EMPLOYMENT TRIBUNALS

Claimant:	**Mr M Pollard**	
Respondents:	**Aquinas Church of England Educational Trust (R1)** **Ms K Griffiths (R2)** **Mr S Murphy (R3)** **Mr P Boughton-Reynolds (R4)**	
Heard at:	**London South**	**On: 15/11/2021 to 26/11/2021 (the Tribunal did not sit on 24/11/2021)**
Before:	**Employment Judge Wright** **Mr C Rogers** **Mr S Sheath**	
Representation:		
Claimant:	**Mr E Beever - counsel**	
Respondent:	**Mr S Crawford - counsel**	

LIABILITY JUDGMENT

It is the unanimous Judgment of the Tribunal that the claimant's claims under the: Equality Act 2010 (EQA); Employment Rights Act 1996 (ERA); s. 10 Employment Relations Act 1999; and of breach of contract and wrongful dismissal fail and are dismissed.

REASONS

1. The claimant presented a claim on 15/8/2019 following a period of early conciliation which started and ended on 1/8/2019. The respondent resists the claim. The claimant's employment commenced on 16/4/2018 and was terminated by the respondent on 13/5/2019. The claimant was initially employed as Interim Head of Music and then as Head of Music on 25/5/2018.

2. Preliminary hearings were held on 5/2/2020 and 17/8/2020. Prior to the August 2020 preliminary hearing, the respondent had conceded the claimant was a disabled person due to his depressive disorder on 16/3/2020, presumably at the relevant time.

3. There was a list of issues which had been agreed during the hearing in August 2020. The allegations were under s.15 EQA of discrimination arising from a disability (the unfavourable treatment being the claimant's dismissal on 13/5/2019 which was upheld on appeal and the something arising was the emails which he sent on 24/4/2019 and 26/4/2019); the respondent denies it had knowledge of the claimant's disability. Victimisation contrary to s. 27 EQA, the protected act being a grievance on 21/1/2019 (which the claimant said referenced both a philosophical belief and disability) and an email of 26/4/2019. Being dismissed as a result of making protected disclosures. Breach of contract, wrongful dismissal and a breach of s.10 Employment Relations Act 1996 (the right to be accompanied).

4. Although there were four respondents, the claimant did not specify which respondent he considered was liable for which allegation. In reality, the claim was made against the Trust (R1) and therefore in this Judgment, the reference to the respondent is R1.

5. The Tribunal heard evidence from the claimant. From the respondent, it heard from:

    Patrick Boughton-Reynolds (claimant's line manager)

    Samantha Thompson (deputy headteacher and exams officer)

    Kathy Griffiths (CEO)

    Simon Murphy (headteacher)

    Rachel Gardner (HR)

    Simon Parker (chairman of the board of trustees)

Sui-Te Wu (non-executive director/trustee and part of the appeal dismissal panel)

6. The was a hard copy and electronic bundle of 1579-pages.

7. The claimant's witness statement was lengthy (60-pages) and it contained detail about matters which were clearly troubling to him, but which the Tribunal would not necessarily determine as they were not put forward as an allegation or a claim.

Findings of fact

8. There was an issue with the coursework which simply had not been produced by the students (that is not to say it was the students' fault they had not produced coursework and it was not a wilful failure on their part) for the year 11 NCFE music technology course which pre-dated the claimant's employment. The claimant was not liable for the failings. Subsequently, he made protected disclosures in respect of this issue (the respondent conceded two disclosures the claimant made were protected).

9. The claimant first formally raised the issue that the lack of coursework meant the music technology results could not be correct, with Mr Boughton-Reynolds on 13/9/2018. Mr Boughton-Reynolds said the claimant came into his office and said more pupils had been awarded a grade than had submitted work. The Tribunal finds this was a protected disclosure. It was more than a mere allegation or statement of position. The respondent was on notice that there had been an issue over the coursework and in the summer term, a form of a 'rescue plan' had been put in place. The plan was successful in part in that five students did produce some coursework and were able to be granted an award by NCFE. Some parents had complained about the failure to ensure their children had produced the coursework which was required in order to meet the standards set by NCFE. Mr Boughton-Reynolds as the claimant's line manager was aware of the issue. He was made aware by KA in February 2018 there was an issue with the coursework.

10. The claimant relies upon a second disclosure to Ms Thompson on 13/9/2018. Ms Thompson as the exams officer was also aware of the failings in respect of the coursework issue. The claimant emailed her on 13/9/2018 and on her own evidence he said the NCFE coursework could not be correct as pupils with no coursework had been awarded a qualification. Ms Thompson went onto say that the claimant did not identify which pupils he referenced. That was irrelevant. The Tribunal finds this was also a protected disclosure.

11. The third occasion relied upon by the claimant was during a meeting with Ms Gardner on 18/9/2018, in which he raised with her the reluctance of Mr Boughton-Reynolds and Ms Thompson to check the coursework marks. Although Ms Gardner was not a teacher, her evidence was they discussed the concern the claimant had; that his line manager had not followed-up an issue he had raised about coursework and Ms Gardner advised him to speak to Ms Thompson. The claimant said he had asked his superiors to check the coursework marks and that he raised the fact that a whole cohort had failed and that students and parents had been misled regarding the status of the coursework.

12. The Tribunal finds that on the balance or probabilities that the claimant did go into this level of detail, as he had done on many other occasions. He may not have been correct, but it was his firm view, which he repeated often that the wrong course had been taught to the students, with the result that they did not produce the coursework which NCFE required. The conclusion of that was apart from the five students who did produce coursework, the marks were wrong. The Tribunal finds that the claimant did go into some level of detail to Ms Gardner, such that his disclosure to her was protected.

13. The fourth occasion which the claimant relied upon as a protected disclosure was to Mr Murphy and/or Ms Gardner on 27/9/2018. There were two meetings on that day, one with Mr Murphy and Ms Gardner and one with Mr Murphy and Mr Boughton-Reynolds. The claimant's own account of this meeting in his grievance (page 671) lacks particulars. In his witness evidence the claimant does not refer to any specific allegation he made and he said the meeting was to address his concerns over his protected disclosures. It may well have been that at the second meeting that day, the claimant's concerns were discussed, however, on the balance of probabilities the Tribunal is not convinced that the claimant's genuine concerns were discussed at the first meeting on the 27/9/2018. Mr Murphy's own evidence was however, that the claimant raised the NCFE results again at the second meeting and said that there may have been a mistake with some year 11 NCFE music technology results.

