



EMPLOYMENT TRIBUNALS

Claimant: Mrs M Koneswaran

Respondent: Future Academies

Heard at: Watford

On: 18 – 19 September
2025

Before: Employment Judge Baran (sitting alone)

Appearances:

Claimant: Mrs M Koneswaran (in person)

Respondent: Ms K Moss (Counsel)

JUDGMENT

The complaint of unfair dismissal under Part X Employment Rights Act 1996 is not well-founded and is dismissed.

REASONS

A. INTRODUCTION AND PRELIMINARY MATTERS

1. By ET1 dated 16 October 2024 the Claimant Mrs Manuela Koneswaran brought a complaint of constructive unfair dismissal. The complaint was based on Mrs Koneswaran's resignation from a teaching role as Head of Mathematics at The Grange Academy, Bushey, Hertfordshire ('the Academy') on 30 May 2024. By ET3 dated 29 November 2024 the Respondent resisted the claim.

2. The claim was listed for final hearing on 18 – 19 September 2025. The Claimant attended to give evidence in support of her claim. She was unrepresented. The Respondent was represented by Ms Moss of Counsel. Mr Danny Bryant, the former Principal of the Academy, and Ms Idara Hippolyte, the Respondent's Mathematics Lead, gave evidence in support of the Respondent.
3. In preparation for the hearing the Tribunal was provided with an agreed main document bundle of 415 pages, a supplementary bundle of 33 pages and witness statements of each of the witnesses. I read and considered the witness statements along with the documents from the bundle referred to in the statements before the evidence commenced.
4. At the start of the hearing, a list of issues was agreed by the parties in discussion with the Tribunal. This was based on the complaints outlined in the ET1. It was further agreed that the Claimant's former employer was Future Academies, and that by consent the name of the Respondent to these proceedings should be amended to reflect this.
5. The Respondent's Counsel then updated a proposed list of issues to confirm the agreed position. It was further agreed by the parties that the Tribunal should proceed to deal with the issue of liability alone at first, with remedy to be determined subsequently should the claim succeed.
6. Although this is a constructive dismissal complaint, at the Respondent's application, and upon the Claimant's agreement, I heard oral evidence from the Respondent's witnesses first to avoid logistical issues relating to day 2 of the hearing. I then heard the Claimant's oral evidence and submissions from the parties. I was unable to deliver judgment orally at the end of day 2 due to the time that evidence had taken and the need to resolve a disclosure issue on day 2. I therefore reserved my judgment on liability to be delivered in writing.
7. In relation to the evidence, I heard all witnesses confirm the truth of their witness statements on oath. I took the statements as evidence in chief. The witnesses were then cross-examined by the opposing party. I asked additional questions by

way of clarification pursuant to the Employment Tribunals Rules of Procedure 2024 r41(2).

B. THE TRIBUNAL'S FINDINGS OF FACT

8. I make the following findings of fact based on the documentary and witness evidence. I apply the civil standard of proof, namely the balance of probabilities. In relation to matters in dispute I have resolved them by reference to what likely happened. I have confined my findings as far as possible to matters relevant to the agreed issues.
9. It is not in dispute that the Claimant was initially employed by the Respondent to work as a mathematics teacher based at The Academy, a secondary school with around 982 students on roll. The Academy was operated by the Respondent, a multi-academy Trust which operated 10 academies in total.
10. In the summer term of 2023, following a period of uncertainty and staffing challenges within the Maths Department, the Claimant was asked by the then interim headteacher to take up the position of Head of Mathematics. She was not required to go through a formal interview process.
11. In June 2023 Mr Bryant was appointed Principal of the Academy. The Claimant's appointment as Head of Mathematics was effective from September 2023. Her line manager was Laura Abbott, the Vice Principal.
12. Prior to these appointments, Ms Hippolyte was appointed as Mathematics Lead for the Respondent in January 2023. Her role was across the Trust and was not limited to the Academy, although she focused upon the Academy and 3-4 other schools. She had responsibility for teacher development (including in leadership roles), school improvement, and curriculum implementation.
13. Ms Hippolyte and Ms Abbott worked with the Claimant from the start of her tenure as Head of Mathematics. Ms Hippolyte offered assessment, reflections and coaching for the Claimant in relation her leadership responsibilities, the

management of teaching by teachers under her charge in the Maths Department and the Claimant's own teaching practice. Extra support was requested by Mr Bryant for the Department in view of the disappointing GCSE maths exam results maths the previous summer. Ms Hippolyte attended to observe and provide feedback 1 to 2 times per week.

