



EMPLOYMENT TRIBUNALS

Claimant: Mr N Barends

Respondent: The Liverpool Blue Coat School

Heard at: Liverpool

On: 12 – 16 May 2025
19 May 2025

Before: Employment Judge Ainscough
(sitting alone)

REPRESENTATION:

Claimant: Mr D Webb – lay representative

Respondent: Mr S Gorton KC - Counsel

JUDGMENT having been sent to the parties on **26 June 2025** and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunal Procedure Rules 2024, the following reasons are provided:

REASONS

Introduction

1. This was a claim brought by the claimant following his dismissal on 24 March 2023 from his role as an Assistant Headteacher with the respondent. The claimant has made complaints of unfair dismissal and wrongful dismissal.
2. The claimant started ACAS early conciliation on 23 June of 2023 and issued his claim on 4 September 2023. The parties came before Employment Judge Slater in January 2024 and the List of Issues was agreed and the matter listed for this final hearing.
3. The claimant began his employment with the respondent in September 1991 as a teacher and by the termination of his employment he was an Assistant Headteacher and responsible for the leadership of Key Stage 4 which comprised of year groups 9, 10 and 11.

4. The respondent is a Grammar School in the Liverpool area that provides education to 11 to 18 year olds. Whilst it is a state school, the demand for entry outweighs the places available.
5. At the outset of the hearing, I made an Anonymity Order to protect the identity of two former pupils of the respondent and as a result, they are referred to AB and ZX in this judgment. I also agreed to convert the hearing to a hybrid hearing to allow two of the respondent's witnesses to give evidence remotely.

Evidence

6. I heard evidence from Mr O'Brien a trustee of the respondent and a member of the disciplinary panel. I also heard evidence from Mr Myers, also a trustee of the respondent and a member of the disciplinary appeal panel.
7. I did not hear evidence from Ms Hughes the respondent's Director of Resources due to her ill health, but a signed witness statement about events in 2022 and 2023 was submitted on her behalf. I did hear evidence remotely from Ms Yates Headteacher at the time of the claimant's dismissal. I also heard evidence remotely from AB about events in 2012.
8. Finally, I heard evidence from the claimant. I also had the opportunity to consider the agreed file of documents of 368 pages and a chronology prepared by the respondent's representative.

Issues

9. The list of issues was agreed with Employment Judge Slater at the case management preliminary hearing on 12 January 2024 and was as follows:

Unfair dismissal

- a. Has the respondent shown the reason or principal reason for dismissal was a potentially fair reason under section 98 Employment Rights Act 1996? The respondent relies on conduct.
- b. If so, applying the test of fairness in section 98(4), did the respondent act reasonably in all the circumstances in treating that reason as sufficient reason to dismiss the claimant?
- c. If the reason was misconduct, did the respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant? The Tribunal will usually decide, in particular, whether:
 - i. The respondent genuinely believed the claimant had committed misconduct;
 - ii. there were reasonable grounds for that belief;
 - iii. at the time the belief was formed the respondent had carried out a reasonable investigation;

- iv. the respondent followed a reasonably fair procedure;
- v. dismissal was within the band of reasonable responses.

Wrongful dismissal

- d. What was the claimant's notice period?
- e. Was the claimant paid for that notice period?
- f. If not, can the respondent prove that the claimant was guilty of gross misconduct which meant that the respondent was entitled to dismiss without notice?

Relevant findings of fact

2008-2010

- 10. In July 2008 the claimant was issued with a written warning about his relationship with a sixth form student. In November 2009 the claimant was suspended following concerns raised about his continued relationship with that sixth form student.
- 11. By June 2010 the claimant had attended a disciplinary panel at which it was noted that a Local Authority Designated Officer (LADO) concluded that the claimant may be considered as being unsuitable to work with children or young people.
- 12. The disciplinary panel concluded that there was no conclusive evidence of a romantic or sexual relationship between the claimant and the student but that the claimant's actions amounted to inappropriate behaviour that crossed the boundaries of a professional relationship such that it was an inappropriate relationship.
- 13. The disciplinary panel also found that the claimant had failed to follow a management instruction of not being alone with the student which could be construed as a compromising situation. As a result, the claimant was dismissed and referrals were made to the General Teaching Council and the Independent Safeguarding Authority.
- 14. The claimant appealed against his dismissal and in September 2010 was reinstated. The appeal panel concluded that the sanction was too severe and issued a final written warning for twenty four months.
- 15. The appeal panel informed the claimant that this was not an acceptance of his conduct and he needed to demonstrate adherence and understanding of safeguarding issues.
- 16. The General Teaching Council subsequently concluded in October 2011 that the final written warning was a proportionate sanction and the Independent

Safeguarding Authority didn't deem it necessary to put the claimant on the barred list.

