



EMPLOYMENT TRIBUNALS

Claimant: Mr N Hiorns
Respondent: West Midlands Ambulance Service
Heard at: Birmingham (by CVP)
On: 31 July - 1 August 2025
Before: Employment Judge Wright

Representation:

Claimant: Mr Stenson (of Counsel)
Respondent: Mr Crow (of Counsel)

Participants:

Witnesses for Respondent: Nathan Hudson (disciplinary officer), Michelle Brotherton (appeal officer)

Witness for Claimant: Mr Hiorns

RESERVED JUDGMENT AND REASONS

JUDGMENT:

1. The judgment of the Tribunal is that the Claimant's claim for unfair dismissal is not well-founded, and is dismissed.

REASONS:

Background

2. The Claimant, Mr Hiorns, was dismissed by the Respondent following allegations of sexual harassment involving three female colleagues as set out in the Respondent's letter to the Claimant dated 24 May [630-632].
3. The Respondent cited gross misconduct as the reason for dismissal.
4. The Claimant admitted the conduct but argued that the context, including prior friendships and interactions with the complainants, was relevant to the sanction imposed. He raised concerns about procedural fairness,

including the refusal to adjourn the disciplinary hearing to obtain further evidence, and avers that this has resulted in the decision to dismiss him being both procedurally and substantively unfair.

Documents

5. I had before me a witness bundle of 28 pages, a substantive hearing bundle of 714 pages, a chronology of events, and a reading list. All page references in this judgment and reasons are to the substantive hearing bundle.

Application

6. At the start of the hearing an application was made by the Respondent for an anonymity order in respect of the three employees who had raised complaints of sexual harassment against the Claimant.
7. This was refused, with brief reasons provided orally. It was however agreed that it was unnecessary to refer to the complainants by their names and that they would be referred to, both in the hearing and in any judgment, by their initials only.

Issues

8. The only complaint is one of ordinary unfair dismissal.
9. As the reason for dismissal is not in dispute and the conduct is admitted, the only issue in this case is whether the decision to dismiss fell within the range of reasonable responses open to the employer. The Issues for the tribunal to consider were therefore:
10. Was the dismissal substantively and/or procedurally unfair?
11. Did the Respondent reasonably conclude that dismissal was within the range of reasonable responses?

Relevant Law:

12. The relevant sections of the ERA the Tribunal considered was therefore limited to S.98(4):

12.1 Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—

12.2 depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and

12.3 shall be determined in accordance with equity and the substantial merits of the case.

Summary of the evidence and finding of facts

13. The Claimant attended to give evidence as did, on behalf of the Respondent, Nathan Hudson (disciplinary officer) and Michelle Brotherton (appeal officer).
14. There are several findings of fact that could be made purely from the documentation that I was referred to. These are as set out below and, when adopted by the Tribunal, as copied from the Respondent's written submissions.
15. The Claimant was employed by the Respondent from 1 July 2012 until his dismissal on 7 July 2024.
16. He was dismissed by the Respondent for sexual misconduct in respect of allegations raised by three female colleagues against him, concerning conduct of a sexualised nature.
17. Historically, UK ambulance services had developed a reputation for failing to sufficiently protect against sexual harassment, as recognised by the Care Quality Commission (CQC) [450]. In response to the concerns raised "both nationally and locally" the Trust confirmed it was "undertaking a number of actions" as listed in bullet points at 450.
18. This included in 2022 the Respondent introduced a Sexual Safety Charter [450, 190] and publishing materials to highlight what amounts to unacceptable behaviour and to encourage the reporting of such behaviour.
19. The Respondent introduced training in relation to sexual safety, which the Claimant attended and acknowledges he attended [441, 700, 414 at Q62].
20. Employees, via the Code of Conduct, were encouraged to avoid "circumstances which might give cause for complaint" [69] and the Code emphasised the difference between banter and unreciprocated/unwanted remarks [75].
21. The Respondent's Dignity at Work policy set out the rights and duties in this area, and gave a non-exhaustive list of examples of what would be considered harassment and sexual harassment including: sexual remarks and unwanted conduct of a sexual nature, such as, unwelcome physical, verbal or non-verbal conduct [124-5], and unwanted verbal or physical advances, unwanted physical contact including unnecessary touching, leering, suggestions of sexual favours, suggestive remarks, lewd comments, etc [125-6]. It also warned employees that harassment "will not be tolerated" and warned of the effects of harassment on individuals and on the organisation [128-130].