14. In October 2023, Ms Hippolyte prepared a 'Departmental Quality of Education' assessment report in relation to the Maths Department. This consisted of an analysis applying a red, amber, or green rating against 8 criteria related to teaching skills based on observations of each of the 11 teachers in the department. On any view, the assessment she made of the Claimant's teaching and leadership was a poor one. This was of concern given the Claimant's position as Head of Mathematics and her responsibility under her job description to model effective teaching practice to her subordinates in the Department.
15. From that date, and through to the time of the Claimant's resignation, Ms Hippolyte continued to attend the Maths Department each week to observe and to provide constructive feedback, coaching and guidance. She sent clear emails following her visits and observations. The emails suggested actions to drive improvement and identified targets.
16. In February 2024, the Claimant received feedback and suggestions for improvement in the Department following a mock OFSTED inspection.
17. On 12 March 2024 there was a behavioural incident in the Claimant's classroom. Following an investigation no formal action was taken against the Claimant. The student involved in complaining about the Claimant was suspended.
18. Unbeknown to the Claimant, from at or around this time concerns were being discussed amongst the senior leadership about her performance, and how to manage it. An insight into those discussions can be obtained from Ms Hippolyte's emails to Sam Hayhurst, the Senior Mathematics Trust lead. Ms Hippolyte on occasion made comments which hint at how Mr Bryant felt about the performance of the Maths Department.

19. On 14 and 15 March 2024, Ms Hippolyte exchanged emails with Mr Hayhurst suggesting that Mr Bryant was keen to push for improvement in the Maths Department. They suggest that the issue of using formal processes to drive improvement in relation to the Claimant's performance was being considered. Ms Hippolyte noted that 'Language of PIP', that is performance improvement plan, had not been used with the Claimant.
20. Through this period Mr Bryant received updates on the performance of the Maths Department from Ms Abbott. He did not commit his views about the Claimant or what he intended to do in relation to her performance to writing or express them by email.
21. Further, on around 15 March 2024, Ms Hippolyte compiled a further Department Quality of Education report, based on the red, amber, green analysis. She assessed that the Claimant had demonstrated limited improvement. Other members of the department who had been noted previously to require improvement had regressed, having been assigned the worst performing and behaving groups of students. This reflected poorly on the Claimant's leadership and management of her Department in terms of developing the staff members subordinate to her and driving improvement amongst these students.
22. The Claimant's mid-year appraisal review was complied with Ms Abbott on 20 March 2023. It noted that she had only partially met objectives agreed the previous November. Suggested areas for improvement and actions were highlighted in relation primarily to the Claimant's leadership of her Department.
23. On 25 March 2024, following one of her usual meetings with the Claimant, Ms Hippolyte emailed by way of follow up in line with her usual practice. She highlighted that Mr Bryant was targeting 'rapid improvement' in the Department 'by the middle of next term'. She set out actions to facilitate planning for departmental improvement and finalising strategic priorities for the following half term.

24. On 22 April 2024, Mr Bryant wrote to the Claimant with 'Management Advice' regarding the classroom incident of 12th March 2024. This included 4 bullet points by way of reminder of some principles of effective behaviour management. It did not purport to be a disciplinary warning or sanction.
25. That same day, Ms Hippolyte again emailed Mr Hayhurst to remark on progress by the Claimant. She noted that the Claimant had raised the management advice letter in discussions with her. The Claimant had wondered about whether the behaviour incident was being used to force her out. Ms Hippolyte wrote that '...the resignation risk is slightly elevated, I feel. But Danny feels our ability to offer 0.8 is a significant bargaining chip that means he can be quite firm'. In context, this reads as though Ms Hippolyte was observing that because the Claimant had a potentially good deal in terms of her working arrangements and hours, she was less likely to resign, rather than that the issue of management advice was being used as leverage to attempt to force her out of employment.
26. On 24 April 2024, Ms Hippolyte fed back to Ms Abbott concerns she had about the framing of achievement for lower ability students by the Claimant.
27. On 9 May 2024, Ms Hippolyte shared with Ms Abbott a working document outlining her assessment of the Claimant's professional development needs. This was not shared with the Claimant.
28. The position approaching the end of the second half of the Spring Term, in mid-May 2024, was as follows:
- a. Ms Hippolyte had continued to assess the quality of teaching in the Maths Department as poor compared to other academies within the Trust. She had expressed her views to the Claimant and offered feedback, coaching and improvement points;
 - b. The Claimant did not always agree with Ms Hippolyte's observations and coaching points. It is understandable that when shortcomings were pointed out with suggestions for improvement in leadership and teaching method, the