2012

17. In July 2012 the claimant was responsible for organising the Year 11 prom. During the course of that event the claimant and other teachers handed out awards to the students.
18. The claimant handed an award to ZX for "the boy you would least like to share a taxi with". In so doing it caused distress to AB who had been sexually assaulted by ZX in the back of a taxi two years earlier.
19. As a result of AB's distress, the Headteacher at the time, Mrs Silcock, asked five members of staff to recount their understanding of the awards and whether they had any concerns.
20. Simon Shipgood recalled that he was made aware that the award given to ZX upset AB. He was of the view that the claimant was unaware that AB or any other student of the respondent was involved in the incident and on so learning of that fact, the claimant immediately apologised to AB.
21. Mike Cain recalled that the claimant didn't rely on student votes to give awards but relied on his own personal knowledge of the recipient. He also recalled that the claimant subsequently told him he was unaware of the full details of the incident to which the award related.
22. Louise Hodson recalled AB crying after the award had been given and the award not making sense to the wider audience as there appeared to be inside jokes between the sporting community.
23. Sophie McMahon said that after she found out why ZX had been given the award she thought it inappropriate and irresponsible.
24. John Lamb recalled that a "Delta taxi award for being least likely to be invited back" was only understood by the boys in the audience as an inside joke.
25. Mrs Silcock took no further action. The claimant was absent from work between 17 July 2012 to 19 July 2012 for a period of three days.

2014

26. In 2014 fellow students raised their concerns about the incident with staff members. As a result, ZX and AB were spoken to together to ascertain if there was still an issue between the two.
27. During the course of the discussion, it was acknowledged that ZX was subject to banter and repeatedly referred to at parties as a rapist. It was also acknowledged that the award given at the Year 11 prom alluded to ZX's behaviour and had caused distress to both students. AB said she did not feel protected or valued by the school.

28. It was recorded that Mrs Silcock had spoken to the claimant about the inappropriateness of the award in 2012. AB recalled comments were made about the incident in and outside of school and the banter was constant. AB also recalled the claimant speaking to her about the award and explaining that he thought it was about a girl in another school. ZX confirmed the banter and said he spoke to the claimant on the night of the prom and told him he had upset AB which prompted the claimant to apologise to AB.

2022

29. In 2022 a former teacher posted his leaving speech on social media in which he referred to the award given to ZX and the claimant condoning sexual assault.
30. As a result, AB and another former pupil contacted the respondent to complain about the claimant's continued employment at the school. AB specifically complained that the claimant was fully aware that the assault had taken place and regularly joked with the sports teams about it. AB also confirmed that the boys would regularly shout ZX's name at her in front of the claimant and nothing was done.
31. On receipt of the emails Ms Yates, the Headteacher, asked the Director of Resources Ms Hughes to meet with AB to obtain a statement. AB repeated her concerns and recalled that the claimant had an overly friendly relationship with the sports teams. AB was supported during the interview by a fellow former pupil.

Local Authority Designated Officer (LADO)

32. On 1 December 2022 Ms Yates appointed Ms Hughes to investigate the matter and informed the LADO about a potential safeguarding matter.
33. On 5 December 2022 the claimant was informed of the allegation that he had made inappropriate reference to a sexual act when presenting the award and in so doing had failed to demonstrate professional conduct expected of a teacher, had failed to protect welfare of a student and had failed to treat students with dignity and respect.
34. The claimant was informed that he was the subject of an investigation and the outcome could be gross misconduct. The claimant was also provided with a support contact and details of occupational health.
35. On 21 December 2022 the claimant was informed that the LADO had oversight of the investigation.
36. The LADO is responsible for managing allegations against adults who work with children and for providing advice, information and guidance to schools. In accordance with the relevant legislation, a LADO must be contacted within one working day if it is alleged that four criteria are of concern.
37. The four criteria are:
- 1) that the person has behaved in a way that has harmed or may have harmed a child,

- 2) that they have possibly committed a criminal offence against or related to a child,
- 3) that they have behaved towards a child in a way that indicates that they may pose a risk of harm to children or
- 4) they behaved in a way which indicates that they are unsuitable to work with children.

