



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M P O'Brien

**Respondents:** 1. Oldham Metropolitan Borough Council  
2. The Governing Body of St Margaret's C of E Primary School

**HELD AT:** Manchester **ON:** 20 April 2017

**BEFORE:** Employment Judge Howard

## REPRESENTATION:

**Claimant:** Mr D Bunting, Counsel

**Respondents:** Ms R Aggarwal

## JUDGMENT ON PRELIMINARY HEARING

The judgment of the Tribunal is that the Tribunal has jurisdiction to consider the claimant's claim against the second respondent, it having not been reasonably practicable for the claimant to have presented it within the relevant time limit and having submitted the claim within a reasonable period thereafter.

## CASE MANAGEMENT ORDERS

The Employment Judge gave the following directions:

1. By 4 May 2017 the claimant will inform the respondents and the Employment Tribunal which of the two named respondents it accepts is the correct employer for the purposes of the claim of unfair dismissal. The respondents' position is that the second respondent is the claimant's employer, the Governing Body having complied with the requirements of the Education Act 2002.
2. By 4 May 2017 the claimant shall send to the respondents a fully particularised Schedule of Loss.
3. By 18 May 2017 the parties shall send to each other copies of all documents relevant to the issues to be determined in their possession, custody or control.
4. The respondents shall send one copy of the complete agreed bundle to the claimant by 1 June 2017.
5. The parties shall send to each other copies of all witness evidence to be adduced at the hearing by 15 June 2017.

6. The matter will be heard in the **Manchester Employment Tribunal, Alexandra House, 14-22 The Parsonage, Manchester, M3 2JA** on **6 and 7 July 2017** inclusive commencing each day at **10.00am** to determine matters of liability and remedy if appropriate.

**Note of Discussion**

7. The Employment Judge heard submissions on the jurisdictional matter and held that the Tribunal had jurisdiction to determine the claim. A case management discussion was held immediately thereafter and directions given.

8. The parties agreed the issues to be determined were:

- (1) Whether the respondents could establish a potentially fair reason for dismissal – the respondents rely upon conduct.
- (2) If so, whether the reason to dismiss was fair in the circumstances applying section 98(4) of the Employment Rights Act 1996.
- (3) If the claimant had been unfairly dismissed issues of remedy, being whether the claimant had contributed to his dismissal by his conduct to any extent.
- (4) Whether the **Polkey** principles applied and whether either party had unreasonably failed to comply with the ACAS Code of Conduct on Disciplinary Proceedings.
- (5) Whether the respondents acted in breach of the claimant's entitlement to notice of termination of employment by summarily dismissing him.

Employment Judge Howard

Date 20<sup>th</sup> April 2017

JUDGMENT AND ORDERS  
SENT TO THE PARTIES ON

28 April 2017

FOR THE TRIBUNAL OFFICE