Claimant would have found that difficult. She had inherited a struggling Department. Results and pupil outcomes were not where they needed to be. Positives in terms of her progress were being noted in Staff Bulletins. Nevertheless, it was Ms Hippolyte's role to make the observations she did;

- c. The Claimant was clearly aware from a very early stage in taking on the role that improvement was needed in the Maths Department, and that it was not limited to other teachers working there. Through Ms Hippolyte's assessments, feedback and coaching, the Claimant would or should have known that her performance as Head of Maths needed improvement to drive overall improvement;
- d. The language of performance management, support plans or performance improvement plans had not yet been raised with the Claimant;
- e. Mr Bryant was aware, through feedback from Ms Hippolyte and Ms Abbott, of the shortcomings identified in the Claimant's performance and management of the Maths Department, and was keen to push forwards with planning to deliver improvements.

29. It is in these circumstances, in mid-late May 2024, that the Respondent, through Mr Bryant, began to advance performance management of the Claimant.

30. In relation to performance management, pursuant to the Claimant's contract of employment she was subject to the Respondent's Staff Performance Improvement (Capability) Policy. The relevant sections of the policy in this case are sections 5, 'Routine Management and Support', and 6, 'Stages of the Performance Improvement Process'.

31. The term 'informal' was used in evidence to describe section 5 by Mr Bryant. This term does not appear in the section itself, save to describe meetings as being 'informal and constructive'. It promotes discussion between an employee and line manager to identify areas of difficulty and to plan to develop skills. It does not refer to the use of a performance improvement plan document. It does however,

suggest that discussions should conclude with targets and objectives. Further, training and support should be considered, with timelines and a date for review of progress. It requires that notes of any discussion should be kept.

32. Section 6 was described as the 'formal' part of the process by Mr Bryant. This will 'only be instigated where there is sufficient evidence from the action plan, the notes from any subsequent review meeting and the training and support put in place during the informal stage that the employee has not made sufficient progress or been able to perform at the expected standard over a reasonable period of time'.

33. The policy therefore clearly envisages a 2-stage approach – initial targeted discussions, followed by elevation to a more formal capability process should improvements not be demonstrated.

34. On 22 May 2024, the Claimant met with Ms Abbott. During the meeting Ms Abbott shared with the Claimant that she was to be put on a support plan. The plan would be led by Mr Bryant and monitored by Ms Abbott and Ms Hippolyte. This was the first time that a support plan had been mentioned to the Claimant. That afternoon, Ms Abbott wrote to Mr Bryant to confirm that she had '...met with M today to confirm that she will be going on a PIP. Idara and I have worked together to draft a version of this for you to review'.

35. Later that day, the Claimant had an informal discussion with Ms Abbott and Ms Hippolyte in the breakfast bar area of the canteen prior to a sixth form open evening. Ms Hippolyte expressed support for the Claimant, stating that she believed that she could pass the support plan. She remarked that she felt like she was colluding with the Claimant to set up targets that were as straightforward as possible. She said that the targets would be easily achievable, no doubt to reassure the Claimant in relation to what was being proposed.

36. Whilst targets may have been discussed in outline at that meeting, I find as a fact that the targets were not shared with the Claimant in a document at this point. There would be no reason for Ms Hippolyte to have them on paper or on a screen

to present at this short, informal encounter. There is no evidence that a copy of the targets was provided to the Claimant in any format, email or hard copy, at this point, by Ms Abbott or Ms Hippolyte.

37. On 24 May 2024 at a little after 2.15pm (the planned meeting having commenced late), the Claimant met with Mr Bryant. The outcome of the meeting is not in dispute. Mr Bryant told the Claimant that she would be going on a performance improvement plan. Following the meeting, Mr Bryant emailed the Claimant at 4.25pm. He attached the proposed plan. I accept the Claimant's evidence that this was the first time that the performance improvement plan document with targets was provided to her. There is no evidence to the contrary.