Investigation report

38. On 13 January 2023 Ms Hughes produced her investigation report. Ms Hughes concluded that the claimant knew about the sexual assault and who was involved before he gave the award. Ms Hughes also concluded that the claimant facilitated the banter which took place after the assault.
39. Ms Hughes recommended the claimant attend a disciplinary panel and noted at the time of the 2012 incident, the claimant was still subject of the final written warning for the 2010 incident.
40. During the investigation Ms Hughes spoke to the claimant, AB and five others. Ms Hughes also considered the statements that had been taken in 2012.
41. The claimant's evidence was that he presented the Liverpool taxi drivers award. The claimant admitted that he did not moderate the awards but thought they were jovial in nature. The claimant said he felt able to present ZX with the award as they were professionally close.
42. The claimant told Ms Hughes that he had been told that ZX had had a disagreement with a taxi driver. The claimant acknowledged that he did not know the full details but denied any knowledge of a sexual assault. The claimant said nobody had raised any concerns with him since the prom night.
43. Ms Hughes recorded that a former pupil corroborated AB's account of the banter at school in front of the claimant. A colleague recalled discussing the matter with the claimant the day after the prom and described the claimant as cut up about it. Another colleague advised the claimant to give the senior leadership team meeting on 17 July 2012 a wide berth in light of the concern.
44. Ms Hughes discovered that the claimant was absent from 17 July 2012 to 19 July 2012. Ms Hughes stated that the claimant's previous disciplinary record was not relevant but commented that it did influence others perception of him and raised issues of public trust.

LADO report

45. Ms Yates and Ms Hughes met with the LADO, Mark Goddard, on 17 January 2023 to discuss the outcome of the investigation. The LADO subsequently prepared a report dated 20 January 2023 in which it is recorded that the purpose of the report was to establish whether, with regard to the 2012 incident, the four criteria were met.
46. The report stated that in order to establish that there was an organised and coherent appreciation of the allegations relating to the claimant, a

comprehensive search of the Local Authority held information had been conducted. This included the LADO paperwork from 2009 and 2010.

47. The report records that the outcome of the 2010 LADO process was that the claimant had engaged in an inappropriate sexual relationship with a pupil.
48. Mr Goddard noted that the claimant's account of not being aware of the sexual assault or aware of the concerns raised after the giving of the award conflicted with the other evidence taken in 2012 and during the 2022 investigation.
49. Mr Goddard made reference to concerns raised in the 2021 which were unfounded. Mr Goddard recorded that the 2010 allegation had been found to be substantiated. Mr Goddard noted that the claimant had been dismissed and then reinstated but expressed concerns as to the independence of the appeal panel.
50. Mr Goddard agreed with the respondent that the claimant should be subject to a disciplinary process because the question of the claimant's knowledge of the sexual assault needed to be determined. Mr Goddard was also of the view that the LADO process in 2010 was fair and that the claimant remained a risk of harm to children because the four criteria had been established.

Disciplinary

51. Following receipt of the LADO report on 20 January 2023, Ms Yates suspended the claimant. The claimant was informed that the decision had been taken following concerns raised by the LADO.
52. The claimant was invited to attend a disciplinary hearing to answer the original allegation and the four criteria established by the LADO. The claimant sought a postponement of the hearing on the grounds of ill health. The respondent referred the matter to an occupational health practitioner who took the view, having previously spoken with the claimant, that he was fit to attend.
53. The disciplinary hearing took place on 8 March 2023 before a panel of three trustees. Ms Yates and Ms Hughes were also in attendance. The claimant was represented by a trade union representative and the panel was supported by a lawyer.
54. The claimant objected to Ms Hughes' attendance on the basis that it was contrary to the ACAS Code of Practice. Despite this objection, the claimant's representative asked a number of questions of Ms Hughes during the hearing. The claimant was able to present evidence to the panel which included details of the 2010 LADO process and members of the panel were able to ask questions of those in attendance.

Disciplinary outcome

55. On 24 March 2023 the panel wrote to the claimant informing him that his employment had been terminated for gross misconduct.
56. The panel took into account the claimant's previous service and stated that the previous disciplinary record was neutral to the decision.

