Case No: 6019869/2025

EMPLOYMENT TRIBUNALS

Claimant: Mr Baig

Respondent: Consortio Security Limited

Heard at: London South (via CVP) **On:** 9 and 10 March 2026

Before: Employment Judge Murdoch

Representation
Claimant: Mr Jotangia, counsel
Respondent: Mrs Barnett, legal executive

JUDGMENT having been sent to the parties on **24 March 2026** and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

Introduction

1. The Claimant, Mr Baig, was employed by the Respondent, Consortio Security Limited, as a security officer for over 26 years from 17 April 1998 until his dismissal on 17 January 2025.

2. By a claim presented to the employment tribunals on 28 May 2025, the Claimant complained that his dismissal was unfair.

The hearing

3. I heard the claim on 9 and 10 March 2026. The Claimant was represented by Mr Jotangia, counsel, and gave sworn oral evidence. The Respondent was represented by Mrs Barnett, legal executive, who called sworn evidence from Mr Stone (Head of HR) and Mr Redman (Heads of Operations, and Appeals Officer).

4. I considered a bundle of documents (427 pages), the Respondent's skeleton argument, and three witness statements. These were authored by the Claimant and the Respondent's two witnesses.

5. At the conclusion of the evidence, both representatives made oral closing submissions.

6. I then delivered my judgment orally.

Issues for the Tribunal to decide

7. I agreed with the parties at the outset that the issues in dispute were as follows:
   7.1. What was the reason or principal reason for dismissal? The Respondent asserted that it was a reason related to some other substantial reason (SOSR), which is a potentially fair reason for dismissal under s. 98 (2) of the Employment Rights Act 1996, namely the client's permanent withdrawal of site access, and the Claimant's refusal of available alternative redeployment.
   7.2. 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.

8. I agreed with the parties that the questions of the application of the *Polkey* no difference rule, the ACAS Code, and contributory fault, which although strictly issues of remedy, were appropriate to be considered at this stage.

The law

Unfair dismissal

9. Section 94 of the Employment Rights Act 1996 gives employees the right not to be unfairly dismissed. Enforcement of the right is by way of complaint to an employment tribunal under section 111. The Claimant must show that he was dismissed by the Respondent under section 95.

10. Section 98 of the 1996 Act deals with the fairness of dismissals. There are two stages within section 98. First, the employer must show that it had a potentially fair reason for the dismissal within section 98(2). Second, if the Respondent shows that it had a potentially fair reason for the dismissal, the Tribunal must consider, without there being any burden of proof on either party, whether the Respondent acted fairly or unfairly in dismissing for that reason.

11. Section 98(4) deals with fairness generally and provides that the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend 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 shall be determined in accordance with equity and the substantial merits of the case.

SOSR dismissals

12. Section 98(1)(b) provides a residual potentially fair reason for dismissal that employers may be able to rely on if the reason for dismissal does not fall within the four specific categories in section 98(2) (capability, conduct, redundancy and contravention of duty/restriction imposed by enactment).

Section 98(1)(b) is thereby a catch-all provision covering dismissal for some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

13. The employer is required to show only that the substantial reason for dismissal was a potentially fair one. Once the reason has been established, it is then up to the tribunal to decide whether the employer acted reasonably under section 98(4) in dismissing for that reason. As in all unfair dismissal claims, a tribunal will decide the fairness of the dismissal by asking whether the decision to dismiss fell within the range of reasonable responses that a reasonable employer might adopt. Depending on the circumstances, this may involve consideration of matters such as whether the employee was consulted, warned and given a hearing, and/or whether the employer searched for suitable alternative employment.

14. In other words, to amount to a substantial reason to dismiss, there must be a finding that the reason *could* — but not necessarily does — justify dismissal — *Mercia Rubber Mouldings Ltd v Lingwood 1974 ICR 256, NIRC*. Whether the reason, once established, justifies dismissal is to be answered by the tribunal's overall assessment of reasonableness under section 98(4).

Third-party pressure

15. SOSR is often invoked where there has been third-party pressure to dismiss the employee. It is well established that pressure from an important third party, including a client who withdraws confidence in an employee, may constitute SOSR.

16. In *Dobie v Burns International Security Services (UK) Ltd 1984 ICR 812, CA*, the Court of Appeal said that, in considering reasonableness, tribunals should look at the conduct of the employer and, crucially, whether dismissal is an injustice to the employee.