38. What was discussed at the meeting between the Claimant and Mr Bryant is disputed to some extent. There are no recordings, minutes, or notes of what was said to assist me in making findings on this point. It is surprising in my view that Mr Bryant made no notes of the discussion at all, contrary to the policy referred to above. He relied simply on the plan and the brief email following the meeting as his record of what would have been an important conversation with a senior member of staff.

39. To resolve the disputes of fact over what was discussed, I have had reference to the witness statements of the Claimant and Mr Bryant and their oral evidence. I have also considered the content of an email exchange between the two on 1 and 3 July 2024. These are the only documents in the bundle prior to the Claim Form which deal with what was allegedly said at the time. No other admissible documents have been presented to the Tribunal.

40. I pause here to record that the Claimant suggested during the hearing that she had made her own personal notes in a journal at the time. She did not disclose these notes or the journal prior to the hearing. At the direction to the Tribunal, she produced the journal on day 2 of the hearing. Upon disclosure, and upon consideration of the journal, the Respondent objected to its admission in evidence. After explaining why she had not previously disclosed it, the Claimant

submitted that she did not wish to rely upon it. By agreement, the journal was not put before the Tribunal to consider.

41. I accept the Claimant's explanation for non-disclosure – that as an unrepresented litigant she had not appreciated that she needed to show this journal to the Respondent when its content was (she said) reflected in her emails, despite the Tribunal's clear disclosure direction. I do not consider this a satisfactory explanation, but in the circumstances, I do not draw an adverse inference against the Claimant as a result of the non-disclosure. This is because the Claimant in effect volunteered the existence of the journal when asked about it. She produced it as requested and cannot in my judgment be said to have actively sought to conceal it.

42. Based on the totality of the evidence, and appreciating that both the Claimant and Mr Bryant now give evidence to the Tribunal about a conversation that happened over a year ago based on their impression of what the other party said or meant by what was said, I find the following facts in relation to the meeting:

- a. The Claimant questioned the rationale for putting her on a performance improvement plan. She cited improvements in the Maths Department results and on working towards her own targets. Mr Bryant explained that based on performance concerns he considered that a plan was needed;
- b. Mr Bryant set out that he considered the overall teaching quality in the Maths Department was still below standard. He raised issues with the Claimant in relation to her style of management as Head of Department. He told her that she needed to be more assertive. He discussed how this might be achieved. He suggested that the Claimant might need to 'upset people' in her department to achieve this. By this he meant that she might have to have difficult conversations about performance with her subordinates – in much the same way that he was having the conversation with the Claimant at that time. Specifically, I find that the term 'upset' was used by Mr Bryant, because it was referred to in the Claimant's email of 1 July 2024 and was not denied in Mr Bryant's response email of 3 July 2024. I find however that it was used in the

- context of explaining the need for the Claimant to have those difficult conversations with her subordinates as part of effective management practice, as explained by Mr Bryant in that email;
- c. Having discussed the proposed performance improvement plan, the Claimant asked for some certainty in relation to whether it would be extended. She asked whether if she failed the performance improvement plan, an extension would be granted, or whether Mr Bryant would initiate capability procedures. Mr Bryant responded that he would proceed with formal capability procedures, unless there were mitigating features. I find that Mr Bryant put matters in these frank terms to the Claimant, as he explained in his email of 3 July 2024, having been asked a direct question by the Claimant about the consequences of failure of the plan;
 - d. By raising the issue of whether failure of the plan could result in the initiation of capability procedures, the Claimant indicated that she was aware that the performance improvement plan that was being proposed was the 'first step'. If this step was failed, there was a second step, involving a capability procedure, that could be invoked;
 - e. The Claimant raised the issue of resignation. She asked whether, if she resigned but passed the support plan, she could withdraw her resignation and continue as Head of Department the following (academic) year. Mr Bryant confirmed that she would have to reapply. I make no finding as to whether Mr Bryant explained in the meeting why this was the case;
 - f. Mr Bryant remarked during the meeting that the Claimant's level of pay was one of the highest as a Head of Department, due to the Teaching and Learning Responsibility payment she received. He told the Claimant that as a result he had higher expectations of the Claimant and her Department.
43. Following the meeting and the email with the support plan, the Claimant resigned from her position as Head of Mathematics in a short email to Mr Bryant dated 30

May 2024. She did not set out reasons for her resignation. She resigned giving the appropriate notice to expire on 31 August 2024.