57. The panel took the view that the claimant had knowledge of the sexual assault prior to the giving of the award. The panel were concerned about the discrepancies between the claimant's evidence and that of the other witnesses. The panel were of the view that the name of the award made reference to the "boy least likely to get in a taxi with" and by the very nature of the name of the award, the claimant must have known about the assault.
58. The panel also concluded that the claimant had knowledge of the banter and the name calling and they concluded that the claimant knew that the incident involved a school age girl and knew on the night about the upset caused to AB.
59. The panel formed the view that a reasonable investigation had been undertaken and did not consider the failure to name the former pupil who supported AB during her interview was evidence of collusion. The panel requested two additional statements and were provided with a third containing the evidence from 2014.
60. The panel had subsequently asked questions of the LADO and received confirmation from the LADO that the respondent had followed the correct referral process.
61. The panel considered the LADO findings, accepted them and decided they too amounted to gross misconduct.

Disciplinary appeal

62. On 21 April 2023 the claimant appealed against his dismissal. The claimant said the procedure had not been fair or reasonable, that there had been a breach of the ACAS Code of Practice, that his ill health had been disregarded, that the investigation had not been fair and reasonable, that the invite to the disciplinary hearing was not clear, that the outcome was flawed, that it was predetermined, that historical matters had been considered and that the sanction was disproportionate.
63. The appeal hearing took place on 26 June 2023 before a panel of three trustees. The claimant objected to Ms Yates attendance at the appeal hearing and part way through that hearing Ms Yates was asked to leave.
64. The claimant and Mr O'Brien of the disciplinary panel were given an opportunity to present their positions. I heard evidence from Mr Myers that the appeal panel was concerned as to the transparency of the LADO report and sought to make further enquiries of the LADO. In the absence of any response, the appeal panel accepted the LADO's assessment of risk.
65. On 3 July 2023 the appeal panel informed the claimant that it had upheld the decision of the disciplinary panel. The appeal panel were of the view that the disciplinary panel were entitled to request more statements, that there had been a thorough investigation, that the claimant's mental health had been considered, that there was no evidence that the outcome was predetermined, that the panel were right to consider the 2014 evidence and were right to attach weight to the LADO report. As a result, the appeal panel determined that the sanction was not disproportionate.

Relevant legal principles

Unfair dismissal

66. The unfair dismissal claim was brought under Part X of the Employment Rights Act 1996.

67. The primary provision is section 98 which, so far as relevant, provides as follows:

- “(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show –
 - (a) the reason (or, if more than one, the principal reason) for the dismissal and
 - (b) that it is either a reason falling within sub-section (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.
- (2) A reason falls within this sub-section if it ... relates to the conduct of the employee ...
- (3) ...
- (4) Where the employer has fulfilled the requirements of sub-section (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –
 - (a) depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonable or unreasonably in treating it as a sufficient reason for dismissing the employee, and
 - (b) shall be determined in accordance with equity and the substantial merits of the case”.

68. If the employer fails to show a potentially fair reason for dismissal (in this case, conduct), dismissal is unfair. If a potentially fair reason is shown, the general test of fairness in section 98(4) must be applied.

69. In a misconduct case the correct approach under section 98(4) was helpfully summarised by Elias LJ in **Turner v East Midlands Trains Limited [2013] ICR 525** in paragraphs 16-22. The most important point is that the test to be applied is of the range or band of reasonable responses, a test which originated in **British Home Stores v Burchell [1980] ICR 303**, but which was subsequently approved in a number of decisions of the Court of Appeal.

70. The “**Burchell** test” involves a consideration of three aspects of the employer’s conduct. Firstly, did the employer carry out an investigation into the matter that was reasonable in the circumstances of the case? Secondly, did the employer believe that the employee was guilty of the misconduct complained of? Thirdly, did the employer have reasonable grounds for that belief? If the answer to each of those questions is “yes”, the Employment Tribunal must then go on to decide whether the decision to dismiss the employee was within the band of reasonable responses, or whether that band falls short of encompassing termination of employment.

71. It is important that in carrying out this exercise the Tribunal must not substitute its own decision for that of the employer. The focus must be on the fairness of the investigation, dismissal and appeal, and not on whether the employee has suffered an injustice. Where there is more than one conduct related reason for dismissal the question is whether the conduct in its totality amounted to a sufficient reason for dismissal.

