



EMPLOYMENT TRIBUNALS

Claimant: Ms Jun Zhang
Respondent: St Paul's School

Heard at: London South (in person)
On: 2/12 - 5/12/2025

Before: EJ Harley
Ms Beeston
Mr Hutchings

Representation:

Claimant: In Person
Respondent: Mr Hignett (Counsel)

JUDGMENT with full reasons was delivered at the end of the hearing on 5 December 2025. The Judgment was promulgated on 9 December 2025. Written reasons were requested by the claimant in accordance with Rule 60 of the Employment Tribunals Rules of Procedure on 15 December 2025. These written reasons reflect the decision and oral reasons given at the conclusion of the hearing. They have been prepared subsequently to explain the Tribunal's conclusions and include minor editorial amendments for clarity and completeness, but no alteration to the substance of the decision. For clarity, where the word 'we' is used it denotes references to the panel, whereas 'I' denotes references to the Judge.

REASONS

1. This case was listed for a four-day liability hearing in person before a full panel. The claimant represented herself as a litigant in person. The respondent was represented by Mr Hignett.
2. The panel were supplied with a core bundle running to 500 pages, as per the limit set by the case management order (CMO) from Judge Siddal dated 9 April 2025, in electronic and paper formats. Unexpectedly despite the limit and clear instructions to co-operate paper supplementary bundles were also supplied running to 1371 pages. It had emerged that the parties had not succeeded on agreeing a definitive core bundle, and they sought to facilitate themselves and

the tribunal by supplying the additional material. I made it clear that the panel would not consider any documents to which they were not explicitly referred, and that presenting a Tribunal with this amount of material for a four-day hearing was disproportionate. We were also supplied with electronic and paper versions of a list of individuals, a chronology and witness statements for the claimant and four witnesses.

3. The parties had previously agreed a list of issues and these were sent in the CMO of 9 April 2025. The parties expressly confirmed that this was the list of issues to be considered at the outset of the hearing. This was despite the claimant having in previous weeks supplied a list of question style issues which she indicated the witnesses needed to address. She confirmed at the outset of the hearing she was not now pursuing this. Both parties agreed they wished to rely on and refer to without prejudice discussions. The Judge indicated that the Tribunal would do so only to the extent necessary to assess allegations of unambiguous impropriety, and that the panel would not consider the financial elements of those discussions.

4. The claimant raised issues regarding the alleged forgery or manufacture of key documents in correspondence, touching on the issue from mid-July but developing the issue in correspondence with the tribunal and the respondents, which was reserved for the tribunal to deal with at this hearing. The respondents sought to address this with a witness statement from an IT witness – this was initially parked for the parties to consider and resolve, and the Tribunal ultimately agreed to admit the issue, and allow the respondent to deal with this with a live witness, as the claimant refused to agree admit a statement. The claimant had requested a number of original word documents for review; she was sent these and then these were sent to the Tribunal at the end of Day 2. For reasons unknown HMCTS could not find the material in the mailbox, and these were ultimately sent in real time to the Tribunal on day three, enabling all parties to review the electronic versions.

5. We agreed a schedule and to commence claimant's evidence at 130pm of Day 1 to commence with addressing her Disability claim, which was denied by the respondents.

6. The claimant adopted her evidence (her witness statement and a document entitled Information Of Discrimination Claim dated 3 June 2024 and submitted to the tribunal concerning her disability claim) under oath, signing both documents. She was cross examined by Counsel, was asked further questions by the panel, and was given the opportunity to re-examine herself which she did. We paused the cross examination when the claimant suddenly and without warning became aggressively angry at Counsel's line of questioning challenging her as to her not having sought or been prescribed medication or seeking therapeutic help. Counsel's questions were challenging in terms of content, but he was not aggressive or harrying her.

7. The claimant indicated the questioning made her "want to jump out the window, to end all this". We broke for a few minutes and returned. Later the claimant again reacted with anger to questions regarding her new suggestion that she did not seek medical treatment or talking therapies as that engagement would, paraphrasing, have brought about her suicide. She indicated that if she were to die all the people in the room would have blood on their hands, including the judge, then saying this was not a threat, and that our names and

the details of what we had done would be published by prior arrangement. I made it clear that I considered it a threat and recommended that she calm herself. During this session she also sought to suggest that the issue of disability by perception was before the Tribunal, when in fact she had accepted the list of issues produced by Judge Siddal and had the opportunity to challenge any omission for 14 days after its issue. She questioned why the claimant went first when in her view the respondent bore the burden of proof. The claimant at times became insistent that she had to talk, repeatedly went to talk over the Judge and was unable or unwilling to calm.

8. On day two the judge opened the hearing with a pre-prepared formal warning to the claimant regarding her behaviour the previous day, which the tribunal considered intimidatory and unacceptable. I provided written copies to both parties. I revisited the order of parties, and burden of proof issues for the claimant's benefit, making clear that it was the claimant's burden to establish her disability. I indicated that there was a route to a fair and productive hearing but that a repetition of the behaviours might lead to the matter being struck out. She apologised for her behaviour and agreed to behave. As the day proceeded she did again become annoyed at times but responded to the Judges reminder to calm. As outlined we, dealt with the applications to consider the forgery issue and rely on witness evidence to answer those issues previously outlined.

9. The hearing proceeded in a positive but slow manner, the claimant being cross examined in the morning and afternoon. The judge suggested and permitted her to take a blank piece of paper and pen to allow her to capture points for re- examination. She had an opportunity to re-examine herself which she took, this running to 31 minutes. She closed her case, the respondent opened theirs and she commenced cross examining Krishna Manuel (Director of HR), which had to be paused and run into day 3.