17. An employer must do everything that it reasonably can to avoid or mitigate the injustice brought about by the stance of the third party — *Henderson v Connect South Tyneside Ltd 2010 IRLR 466, EAT*. And in a case of 'patent injustice', the employer may have to 'pull out all the stops'. In that case, the EAT gave the example of an employer trying to change the third party's mind or, if that is impossible, trying to find the employee alternative work. Provided that an employer has attempted this, any eventual dismissal is likely to be fair.

18. In the case of *Greenwood v Whiteghyll Plastics Ltd EAT 0219/07*, the Respondent's client made complaints about the Claimant and told the Respondent that the Claimant was barred from working onsite. Unable to find Claimant alternative work owing to 'no spare capacity', the Respondent dismissed him. The tribunal concluded that the Respondent had dismissed the Claimant for SOSR and had acted reasonably in doing so. However, the EAT upheld Claimant's appeal. There was no evidence before the tribunal to show that the Respondent had considered the nature and extent of any injustice to Claimant and the tribunal had fallen into error in failing to consider this matter. The injustice may have been so severe that the employer should have reorganised its business, enabling Claimant to take another job within the company.

19. As set out by the Respondent in their skeleton argument, the authorities recognise that a client's insistence that an employee should no longer work at a particular site may create a situation that is potentially unjust to the employee. However, the question for the Tribunal remains whether the employer acted reasonably in responding to that situation. In particular, the Tribunal should consider whether the employer took reasonable steps to challenge the client's position where appropriate and to mitigate the potential injustice to the employee, including by seeking alternative work where possible.

Findings of fact

20. The Claimant, Mr Baig, was employed by the Respondent, Consortio Security Limited, as a security officer from 17 April 1998 until his dismissal on 17 January 2025.

21. The Claimant had a clean disciplinary record over his entire 26 years of service.

22. The Respondent is a large security company specialising in guarding, concierge and reception services primarily with the public, commercial and educational sectors throughout the UK. The Respondent operates as a contractor providing security services to clients. The nature of the business means that security officers are deployed to client premises and are required to comply with site-specific procedures and client requirements. The Respondent does not own or control the sites at which its employees are deployed and cannot compel a client to accept a particular security officer on its premises.

23. The Claimant was assigned to Elis (the client) at the Merton site as a Security Officer. He says he had worked at this site for the last 26 years. The site is a large industrial laundry facility.

Relevant contracts and policies

24. The **employment contract** confirms that hours and location of duties may vary from assignment to assignment.

25. The Respondent produced a copy of its **Employee Handbook**. I was not pointed to any sections that set out how to manage the police when they arrive to inspect a site, nor any reference to what to do in the case of a suspected fire on site.

26. The **Assignment Instructions** in respect of the Elis Merton site were provided in the bundle. Relevant sections of this document include:
    26.1. Confirmation that the Claimant's main objectives as a Security Officer included the protection of life, property and premises – specifically to promote the safety and welfare of all persons on the site and to protect all capital assets, stock, vehicles and buildings from loss from whatever source, including fire.

26.2. Section 17 provides: “Where a situation arises and no specific instructions have been issued Employees will be expected to use common sense, intelligence and discretion to ensure a situation is dealt with to the satisfaction of the Client… All enquiries must be dealt with politely, tactfully and as expeditiously as possible”.

26.3. Section 17 further provides: “All incidents of a security nature will be recorded and reported in accordance with issued formats…”.

26.4. Section 9 provides: “No persons are allowed on site without correct authorisation.”

27. A fire pack was kept in the security hut. This contained key information and an escalation procedure to be followed in the event of a fire. The document was not included in the bundle.

The 14 September 2024 incident

28. At around 19:50 on 14 September 2024, eight police officers in a marked police van attended the Elis Merton site following a report that smoke had been seen coming from the premises, and the Claimant allowed them access by opening the gates.

29. The Claimant’s position is that he had been trained to permit emergency services to enter the premises. In support of this, he relies on section 17 of the Police and Criminal Evidence Act 1984 (“PACE”), which allows police officers to enter premises without a warrant in order to prevent serious damage to property. The Respondent did not disclose any record of the Claimant’s training and did not dispute the Claimant’s evidence on this point.

30. The detail of what occurred thereafter was somewhat confused and disputed between the parties. Having considered the evidence, I make the following findings of fact:

30.1. After the Claimant opened the gates and permitted the police to enter the site, he made a radio announcement informing on-duty engineers that the police were present.