72. The band of reasonable responses test applies to all aspects of the dismissal process including the procedure adopted and whether the investigation was fair and appropriate. The appeal is to be treated as part and parcel of the dismissal process: **Taylor v OCS Group Ltd [2006] IRLR 613**.

Wrongful dismissal

73. The claimant also pursues wrongful dismissal. In such circumstances, a claimant alleges that the employer has breached the employment contract by not giving the employee the requisite notice and not paying the employee for the notice period.

74. There will not be a breach of contract if the employer can prove it was entitled to terminate the employment contract without giving the employee the requisite notice because the employee had committed misconduct sufficiently serious to justify dismissal.

75. In **Mbubaegbu v Homerton University Hospital NHS Foundation Trust UKEAT/0218/17** the Employment Appeal Tribunal determined that misconduct sufficiently serious to justify dismissal must be misconduct which undermines the relationship of trust and confidence.

76. In **Palmeri v Charles Stanley and Co Ltd (2020) EWHC 2934 (QB), (2021) IRLR 563**, the High Court determined that the conduct justifying summary dismissal requires an objective assessment of whether a claimant has “clearly shown an intention to abandon and altogether refuse to perform the contract.”

77. In **Laws v London Chronicle (Indicator Newspapers) Ltd (1959) 2 All ER 285, (1959) 1 WLR 698, CA**, the Court of Appeal determined that conduct must be repudiatory - sufficiently serious and injurious to the relationship - to justify dismissal.

Submissions

Claimant's submissions

78. The claimant submitted that there was no evidence that he knew that the “taxi award” related to a sexual assault.

79. The claimant pointed to the fact that the investigation undertaken in 2012 did not reveal any safeguarding concerns.

80. The claimant maintained that his dismissal was predetermined by Ms Yates in order to remove him from the school because of the comments made by an ex-colleague. The claimant believed Ms Hughes was under pressure to deliver this outcome from her investigation.

81. The claimant contended that the evidence of AB was tainted following collusion with another pupil and the claimant's ex-colleague.
82. The claimant submitted that not all relevant witnesses were asked to provide evidence and as a result the disciplinary panel could not reach a fair decision.
83. The claimant asked the Tribunal to take note that the LADO report was inaccurate in the recording of the 2010 LADO process which in turn, meant that the 2023 LADO process could not be relied upon.

Respondent's submissions

84. The respondent submitted that it had reasonable grounds to believe that the claimant was guilty of misconduct following the evidence from AB and a fellow pupil and the claimant's absence from work in July 2012.
85. The respondent contended that a thorough investigation was undertaken, and a fair procedure was followed.
86. The respondent asked the Tribunal to take cognisance of the claimant's admission during cross examination that such conduct would render an employee wholly unsuitable and therefore a deemed acceptance that his dismissal was in the range of reasonable responses.
87. The respondent maintained that the disciplinary panel were neutral as to the incidents which occurred in 2008 – 2010. The LADO report revealed that the LADO had considered the previous incidents in 2008 and the 2010 LADO process in order to reach the view that the claimant was a risk to children.
88. The respondent asked the Tribunal to accept the evidence of AB and conclude that she was the subject of an assault, and that the claimant knew this fact when handing out the award to ZX. The respondent submitted that, as a result, the claimant must be guilty of misconduct.

Discussion and conclusions

Reason for dismissal

89. The claimant has submitted that his dismissal was predetermined because the respondent was keen to stop the campaign of harassment by his ex-colleague, Mr Lamb. The claimant also contended that Ms Yates had sought to remove him in 2021 and was disappointed when the allegations about an accident in Italy were unfounded. Ms Yates denied both propositions. Ms Yates also denied the claimant's assertion that she suggested the claimant leave the respondents employment.
90. I have accepted the evidence of Ms Yates. Mr Lamb still pursues his grievances against the respondent – the claimant's dismissal has not brought an end to his campaign.
91. The disciplinary panel and appeal panel were made up entirely of trustees, Ms Yates took an active part in the disciplinary panel and was asked to leave the

appeal panel. It is clear from the outcome of both panels that the reason for the claimant's dismissal was conduct and this is a fair reason for dismissal.

Did the respondent act reasonably in all the circumstances?

Did the respondent have a genuine belief?