10. Day 3 we scheduled a 9.30am start to allow the claimant time to cross examine her witnesses. She cross examined Ms Manuel, Mr Scott-Barate (IT manager), Mr Grace (Finance Director, Decision maker), Mr Adeyoola (independent governor, appeal chair). Because of what I had observed to be the claimants focus on challenging the underlying circumstances of the original allegations, I was concerned that with the limited time available I would offer to identify issues in her statement that she needed to put to the witnesses, so as to ensure they had the opportunity to answer them and she would then have the ability to rely on them as part of her case. She was initially grateful and welcomed the suggestion, but then rather than put the propositions from her statements to the witness, she proceeded to take the witnesses to individual documents without putting the points. Despite her preparation she had not prepared effective questions, proceeding despite intervention to make lengthy points. Her focus remained on details pertaining to the arrangements and circumstances leading to the initial investigation rather than with substantive issues with the investigation, disciplinary processes or dismissal. After a short while the claimant became angry pushing back at the Judge's prompts regarding questions insisting that if I was limiting her time with witnesses she be allowed to put her questions in the way she preferred. Pointing out that this might mean essential parts of her case would be missed she said that if I was putting a time limit on her cross examination (I had agreed up to an hour per witness) she must be allowed to put what she wanted to put the case as she wished - "if my case fail, it fail". I clarified that she was willing for this to be the outcome – she indicated that she otherwise

wouldn't have time to put her questions - so I agreed to step back. I then clarified that the Tribunal would not accept criticism if her case failed because elements of the case were not put. She agreed but asked if she could have my input if she asked. She wanted to reallocate time among her witnesses which I agreed to do.

11. The claimant continued to put meandering points, and I intervened to ask her to put questions, causing her again to become irate protesting at my interference with her process. I reminded her that she had to put questions, rather than making speeches. The day continued.

12. A further incident occurred as we reached the re-examination of Mr Grace, when having closed the cross-examination the claimant sought to put another point to the witness. Counsel objected and I refused her request, at which point she angrily said that if she was not allowed to do this she would get up and leave. As I responded she jumped out of her seat, I told her to sit down, reprimanded her and reminded her of the warning and our power to strike her case out for her outrageous behaviour. In the event I endeavoured to put the points in her statement pertaining to the witnesses to them at the end of her cross examinations. The respondents applied to rely on the w/s of Ms Zaylar, the investigation officer, who is on long-term sickness leave. The claimant did not object to the admission of the statement, which was largely a narrative of the report which was in the bundle, and she sought to focus on deficiencies she suggested were in the report. She identified a good number of these, but as time passed Judge asked that she prepare these references in a document to be sent overnight to the tribunal, for our later consideration. All witnesses were cross-examined, asked questions by the panel, and opportunities for re-examination given. For the purposes of the record, despite initially allocating the claimant up to one hour per witness, the tribunal ultimately facilitated her having over 5 hours cross examination time for the four witnesses.

13. At the end of the day the parties had an opportunity to address us for up to 30 mins each in submissions. In her submissions the claimant acknowledged that the warning given to her on day 2 was warranted, accepting that her behaviour was inappropriate. Both parties made oral submissions which were of assistance in our deliberations. We rose and the panel convened for discussions on the morning of day 4. We were passed the email containing references provided by the claimant which we considered.

14. As a general observation this was a difficult hearing. The claimant, a litigant in person, struggled at times to respond to challenges and even well-meant guidance with anything but anger, and despite the evident work she had put in, she struggled to formulate appropriate questions for cross-examination, or to focus on the issues before us. It is particularly difficult where we must enable a claimant to put their case, but they are unable for various reason to take on board the advice. The panel noted counsels evident frustration with the process. The judge upbraided him for his distracting body language. While we appreciate this was a very difficult situation, and a frustrating one, the panel found this additional distraction unhelpful. Counsel apologised, for which we were grateful.

Issues

The issues the Tribunal will decide are set out as follows .

Unfair dismissal

1.1 What was the reason or principal reason for dismissal? The respondent says the reason was conduct. The Tribunal will need to decide whether the respondent genuinely believed the claimant had committed misconduct.

1.2 If the reason was misconduct, did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:

1.2.1 there were reasonable grounds for that belief;

1.2.2 at the time the belief was formed the respondent had carried out a reasonable investigation;

1.2.3 the respondent otherwise acted in a procedurally fair manner;

1.2.4 dismissal was within the range of reasonable responses.

Remedy for unfair dismissal

2.1 Does the claimant wish to be reinstated to their previous employment?

2.2 Does the claimant wish to be re-engaged to comparable employment or other suitable employment?

2.3 Should the Tribunal order reinstatement? The Tribunal will consider in particular whether reinstatement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.

2.4 Should the Tribunal order re-engagement? The Tribunal will consider in particular whether re-engagement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.

2.5 What should the terms of the re-engagement order be?

2.6 If there is a compensatory award, how much should it be? The Tribunal will decide:

2.6.1 What financial losses has the dismissal caused the claimant?

2.6.2 Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?

2.6.3 If not, for what period of loss should the claimant be compensated?

2.6.4 Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or

for some other reason?

- 2.6.5 If so, should the claimant's compensation be reduced? By how much?
- 2.6.6 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
- 2.6.7 Did the respondent or the claimant unreasonably fail to comply with it by [specify alleged breach]?
- 2.6.8 If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?
- 2.6.9 If the claimant was unfairly dismissed, did they cause or contribute to dismissal by blameworthy conduct?
- 2.6.10 If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?
- 2.6.11 Does the statutory cap of fifty-two weeks' pay or [£105,707] apply?
- 2.7 What basic award is payable to the claimant, if any?
- 2.8 Would it be just and equitable to reduce the basic award because of any conduct of the claimant before the dismissal? If so, to what extent?