22. In 2023, posters were published [489-490] to highlight the issues [449] and information was provided in the weekly bulletin [447, 446, 445]. The Association of Ambulance Chief Executives (AACE) and the Chief Allied Health Professions Officer (CAHPO) launched publications noted in the bulletin as serving to “underline our commitment and result in the cultural shift needed to ensure that all our employees... feel safe and fairly treated, regardless of gender” and to ensure there was no ignoring of “what could be called ‘casual or everyday’ types of behaviours that can lead to harmful power imbalances amongst colleagues” because of the need to “move away from discrimination masked as banter and an outdated culture” [444-445].
23. In respect of the allegations related to the complaint LH, the Claimant admitted at the time of the investigations into this conducted by the Respondent to:
- a. making comments about LH’s breasts and touching her hands [410 at Q22, Q24], his conduct was ‘sexualised’ [413],
 - b. he shouldn’t be making comments about people’s anatomy [415 at Q67];
 - c. At the disciplinary hearing the Claimant admits to all three allegations and states: ‘I put my hands up and that’s not my normal interaction with staff. I misjudged it.’ [649];
 - d. The Claimant agreed at the appeal hearing that he was admitting to all three allegations that had been raised by the complaints and that were the subject of the disciplinary: complaints by LH, SH and MG [678].
 - e. The Claimant further confirmed that he was aware of the sexual charter and posters and that they were “everywhere” including behind the toilet doors, and accepted that he was aware of the Respondent’s drive to change the historic culture of the service so that previous incidents which may have wrongly been dismissed as “banter”, would not be tolerated moving forward.
24. In Mr Hudson’s cross-examination he was questioned about the Respondent’s decision to suspend the Claimant whilst it undertook the investigation. The Respondent’s witnesses could not assist with this decision beyond what was contained in the documents in the bundle. The Claimant’s counsel took me to 154 and the policy on suspension and highlighted that suspension is a last resort. Mr Hudson confirmed he was not involved in this decision.
25. In Mr Hudson’s re-examination, I was taken to a further document at 623 entitled: Risk assessment for suspension or temporary

redeployment/adjustment of duties. In this document it poses a question for assessment: "Is there a risk to patient safety?" it is recorded that the risk here is high and that: "there is a potential transferable risk to female/vulnerable patients due to the serious nature of the concerns raised. This concerns three allegations of a similar nature over a period of time". This was dated 2 April 2024 and was kept under review.

26. At this stage, the Respondent would not have had the information from the Claimant regarding his reasoning for why he misjudged his interactions with these colleagues – this being the friendly nature of the relationship he claimed to have with the three individual concerned which resulted in him acting in this way with them, when he would not have with other staff members.
27. The Respondent could not therefore have taken this explanation into account when considering whether the Claimant could be redeployed to another location, or adjustments could have been made to his duties. However, given the fact that he was under investigation, the risk that he would repeat offences of this nature with fresh employees at another location would appear to be low. Also, in this section it refers again to the risk of him encountering "patients and other service users". The Claimant gave uncontested evidence that he had worked for the Ambulance Service for 20 years, and he had never had any complaints raised against him by a patient. I therefore find that the Respondent's conclusion that he was a "risk to patients" to be unsound as it is unfounded. However, this decision to suspend him was totally separate from the decision to dismiss him and was not made by the disciplinary panel. I further find that it was not considered by the panel and accordingly had no bearing on the Respondent's decision to dismiss the Claimant.
28. In the Claimant's dismissal letter, the panel records that it had found the upheld allegations to collectively constitute gross misconduct [656].
29. In cross-examination of Mr Hudson, the three allegations together being gross misconduct and the disciplinary panel's decision not to adjourn the hearing to enable the Claimant to review a substantial amount of information that he had just recovered from an old phone to find a picture that he stated LH sent him in 2019 of her skinny dipping (which LH denies sending) was a particular focus. The Claimant's position was that this gave context to the relationship between LH and him and was therefore relevant to the incident in February 2024 where he made comments about her breasts and touched her wrist.
30. The Claimant had also stated that LH had flashed her chest in her bra at him following a conversation in which he expressed his reluctance to have a flu jab, but then said that he would for a "boob flash". In the investigation into these incidents it was recorded that there were different accounts given by the Claimant as to how the conversation had started and whose suggestion the "boob flash" was, but he was clear LH had pulled up her

top and flashed her chest in her bra at him in 2016, after administering the flu jab to him. LH denies this ever happened, but brought up when reporting this incident, that this was not the first time the Claimant had been inappropriate stating that he had asked her for a “boob flash” in exchange for having the flu jab, which she had refused. Given the differing account of events, it is clear why the Claimant would have wanted more time to support his version of events and bring into question LH’s testimony on this.

