of the employment contract.
- 35.23 The Tribunal has concluded that a reasonable employer of this size, and with the resources available to it, might consider it a natural and just process to provide for an appeal mechanism for any dismissal, regardless of the grounds. The Tribunal considers the position of the Education Department, in stating to Mrs Stephens that she had recourse to this Tribunal for an appeal process, has been somewhat disingenuous. It is the opinion of the Tribunal that the normally accepted convention is that an appeal, if successful, will return the individual to the situation they enjoyed prior any proceedings. The Tribunal does not have the requisite powers to do this. The Tribunal would imagine that the Respondent as a major employer in Guernsey, with ample recourse to professional / legal advice, would know that this was the position.
- 35.24 In considering the proposition that Mrs Stephens was dismissed for "Some Other Substantial Reason" the Respondent sought to portray the staff requests made by Mrs Stephens as unreasonable, however Mrs Dorey in her testimony used both the expression "incredibly generous" and "bare minimum" in relation to various staffing needs at Le Rondin and also testified as to the "moving of goal posts" when it came to Treasury & Resource / Human Resource approvals; this in turn led to postponed advertising for posts and more reliance on supply staff to fill the gaps. Despite further enquiry by the Tribunal it left the question as to what weight we should put on this testimony and that of other Education Department Staff. The Tribunal also notes that both Deputy Heads are still in place in 2007, as are the 2.6 FTE extra teaching assistants and the two contract cleaners. If the need for these roles was so questionable, and Mrs Stephens was so "out of order" in requesting them, then how come they are still in post? From the perspective of the Applicant in 2004 and into mid 2005 she may well have been justified in her concerns as to which of her staffing proposals would have the support of the EDP team, the Education Department SMT, the Education Board, and finally Treasury and Resources.

- 35.25 Many of the Education Department staff asserted that the building only had minor “snagging” faults and that Mrs Stephens was exaggerating her difficulties; however the Tribunal is persuaded by the testimony of Mrs Stephens, Mr Bridel, Mr Sebire and Mrs Chart that all was not well with the building. Mr Sebire as Assistant Estates Manager had concerns over the external contractors topping up the Le Rondin pool dry acid tanks without formal approval, and his department was not privy to the “snagging list” until late November 2005. This lack of “visibility” added to the lack of clarity as how various issues with the building would be resolved. Mr Bridel, for his part, conceded there were major problems with the central heating, combined with malfunctioning of the ventilation louvers. Mrs Chart testified that it was so cold in the school premises that she worked in an overcoat; in the event, 17 heaters were purchased over the winter 2005 /2006; of which 15 were designated for classroom use. Mr Bridel also testified that there were leaking roofs, requiring buckets to be in place to catch the water. The Builders remained on site after the pupils had arrived. The Tribunal could draw the conclusion that, if staff morale was low in the Autumn term of 2005, that in part these physical defects might have contributed to that low morale.
- 35.26 Significant testimony was given by the Respondent as to the delay by Mrs Stephens in agreeing her job description. In the event she met the final deadline with only a few minutes to spare. The Tribunal notes from testimony by the Respondent that confirmation of her salary for this post was not finally given to Mrs Stephens until some two weeks after this deadline; additionally the delay in building completion, scheduled for May 2005, postponed a scheduled increase in her salary. The Tribunal is not sure that these were the actions of a reasonable employer.
- 35.27 Much testimony was given as to the alleged unacceptable behaviour by Mrs Stephens towards Miss Hayward, Mrs Hodder and Mrs Isbister and the Tribunal is persuaded that, if true, that some of the alleged behaviour fell well short of the standards expected from a Head teacher; however the Tribunal is also persuaded that these officers might not have always acted with personal restraint and diplomacy. As an illustration the Tribunal notes that Mrs Chart testified to the abruptness of Miss Hayward toward Mrs Stephens when she arrived at the Le Rondin site early in the Autumn term 2005; in an attempt to pacify Miss Hayward the Applicant apparently felt that she had no option other than to show Miss Hayward the contents of her personal email file to satisfy her that a message had not been received.
- 35.28 In considering the above the Tribunal has formed the view that Mrs Stephens may not have been so unreasonable in pressing her concerns, and that behaviour of others towards her was not without fault. The Tribunal also notes that there is only limited substantive evidence of more general damage to the provision of educational service in Guernsey in the Autumn term 2005.
- 35.29 In summary it would seem to the Tribunal that a significant proportion of the testimony from the Respondent was expressed in terms of misconduct or incapability, and was, in some part, seemingly of a very serious nature, however it was not dealt with under available procedures. It would seem to the Tribunal; that it was within a band of reasonableness and reasonable for a reasonable employer to have taken action within their disciplinary procedures to address these alleged misconduct or capability issues. In the event the Respondent did not do this.
- 35.30 The Tribunal is not surprised that given the failure to use available procedures the situation careered out of control; there are compelling arguments that it would have been fairer to put these issues formally to Mrs. Stephens and given her the opportunity accept them and seek to improve, or to refute/deny them formally. The Tribunal has formed the view that by not putting these issues formally to the Applicant, and by not warning her of the consequences if the situation was not improved, the Respondent arguably failed to discharge its duties both to Mrs. Stephens and the other staff involved in this affair.

35.31 Finally even if the above might be held to have been reasonable responses of an employer dealing with a difficult behavioral interactions between staff, which is clearly not the view of the Tribunal, it would seem that the process applied to this dismissal was so flawed in Autumn 2005 and January 2006 that it was not a fair dismissal. After the critical meeting between Mrs. Stephens and Mr. Neale in late September 2005 any possibility of following a fair process was seemingly very remote; and became impossible due to the continuing failure of Senior Education Management and the Education Board to adopt the rules of natural justice that are so evidently missing in this dismissal

36.0 Decision

36.1 After carefully considering all the evidence of both parties and their submissions, and giving due weight to the size of the organisation and the available resources to deal with this dismissal, the Tribunal finds under the provisions of The Employment Protection (Guernsey) Law, 1998, as amended, that Mrs Stephens was unfairly dismissed.

36.2 The Tribunal has not been persuaded by any relevant testimony that there are grounds to reduce this award as provided for in Section 23(2) of The Employment Protection (Guernsey) Law, 1998 , as amended; therefore an award of £27,470.00 is ordered.

Signature of Tribunal Chairman: Mr Peter Woodward

Date: 16 April 2007