Disability

- 3.1 Did the claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the claim is about? The Tribunal will decide:
 - 3.1.1 Did they have a physical or mental impairment? The claimant says that she has a mental impairment which has made it impossible for her to seek alternative employment. She says that the disability started on 10 May 2023 and was disclosed to the respondent on 9 and 11 June 2023.
 - 3.1.2 Did it have a substantial adverse effect on their ability to carry out day-to-day activities?
 - 3.1.3 If not, did the claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?
 - 3.1.4 Would the impairment have had a substantial adverse effect on their ability to carry out day-to-day activities without the treatment or other measures?
 - 3.1.5 Were the effects of the impairment long-term? The Tribunal will decide:
 - 3.1.5.1 did they last at least 12 months, or were they likely to last at least 12 months?
 - 3.1.5.2 if not, were they likely to recur?

Direct disability discrimination (Equality Act 2010 section 13)

4.1 Did the respondent dismiss the claimant.

4.2 Was that less favourable treatment? The Tribunal will decide whether the claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the claimant's.

If there was nobody in the same circumstances as the claimant, the Tribunal will decide whether they were treated worse than someone else would have been treated.

4.3 If so, was it because of disability?

FACTS

15. We heard, viewed, were referred to and considered a considerable amount of evidence relating to issues, not all of which were pertinent or relevant to the core issues before us. We considered all relevant materials and the fact that documents are not mentioned does not mean they have not been considered. These are our findings of fact.

16. The Claimant began employment as a Science Technician with the Respondent, signing a contract on 24 June 2018 and commencing work on 9 July 2018. The contract required the claimant to abide by a code of conduct and be governed by the disciplinary procedures. The Staff Disciplinary Procedure (Conduct) confirmed that Gross misconduct will normally lead to summary dismissal after an appropriate hearing. It included a non-exhaustive list of offences which are normally regarded as gross misconduct, including "...any form of bullying, harassment or discrimination, and any infringement of the ...Staff Code of Conduct".

17. The staff code of conduct contained underpinning principles which included:

(2.1) staff are responsible for their own actions and behaviour and should avoid any conduct which any reasonable person to question their motivation and intentions...

(2.3) staff should work, and be seen to work, in an open and transparent way...

(10.5) staff must model fair minded, generous and inclusive interactions, and must uphold the Pupil Behaviour code and Anti-Bullying policy.

18. Under the claimant's Job description her main duties and responsibilities included the assembly, preparation and dismantling of equipment for class practicals, assessments, demonstrations and examinations; to liaise with the St Paul's Junior Science Teaching Staff, and "to provide assistance for teaching staff when the need necessitates". Included as essential skills and qualifications are the ability to work independently and as part of a team.

19. On 15 December 2021, another technician Ms. Williams raised a

grievance alleging bullying against the Claimant. This grievance prompted a meeting on 10 January 2022, attended by Ms. Williams, Mr. Carter (her colleague and representative in the grievance), Ms. Manuel (HR), and Mr. Killick, to discuss the allegations. Shortly after, on 17 January 2022, Ms. Manuel formally notified the Claimant of the intention to investigate the bullying allegations. The Respondent held an initial meeting with the Claimant on 18 January 2022, followed by a second investigatory meeting on 26 January 2022. The investigation report, prepared by Mr. Killick, was completed on 5 February 2022.

20. Following the investigation, Ms. Manuel invited the Claimant to a disciplinary hearing scheduled for 22 February 2022. The outcome, delivered by Mr. Gazet on 1 March 2022, was a Stage 1 First Written Warning. He found that there was sufficient evidence of a pattern of behaviour which is intimidating, unwanted and aggressive that is consistent with the definition of bullying as described by ACAS and which the School considered unacceptable. He outlined “although any form of bullying may be considered as gross misconduct in line with the School 's Disciplinary Procedure (Conduct), having considered all the evidence and noted that there is no prior formal complaints of bullying, I have decided to impose a proportionate sanction.” He captured that she had apologised, therefore acknowledging her wrongdoing. She was informed that “...the required improvement in conduct that is required is for you to interact with all colleagues in a non-aggressive way; in line with the Staff Code of Conduct, this means exercising the development of respectful , caring and professional relationships between staff adopting behaviour that demonstrates integrity, maturity and good judgment. The improvement in conduct is expected to occur with immediate effect.” This warning turned stale after 6 months but was retained on file.

21. In March 2022, Ms. Manuel invited the Claimant to a formal hearing to discuss grievances the Claimant had by then lodged against Ms. Williams, Ms. Nzinga, and Mr. Shammas (the staff involved in her investigation). These grievances were withdrawn by the Claimant on 14 March 2022. Around this time, the Claimant's contract was amended, transferring her from a lab senior school to the lab in the junior school on a temporary basis, the move becoming permanent on 1 September 2022.

22. On 9 March 2023, Ms. Seward, a science teacher raised a grievance against the Claimant, followed by Ms. Mack also a science teacher on 13 March 2023. While we are not to reinvestigate the matters it is worth capturing the nature, timeline and circumstances of the grievance and its basis.

23. Ms Seward described having raised issues with her line manager in Nov 2022 relating to an incident at the time which had left her “feeling anxious” when in the science department and “impacting on my ability to do my job”. She had wanted to take the grievance to HR at the time believing it to be sufficiently severe to warrant this but was dissuaded by Mr Alsop (Head of Science). She had left a post-it note for the claimant after finding that a pre-arranged demonstration had not been put in place, the claimant took grave exception to the note and complained to Mr Alsop.