31. Mr Hudson, however, was clear in his evidence that the panel had deliberated on this point, but that they had decided not to adjourn. Mr Hudson was asked by the Claimant’s counsel whether there was a difference between seemingly inappropriate behaviour if it were one-way or if it were two-way. Whilst Mr Hudson was clear that this might be relevant, he did then confirm that, in the context of this matter, he and the panel did not consider whether LH sent the Claimant this photo to be relevant to the issues before them, which concerned incidents and allegation in February 2024.
32. In Mr Hudson’s evidence, and in re-examination, he focused on the fact that there were three instances of inappropriate behaviour of a sexualised nature before the panel involving three different individuals. He highlighted that the flu jab incident concerning LH had been in 2016, and we are now in 2024. It was accepted that the incidences that the Claimant referred to would be inappropriate behaviour, would contravene the sexual charter introduced and fall within the conduct mentioned in the posters about sexual harassment. Mr Hudson however stressed that since 2016 there had been a focus on the Respondent’s culture, training had been given and a Sexual Charter introduced to ensure that everyone was aware of the standards of behaviour expected and what would be considered sexual harassment.
33. Mr Hudson gave clear evidence that, in respect of the February 2024 incident involving LH in the locker room, there was no indication that there had been any conversations or incidents leading up to it which would contextualise it. Considering the training, introduction of the Sexual Charter and shift in culture since 2016, whilst that would not have been acceptable then, it was even less so now. He and the panel therefore did not consider an incident in 2016 and a photo in 2019 would be relevant to their decision on sanction and therefore did not adjourn.
34. I remind myself that this hearing is not a re-trial or an opportunity for me to substitute my decision for that of the panel, and to do so would be an error of law. I am satisfied that the disciplinary panel had considered the position and, whilst another employer may have adjourned, based on the reasoning provided, I do not find there to have been any procedural flaw in choosing not to do so.

35. We returned to the issue of the evidence of the skinny-dipping photo again in the cross examination of Michelle Brotherton (appeal officer). She again stated that this was “irrelevant”, but her reasoning was that this was because the Claimant had not provided this evidence for the appeal hearing and there was therefore nothing to take into account. It is not disputed that the Claimant did not provide the evidence at this hearing. He had 2.5 months to do so and his reasoning that he did not have LH’s number to search for it, the cost of recovering it and thinking it irrelevant are not accepted. Ms Brotherton was clear that had it been provided, the evidence would have been considered. I accept Ms Brotherton’s evidence on this point.
36. Another matter that was the subject of cross-examination of the Respondent’s witnesses was the extent to which they had considered the Claimant’s remorse for his actions when determining the sanction to apply. The Claimant’s counsel invited me to find that the Respondent had discounted the Claimant’s remorse because they considered his motivation for this was that he was facing disciplinary proceedings, as opposed to him being genuinely sorry, and that the disciplinary panel had erred in doing so.
37. In this respect, I find that the disciplinary panel had considered that the Claimant was sorry for his actions and the fact that he had made apologies. However, they were not confident that the Claimant would be able to judge what was inappropriate behaviour going forward, despite the training that he had been given.
38. Mr Hudson was clear in his evidence that the panel had considered that this was not a one-off act but that it related to three separate individuals and three separate incidents. I accept Mr Hudson’s evidence that the panel had taken the Claimant’s remorse into consideration as one of the factors when determining whether an outcome other than dismissal should be made, rather than applying a blanket dismissal policy for this conduct or focusing on the motivation for his remorse, and that their decision to dismiss him as opposed to deciding on a lesser sanction, was within the range of reasonable responses open to it.

Conclusion

Unfair dismissal

39. Based on the above findings of fact, I find that there were no procedural errors in the Respondent’s process that would have made the decision that they came to substantively unfair. I find, considering all the circumstances, the decision to dismiss the Claimant to be within the range of reasonable responses open to the Respondent.

Case No: 6017408/2024

Employment Judge Wright

Dated 27 October 2025