30.2. The employees on duty who heard this radio transmission were the engineers working that night, Mr Packianathan Ponnampalan (“Nathan”) and Mr Akhil Anto.

30.3. The Claimant gave inconsistent evidence as to whether the police were escorted inside the building. In his written witness statement, he stated that Mr Ponnampalan and Mr Anto escorted the police into the building. In his oral evidence, however, he stated that the police entered the building unescorted. I find that the police entered the building unescorted. I reach this conclusion because: (a) this version is consistent with the substance of the client’s complaint thereafter; and (b) the written witness statement contained typographical errors in relation to this point.

30.4. The police exited the building approximately ten minutes after their arrival, having satisfied themselves that there was no fire.

30.5. The Claimant then made a further radio announcement that the police were leaving and that anyone who wished to speak to them should do so at that time.

30.6. Mr Anto arrived as the police were leaving. Mr Ponnampalan did not attend at that point.

31. The Claimant then recorded the incident in the site's Security Logbook.

32. He also wrote a letter to Mr Andrew Kozak (Engineer Manager) explaining what had happened. He wrote:

> "19:50 I just wanted to let you know the Police Government Officers arrived on site and asked if they could go inside the factory to have a look around. I asked what the issue and was told they had seen smoke, so they wanted to check it out. After their inspection they let me know that everything was fine and left the premises. I have already informed the Night Shift Engineers Team. Best regards, Night Shift Security, Javaid."

33. The following day was a Sunday and was the Claimant's scheduled day off.

The Client's Complaint

34. At some time prior to 13:36 on 16 September 2024, I find that Mr Richard Philips (Operations Manager for the client) and Mr Mark Lewis (Operations Manager for the Respondent) spoke by telephone regarding the incident of 14 September 2024. No evidence was provided from Mr Lewis, who has since left the Respondent's employment. The Respondent's witnesses were unaware of any note having been made of that call, and no evidence was produced as to the substance of what was discussed.

35. At 13:36 on 16 September 2024, the Respondent received a formal written complaint from Mr Philips to Mr Lewis concerning the incident on 14 September 2024. The email began with the words "thanks for the conversation just now" and then set out in writing the matters discussed. The client stated that it had "serious concerns" regarding the Claimant's capability in light of the incident. It was described as "unacceptable" that eight police officers had been permitted to walk around the site without any escalation to the client. The client emphasised that fire represented its "major H&S concern" as an industrial laundry and expressly referred to the fire pack located in the security hut, which contained the escalation procedure and key holder information, noting that no one had been contacted. The client also referred to the site's strictly controlled traffic management system and stated that the officers had been allowed to "free roam" unaccompanied. The complaint concluded by stating that the situation was now "untenable" and requested that the Claimant be replaced by another guard from 17 September 2024.

36. Eighteen minutes later, at 13:54, Mr Lewis replied to Mr Philips by email stating:

> "I have just phoned and spoken to HR and I need to ask, is there any way you would reconsider your decision to remove Javaid from site. The reason we need to ask this is if we are unable to relocate him to another site this may result in Javaid's employment being terminated. Once you confirm this we will take the relevant action."

37. Thirty minutes later, at 14:24, Mr Philips responded: "I appreciate your comments however we cannot put the site at risk."

The Claimant's suspension

38. On 16 September 2024, the Claimant arrived at work at 6:45 and completed his 12 hour shift. At the end of his shift, he was approached by Mr Lewis (Security Operations Manager for the Respondent) and suspended. His suspension was not confirmed in writing. He was not provided with a copy of the client's complaint.

39. The Claimant then returned to work the next day (17 September 2024) seeking written confirmation on his suspension, and the Respondent asked him to leave the site immediately.

Investigation

40. On 17 September 2024, the Claimant was formally invited to attend a meeting the next day to discuss the client's request for his removal from site and the letter made clear that dismissal was a possible outcome if no suitable alternative role could be identified. The meeting did not proceed as the Claimant reported that he was unwell.

41. No investigation as to the 14 September incident took place. The Respondent had simply accepted the client's request for removal from site within hours of receiving the complaint. The Respondent then turned its efforts towards whether redeployment was an option.

Redeployment efforts

42. The Respondent considered whether the Claimant could be redeployed to another assignment within its portfolio and identified three potential alternative roles. The Claimant, in his oral evidence, denied that he had been offered any alternative positions. He stated repeatedly that no proper written offers had been provided, including details such as the address, job description, pay, and hours. He also stated in oral evidence that he had not refused any job offers. I do not accept the Claimant's evidence on this point.