24. On 3rd Nov Ms Seward sent an email to the claimant mistakenly addressed the email “Dear Zhang”. This was pointed out to her by Mr Alsop as

further explanation for the claimants unhappiness. On 5th November, the claimant replied in her email addressing Ms Seward with the greeting “Dear Seward” in apparent retaliation. In her response the claimant included the following:

“PS – The way you treated me on the 3rd November 2022 is appalling, unprofessional and unacceptable. I believe that David has spoken to you about this. I hope that you will learn your lesson and treat me in a professional manner with due respect in the future.”

25. Mr Alsop dissuaded Ms Seward from formalising the matter - Mr Alsop appearing to believe that the claimant had been moved after having been bullied herself, as opposed to the actual basis for the written warning which the claimant had accepted and apologised for, she having undertaken to abide by the behavioural standards expected under the code of conduct. Referring to correspondence disclosed Mr Alsop suggested the claimants “totally unreasonable” response was due to “the bullying” she had experienced and suggested an informal meeting for them to apologise to each other. The claimant arrived late, Ms Seward apologised for any upset caused but the claimant did not apologise, and Ms Seward reported that after that meeting the claimant was “cold and dismissive”. There were then reportedly multiple occasions where the claimant despite her reputation for efficiency had provided incomplete or faulty equipment for Ms Seward's lessons. Ms Seward outlined the claimant being obstructive with a work request and then was informed by her colleague on Ms Mack on 1 March that the claimant has been “bad mouthing” her to colleagues, telling others that she (Ms Seward) was “emotionless and manipulative”, that she (the claimant) had been forced to apologise to Ms Seward, but that she didn't mean it and was glad that “she had made (Ms Seward) cry.” Taking this issue back again to Mr Alsop, asking him to inform HR, Ms Seward's account reflects his prevarication, suggesting he ‘sleep on it’, speak to the claimant, but that she ultimately informed him she would raise the issue with HR.

26. A second grievance came from another teacher, Ms Mack. Ms Mack's grievance was dated 13 March and outlined how the claimant had informed her she had been moved after being severely bullied in the senior school and that she had been near suicidal. As she was sympathetic to her she neglected to keep track of dates/times of behavioural red flags. She had, like Ms Seward, raised concerns with Mr Alsop on numerous occasions regarding the claimant's professionalism, her unpredictable behaviour towards others, and how Ms Mack felt around her (by her account, feeling uncomfortable and scared of her). She described an unpredictable temperament causing her to feel on edge. On Ms Mack's account the claimant had outlined the situation with Ms Seward to her regarding their exchanges, the claimant explaining that she believed the post-it note implied that Ms Seward didn't believe she was capable of doing her job. The claimant had informed Ms Mack that she sent a sharp email to Ms Seward in response to the email where Ms Seward had erroneously referred to her by her surname. she had she retaliated purposely with a very mean email. The claimant's own account of this email to Ms Mack was that she wanted to make Ms Seward feel bad about what she had done and that she had purposely mixed up the name and surname of the teacher and wrote her a nasty message, that the claimant had gone further and confronted Ms Seward, she had made Ms Seward cry, which she was 'proud of' and 'laughed about it with glee'. When Ms Mack told the claimant that this was not okay, the claimant said that she was 'glad she made her cry'. In

cross examination the claimant characterised the sending of this email as a “one-off act of revenge”. Ms Mack also described other situations involving the claimant including eavesdropping on a private conversation Ms Mack had with another colleague about a practical that hadn’t worked, with the claimant then confronting Ms Mack in the Science Office accusing her of doing it wrong and ‘not reading the instructions.’ She suggested the claimant was incredibly rude and patronising.

27. Ms Mack described feeling particularly targeted by the claimant, that the claimant had omitted key equipment items from Ms Mack’s practicals, during scheduled practicals the claimant had left the building, despite being required to be on hand to assist. Ms Mack described the claimant repeatedly snapping at her, being unnecessarily rude and made her scared about speaking to her about their work. Ms Mack reported that on several occasions, the claimant had purposely given her wrong equipment. Ms Mack further reported the claimant saying that she often ‘pretends not to know what is going on when people talk to [her],’ so that she can ‘learn all she can so that she can use this information against people if needed.’ Ms Mack reported the claimant saying that she is able to behave in ways to ‘get what she wants’ out of people.

28. The grievances were reported to Ms Manuel as head of HR and she appointed Ms Zalar, Deputy Head (Academic) of the Junior School to Investigate. Ms. Seward attended a grievance hearing on 14 March 2023 with Ms. Zalar and Ms. Manuel. Ms Procter was in attendance to take notes. Ms. Mack’s hearing took place on 16 March 2023, attended by Ms. Zalar, Ms. Manuel, Mr. Arnold attending to support Ms Mack. Ms. Procter took notes. That same day, an investigation meeting was held with Ms. Zalar, Ms. Manuel, Ms. Procter, and Mr. Alsop. Further investigation meetings occurred on 17 March 2023, involving Ms. Zalar, Ms. Manuel, Ms. Procter, Mr. Arnold, and Mr. Shammas.

29. On 20 March 2023, Mr. Shammas invited the Claimant to a meeting regarding the grievances. The Claimant, experiencing anxiety, requested Mr. Alsop’s attendance. Mr. Shammas rescheduled the meeting and permitted Mr. Alsop to attend. The Claimant also informed Ms. Manuel that she was not well enough to attend and required professional help. Ms. Manuel responded by providing information about school counsellors and the Respondent’s Employee Assistance Program. The investigation continued, with the Claimant emailing Ms. Seward an apology on 21 March 2023. Ms. Mack sent a complaint about the Claimant’s behaviour to Ms. Zalar. The Respondent notified the Claimant of a formal investigation into the grievances raised by Ms. Seward and Ms. Mack. The Claimant requested postponement of disciplinary action and offered apologies to both parties.