14. On the issue of disability, the Tribunal was not taken to any pre-employment health questionnaire completed by the claimant and in any event, he said that he would not have reported any condition even if he had been asked. He had a diagnosis of depression in 2013, but he did not consider there was any prospect of that condition recurring and hence, he said he would not have disclosed it. As such, the respondent was not on notice of any pre-existing condition, whether or not it amounted to a disability. The Tribunal finds the respondent was rather lax in terms of documentation and referrals in respect of employees' health. There was no health questionnaire for the claimant to complete at any point prior to or

during his employment and no later referral to occupational health; both events which Ms Gardner accepted should have taken place.

15. The claimant relied upon the following events in respect of his disability. After returning from the half-term break on the 5/11/2018, he asked Ms Gardner if he could leave early on a Tuesday afternoon. He said he informed Ms Gardner that the reason was he was undergoing psychotherapy (she said she thought she had been told it was for a dental appointment(s)). The request was granted, although there was no paperwork produced in respect of the request. It seems the claimant was taken at his word, that he was undergoing treatment. The Tribunal finds that it is likely that the appointment would have either been arranged in a time when the claimant was not teaching (such as a free period) or when cover could be provided. In any event, this was not a sustained period of time off as the claimant was then suspended on 20/11/2018.

16. The Tribunal finds that there is nothing from the claimant informing the respondent he was undergoing psychotherapy which would put it on notice of any condition which would lead to knowledge of a disability under the EQA. At best, the respondent was on notice of the claimant undergoing treatment which would potentially assist him in managing behaviours but no more than that.

17. The claimant was suspended on 20/11/2018 due to safeguarding issues (page 591). An investigation meeting was held on the 30/11/2018 and the outcome report found there was no case to answer in respect of one of two allegations (page 626). The claimant was informed of this by letter dated 3/12/2018 (page 635). On 5/12/2018 the claimant was invited to a disciplinary meeting on 13/12/2018 and he was informed of his right to be accompanied (page 641). Ms Gardner asked the claimant to confirm his attendance on the 10/12/2018 (page 645).

18. The claimant responded on the 11/12/2018 with a note from his GP which stated that he was not fit for work from the 11/12/2018 due to ‘stress at work’ until the 21/12/2018 and he asked for the meeting to be rescheduled and suggested contact be made on the 7/1/2019 (pages 646-647). The respondent’s witnesses were quite candid in saying that they were not surprised and they appreciated being suspended over a safeguarding allegation was stressful for all involved, including the claimant.

19. On the 17/12/2018 Mr Murphy invited the claimant to a rearranged disciplinary hearing on 10/1/2019 (page 648).

20. The claimant was subsequently hospitalised on 19/12/2018 with acute gastroenteritis and he was discharged on 22/12/2018 (page 654). Ms Gardner emailed the claimant on the 8/1/2019 to ask when he would be

free to speak (page 656). He replied and referred to recovering from his illness, an anticipated death in the family which did occur and being taken to hospital by ambulance. He made particular reference to: resuscitation in A+E; acute internal medicine; and his kidneys having recovered but his eyesight having been damaged due to the dehydration. He enclosed a copy of the hospital discharge letter however, it did not specify any further action either by the claimant's GP or the hospital (pages 655-656). He asked that the respondent have a thought about its approach to contacting staff whilst on sick leave for mental health reasons. He concluded by saying that he was 'just off to the therapist' and would be free to speak later on.

21. When asked about this email, Ms Gardner said that she did not associate the 'therapist' referred to with the previous reference to the psychotherapy. The Tribunal finds that even though this email was sent by the claimant on a Tuesday afternoon, there was nothing in it to remind Ms Gardner of the previous request for leave for psychotherapy or indeed the fact that the claimant was undergoing psychotherapy. The respondent employed 724 people and 191 at the claimant's place of work. There is no duty on Ms Gardner to remember medical details in respect of every employee and there must be some onus, on the claimant, to expressly remind Ms Gardner/HR if he felt that fact was relevant. Furthermore, Ms Gardner said she associated the therapy with the reference to the bereavement the claimant had suffered and the Tribunal finds that is a reasonable conclusion to reach.

22. It is the claimant's case that the acute gastroenteritis should have been linked by the respondent to either the Tuesday afternoon absence and the period of ill health in December 2018 or to both. The Tribunal finds that is stretching the point too far. The claimant referred to physical manifestations, such as kidneys and eyesight. In submissions reference was made to actual or constructive notice of a disability. There was nothing put in writing in respect of the Tuesday afternoon absence. The December 2018 absence appeared to be self-contained and linked to the suspension. The hospitalisation and the therapy also appeared to be (without further information from the claimant) separate and autonomous incidents.

23. As a result of the claimant's recent ill health and family bereavement the respondent postponed the disciplinary hearing from the 10/1/2019 to the 16/1/2019 (page 657). The claimant took issue with various points and emails between him and Ms Gardner were exchanged between 14/1/2019 and 16/1/2019, with the result that the hearing on the 16/1/2019 was further postponed (pages 660-661). The claimant also enclosed a note from his GP stating that he was unfit for work due to stress from the 15/1/2019 to 22/1/2010 (page 662).

24. On the 21/1/2019 the claimant submitted a 'formal grievance' to Mrs Griffiths; the grievance covered 22-pages (pages 664-686). The claimant made allegations and forcefully set out his view. For example, he referred to lacking transparency, manipulation of exam results and concealing information (pages 669 and 671). In respect of his health, the claimant referred to being rendered unwell due to work-related stress and anxiety manifesting in panic attacks. He referred to the hospitalisation. He said not knowing the detail of the safeguarding allegations had caused his further stress. The claimant himself did not link the psychotherapy to the later conditions. He also did not draw the conclusion which he then invited the respondent to draw; that all of his health issues were part and parcel of a disability.

25. The claimant also relied upon the grievance as a protected act for the purposes of his victimisation claim. The Tribunal finds the grievance did amount to a protected act as it referenced a philosophical belief which the claimant said he held, in accordance with s. 10 EQA. There was however no reference to the protected characteristic of disability under the EQA. The grievance was also accepted by the respondent as a protected disclosure.