92. The claimant asserted that the respondent could not have had a genuine belief because it knew that the first allegation was as a result of Mr Lamb's campaign. The claimant also contended that Ms Hughes had attempted to conceal a fellow pupil supporting AB to negate the allegations of collusion.
93. The claimant said the respondent could not have a genuine belief about the LADO findings as the LADO had incorrectly recorded that in 2010, the allegation of having a sexual relationship with a 17 year old girl, was substantiated.
94. However, Ms Yates was clear in her evidence that whilst she was aware of Mr Lamb's campaign, she dealt with obtaining the evidence of AB in a professional manner. The disciplinary panel accepted that the failure to record the fellow pupil's name on the record of the meeting with AB, was an oversight. In any event, at that time whilst that fellow pupil had her own complaint about what she saw AB endure, she was not the victim, and her statement was only taken some time after AB's statement.
95. The claimant has taken the LADO report out of context. The 2023 LADO recorded that the 2010 LADO process concluded that the claimant had engaged in an inappropriate sexual relationship with a pupil. It is clear that the 2023 LADO had notes of the 2010 LADO process from which to draw this conclusion.
96. The claimant is right to say that 2010 disciplinary panel did not conclude that the claimant had an inappropriate sexual relationship with a student, but that is not to say that the 2023 LADO did not have evidence that this was the finding of the 2010 LADO.
97. Ms Yates attended the 2023 LADO strategy meetings and was at the disciplinary hearing. In her evidence Ms Yates said that she imagined that the 2010 strategy documents would have been shared with her, she said she had the school file with all the relevant documents, and she was clear that the 2023 LADO's conclusions related to the incidents in both 2010 and 2012.
98. It is clear from my reading of the LADO report that the 2023 LADO looked at the process and findings of his predecessor in light of the outcome to Ms Hughes' investigation of the 2012 incident and didn't disagree with the 2010 LADO that the claimant was a risk to children.
99. The 2023 LADO was involved because of the 2012 allegation and was asked to look at the four criteria afresh. Based on the findings of the 2010 LADO and the 2012 investigation, the 2023 LADO found all four criteria substantiated and satisfied the respondent's belief.

Did the respondent have reasonable grounds for the belief?

100. Both panels concluded that Ms Hughes had carried out a reasonable investigation. The disciplinary panel had received communication from the LADO that all due process had been followed. The disciplinary panel had the 2012 and 2014 evidence as well as the 2022 statements in front of them and were able to draw their own conclusion about the claimant's credibility and the inconsistencies with the largely contemporaneous evidence.
101. The disciplinary panel allowed the claimant's representative to question Ms Hughes and asked their own questions. The panel asked for more statements to be taken.
102. The appeal panel did have concerns about the transparency of the LADO report but were unable to obtain further insight. Ultimately, it took the same view as the disciplinary panel that despite their questions, the LADO specialist was seized of all the relevant information and was able to draw his conclusions.
103. Both panels also had sight of, at the claimant's request, the 2010 process documentation which included the recording of the 2010 LADO findings, such that they did not need to reject the 2023 LADO's assessment, despite their concerns over the transparency of the LADO process.
104. Mr O'Brien and Mr Myers gave evidence that the focus was on the 2012 incident but could not ignore the LADO conclusions. The panels were not charged with delivering a decision about the 2010 incident but rather, they accepted the 2023 LADO's assessment of the risk based on the information he had. It was not unreasonable for either panel to accept the LADO report.

Did the respondent carry out a reasonable investigation?

105. The Tribunal did not hear live evidence from Ms Hughes because she was medically incapable of attending the hearing. The claimant did not seek an adjournment but rather sought to make submissions about the weight which should be attached to Ms Hughes's statement.
106. The claimant's position was that Ms Hughes was not independent. The claimant said Ms Hughes had been involved in the 2021 investigation and he was concerned that she had attempted to cover up collusion by the former pupils and had failed to take into account the influence of Mr Lamb's campaign.
107. The claimant was also concerned that Ms Hughes had not sought out other witnesses, in particular, the two pupils who had told the claimant about the taxi incident but had sought the submission of the 2014 evidence after the disciplinary hearing.
108. Ms Hughes was provided with terms of reference in conjunction with the strategy meeting with the LADO who had oversight of the investigation. Mr Goddard did not raise any concerns about the investigation during the strategy meeting on 17 January 2023.