30. A grievance investigation meeting took place on 21 March 2023 between the Claimant, Ms. Zalar, and Ms. Procter. On 20 April 2023, Ms. Zalar sent the Claimant notes from the investigation meeting. The Claimant provided her statement, responses to Ms. Seward and Ms. Mack, her annual appraisal, and meeting minutes with comments dated 22 February 2023 to Ms. Zalar on 25 April 2023.

31. Ms. Zalar informed the Claimant on 26 April 2023 of a meeting scheduled

for 4 May 2023, reminding her of the option to have a colleague or trade union representative present. The Claimant confirmed on 2 May 2023 that she would attend alone. The meeting on 4 May 2023 included the Claimant, Ms. Zalar, Ms. Manuel, Ms. and Procter. On 10 May 2023, the Claimant sent a Statement of Fitness for Work to Mr. Alsop and Ms. Manuel. Ms. Manuel and Ms. Zalar acknowledged receipt and indicated that the investigation report would be completed soon. Ms. Zalar completed her report on 11 May 2023.

32. Ms. Manuel invited the Claimant to discuss the report outcome with Mr. Snowball on 15 May 2023, but the Claimant declined on medical grounds. On 18 May 2023, Ms. Manuel informed the Claimant that the grievances were upheld and that she would be invited to a formal disciplinary hearing.

33. The Claimant communicated her intention to return to work from 1 June 2023 in an email to Mr. Alsop on 26 May 2023. A meeting between Mr. Snowball, Ms. Manuel, and the Claimant took place on 5 June 2023, at which the claimant was suspended from work. The claimant alleged in her statement that various threats were made to her at this meeting. This will be discussed in more detail below but having assessed the evidence, which the claimant herself contradicted, we were unable to accept that this was true.

34. Ms. Manuel invited the Claimant to a disciplinary hearing scheduled for 12 June 2023, which the Claimant requested to postpone on 7 June 2023. Ms. Manuel postponed the hearing to 16 June 2023. On 11 June 2023, the Claimant emailed Ms. Manuel about suicidal intentions, ending her employment, and taking legal action. Ms. Manuel postponed the disciplinary hearing indefinitely on 12 June 2023 due to concerns about the Claimant's health and referred her to Occupational Health. The Claimant did not consent to sharing the Occupational Health report with the Respondent on 3 August 2023.

35. The claimant raised a grievance against Ms Manuel on 14 August 2023, which was investigated and not upheld. The claimant appealed the outcome, and it was ultimately found not upheld by the school's High Master.

36. The Claimant was re-invited to a disciplinary hearing on 14 December 2023 and informed that her grievances against Ms. Zalar's investigation were not upheld. The disciplinary hearing took place on 20 December 2023 chaired by Mr Grace. On 15 January 2024, Mr Grace summarily terminated the Claimant's employment. The Claimant appealed the decision on 18 January 2024, with the appeal hearing held by Mr Adeyoola on 9 February 2024. The Claimant was notified on 29 February 2024 that her appeal was unsuccessful.

37. On 4 March 2024, the Claimant presented an unfair dismissal claim to the tribunal. The Claimant amended her claim to include discrimination (disability), detriment, and intimidation, and the Respondent submitted amended grounds of resistance. A preliminary case management hearing was scheduled for 28 May 2024, and the Claimant provided further information regarding her discrimination claim on 3 June 2024.

Facts – Disability

38. The Tribunal was required to determine whether, at the material time, the Claimant was a “disabled person” within section 6 and Schedule 1 Equality Act 2010. This determination precedes, and governs, any Equality Act complaint.

39. The Claimant relied on three GP fit notes, a disability impact statement, and her witness statement. The fit note details were as follows:

- 10 May 2023, for work related stress, e-signed by a doctor;
- 26 May 2023, for work related stress, issued by doctor, indicating she may be fit for work with amended duties or workplace adaptations, recording she ‘feels able to carry out all of her duties except the setting up of practicals.;
- 17 April 2025 (post-employment), for anxiety + suicidal thoughts and captures what is captured as “*Specific impairment – fear to entre (sic) any employment environemnt (sic) since 15/01/2024 because of what happened at work 20/3/2023 – 15/01/2024*”.

40. At the hearing she adopted her statements and was examined and cross-examined. Her case was that she experienced panic attacks, suicidal thoughts, and later flashbacks. She attributed each incident to specific workplace events. She accepted that the panic attacks were isolated, each arising contemporaneously with a discrete workplace difficulty. The suicidal thoughts were similarly confined to those events and did not recur after dismissal. She confirmed under oath that she has not had panic attacks or suicidal ideation after leaving work. She asserted in her statement that work applications and HR interactions were triggers. Under oath however she confirmed she had made no applications for work since dismissal.

41. Regarding day-to-day functioning, she confirmed consistent work attendance, independent travel by bus, compliance with dress and uniform requirements, and competent performance of laboratory work including preparing equipment and handling chemicals. No aspect of her evidence suggested any limitation in self-care, personal organisation, travel, attendance, or social functioning. No adjustments were sought or required.

42. She did not describe any pattern of symptoms outside workplace stressors. No medical records were disclosed beyond the fit notes. There was no diagnosis, no referral, no treatment, and no clinical record of any underlying mental disorder.

43. She suggested Judge Siddal had “identified” a condition in her Case Management Order. This is incorrect – the CMO of 9 April 2025 simply recorded her self-declared anxiety for hearing management purposes and expressly left disability for determination at this hearing while also inviting her to produce and assemble medical evidence to support her claim.