26. The respondent's HR Director wrote to the claimant on 30/1/2018 and informed him that his grievance would be heard on 8/2/2019 by an independent/impartial consultant (pages 739-740). The claimant was also advised of his right to be accompanied to the meeting. At the claimant's request, the meeting was arranged at one of the respondent's other sites (a primary school in Penge) rather than at the claimant's normal place of work.

27. A report dated 22/2/2019 was produced (page 809). Mrs Griffiths then wrote to the claimant on 25/2/2019 with her outcome of his grievance (page 826). Of the 14 complaints, two were upheld in part and in respect of the complaint about the claimant's health (number fourteen) it was found that as the GP note had stated the claimant was suffering from stress at work, that the claimant had indeed been suffering from the same. The caveat was that the disciplinary process was indeed stressful, but that it was not possible to determine that the hospitalisation was as a result of the same (without any medical evidence in support).

28. The grievance had caused the disciplinary process to be postponed and so it was revisited on 28/2/2019 when the claimant was invited to a meeting on 12/3/2019 (page 832). The claimant was again informed of his right to be accompanied to the meeting. At this stage, the claimant was still not satisfied with the outcome of his complaint about an award from the exam board NCFE (this related to the coursework issue) and he

approached Ofqual on 3/3/2019 (page 834). The respondent also accepted the disclosure to Ofqual was a protected disclosure.

29. On the 5/3/2019 the claimant asked the respondent to inform Ms Gardner that the disciplinary process was 'on hold' during the grievance process (page 835). The claimant referred to a lack of transparency (page 836). In a response the respondent's company secretary explained that should the claimant wish to appeal the grievance, then the disciplinary policy would again be halted (page 838).

30. In an email for the attention of Mr Parker on 11/3/2019, the claimant said (page 842):

> 'Following on from established and agreed failings of the school prior to my arrival last year I have reason to believe that [the school] was involved in the falsification of coursework results for public examinations. I additionally have reason to believe that members of the leadership team and the CEO of the Trust have been involved in attempting to conceal the matter.
>
> It is my belief that the disciplinary process that the school has invoked and is being sustained by the CEO forms part of this concealment and is effectively a campaign to discredit me.
>
> For full details please see attached my grievance and Appeal.
>
> I have notified Ofqual of my concerns regarding possible falsification.
>
> Regarding the "allegations" against me, I believe this process to be malicious and thus there are sufficient ground for me to pass the matter on to the police.
>
> I have concerns over the Trust HR team and the quality of their work and thus suggest that you as Chair of the Board of Trustees take appropriate independent legal counsel.'

31. The claimant was clearly unhappy and frustrated; and was starting to express himself in more strident terms.

32. This statement to Mr Parker was relied upon by the claimant as his seventh protected disclosure. The email clearly refers to the grievance. The respondent has accepted the grievance was a protected disclosure. The claimant was raising again an issue which was by now familiar to the senior leadership team and Trustees of the respondent. By directing Mr Parker to the grievance, the Tribunal finds this disclosure to Mr Parker was a protected disclosure.

33. On the 11/3/2019 the claimant produced a 24-page grievance appeal (pages 843-865). He pointed out that his original grievance had 116-points in it (page 864). He also referred to corrupt education practices, hostile and life changing processes and horrific and unjustified treatment and a set of unsubstantiated 'allegations' (examples on pages 863). The

grievance appeal contained 127-points. On the same date, the claimant reminded Ms Gardner that the witnesses would need to be told that they were not longer required for the disciplinary hearing, as the scheduled meeting could not take place whilst the grievance process was ongoing (page 868).

34. The grievance appeal was acknowledged on 12/3/2019 (page 869). The respondent proposed a date of 1/4/2019 via email (page 873). In a response of 15/3/2019 the claimant confirmed he would attend on 1/4/2019. He requested that the meeting did not take place at one of the respondent's sites; his explanation was that at the meeting on 8/2/2019 he left the room at one point and Mr Murphy was standing outside the door (page 872).

35. On 14/3/2019 Mr Murphy was informed of an investigation of the school by NCFE (page 874). The investigation was in respect of 'potential malpractice regarding the MCFE Level 1 Technical Award in Music Technology'.

36. The claimant made a data subject access request on 19/3/2019 (page 877).

37. The respondent's HR Director wrote to the claimant on 22/3/2019 (page 894). The respondent said that it could not hold the meeting at a neutral venue due to the additional cost and workload. It offered a different primary school in Bromley and confirmed the date as 1/4/2019. The claimant was informed of his right to be accompanied. On 25/3/2019 the respondent sent the claimant its response to his grievance (page 911).

38. The claimant alleges this is an act of victimisation, in that on or around 25/3/2019 Mrs Griffiths responded and intervened in the grievance appeal because he had raised a grievance. The Tribunal finds this is nonsensical. The claimant raised a grievance. An independent external consultant was appointed, who produced a report. Mrs Griffiths considered that report and responded to the claimant's grievance, providing her outcome on 25/2/2019 (pages 826-830). All Mrs Griffiths then did, was to provide her response, based upon her findings when presenting the respondent's case for the grievance appeal. Mrs Griffiths intervention came about as a result of the claimant's appeal. Had he not appealed, she would not have needed to respond. Mrs Griffiths did not interfere in the grievance because the claimant had done a protected act.

39. On 27/3/2019 the claimant sent an email for the attention of Mr Parker expressing his 'further concern over the conduct of the HR department and CEO of [the respondent]' (page 931). He went onto make the allegation that HR and the CEO had altered the grievance policy and

reissued it and said the disciplinary process was malicious and that malicious allegations are a police matter. He concluded by referring to the ongoing Ofqual investigation.

40. The claimant sent a further email to HR on 29/3/2019 and repeated his concern that there was a malicious process and that it was a police matter (page 932). This appeared to be in response to Ms Gardner informing the claimant the disciplinary hearing would take place on 3/4/2019 (page 933). The Tribunal finds the claimant's allegations were becoming more wide-ranging than his concerns about the coursework and were personally accusatory about senior staff of the respondent. He had moved on from raising his concerns about the coursework to alleging conspiracies/covering-up and malicious acts.

41. On the 1/4/2019 the claimant responded to Ms Gardner at 7:32am stating that he did not have evidence he required for the disciplinary hearing. He concluded his email by stating (page 934):

> '… I will refer this matter to the police this morning. Enough is enough.'