43. While I accept that the Respondent could have presented the alternative roles much more clearly in writing, including fuller details of the job descriptions, locations, and terms, the email correspondence in the bundle demonstrates that there was engagement regarding these three roles. This correspondence was between the Respondent and Mr Craig Lewis, who was acting on the Claimant's behalf.

44. One of the roles identified was a full-time vacancy in Beckton, approximately 17 miles from the Claimant's home address. This was put forward as a potential alternative placement. Mr Lewis, on behalf of the Claimant, responded by email on 21 November 2024 and again on 27 November 2024, expressly declining the role on the basis that it would involve a commute of more than two hours each way and would therefore not be viable due to the distance and associated travel costs. These emails also indicate that the Claimant remained unclear as to the reasons why he had lost his position at the Elis Merton site.

45. The Claimant was then offered two further roles which were seasonal, flexible, or zero-hours assignments. Mr Lewis, again acting on the Claimant's behalf, stated in an email dated 16 January 2025 that these roles were declined because they were temporary or seasonal in nature and would not have provided the same level of hours or income as the Claimant's previous position.

46. The Claimant asked whether he could be transferred to the Brixton site, which was closer to his home. The Respondent had no vacancies at that location and did not approach employees working there to ask whether anyone might be willing to swap roles with the Claimant on a voluntary basis. The Respondent's evidence was that it did not take this step because it considered that doing so might expose it to the risk of an unfair dismissal claim from another employee. I do not accept that explanation. Asking employees whether anyone would be willing to move locations voluntarily would not expose the Respondent to such a risk. In those circumstances, the possibility of a voluntary swap to the Brixton site was a potential option, which the Respondent did not pursue.

Disciplinary hearing

47. When the Respondent's efforts did not result in a viable alternative role, they considered that dismissal had become necessary. The Claimant was invited to a meeting to consider dismissal for Some Other Substantial Reason by letter dated 13 January 2025.

48. The meeting took place on 15 January 2025.

49. By letter dated 17 January 2025, the Claimant was dismissed for Some Other Substantial Reason, namely the permanent withdrawal of client site access and the absence of any suitable alternative employment.

Appeal

50. The Claimant appealed by letter dated 23 January 2025. The appeal was heard by Mr Redman on 25 February 2025. The Claimant was accompanied. The appeal procedure was thoroughly and fairly handled by Mr Redman. Mr Redman stated in his witness statement that the original decision maker had attempted to persuade the client to reconsider its position. That those efforts were unsuccessful. And that the client's loss of confidence was expressed in clear and unequivocal terms and was not temporary or conditional. Mr Redman noted that the central question was not whether the Claimant's judgment on the night was understandable, but whether continued employment in his existing role was viable once the client had taken that position. He concluded it was not. He noted that Consortio does not have authority to override a client's decision regarding access to its own premises. In a contract security arrangement, the ability to deploy a named officer to a site depends entirely upon client's consent.

51. The appeal was thereby unsuccessful and the outcome letter was dated 17 March 2025.

Conclusions on liability

Was the reason for dismissal a potentially fair one?

52. I conclude that the Respondent has shown that there was third-party pressure to dismiss the Claimant. This is a potentially fair reason, as it *could* – but not necessarily does – justify dismissal.

53. It is not enough for an employer simply to show that there was third-party pressure to dismiss an employee, thereby establishing SOSR as the reason for dismissal. I also need to consider whether it was reasonable to dismiss the Claimant because of that pressure.

Did Respondent make a reasonable effort to persuade the client to allow the Claimant back on site?