44. By return Mr Bryant sought clarification as to whether she was resigning from her job altogether, or merely from her position as Head of Department. By further return email, the Claimant confirmed the former. A letter from the Respondent dated 31 May 2024 confirmed the resignation.
45. As mentioned above, on 1 July 2024, the Claimant emailed Mr Bryant to 'document key points from our meeting on Friday 24th May 2024'. Mr Bryant responded on 3 July 2024. He did not respond directly to all matters raised by the Claimant in her document.

C. THE LAW

46. The Claimant brings a claim of constructive unfair dismissal. She asserts that by its conduct the Respondent employer was in fundamental breach of her contract of employment. She alleges that in such circumstances her resignation from employment amounted to a dismissal pursuant to s95(1)(c) Employment Rights Act 1996. Further she asserts that that her dismissal was unfair as assessed by reference to s98 Employment Rights Act 1996.
47. The Claimant asserts that the Respondent employer's conduct amounted to a fundamental breach of the implied term of mutual trust and confidence in her employment contract. It is well recognised that if such a breach can be proven, it will amount to a fundamental breach entitling an employee to resign and to claim that they have been constructively dismissed. See Woods v WM Car Services (Peterborough) Ltd [192] IRLR 413, CA.
48. The leading cases including Malik v BCCI [1998] AC 20, HL and Buckland v Bournemouth University [2010] EWCA Civ 121, CA make it clear that in order for an employee to prove a breach of this implied term, they must satisfy a Tribunal that the employer behaved in a way that was calculated or likely to destroy or

seriously damage trust and confidence between employer and employee, and that the employer had no reasonable and proper cause for the conduct proven.

49. The cases also make it clear that the Tribunal must assess the employer's conduct objectively. Unreasonable conduct alone is insufficient to amount to a fundamental breach of contract. See Western Excavating v Sharp [1978] ICR 221, CA. The implied term is only breached if the employer demonstrates objectively by its behaviour that it is abandoning and altogether refusing to perform the contract. The employer's conduct must be really serious to amount to a breach. See Claridge v Daler Rowney Ltd [2008] IRLR 672 EAT and Frenkel Topping Ltd v King UKEAT/0105/15/LA, EAT.

50. If the Claimant proves a fundamental breach, to complete a constructive dismissal they must show that they resigned in response to the breach and that they did not waive or affirm the breach by their own conduct following the breach.

51. Those legal principles inform the list of issues that was discussed and agreed by the parties at the start of this case. I shall address and come to my conclusions on the issues in turn considering the law and my findings of fact above.

D. THE TRIBUNAL'S CONCLUSIONS ON THE ISSUES

1. Did the R do the following:

1.1 A support plan was imposed on the Claimant on 24th May 2024 having discussed it on 22 May 2024, without any prior warnings or legitimate performance concerns about C's performance, demonstrating the arbitrary nature of it

52. It is not in dispute that a support plan, namely the performance improvement plan, was imposed on the Claimant on 24 May 2024 by Mr Bryant following the discussions the Claimant had with Ms Abbott and Ms Hippolyte on 22 May 2024.

53. Based on my findings of fact above, I find that the support plan was imposed without specific discussion of such a plan or with prior specific reference to the Respondent's Performance Improvement (Capability) Policy.
54. Further, I find that the Claimant was unaware that her performance being discussed amongst the senior leadership, or that Mr Bryant was considering the imposition of a support plan to drive the improvement that Maths Department required from at least March 2024.
55. I find however that the Claimant had ample prior warnings about potential shortcomings in her performance before the imposition of the support plan. These came from Ms Hippolyte in particular, almost from the start of the Claimant's tenure as Head of Mathematics.
56. Whilst during the initial period the Claimant was finding her feet in a struggling department and might not have taken the observations of Ms Hippolyte as raising specific criticisms of her own practice, in my judgment by the Spring Term clear performance concerns were being highlighted to the Claimant. These were evident and communicated to the Claimant in Ms Hippolyte's coaching discussions, her emails, and her Department Quality of Education review in March 2024. They were also brought to the Claimant's attention by Ms Abbott in the mid-year appraisal at around the same point.
57. Further, I find that performance concerns highlighted prior to 22 May 2024, and the matters that were confirmed in the performance improvement plan itself, were legitimate performance concerns. I accept the evidence of Ms Hippolyte that the concerns were based on her observations, the feedback and coaching she provided, the shortcomings in the Claimant's performance that she had identified and documented, and the lack of progress being made. The plan presented by Mr Bryant was based on the observations and input of Ms Hippolyte and Ms Abbott. This was not an arbitrarily devised or imposed plan at all.