44. The claimant denied using or being prescribed medication, denied therapy, and disclosed no OH report or materials to the respondent or the Tribunal. The result is that the Tribunal has no independent clinical material on which any mental impairment could be established.

45. The Tribunal accepts that the claimant consulted her GP after learning of the disciplinary process and reported symptoms to them to acquire fit notes. Even taken at their height, these reports describe short-lived, reactive, self-reported episodes which did not result in treatment. Her explanation for not seeking treatment, offered to the Tribunal, was circular and provided no evidential support for a continuing impairment.

46. The GP materials (fit notes) contain no diagnosis. No clinician has identified any psychiatric disorder. No record suggests an enduring condition. The Tribunal finds that, throughout the relevant period, the claimant attended work, performed her duties, and managed all aspects of daily life independently. The claimant did not raise disability during the disciplinary process.

LAW

Disability

47. Under section 6(1) Equality Act 2010, a person has a disability if they have a *physical or mental impairment* which has a *substantial and long- term adverse effect* on their ability to carry out normal day-to-day activities. The burden of proof lies on the Claimant to establish, on the balance of probabilities, that the statutory test for disability is met.

48. In applying the statutory test the Tribunal has regard to the guidance given by the Court of Appeal in *Sullivan v Bury Street Capital Ltd [2021] EWCA Civ 1694* as to long term effects, and recurrence for the purposes of Schedule 1:

- A. Was there an impairment? (the 'impairment condition');
- B. What were its adverse effects [on normal day-to-day activities]? (the 'adverse effect condition');
- C. Were they more than minor or trivial? (the 'substantial condition');
- D. Was there a real possibility that they would continue for more than 12 months? (the 'long-term condition').

49. A medical diagnosis is not essential (*J v DLA Piper [2010] ICR 1052*), but the Tribunal must be satisfied, on the evidence, that a real and continuing impairment existed. While medical evidence is not a strict legal prerequisite, in cases alleging depression or a cognate psychiatric impairment the Tribunal ordinarily expects cogent medical evidence (*Morgan v Staffordshire University [2002] IRLR 190; Royal Bank of Scotland v Morris [2011] ICR 815*). In the absence of such evidence, the Tribunal must exercise caution before concluding that a mental impairment existed and must identify some other reliable evidential basis for doing so.

50. Self-reported stress reactions, without cogent supporting evidence, will not ordinarily meet the requirement of impairment under s.6(1)(a), particularly where they amount to situational reactions rather than an underlying condition (*Morgan, RBS v Morris*). A mental impairment will ordinarily be established either by

diagnosis, clinical identification of a recognised condition, or credible medical evidence demonstrating an enduring functional disorder (RBS V Morris).

51. “Substantial” here means more than minor or trivial. “Long-term” requires an effect which has lasted, is likely to last, or is likely to recur for 12 months or more; “likely” means a real possibility (*SCA Packaging v Boyle*: [2009] ICR 1056). Duration is assessed at the material time, having regard to the position then known or reasonably foreseeable (*McDougall v Richmond Adult Community College* [2008] ICR 431).

52. The determination of the question of disability is a separate question from whether discrimination occurred. If disability is established, the tribunal proceeds to consider the discrimination allegations. If not, the Equality Act claims fall away (though unfair dismissal may continue).

Unfair Dismissal

53. The relevant statutory test is contained in s.98 Employment Rights Act 1996. The Tribunal is required first to identify the reason, or principal reason, for the dismissal, and to determine whether that reason falls within one of the potentially fair reasons listed in s.98(1)–(2). Conduct is such a potentially fair reason.

54. If the employer establishes a potentially fair reason, the Tribunal must then consider, in accordance with s.98(4), whether the dismissal was fair in all the circumstances, having regard to the employer’s conduct and to the equity and substantial merits of the case. This involves an assessment both of substantive and procedural fairness.

55. In cases where dismissal is said to arise from misconduct, the Tribunal applies the structured approach identified by the Employment Appeal Tribunal in *British Home Stores Ltd v Burchell* ([1978] ICR 303). The questions for the Tribunal are:

1. whether the employer held a genuine belief in the employee’s misconduct;
2. whether that belief was based on reasonable grounds; and
3. whether, at the stage of forming that belief, the employer had carried out as much investigation as was reasonable in all the circumstances.

These questions do not require the employer to prove that the misconduct occurred. Rather, the focus is on the reasonableness of the employer’s belief, the adequacy of the evidence relied upon, and the sufficiency of the investigative steps undertaken prior to dismissal.

56. What constitutes a reasonable investigation is fact-sensitive. A more thorough investigation is expected where the allegation is serious or the consequences grave. Conversely, a limited investigation may be reasonable where facts are straightforward or undisputed. The employer is not required to

adopt the procedures of a criminal inquiry, but it must take such steps as a reasonable employer would take to establish the facts, interviewing witnesses where appropriate and gathering relevant material. A flawed or superficial investigation may render dismissal unfair even where a belief in misconduct is otherwise genuine.

57. Once the Tribunal is satisfied that the employer had a genuine and reasonably-based belief following a reasonable investigation, it must assess whether the decision to dismiss fell within the “range of reasonable responses” open to a reasonable employer. This test, originating from *Iceland Frozen Foods Ltd v Jones [1982] IRLR 439*, distinguishes the Tribunal’s role from that of an appellate body: the question is not what the Tribunal would have done but whether dismissal was within that permissible band. Matters relevant to the assessment include the employee’s length of service, disciplinary record, the seriousness of the misconduct, and any mitigating or aggravating features. A disproportionate response, or a decision reached without proper regard to alternatives, will fall outside the permissible range.