54. I find that the Respondent did not make a reasonable effort to persuade the client to allow the Claimant to return to the site. I reach that conclusion for the following eight reasons.
    54.1. The Respondent's attempt to persuade the client consisted of a single sentence in an email which asked whether the client would reconsider its decision to remove the Claimant from site, noting that if the Claimant could not be redeployed elsewhere his employment might be terminated. The request was preceded by the statement "I have just phoned and spoken to HR and I need to ask", which suggests that the request was made as a procedural formality rather than as part of a genuine attempt to persuade the client to reconsider its position. It was followed by the statement "once you confirm this we will take the relevant action", which implies that the Respondent anticipated that the client would refuse the request and was prepared to proceed on that basis.
    54.2. Mr Redman, the Respondent's Chief Operating Officer, accepted in his evidence that the client's request to remove the Claimant from the site was "harsh". Mr Stone, the Respondent's Head of HR, also confirmed that the Respondent did not treat the matter as one of misconduct, and no disciplinary process was initiated. Despite this, the request for reconsideration sent to the client did not set out that the Respondent considered the client's position to be harsh or disproportionate.
    54.3. The client's complaint appears to have been based on two alleged procedural failures: first, that the Claimant did not escalate the incident in accordance with the escalation process contained in the fire pack located in the security hut; and second, that the Claimant allowed the police to move around the site unescorted, contrary to the site's traffic management procedures. In its request for reconsideration, the Respondent did not seek clarification from the client regarding the detail of either of these procedures, nor did it make any inquiry as to whether the Claimant had been trained in them.
    54.4. Having considered the evidence, I am not able to conclude that either alleged procedural breach was established.
        54.4.1. *Escalation*: I have not been provided with the contents of the fire pack kept in the security hut and therefore do not know precisely what the escalation procedure required. In any event, the Claimant accepts that he did not consult the fire pack because the police were already present and, as an emergency service, were managing the

situation. He stated that he would have referred to the fire pack and followed the escalation procedure had there in fact been a fire. However, the police confirmed within minutes that there was no fire. The Claimant did notify the engineers on duty via radio while the incident was occurring and recorded the incident in the security logbook. In circumstances where the police determined within minutes that there was no fire, it is at least arguable, without having seen the fire pack, that there was no requirement for further escalation.

54.4.2. *Escorting officers*: I have found that the Claimant did not escort the police inside the building, and nor did anyone else. This appears to have been one of the principal reasons for the client's decision to refuse the Claimant further access to the site. Section 9 of the Assignment Instructions provided that no persons were allowed on site without correct authorisation. It is reasonable to assume that that was not intended to apply to emergency services. And in any event, the police in this case appear to have had *statutory* authorisation to enter premises. No other relevant policy was disclosed. It is also relevant that escorting the officers into the building would likely have required the Claimant to leave the entrance gate unattended, which may itself have raised procedural concerns. Further, if eight officers entered the building to investigate a possible fire, it is likely that they would have dispersed quickly throughout the premises. Even if the Claimant had accompanied them inside, he could realistically only have escorted one officer, meaning that the remainder would have been unescorted in any event.

54.5. If the matter genuinely concerned alleged breaches of these procedures, those procedures should have been disclosed in evidence. The Respondent could also have treated the matter as one of misconduct and pursued a disciplinary process. But it did not do so, and it accepts that this was not a misconduct case.

54.6. In its request for reconsideration, the Respondent did not draw attention to the fact that the Claimant had worked on the site for 26 continuous years with an unblemished record.

54.7. The Respondent also did not explore with the client whether the restriction applied only to that particular Merton site, or whether the Claimant might have been permitted to work at another site operated by the same client, such as the Brixton site, which was closer to the Claimant's home.

54.8. I asked Mr Redman, under oath, whether, with the benefit of hindsight, he considered that the one-sentence request for reconsideration was reasonable in the circumstances. He replied that he could not answer that question without knowing the content of the earlier telephone conversation between Mr Philips and Mr Lewis that day. While it is correct that the precise content of that conversation is unknown, it appears more likely than not that the call simply involved the client outlining its complaint orally, which was then followed by the written complaint sent later that afternoon. There is no evidence to suggest that Mr Lewis raised with the client any of the matters identified above during that conversation.

Did the Respondent make a reasonable effort to find him other work?

55. I accept that the Respondent could not create roles that did not exist, as this would not be commercially viable. Nor could it reasonably be expected to displace another employee in order to accommodate the Claimant. I also accept that the Respondent made some effort to identify alternative work. One full-time position was offered, although it involved a lengthy commute for the Claimant. I note that the Claimant's employment contract expressly provides that security assignments may vary in location. The Respondent also offered two further roles which were seasonal, flexible or zero-hours assignments and which were not equivalent in terms of stability or guaranteed hours. In total, therefore, three alternative roles were put forward.

56. However, I find that the circumstances surrounding the Claimant's removal from the site were such that a reasonable employer would have made greater efforts to enable the Claimant to continue working within the business. For example, the Respondent could have identified client sites within a reasonable commuting distance of the Claimant's home and explored whether any employees at those locations might have been willing to move sites on a voluntary basis.