58. In my judgment, the Claimant was, or ought to have been, aware of the matters in relation to her performance requiring improvement pursuant to the support plan prior to the meetings with Ms Abbott on 22 May and Mr Bryant on 24 May.

1.2 The timing of the support plan was “suspect” as it was the last school day before the 31st May resignation deadline;

59. It is not in dispute that the support plan was imposed on the last school day before the 31 May resignation deadline.

60. I do not find however that this was ‘suspect’. Performance issues and concerns had been identified by Ms Hippolyte and Ms Abbott, and had come to Mr Bryant’s attention during the Spring terms. Mr Bryant delayed in acting on these concerns and implementing a performance improvement plan, thereby giving the Claimant time to improve. He was however entitled to act on those concerns when he did, prior to the start of the Summer term, with a view to moving forwards in good time prior to the next academic year.

1.3 The Headteacher suggested the Claimant’s management style needs to be more assertive. He said: “I need you to upset people in the department. For example, if a teacher complains that you asked them to do something and they are unhappy, that would be a delight for me, as I know you’re doing your job”;

61. In line with the findings of fact above, I find that Mr Bryant suggested to the Claimant that her management style needed to be more assertive. In the context of explaining how she needed to have difficult conversations with her subordinates in her team to drive improvement, he told her that she needed to ‘upset people’ as part of effective management practice.

1.4 In answer to the C’s question “If I failed to meet the targets set out in the support plan, would I be granted an extension to achieve them, or would the Headteacher proceed with capability procedures?” Headteacher confirmed that capability procedures would be initiated without extension;

62. In line with my findings of fact above, I find that in response to the Claimant's question asking whether if she failed the performance improvement plan, an extension would be granted, or whether capability procedures would be implemented, Mr Bryant responded in frank terms that he would proceed with formal capability procedures unless there were mitigating features.

1.5 In answer to the C's question "If I submitted my resignation but passed the support plan, would I be allowed to withdraw my resignation and continue in my role as Head of Department?", Headteacher replied that C would need to reapply for the position and compete against other applicants;

63. In line with my findings of fact above, I find that the Claimant raised the issue of resignation with Mr Bryant. She asked whether, if she resigned, but passed the support plan, she could withdraw her resignation and continue as Head of Department the following (academic) year. Mr Bryant confirmed that she would have to reapply.

1.6 Headteacher also said at the meeting on 24th May 2024 "You pay and your department's pay are the highest after the SLT members, so I have higher expectations of you and your department" which suggested that the support plan may have been influenced by financial considerations, rather than genuine performance issues;

64. In line with my findings of fact above, I find that Mr Bryant remarked during the meeting that the Claimant's level of pay was one of the highest as a Head of Department, due to the Teaching and Learning Responsibility payment she received. He told the Claimant that as a result he had higher expectations of her and the Maths Department.

65. I do not however find that this suggests that the support plan was influenced by financial considerations rather than performance issues. Mr Bryant was alluding to a performance issue here, in that he expected a higher level of performance

from those with greater responsibility, such as a Head of Department on higher pay.

1.7 The Headteacher's justification for the support plan was vague and contradictory

66. Based on my findings of fact, in my judgment the justification for the support plan was clear. It was based on performance shortcomings identified by Ms Hippolyte and Ms Abbott, as fed back to Mr Bryant. I do not find any contradiction in the rationale for Mr Bryant imposing a support plan to set targets and provide support for the Claimant to deliver improvements in performance.

2. Did these acts cumulatively or individually amount to a repudiatory breach considering:

2.1 Whether the Respondent acted in a way calculated or likely to destroy or seriously damage the Claimant's trust and confidence in the Respondent?

67. Taking a step back, and assessing matters objectively, I do not conclude that the conduct that I have found the Respondent was responsible for, through Mr Bryant or any of the other leadership team members involved in the management of the Claimant's performance, was sufficient to breach the implied term of mutual trust and confidence of the Claimant's contract of employment, whether cumulatively or in respect of individual matters.