58. The Tribunal must consider the extent to which the employer complied with the ACAS Code of Practice on Disciplinary and Grievance Procedures. The Code requires employers to inform employees of allegations, provide relevant evidence, conduct a reasonable investigation, hold a disciplinary hearing, and permit an appeal.

59. The Code also contains guidance on suspension. Suspension should be used only where necessary, should not be punitive, should be kept under review, and should be accompanied by explanations to the employee. Failure to handle suspension properly may contribute to a finding of procedural unfairness. Where an employer unreasonably fails to follow the ACAS Code, the Tribunal may make an adjustment of up to 25% to any compensatory award. Even where procedural unfairness is established, the Tribunal may apply the principle in *Polkey v AE Dayton Services Ltd [1988] ICR 142*. If, on the balance of probabilities, the employee would have been dismissed in any event had a fair procedure been followed, compensation may be reduced accordingly, including to zero in appropriate cases. A Polkey assessment is fact-specific. The Tribunal must consider what would likely have happened had the employer conducted a procedurally fair process, taking into account the gravity of the alleged misconduct and the weight of the evidence available at the time.

60. Accordingly, our task in a conduct dismissal is: to determine the reason for dismissal (ERA s.98); to apply the Burchell questions to the employer’s belief and investigation; to assess, under s.98(4), whether dismissal was within the range of reasonable responses; to consider compliance with the ACAS Code; and if unfairness is established, to determine remedy, including any necessary Polkey reduction.

DISCUSSION

Disability

61. The central difficulty for the Claimant is evidential. Counsel for the Respondent submitted that, in cases alleging mental impairment, the precedent cases suggest cogent medical evidence would ordinarily be expected. The Tribunal accepts that this submission reflects the caution urged by the EAT in *Morgan* and *RBS v Morris*. The Tribunal does not proceed on the basis that medical evidence is a strict legal requirement but accepts that such evidence is ordinarily expected in cases of alleged mental impairment, as reflected in the authorities cited above.

62. There is no medical evidence here of any mental impairment. In this case there is no diagnosis, no referral, no treatment, no OH assessment or other material relied upon, and no clinical findings evidencing any recognised psychiatric condition. The GP materials from the material times comprise fit-notes reporting her own accounts of situational stress. The Tribunal is not satisfied, on such limited material, that the existence of a psychiatric impairment is established for the purposes of s.6(1)(a).

63. The symptoms described — panic attacks and suicidal thoughts — were expressly accepted by the Claimant to be episodic, brief, and confined to specific workplace disputes. They resolved upon leaving that environment. They did not recur. The claimant sought no treatment, and no pharmaceutical or therapeutic intervention occurred, by her own evidence. While partial functioning does not preclude disability, the evidence here demonstrated no substantial adverse effect on identified normal day-to-day activities. On her own account her functioning throughout the period — punctuality, attendance, organisation, independent travel, personal care, and conducting laboratory tasks requiring precision and judgment — indicated normal functioning at the material time. That chronology and evidence is inconsistent with the existence of a continuing impairment and inconsistent with long-term effects under Schedule 1. There was no evidence of effects lasting 12 months, nor of any real possibility at the material time that they would do so or recur.

64. The claimants evidence regarding “triggers” was contradicted by her admission that she made no job applications post-dismissal. That contradiction materially weakens the suggestion of ongoing effects and undermined the reliability of her account as to triggers and persistence. The claimant did not disclose or rely on any OH report. There is no independent clinical evidence capable of supporting the existence of a mental impairment. Even taking her evidence at its highest, the episodes were short-lived reactions to workplace conflict. On the evidence before the Tribunal they do not demonstrate the existence of an underlying mental impairment, do not give rise to a substantial adverse effect on normal day-to-day activities, and are not long-term or likely to recur. Accordingly, the statutory test under section 6 of the Equality Act 2010 is not satisfied.

Unfair Dismissal

65. The first issue was whether the Tribunal should pierce the veil and consider the “without prejudice” communications. The tribunal agreed at the outset of the hearing to consider the material only to the extent necessary to assess it for evidence of “unambiguous impropriety” (Rush & Tomkins Ltd v Greater London Council [1989] ICR 347). The material indicates that the meetings on 18 May, 5 June, and 9 June were routine workplace discussions. The claimant initially declined a without-prejudice conversation, later agreed, and there were routine administrative email exchanges. Outside her own statements in paragraphs 64 and 74 of her witness statement, there is no evidence that she was “put under pressure.”

66. The claimant’s account of the 5 June meeting—alleging that both Mr Snowball and Ms Manuel stated she would be dismissed and prevented from working elsewhere—was inconsistent (the claimant contradicted her statement in live evidence) and was unsupported by contemporaneous communications. When the Judge put this to Ms Manuel she denied these statements. no other evidence suggests these statements were made. On balance, we did not consider the claimants account of this conversation to be credible.

67. The issue regarding the forged documents likewise lacked any substance on investigation. Evidence demonstrated that notes were taken, circulated for verification, and returned in the ordinary course of document management. Queries around authorship and the generation of templates were explained . As a result of the helpful evidence from Mr Scott-Barate that there was anything suspicious about the documents. here was no evidence of collusion; the documentation triangulates with other records and prior evidence. The tribunal having stretched a point to allow the last-minute live evidence, the claimant’s allegations of procedural unfairness based on fabricated evidence or collusion were not established.

68. The claimant’s procedural-unfairness case suffers from fundamental structural weaknesses. Her evidence, live and in her statement, focused almost entirely on

disputing the truth of allegations, the accurate following of internal rules, the willful misinterpretation of language in context, and the negation of reasonable alternative interpretations, and the conduct of colleagues, rather than addressing the legal test for procedural fairness under *British Home Stores v Burchell* [1978] ICR 303 (EAT):

1. Did the employer genuinely believe misconduct occurred?
2. Were there reasonable grounds for that belief?
3. Was dismissal within the range of reasonable *responses* (*Iceland Frozen Foods Ltd v Jones* [1982] IRLR 439)?