42. In the meantime and in the background, Mr Murphy was involved in the investigation by NCFE and amongst other actions, was exchanging emails with the Quality Assurance Officer.

43. The grievance appeal meeting took place on 1/4/2019 and the panel comprised three Trustees (page 938). The claimant represented himself.

44. The disciplinary meeting was rescheduled to 4/3/2019 in order that a Trustee (VC) could observe the hearing (page 948). On the 3/4/2019 the chair of the Trustees for the grievance appeal hearing (PK) confirmed that the three possible outcomes were: no case to answer; verbal warning; or written warning. She also said that any of the three outcomes would lead to the suspension being lifted. She confirmed that LADO[1] is required to hold a record of all safeguarding referrals and outcome, but this does not form part of the claimant's record with the respondent (page 950).

45. Mr Murphy was also exploring the situation directly with the LADO (page 953). She confirmed that:

> 'Unfounded or unsubstantiated are not put on references and do not show up in any employment. However, if a question is asked about any allegations made or investigation, the answer has to be yes.'

[1] Local Authority Designated Officer (LADO).

46. The disciplinary hearing took place on 4/4/2019 and a very detailed note was made (page 954).

47. Mr Murphy wrote to the claimant on the 5/4/2019 to confirm the outcome of the hearing (page 996). He found there was no case to answer against the claimant, the suspension was lifted and the matter was concluded. Mr Murphy also recorded that the claimant had indicated he wished to meet with him (Mr Murphy) prior to his return to work[2]. The earliest date Mr Murphy could offer was 24/4/2019 (after the Easter break). Finally, Mr Murphy recorded that, due to the absence from work, the claimant's probation was extended to 29/8/2019 (the end of the summer term).

48. On the 18/4/2019 NCFE confirmed the outcome of the investigation. The result was three certificates were invalid and NCFE requested the recall of the certificates (page 1001). In essence, the claimant's complaints about the award of NCFE certificates were proved valid; he had been correct all along that the award was wrong. The Tribunal finds that in that respect, there was a misunderstanding by the respondent. There was no conspiracy on behalf of the respondent and no malicious action or cover-up.

49. The next contact from the claimant was on the 19/4/2019, in an email for the attention of Mr Parker (page 1008). He thanked the Trustees' for their time and said:

> 'Given the complexity of this situation and the detriment I have already suffered I request permission from the Trustee for us to work together to organise any potential return to work on my part. The timing of this set of discussions would need to be when the Trustees have had time to investigate fully matters arising from what I have raised, had the opportunity to implement any necessary adjustments and take appropriate measures.'

50. The Tribunal is not entirely sure what terms about a 'potential' return to work the claimant was attempting to dictate. In any event, the response on behalf of Mr Parker (timed at 15:51 on 23/4/2019) stated that a decision letter about the grievance appeal would be with him by the end of the week and referred to the meeting with Mr Murphy the following day (24/4/2019) (Page 1007).

51. The claimant replied at 9:26am on 24/4/2019 (page 1007):

> 'Dear Simon [Parker]

[2] The claimant did not take issue with this statement at the time or correct Mr Murphy. He did however on 15/5/2019 state that he had never requested a pre-return to work meeting with Mr Murphy (page 1032).

> I am deeply uncomfortable with the idea of meeting with Simon Murphy. I have undeniable evidence that the disciplinary process was malicious. It is my professional belief that Simon Murphy's conduct is so severe that it requires referral to the TRA[3].
>
> I am not safe at [the school].
>
> If indeed the Trustees are expecting me to meet with Simon Murphy alone, given the outrageous nature of the disciplinary meeting that was witnessed by [VC] I will need to refer this to ACAS today with a view to starting the Tribunal process.
>
> It appears that my faith in the Trust and the Trustees has been misplaced.
>
> I repeat, nothing has been done to make [the school] a safe workplace for me. I fear for my professional, physical and mental wellbeing.'

52. In respect of this communication, the Tribunal makes the following findings. The claimant had not contradicted Mr Murphy's statement of the 5/4/2019 that the claimant had expressed a desire to meet with him (Mr Murphy). Even by the 24/4/2019 the claimant was not saying he had never suggested a desire to meet with Mr Murphy; he said he was 'deeply uncomfortable'. The meeting was due to take place that day at 10:00am. It appeared that the claimant had not addressed his mind to the proposed meeting any earlier than the day it was due to occur. The claimant makes serious accusations, without substantiating them. He refers to 'undeniable evidence that the disciplinary process was malicious'; yet he does not say what that evidence was. He referred to the Trustees expecting him to meet with Mr Murphy, yet Mr Murphy's unchallenged record stated that it was the claimant who wished to meet him. The claimant claimed he was not safe, but did not give any explanation for his statement.

53. Furthermore, the Tribunal finds that this email is not 'something' arising as a result of the claimant's disability. The claimant had been stridently setting out his views since his employment commenced, for example, his view that garageband needed to be installed. He had been sending emotive correspondence since at least his grievance on 21/1/2019.

54. At the time of the email of 24/4/2019 the respondent was not on notice of any health issue for the claimant. The most recent GP note for the claimant was on 15/1/2019 for stress.

55. The grievance appeal outcome was dated 24/2/2019 (page 1009) and it confirmed that the claimant's concerns regarding the accuracy of the pupils' exam results was, in effect, adjourned, pending the outcome of the investigation by Ofqual and NCFE (page 1010).

[3] Teaching Regulation Agency

56. A response sent on behalf of Mr Parker on 24/4/2019 suggested a meeting on 29/4/2019 at the respondent's office (not at the school) at 8.30am (page 1006). The claimant was asked to confirm he would be attending. There was no response from the claimant and he was asked again on 26/4/2019 to confirm he was attending, the Trustees having reorganised their commitments in order to accommodate the meeting (page 1005). The claimant sent an email reply later that day (26/4/2019) with a request to delay by one week and referred to an attached letter which he said was a reply to Mr Parker's request (by inference in reply to Mr Parker asking the claimant to confirm he would be attending the meeting on the 29/4/2019) (page 1015).

57. The claimant in his letter vehemently repeated his allegations and he said:

> 'The Trust and Trustees appear unconcerned by the lies, misrepresentations, significant omissions and disgracefully low professional standards that underpinned the malicious disciplinary process I was subjected to.
> …
> By my reckoning, 3 members of the SLT are actively involved in the coursework manipulation and 2 members of the Trust, through refusing to act on the information given to them, are complicit in an attempt to conceal it.'