68. In my judgment, the conduct does not reach the threshold for me to conclude that it represented, on an objective basis, conduct that was likely to destroy or seriously damage Claimant's trust and confidence in the Respondent.

69. I observe that subjectively the Claimant may have lost some confidence in her employment with the way in which she perceived her performance was being called into question 'out of the blue' on 22 and 24 May 2024, despite what she saw as her attempts to engage with and respond to Ms Hippolyte's coaching and suggestions for improvement. This may in part be because the Respondent never squarely put the language of support plans or performance improvement plans to

her prior to those dates or prior to announcing to her that a plan would be implemented.

70. Objectively, however, in my judgment the Respondent's conduct through Mr Bryant in particular was conduct that would ordinarily be expected from an employer in the context of an underperforming employee who did not appear to be showing the required improvement despite coaching input. The Claimant had been in a leadership position, with the associated pay increment, for over 6 months. She had not, in Mr Bryant's view, demonstrated progress personally or in terms of securing improvements in the Maths Department. Mr Bryant was entitled in my judgment to take management action to address performance concerns, in the interests of the Maths Department and the students being taught by it.

71. Whilst the Respondent's policy is not entirely clear as regards what the 'informal' stage of performance improvement should consist of (there is no mention, for example, of the imposition of a support or performance improvement plan) in my judgment when assessed objectively the Respondent's conduct was not inconsistent with the continued existence of the employment relationship. On the contrary, in my judgment it was consistent with setting standards, helping to secure improvement, and taking steps to secure the effective continuation of the employment relationship. The plan was to be imposed to support the Claimant in securing improvement. There is no evidence to suggest that it was being imposed for any other reason.

72. In my judgment, the Respondent's conduct was justified and permissible within the scope of the employment contract. It was broadly in line with what was anticipated by section 5 of the Respondent's policy. It did not amount to conduct that reached the threshold of demonstrating that the Respondent had abandoned and was altogether refusing to perform the employment contract. It was consistent with attempts to continue, rather than to abandon, the employment relationship, by continuing to assist the Claimant to fulfil and discharge her own duties and responsibilities effectively, and to secure improvement in the Maths Department. There was no fundamental breach of contract here.

2.2 Whether the Respondent had reasonable and proper cause?

73. Further, in my judgment, and again assessing matters objectively, I find that the Respondent had reasonable and proper cause for the conduct that I have found it is responsible for.

74. In my judgment, the conduct in imposing the support plan was in response to legitimate performance concerns which were not being addressed adequately through the coaching strategies of Ms Hippolyte. The Respondent, and Mr Bryant, had reasonable and proper cause for the imposition of the performance improvement plan.

75. The comments attributed to Mr Bryant in the meeting were responses to questions posed by the Claimant which, if anything, demonstrated her insight into the processes at play and the potential 'next step' of formal capability action being taken. In my judgment Mr Bryant's responses to the questions put to him in the meeting did not cross the line so as to be unreasonable or improper. They were accurate, frank and entirely proper, as was required at the time.

3. If so, did the C resign on 30th May 2024 because of this breach?

4. Had the C affirmed the contract, if it is found to have been breached, before she resigned?

5. If there was a constructive dismissal, was it for a potentially fair reason related to capability?

6. If so, was any constructive dismissal fair or unfair in all the circumstances, according to s.98(4) ERA?

76. As I have not found a fundamental breach of contract on the facts, I am not required to address the remaining issues. If I was required to resolve issues 3 and 4, I would have found that the Claimant did indeed resign in response to the conduct complained of, and did not affirm her contract of employment following

that conduct. She resigned promptly following the meeting of 24 May 2024 with Mr Bryant. In my judgment she resigned because of what was said at that meeting and the fact that she had been placed on a support plan, later confirmed as the performance improvement plan.

E. CONCLUSIONS

77. In summary, in my judgment there was no fundamental breach of the implied term of mutual trust and confidence by the Respondent on the facts of this case. As a result, I find that although the Claimant resigned in response to the Respondent's conduct she was not constructively dismissed. The termination of her employment does not fall within s95(1)(c) Employment Rights Act 1996. Her claim of constructive unfair dismissal is not well founded and is dismissed.

Approved by:

Employment Judge Baran
25 September 2025

Sent to the parties on:

16 October 2025

For the Tribunal Office:

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