57. In any event, even if I am wrong in that assessment, and the Respondent's efforts to find alternative work were reasonable, that does not alter my conclusion that the Respondent failed to make a reasonable effort to persuade the client to allow the Claimant to return to the site. Had a genuine attempt been made to challenge or reconsider the client's position, it is possible that the need to seek alternative employment would not have arisen.

Band of reasonable responses

58. The Tribunal must determine whether the Respondent acted within the band or range of reasonable responses open to a reasonable employer in the circumstances. It is not for the Tribunal to substitute its own view for that of the employer, nor to decide how it might itself have handled the matter. I also take into account that the Respondent is a large organisation with significant administrative resources, and I would therefore expect a full and proper process to have been followed.

59. I conclude that the client's decision to remove the Claimant from the site resulted in an injustice to the Claimant.

60. It is readily understandable that a security guard would allow access to a site to eight police officers arriving in a marked police vehicle who stated that they were investigating a fire. Protecting the premises, including from the risk of fire, formed part of the Claimant's responsibilities. I have not been provided with any procedures relating to escalation or escorting individuals on site which clearly demonstrate that the Claimant breached any applicable policy.

61. I do not make any finding in relation to the criminal law position, as that is not a matter within the Tribunal's remit. However, it appears likely that the Claimant's actions (for example, asking the police to wait while he consulted a colleague) would not have made any practical difference if the police were entitled to enter the premises without a warrant in order to prevent serious

damage to property under section 17 of the Police and Criminal Evidence Act 1984.

62. Importantly, the Respondent did not take reasonable steps to investigate or address the client's concerns. It failed to investigate the nature of the incident or properly assess the circumstances giving rise to the complaint and the potential injustice to the Claimant.

63. This is a case of 'patent injustice' where the employer did not 'pull out all the stops'. This was a situation in which the Respondent ought to have made every reasonable effort to challenge or mitigate the consequences of the client's stance. Instead, the Respondent sent a single-sentenced formulaic request for reconsideration that reads more like a quick procedural formality than a genuine attempt to persuade the client to revisit its decision.

64. In those circumstances, I conclude that the Respondent did not do everything that it reasonably could to mitigate the injustice brought about by the stance of the third party.

65. Accordingly, I find that the decision to dismiss the Claimant did not fall within the band of reasonable responses open to a reasonable employer in the circumstances.

Conclusions on remedy

66. In respect of the calculation of remedy for unfair dismissal:

67. *Polkey*: I accept that even if the Respondent's dismissal of the Claimant had not been procedurally unfair, namely, if the Respondent had properly investigated the client's complaint and made appropriate efforts to persuade the client to allow the Claimant to return to site, the client may nonetheless have refused to permit the Claimant to work on site. In those circumstances, there was a real possibility that the Claimant's employment would have come to an end in any event. I therefore apply a reduction to the compensatory award of 50%, reflecting my assessment that there was a 50% chance that the Claimant's employment would have been terminated regardless of the procedural unfairness.

68. *ACAS*: I have considered whether any uplift should be applied pursuant to section 207A(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 in respect of a failure to follow the ACAS Code of Practice on Disciplinary and Grievance Procedures. The Code applies primarily to dismissals for conduct or capability. While cases involving third-party pressure fall within the category of some other substantial reason, it is nonetheless generally expected that the principles of the Code will be followed where the pressure arises from allegations concerning conduct or capability. In this case, the Code was followed at the disciplinary and appeal stages. However, it was not followed at the investigation stage, as no investigation was undertaken. In the circumstances, I consider it appropriate to apply an uplift to the compensatory award of 5%.

69. *Contributory fault*: I do not find that the Claimant contributed to his dismissal through culpable or blameworthy conduct. It could be argued that the

Claimant's return to the site following his suspension amounted to such conduct. However, the evidence suggests that the Claimant returned to the site in circumstances where it was unclear to him why he had been suspended and no offer had been made by the Respondent to investigate the events that had occurred. Any reduction on this basis would therefore risk double counting, given that I have already applied a reduction under Polkey in respect of the Respondent's failure to conduct an investigation. I therefore make no reduction for contributory fault.

Overall conclusion

70. The Claimant's complaint of unfair dismissal under Part X Employment Rights Act 1996 is well-founded and succeeds. The compensatory award is reduced by Polkey by 50% and uplifted by ACAS code breaches by 5%.

Approved by:
Employment Judge Murdoch
Date: 24 March 2026

Sent to the parties on:
Date: 28 March 2026