58. This is a feature of the claimant's accusations by this stage; he does not report facts. For example, he does not say what he believes the 'coursework manipulation' to be. He does not say which members of staff or Trustees he accuses. The coursework issue is that some students were credited with having produced coursework when they had not done so. The issue may have been resolved earlier, had the claimant reasonably and specifically set out which students were given an award; when that should not have been the case as they did not submit any coursework. The Tribunal finds the claimant had raised a genuine issue about which ultimately he was proved correct; however, he allowed his increasing frustration to detract from his legitimate concern.

59. The claimant relied upon this letter as a protected act for the purposes of his victimisation claim. The Tribunal finds that it is not a protected act. The claimant referred to Acas as a precursor to 'the tribunal process'. There was no explicit reference to the EQA.

60. A response was sent upon Mr Parker's behalf on 2/5/2019 (page 1017). Mr Parker agreed to the claimant's request to postpone the meeting and rearranged it for 10/5/2019 at 8:30am. Mr Parker said the meeting could discuss the claimant's well-being, working relationships with colleagues and the Trust, the feedback from NCFE, his return to work and review the claimant's probation. Mr Parker asked that the claimant confirm his attendance 'as soon as possible' and said to let him know if there was

anything which could be done to ensure the claimant's comfort at the meeting (page 1018).

61. The letter concluded by saying:

> 'if for any reason you are not able to attend, I will review the information available to me and advise you of any findings or decisions that may result, though naturally I am most keen to receive your input and thoughts, so I do look forward to seeing you.'

62. On the 9/5/2019, the claimant requested that the meeting be put back to 9:30am so as to avoid him being on the bus with the pupils the following morning. The Tribunal finds this to be disingenuous of the claimant. The previous meeting arranged for 29/4/2019 was also arranged for 8:30am. If the claimant had had a genuine concern with the timing of the meeting, the Tribunal finds that he would have raised it much earlier; not the afternoon before the hearing. The Tribunal finds the claimant was seeking to put in place barriers to prevent the scheduled meeting taking place.

63. Unsurprisingly, Mr Parker was unable to put the time of the meeting back at such short notice. Instead, in an email response sent some 41 minutes later, he proposed an earlier time of 8am (page 1024). This did not satisfy the claimant and on the following day (10/5/2019 at 7:23am) he said that he would still be on the bus with the pupils at that time in the morning. He asked if there were any other times that day they could meet (page 1023). The claimant criticised the respondent for not giving any thought to what the pupils would think having not seen him for nearly six months, should they see him when he arrived for the meeting. Whereas, this was not a point he had previously raised.

64. In a response sent 17 minutes later (at 7:40am), the claimant was advised that Mr Parker had no other availability that day, but that he proposed covering the cost of a taxi to enable the claimant to attend by 8:30am that day. The claimant did not respond until 9:28am (page 1022). It was discourteous of the claimant not to promptly respond and to say that he either was or was not attending the meeting. The claimant referred to the 'fraudulent and fabricated disciplinary process', which had in fact found there was no case to answer. The claimant proposed rescheduling the meeting for 8.30am at another venue.

65. In the claimant's absence and without any indication from the claimant as to whether or not he intended to attend the meeting, Mr Parker did what he said he would do in his letter of the 2/5/2019; he proceeded in the claimant's absence.

66. In a letter dated 13/5/2019 Mr Parker said he was disappointed the claimant had resisted the efforts to make it possible to meet on the

10/5/2019 (page 1027). He said it was felt that the claimant's view about meeting pupils was not reasonable and was not an acceptable reason for not attending the meeting. Mr Parker referred to the fact that the claimant was informed by letter dated 5/4/2019 that the outcome of the disciplinary hearing was that there was no case to answer. The claimant had been invited to attend a meeting to discuss his return to work on 24/4/2019 and it was pointed out that the claimant had emailed on the morning of 24/4/2019 to say that he was not comfortable about meeting Mr Murphy. Mr Parker pointed out that he had offered to meet with the claimant on 29/4/2019 and that during the afternoon of the 26/4/2019 the claimant requested a delay. That was granted and on 2/5/2019 Mr Parker proposed a meeting on 10/5/2019, which reflected the need for the meeting to proceed during a reasonable timescale and reflected his own limited availability. Mr Parker set out the chronology of what had taken place; none of which is in dispute. Mr Parker said that he had therefore taken the view that every effort had been made to make reasonable adjustments to ensure the claimant's attendance.

67. Mr Parker referred to the claimant's several statements regarding Mr Murphy, Mrs Griffiths and the Trustees; he was however satisfied that the correct processes and procedures had been followed. Mr Parker acknowledged that the claimant had been certified as unfit for work due to 'stress at work' and that he had been hospitalised for gastroenteritis. He went onto say that the disciplinary process was delayed due to the claimant's sickness absence, then the grievance; and that process was now complete and the outcome was no case to answer in respect of the disciplinary allegation. Mr Parker confirmed that Mr Murphy had notified the LADO who had confirmed the case would be closed and recorded as unsubstantiated. It was pointed out to the claimant that if he required any further information in that regard, to contact the LADO as the information was not available to the respondent[4].

68. Mr Parker went onto point out that there was an outstanding grievance against the claimant, which had been delayed due to the suspension, the claimant's sickness and his own grievance. The claimant's view on this grievance (that he had thrown away his predecessor's personal belonging during her period of maternity leave) was that it should be dismissed out of hand. It is clear the claimant had an unrealistic sense of entitlement. He believed that his substantial grievance should be fully investigated and considered, which it was; yet he dismissed his colleague's grievance as (claimant's witness statement paragraph 119):

[4] The claimant took issue that the LADO intended to record the allegation as unsubstantiated, however, it was not clear to the Tribunal whether or not he had, as directed by Mr Parker, taken the issue up directly with her; rather than it being a complaint against the respondent.

> '… absurd. Her grievance complained that I had moved her mugs whilst she was on maternity leave.'

69. In dealing with the exam issue, which had excised the claimant, Mr Parker recorded that NCFE had completed their investigation and the invalid certificates were as a result of a misunderstanding and the matter was now closed. The Tribunal finds that to have been the case and there was no conspiracy or cover up as alleged by the claimant. Mr Parker then referred to the claimant's depth of feeling expressed in his letter of the 26/4/2019 and whilst not doubting the strength of belief the claimant had, said (page 1029):

> '… I cannot see how we can resolve the current position as I and my Trustees who heard your grievance do not agree with your interpretation of event, nor are they supported by the examination board.'