109. Ms Hughes was tasked principally with determining whether the claimant knew about the assault when presenting the award and whether this breached the standards expected of a teacher and a senior leader.
110. In addition, Ms Hughes was asked to consider the timing of the allegations. Ms Hughes looked at the historical documentation from 2012 and spoke to seven witnesses, including the claimant and AB. Ms Hughes assessed the credibility of the evidence before reaching her conclusions.
111. Following the disciplinary panel Ms Hughes was asked to obtain two statements - Mrs Silcock declined and ZX did not respond to the request. Ms Hughes was able to obtain further evidence from Ms Cobane who spoke to AB and ZX in 2014 and produced the note taken at that time. This provided further contemporaneous evidence to the panel. Neither the claimant nor the panel asked Ms Hughes to obtain further statements from the two pupils identified by the claimant.
112. Both panels sought clarity around the LADO report and the disciplinary panel received a response. It was satisfied that the LADO had followed due process in reaching the conclusions.
113. The 2023 LADO conclusions were based on the 2010 LADO conclusions and the investigation of Ms Hughes. The 2023 LADO was entitled to reach the conclusions based on this evidence despite the 2010 internal disciplinary process reinstating the claimant. Mr Goddard was faced with a new allegation about a 2012 incident which had occurred following the claimant's reinstatement.
114. I have determined that there was a reasonable investigation by the respondent.

Did the respondent follow a fair procedure?

115. The respondent has a disciplinary policy which contains a procedure which it followed. The claimant was given notice of the investigation and reasons for the suspension. The invite to the disciplinary panel set out the allegations the panel were to consider.
116. It is not unusual for the investigator to be present at a disciplinary hearing to present findings and answer questions of the panel. This is not in breach of the ACAS Code of Practice.
117. Prior to reaching the conclusion, the disciplinary panel sought further evidence, the appeal panel sought clarity about the LADO report and both panels allowed the claimant to present his case and ask questions. The claimant was provided with detailed reasons and afforded a right of appeal.
118. Whilst there was disagreement about the claimant's health he attended the disciplinary hearing and was afforded breaks during the course of the hearing. The claimant was able to participate and thanked the panel at the conclusion.

119. The appeal panel acceded to the claimant's request to remove Ms Yates from the hearing and Mr Myers said the panel did not get an opportunity to ask her any questions before she was removed.
120. I have determined that the respondent followed a fair procedure.

Was the dismissal within the range of reasonable responses?

121. This is a question of reasonableness, not whether the Tribunal agrees with the decision to dismiss. The disciplinary panel had a report from a 2023 LADO who had reviewed his predecessor's assessment and, faced with a fresh allegation, concluded that the claimant posed a continued risk to children.
122. The claimant submitted that he had been in post for twelve years prior to the fresh allegation without concern. In fact, there had been a referral in 2021, albeit this was unfounded.
123. The disciplinary panel had also determined that the claimant's evidence in 2022 was not credible about what he knew in 2012. Therefore, whilst the 2012 allegation arose from an incident a decade earlier, the panel was concerned about the claimant's present day evidence such that it could not have trust and confidence in the claimant's continued role at the school.
124. The panel had the LADO assessment and the finding that the claimant knew about the assault when he presented the award. The panel was further concerned about the claimant's attempts to deny such a finding, despite the weight of contemporaneous evidence.
125. On this basis, I have therefore determined that the dismissal was within the band of reasonable responses. As a result, the complaint of unfair dismissal is unsuccessful and is dismissed.

Was the claimant wrongfully dismissed?

126. The respondent has proven by way of Ms Hughes' investigation, the panel findings and AB's evidence during this hearing that the claimant was guilty of gross misconduct.
127. The Tribunal has accepted AB's evidence that the claimant knew about the assault before he gave the award and did not protect the welfare of AB, or demonstrate the professional conduct expected of his role as a teacher and senior leader.
128. In addition, the LADO finding based on the LADO documentation and the new allegation was that the claimant posed a continued risk to children.
129. The claimant's response during the most recent disciplinary process was in direct conflict with the witness evidence collated by the respondent. Given the weight of the evidence obtained by the respondent in 2012, 2014 and 2022 and the claimant's continued denial, the respondent could not have any trust and confidence in the claimant and his continued employment as a teacher and senior leader.

130. The complaint of wrongful dismissal is also unsuccessful and is dismissed.

Approved by:

Employment Judge Ainscough

12 August 2025

REASONS SENT TO THE PARTIES ON
1 October 2025

FOR THE TRIBUNAL OFFICE

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>