69. Tribunals do not determine the factual truth of allegations in an unfair dismissal claim; they determine whether the employer acted reasonably after a reasonable investigation. This was a point emphasised by the Tribunal and Judge Siddal at the CMH. The Claimant’s evidence largely asserts that evidence

was fabricated or misrepresented, which is a very high factual threshold. The claimant failed to demonstrate that no reasonable employer could have held concerns based on the investigation report produced here.

70. The claimant's own statement in fact highlights standard disciplinary steps—investigation of colleagues' concerns, multiple interviews, hearing arrangements, provision of reports and notes, suspension pending hearing—as evidence of procedural unfairness. These are, in fact, hallmarks of a properly conducted process. Alleged deviations from informal grievance procedures, timing of document disclosure, or sequence of interviews do not establish procedural unreasonableness.

71. The claimant repeatedly misinterpreted the ACAS Code of Practice on Disciplinary and Grievance Procedures (2015). ACAS requires reasonable, not flawless, investigations. It does not mandate informal resolution before formal steps or perfection in sequencing interviews. Her reliance on alleged ACAS infringements would not establish procedural unfairness. We have however considered the claimants specific procedural criticisms.

72. Investigation scope: The claimant criticised the selection and number of witnesses, timing of interviews, and inclusion of grievance evidence. All these steps fall squarely within reasonable employer practices. Interviews and evidence collection were in fact thorough, and proportionate. She was allowed to fully participate in disciplinary hearings, provided with policy documentation, allowed to bring a colleague to support her, and was then given interview notes and invited to comment. There was the opportunity for appeal.

73. Reliance on grievance evidence: the claimant misinterpreted the use of grievance letters, alleging procedural invalidity. In fact, employers may treat grievances, safeguarding concerns, and informal complaints as relevant to disciplinary investigations. There was no substantive unfairness arising from their processes here.

74. Timing of disclosure: the claimant received investigation reports, notes, and hearing invitations. Delays in preferred disclosure timing do not equate to procedural unfairness. Her alleged difficulties (feeling overwhelmed, suicidal, or panic-stricken) were not driven by any identified employer misconduct.

75. Her overarching argument—that all colleagues lied, HR had fabricated evidence, and senior staff orchestrated a systemic conspiracy—is not supported by the evidence. Even having stretched a point to allow last-minute live evidence to address the question around falsified or edited documents, these allegations were not established. The Tribunal cannot accept this speculative narrative as demonstrating procedural unfairness. Her approach to that process, and the attitudes revealed then towards her employer and colleagues, demonstrate that her employment in such an environment under the applicable code of conduct could not reasonably be sustained. The Tribunal is satisfied that the process followed here substantively complied with the principles set out in the ACAS Code of Practice.

76. In considering substantive fairness of the dismissal the Tribunal must apply the Burchell test, which we have done.

Genuine belief: did Mr Grace reasonably believe the claimant engaged in bullying and coercive behaviour. We would accept on the evidence we heard that he did.

Reasonable grounds: The investigation report produced, and the interviews undertaken provided reasonable grounds for that belief.

Reasonable investigation: The investigatory steps, including witness interviews and document collation, were proportionate and thorough.

Did this dismissal fall within the range of reasonable responses? (*Iceland Frozen Foods Ltd v Jones [1982] IRLR 439*). Key factors we noted were as follows:

- Pattern of behaviour testified to by colleagues.
- Gross misconduct by dint of bullying under the disciplinary procedure.
- Significant impact on departmental functioning; colleagues fearful and unwilling to work collaboratively.
- Prior warnings for similar conduct, with her undertaking to behave in accordance with the Code of Conduct
- Lack of insight or genuine apology from the claimant.
- Threats of grievances when investigation progressed.

It could not be suggested, nor was it put forward by the claimant, that dismissal was outside the range of reasonable responses for an employer of this kind. The steps followed here reflected the principles required of an ACAS compliant process. Even if there were minor procedural imperfections, the Polkey principle would apply (*Polkey v AE Dayton Services Ltd [1987] IRLR 503*). Any procedural defect would not materially alter the outcome in this case, given the claimant's behaviours.

Conclusion

Disability

The Tribunal is not satisfied, on the balance of probabilities, that the Claimant had a mental impairment within section 6 at the material time. There is no clinical evidence, and the symptoms described were situational, brief, and wholly inconsistent with a continuing impairment. Even if the episodes occurred as described, they were reactive to specific workplace incidents, not arising from any underlying condition; not substantial in their effect on day-to-day activities; and not long-term, nor was there any real possibility they would last 12 months or recur. Accordingly, it is the Panel's unanimous view that the Claimant was not a disabled person within section 6 Equality Act 2010. The Equality Act claims cannot proceed.

Unfair Dismissal

The Tribunal rejects the claimant's evidence alleging pressure, conspiracies,

fabricated grievances, or that her dismissal was linked to her disability. Her procedural complaints do not meet the legal test to challenge unfair dismissal; the key steps in the disciplinary process were followed. Substantive fairness is established for the purposes of *Burchell*; dismissal falls within the range of reasonable responses. *Polkey* reductions would therefore be minimal given the serious and repeated misconduct.

Overall, it is the Panel's unanimous view that the dismissal was both procedurally and substantively fair. The claimant's case fails in all respects.

Employment Judge **Harley**

Date: 5th January 2026

Judgment sent to parties
Date: 19th January 2026

For the Tribunal Office