Mr Parker continued that the claimant had made it clear, from his point of view, there was a complete breakdown of trust and confidence in the senior leaders at the school and the respondent.

70. As per Mr Murphy's letter of 5/4/2019 the claimant's probationary period had been extended and:

> '… given the above conclusions relating to the apparent irreparability of any kind of working relationship, I can only conclude therefore that we are unable to move forward.'

71. Mr Parker's conclusion was to terminate the contract and to pay one week's notice pay and accrued holiday pay. The claimant was informed of his right of appeal against that decision.

72. The Tribunal finds that the claimant had demonstrated in his correspondence that from his point of view, the relationship had broken down and he did not have any trust and confidence in both the senior leadership team and the Trustees of the respondent; he had said so numerous times.

73. The respondent had taken suitable steps to attempt to repair that relationship, but was on each and every occasion rebuffed by the claimant. When the respondent took the steps the claimant said he wanted it to take, the claimant changed his stance. The claimant was manipulating the respondent. Mr Parker, quite rightly the Tribunal finds, decide that enough was enough (to use the claimant's own words) and decided there was nothing more to be gained by extending the relationship and so brought it to an end.

74. The respondent was criticised for not waiting another week and rescheduling the meeting. Mr Murphy and then Mr Parker had tried to

meet with the claimant since the 5/4/2019 (albeit with the Easter holiday and Mr Murphy's own availability, the first available date to meet was the 24/4/2019). It was by now two weeks to the summer half-term holiday. The Tribunal finds that Mr Parker had no confidence that if he were to rearrange the meeting again, that the claimant would attend. The Tribunal accepts Mr Parker's explanation that he needed to terminate the claimant's contract, in order to be able to recruit a replacement Head of Music to start in September.

75. The Tribunal finds that the reason for the termination of the claimant's employment was Mr Parker's view that the relationship had irretrievably broken down from the claimant's viewpoint, with the result that there was no future in it. That then led to Mr Parker's decision that a new Head of Music needed to be recruited. It should also be remembered that the original Head of Music had taken maternity leave and decided not to return and her replacement then also took maternity leave. The result was three Heads of Music in as many years and a failure to deliver (apart from the five students who worked hard to produce some coursework after the examinations had ended) coursework for the NCFE award[5]. The claimant's employment was not terminated as he had failed to satisfactorily complete the probation period; it was terminated as on his own case, there was no trust and confidence between him and members of the senior leadership team and some Trustees.

76. The claimant exercised his right of appeal and attended a meeting on 13/6/2019 before three Trustees. The outcome was dated 17/6/2019 and the appeal panel upheld Mr Parker's decision to dismiss the claimant (page 1091).

77. On the 9/5/2019 the claimant obtained a GP note which stated that he had the condition of depressive disorder and that he may be fit for work, taking into account the advice, which was that he should not 'at present' return to frontline teaching (page 1033). That advice was valid for a period of two months. Mr Parker was not aware of this advice at the time he took the decision to dismiss the claimant. The claimant however sent the GP note to the respondent on 15/5/2019 (page 1031). The claimant said that he discussed this diagnosis at the appeal hearing and that he referred to having had a similar diagnosis some years before. It was established that the claimant had not previously referred to any previous diagnosis of depressive disorder and said that even if he had been asked to, for example, fill in a pre-employment health questionnaire, he would not have declared the earlier episode of depression.

[5] It is accepted by the Tribunal that this failure was not the claimant's responsibility. He took over a cohort in circumstances where the failing had previously been identified and it should be made clear that the liability was not his.

78. The claimant claims various policies were contractual and that in not adhering to them, there was a breach of contract in that the claimant would have been employed for a longer period of time. In closing submissions, the claimant said that he relied solely on the probation policy. The Tribunal finds difficulty with that argument. Whether or not the probationary policy was contractual, it appears it was the claimant's argument that he should not be on probation. His argument, as far as the Tribunal understands it, is that (along with his wrongful dismissal claim) as he was on probation, he was only entitled to a week's notice. Had he not been on probation or had it been confirmed that he had successfully passed his probation period, he would have been entitled to notice which would have expired on the 31/8/2019.

79. The facts are that the claimant was employed under a fixed term contract from 16/4/2018 to 25/5/2018 as a fixed term teacher of music (page 170). That contract provided for a probation period of six months. The respondent reserved the right to extend that period by a further six months. The notice period was one week and the respondent reserved the right to disapply its full contractual capability and disciplinary procedures during a probation period.

80. A second contract was issued (page 273). It was not a fixed term contract. It gave the start date as 25/5/2018. That contract stated that the probation period started on 16/4/2018. The terms of the probation period were the same as the previous contract. On 25/9/2018 there was a three month probation review meeting (page 468). That meeting resulted in a further review meeting on 18/10/2018 but also extended the probation period until 16/4/2019. The respondent was entitled to do this under the contract and policy.

81. The claimant takes issue that the three month review should have taken place in mid-July 2018, not in September. That may be correct in terms of dates, however, the respondent had the discretion to extend any probation period. The claimant had not been told that he had successfully completed a probation period. Mr Boughton-Reynolds was aware that due to his own commitments during the summer term 2018 (ill health and caring responsibilities for his mother) and the busy exam period, plus the coursework issue; he had not properly set the claimant targets or reviewed his performance. The difference to the claimant was, had the three month review taken place in July 2018 and had it been confirmed that he had successfully completed the probation period, that he would no longer be on a notice period of one week. The Tribunal finds in any event that would not have happened. The probationary period was initially for six months, not three. A review was therefore due by the 16/10/2018. The three month review took place, albeit late, on 25/9/2018. At that September meeting, the probation period was in any event extended to 16/4/2019; the

respondent had therefore exercised its discretion to extend the first six month period for a second six months, giving at that time, a probationary period of 12 months.

82. Due to the claimant's suspension on 20/11/2018, he was not performing his role as Head of Music. The respondent could not therefore assess him in his role under the probation period. The respondent had had some concerns about the claimant's management abilities as subject lead (there was no concerns about the claimant's teaching abilities). As such, when he contacted the claimant on 5/4/2019 to initiate a discussion about returning to work, Mr Murphy confirmed to the claimant, that as he had not been in work, the probation period would be extended to 31/8/2019 (page 997). Although this is more then 12 calendar months from the 16/4/2018 and goes beyond the original 12 month period the claimant was given of 16/4/2019; it represented a period of performing the role of Head of Music during which the respondent could assess the claimant's abilities. The Tribunal finds that both under the contract and the respondent's probation policy, there was the discretion for the respondent to take this course of action. For the sake of completeness, the Tribunal does not find that the probationary policy was contractual.

83. There was no wrongful dismissal. The claimant was still within the probation period and therefore, he was entitled to a week's notice. He was paid in lieu of a week's pay.

84. The claimant alleges the respondent failed to inform him of the right to be accompanied to the meeting on the 10/5/2019. He says that is a breach of s.10 Employment Relations Act 1999. It is correct to say that the respondent did not inform the claimant of the right to be accompanied at that meeting. It is also correct to say that the meeting was not intended to be a meeting of a disciplinary or grievance nature. It was intended to be a meeting to discuss generally the matters Mr Parker referred to in his letter of 2/5/2019 (page 1018). The Tribunal has no doubt in finding that had the claimant requested to be accompanied to that meeting, irrespective of the fact it was not a meeting with fell within the remit of s.10, the respondent would have permitted it. For example, a Trustee (VC) attended the disciplinary meeting as an observer.

85. Even if the claimant were relying upon the respondent's Conduct at Formal Hearings policy (page 92) which states:

> 'Staff have the right to be accompanied at all formal hearings by a trade union or work colleague of their choice.'

That in and of itself, does not give rise to a right to be informed of the right to be accompanied under the policy. The claimant was as capable as any other employee to read the policy prior to any meeting and to ask to

exercise any right given under the policy and indeed he exercised his right to be accompanied by his Trade Union representative at the dismissal appeal hearing. He did not do so in respect of this meeting and there was no refusal of any statutory or contractual right by the respondent.

The Law

86. The claimant claims the protected characteristic of disability due to 'depressive disorder' under s.6 of the EQA.

87. The prohibited conduct of which he complains is s. 15 – discrimination arising from disability:

> (1) A person (A) discriminates against a disabled person (B) if—
>
> (a) A treats B unfavourably because of something arising in consequence of B's disability, and
>
> (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.
>
> (2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.

88. The complaint is of dismissal under s. 39 (1)(c) EQA.

89. The claimant also claims that he was victimised contrary to s. 27 EQA:

> (1) A person (A) victimises another person (B) if A subjects B to a detriment because—
>
> (a) B does a protected act, or
>
> (b) A believes that B has done, or may do, a protected act.
>
> (2) Each of the following is a protected act—
>
> (a) bringing proceedings under this Act;
>
> (b) giving evidence or information in connection with proceedings under this Act;
>
> (c) doing any other thing for the purposes of or in connection with this Act;
>
> (d) making an allegation (whether or not express) that A or another person has contravened this Act.

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

90. Clearly, there has to be a protected act for an allegation of victimisation to follow.

91. The claimant pleads that he has made a protected disclosure under s. 43B of the ERA and he was automatically unfairly dismissed per s. 103A ERA.

43B Disclosures qualifying for protection.

(1) In this Part a " qualifying disclosure " means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—

(a) that a criminal offence has been committed, is being committed or is likely to be committed,

(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

(c) that a miscarriage of justice has occurred, is occurring or is likely to occur,

(d) that the health or safety of any individual has been, is being or is likely to be endangered,

(e) that the environment has been, is being or is likely to be damaged, or

(f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

47B Protected disclosures.

(1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.

(1A) A worker ("W") has the right not to be subjected to any detriment by any act, or any deliberate failure to act, done—

(a) by another worker of W's employer in the course of that other worker's employment, or

(b) by an agent of W's employer with the employer's authority,

on the ground that W has made a protected disclosure.

(1B) Where a worker is subjected to detriment by anything done as mentioned in subsection (1A), that thing is treated as also done by the worker's employer.

(1C) For the purposes of subsection (1B), it is immaterial whether the thing is done with the knowledge or approval of the worker's employer.

103A Protected disclosure

> An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.

92. In Kilraine v London Borough of Wandsworth [2018] ICR 1850 the Court of Appeal said that the word 'information' in S.43B(1) ERA has to be read with the qualifying phrase 'tends to show'; the worker must reasonably believe that the information 'tends to show' that one of the relevant failures has occurred, is occurring or is likely to occur. Accordingly, for a statement or disclosure to be a qualifying disclosure, it must have sufficient factual content to be capable of tending to show one of the matters listed in S.43B(1)(a)–(f) ERA. An example was given of a hospital worker informing their employer that sharps had been left lying around on a hospital ward. If instead the worker had brought their manager to the ward and pointed to the abandoned sharps, and then said 'you are not complying with health and safety requirements', the oral statement would derive force from the context in which it was made and would constitute a qualifying disclosure. The statement would clearly have been made with reference to the factual matters being indicated by the worker at the time.

93. Section 43B(1) ERA requires that, in order for any disclosure to qualify for protection, the person making it must have a 'reasonable belief' that the disclosure 'is made in the public interest'. That amendment was made to avoid the use of the protected disclosure provisions in private employment disputes that do not engage the public interest.

94. In Panayiotou v Chief Constable of Hampshire Police 2014 ICR D23 the EAT upheld a decision that the reason for dismissal and detriments was not the fact that Mr Panayiotou made protected disclosures; but the manner in which he pursued his complaints. It was found that he would 'campaign relentlessly' if he was dissatisfied with the action taken by his employer following his disclosures and would strive to ensure that all complaints were dealt with in the way he considered appropriate. As a result, the employer had to devote a great deal of management time to responding to correspondence and complaints. In essence, he had become 'completely unmanageable' and this led to his dismissal. It was held that it was the combination of his long-term absence from work and the way in which he pursued his various complaints which led to his dismissal and his claims under s.47B and s.103A failed.

95. The burden of proof in s.136 EQA provides that if there are facts from which the court could decide, in the absence of any other explanation, that a person contravened the provision concerned, the court must hold that the contravention occurred.

96. The claimant also claims there has been a breach of s.10 of the Employment Relations Act 1999,which provides:

(1) This section applies where a worker—

(a) is required or invited by his employer to attend a disciplinary or grievance hearing, and

(b) reasonably requests to be accompanied at the hearing.

Conclusions

97. The respondent did not have knowledge of the claimant's condition of depressive disorder at the relevant time when Mr Parker took the decision to dismiss the claimant. Furthermore, the claimant has not demonstrated evidentially on the balance of probabilities that the 'something arising' (the tone of the correspondence on 24/4/2019 and 26/4/2019) arose in consequence of the depressive disorder. The claimant was clearly becoming frustrated at what he perceived to be the respondent ignoring his concerns. There is nothing to say that the tone of the correspondence did not arise as a result of that frustration or from the lack of action from the respondent.

98. The claimant had earlier in 2019, the Tribunal found, forcefully set out his views and made strong allegations, for example of 'manipulation' in his grievance. In light of that, the Tribunal does not find that the tone of the claimant's correspondence was something arising at the relevant time from a descent into a depressive disorder which was later diagnosed on 9/5/2019. He had been making vehement allegations much earlier. Furthermore, the respondent could only become aware that it was a reoccurrence of an earlier condition from 2013, at the appeal meeting on 13/6/2019. Mr Parker had made the decision to dismiss on the 13/5/2019 and was not on notice of the condition.

99. The statute requires the unfavourable treatment to be 'because of something'. Provided that the 'something' was an effective cause of the unfavourable treatment (it need not be the sole or main cause), the causal test will be established. That was simply not the case here and the claimant did not satisfy the burden to lead the Tribunal to conclude that the something arising (the tone of the emails), arose because of his condition. Furthermore, the unfavourable treatment (the dismissal) did not arise because of the tone of those emails. The Tribunal found the claimant was dismissed due to the breakdown, on his part, of the relationship with the senior leadership team and the Trustees. That breakdown dated back to and crystallised with the claimant's grievance on 21/1/2019. The claimant was entitled of course to raise a grievance. What he was not entitled to do was to go about raising the grievance in any manner he sought fit.

100. The claim under s. 15 EQA fails.

101. There was no victimisation under the EQA. The claimant raised a grievance on 21/1/2019. Mrs Griffiths as CEO decided the matter and provided her outcome on 25/2/2019. The claimant appealed that outcome and accordingly, the Trustees heard the appeal and Mrs Griffiths presented her/the respondent's case. There was no detriment to the claimant in Mrs Griffiths presenting the respondent's case. Furthermore, Mrs Griffiths was not presenting the respondent's case because the claimant had referenced a philosophical belief under s. 10 EQA (in fact in evidence Mrs Griffiths said she agreed with the claimant's view of the integrity of the British education system); she was presenting the respondent's case for the benefit of the appeal panel deciding the claimant's appeal.

102. The Tribunal concludes the claimant did not do a protected act on 26/4/2019 and therefore, there can be no act of victimisation or detriment as a result (paragraph 11 of the list of issues).

103. The respondent conceded (paragraph XLVIIe respondent's skeleton argument) the claimant did make protected disclosures on the 21/1/2019 and 3/3/2019 (paragraph 14 (e) and (f) in the list of issues). In respect of s. 43B (1) (a)-(f) ERA, it is not clear what form of wrongdoing the respondent accepts the claimant had in mind was being breached. The Tribunal concludes that the respondent accepted in submissions that the relevant section was 43B (1) (b) ERA failing to comply with a legal obligation; namely the respondent's obligation to NCFE and not to misrepresent that coursework had been completed and assessed, when it had not. This applies to all the disclosures which the Tribunal found were protected.

104. The Tribunal also found that the disclosures on: 13/9/2018 (on two separate occasions); 18/9/2018; and 11/3/2019 (paragraph 14 (a), (b), (c) and (g) in the list of issues) were protected.

105. Furthermore, it is accepted that the protected disclosures were made in the public interest. The claimant believed there was a form of exam fraud being perpetuated. There was ultimately no fraud or deliberate wrong doing. There was a misunderstanding, which was explained that NCFE thought the coursework provided for second marking (to establish if the internal marking was consistent with NCFE's external marking) was a sample. As NCFE agreed with the marks, it awarded certificates to all students. NCFE did not appreciate that four students had not produced any coursework and therefore, could not qualify for an award. The claimant knew that no award should be made if there was no coursework and also knew that four students had not provided any

coursework. Clearly, a concern of this nature was in the public interest; that exam integrity should be maintained.

106. The claimant was not however dismissed because he had made protected disclosures. He was dismissed because on his own case, he no longer trusted or had any confidence in, in particular: Mrs Griffiths the CEO of the respondent; Mr Murphy the headteacher, Mr Boughton-Reynolds his line manager and Mr Parker the chair of the Trustees. Not only that, he had also disparaged other members of the senior leadership team and other Trustees. He was also making wild and unsubstantiated allegations. Due to the nature of his allegations and against whom they were directed, the respondent had no choice but to end the relationship and to terminate the claimant's employment.

107. There was no evidence that the claimant ever accepted there was a misunderstanding, rather than a conspiracy by the members of staff at the respondent against whom he made his allegations. The Tribunal concludes that there must have come a point when, even if he did not agree, the claimant should have accepted based upon the facts which had been presented, that there was an innocent explanation for the error. That he could not accept that view was fatal to any ongoing relationship. The Tribunal acknowledges the distinction between the fact of the protected disclosures and the manner of complaining. There was no future in the relationship, Mr Parker was entitled to bring it to an end and the principal reason for his decision was the loss, by the claimant, of trust and confidence in the senior staff and Trustees.

108. The probation policy was not contractual and it was not breached. The respondent acted within the parameters of the policy and within its margin of discretion. It was immaterial that the claimant did not agree when and how the probation period was extended.

109. The claimant was not wrongfully dismissed. His contract was terminated in accordance with the notice period of one week and he was paid in lieu of notice.

110. There is no right to be advised of the right to be accompanied. There was no breach of s.10 Employment Relations Act 1999. There is a right to be accompanied, which the claimant exercised. There was no dismissal or disciplinary meeting held by Mr Parker at all. The result was there was no meeting which came within the remit of s.10.

111. The claimant's claims fail and are dismissed. The potential remedy hearing listed for 20/5/2022 will be vacated unless there is any application to the contrary within 14 days.

2/12/2021

Employment Judge Wright