



EMPLOYMENT TRIBUNALS

Claimant: Mr S Powell
Respondent: Sigmatex UK Limited
Heard at: Manchester ET **On:** 18,19 December 2025
Before: Employment Judge Rawlinson (sitting alone)

Representatives:

For the claimant: Mr McNerney, counsel

For the respondent: Mrs Shaw, solicitor

RESERVED JUDGMENT

The claimant's claim for unfair dismissal is not well founded and is dismissed.

REASONS

Introduction

1. The claimant, Mr Steven Powell, commenced employment with the respondent on 6 January 2014 and latterly served as European Commercial Manager within the senior management team, reporting to the CEO, Mr. Paul McMullan. The respondent, Sigmatex (UK) Limited, develops and manufactures carbon fibre textiles for composite material applications. The Respondent employs approximately 147 people and is based in Runcorn, Cheshire.
2. The respondent dismissed Mr. Powell for gross misconduct on 18 July 2024 following allegations of sexual harassment and the sending of inappropriate messages sent to a junior colleague, principally Ms. Katie Stoney (KS). There were also messages discovered that the claimant had sent on separate occasions to another colleague, Ms. Christine Barr (CB), albeit these were of more relevance to the claimant's initial denial that any other similar messages existed.
3. By way of claim form filed on 18 December 2024, the claimant claims that his dismissal was unfair within section 98 of the Employment Rights Act 1996. The claimant contends and relies upon (in summary) amongst other things procedural defects, bias by HR, the deliberate targeting of him for dismissal for reasons unrelated to his conduct, lack of parity in terms of investigations into comparable incidents and a predetermined outcome, allied to the fact that his mitigation (stress, alcohol dependency, mental health) was not properly considered. His case is that dismissal was outwith the range of reasonable responses given the nature of the incidents, his prior disciplinary record, and his length of service.
4. The respondent relies on conduct within s.98(2)(b) ERA 1996 and contends that the dismissal fell within the range of reasonable responses.
5. The claimant was represented by Mr McNerney of counsel. The claimant gave live evidence on his own behalf. The claimant also called live evidence from two other witnesses: Claire Smith and Bonnie Morgan.
6. The respondent was represented by Mrs Shaw, solicitor. The respondent called live evidence from Paul McMullan, CEO of the respondent, who was ultimately responsible for the decision to dismiss, as well as Amy McGuinness (HR, Chief People Officer)

7. As well as the relevant witness statements furnished on behalf of the above witnesses, I also considered various documents from an agreed and indexed bundle which ran to some 410 numbered pages, plus two additional documents at pages 411-414. At the outset, each side confirmed there were no other preliminary issues they wished to raise. The parties agreed that given the likely length of the evidence of each witness and to minimise any risk of going part heard, the '*usual order*' could be modified so that Mr Powell was in fact the first witness (it being made clear that the burden remained upon the employer throughout to establish the fairness of any dismissal).

Issues for the Tribunal to Decide

8. In misconduct dismissals, there is well-established guidance for Tribunals which they are bound to follow.
9. In essence, the Tribunal must decide whether the employer had a genuine belief in the employee's guilt. Then the Tribunal must decide whether the employer held such genuine belief on reasonable grounds and after carrying out a reasonable investigation. In all aspects of the case, including the investigation, the grounds for belief, the penalty imposed, and the procedure followed, in deciding whether the employer acted reasonably or unreasonably within section 98(4), the Tribunal must decide whether the employer acted within the band or range of reasonable responses open to an employer in the circumstances. It is immaterial how the Tribunal would have handled the events or what decision it would have made, and the Tribunal must not substitute its view for that of the reasonable employer. None of that is controversial.
10. It follows that it was made abundantly clear to the parties at the outset and throughout that it was not my function for the purposes of this hearing, and indeed it is still not my function at this stage (for the purposes of deciding at least the unfair dismissal complaint, and leaving aside any issues that may arise of contributory fault etc.) to decide if the disputed events in fact happened or not. I must take care not to substitute my own view and instead properly apply the 'range of reasonable responses' test.
11. The issues in the case were therefore identified as:
 - 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, here specifically gross misconduct.
 - 1.2 If the reason was misconduct, did the respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant? The Tribunal will usually decide 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.

Findings of Fact

14. I make my findings of fact based on the material before me considering contemporaneous documents where they exist and the conduct of those concerned at the time. I have resolved such conflicts of evidence as arose on the balance of probabilities. I have considered my assessment of the credibility of witnesses and the consistency of their evidence with the surrounding facts. References to page numbers are to the agreed Bundle of Documents.
15. On 10 June 2024 Katie Stoney (KS), a former junior employee of the respondent, via a solicitor's letter, alleged that she had been the subject of various instances of sexual harassment whilst an employee (see page 413). This was followed up by a later email dated 17 June 2024 (page 411- 412) which disclosed messages that the claimant (who at the time was aged 42, KS at the time being in her 20s) had previously exchanged with KS on a variety of social media platforms (see pages 87 – 94 of bundle for the messages). The messages sent by the claimant to KS included:
 - a. In April 2023, at 03.36 at night, whilst staying at a hotel in Paris on company business at the same time as KS:

"See you soon" (followed by a winking/smiling emoji).
 - b. This was followed 6 minutes later by a message containing his hotel room number "405"; No reply was received from KS to either message.
 - c. In either April or May 2023, at 23.39hrs:

"Heart on sleeve I find you totally intoxicating and I should not. 30 year old me wishes with all my heart to be here now and to meet you. This can't happen but it's the reason why I reach out. If I were to apologise I would be a liar." Again, it seems no reply from KS was received.
 - d. On 12 May 2023, around 20.38hrs, following on from an exchange of messages relating to the Kylie Minogue track "Can't get you out of my head":

"After my apologies, which I really did mean. I have to be honest I'm on the Kylie 2001 vibe and I can't lie. That said, the tone of your reply says politely fuck off. So I'll do so".

- e. This was followed by:

"Final statement you are funny, mildly geeky, intelligent, inquisitive, interested in almost everyone you meet, slightly oblivious of your beauty, endearingly West Yorkshire, utterly captivating and really great lady".

This was followed then immediately with:

- f. *"Its not hard for me to see why I struggled to keep myself to myself".*

- g. At 21.16 KS replied:

"Well it seems I've made an impression to say the least! But thank you. I think that's a lovely opinion. Possibly but it's also important to remember there are boundaries that can't be crossed and I guess professionalism to keep. With that being said have a wonderful weekend and enjoy a glass of vino or two from me." This was followed by an emoji including a smiley blushing face.

- h. In response, the claimant immediately replied:

- i. *"That isn't decisive. Ignoring all of the scenarios is this a firm no, for you? I hope not but you can be brutally honest with me".*

- j. This was followed by another message from the claimant:

"You seem to have struggled to reply. I'd chase you on a pirate boat up the Yangtze River to be honest. Death or glory!".

- k. KS once again replied, stating:

"You are a manager in work who's married with a child and older than me open brackets expressionless emoji close brackets. It's a no because that's not something I would like to move forward with. I mean it in the most respectful way, but I don't want to be involved in that. I will laugh with you and respect you but there is a line I naturally do not want to cross." (followed by a smiling blushing emoji).

- l. *“100% clear. 100% platonic and professional I promise.”*
 - m. *I’m going to disconnect from you to save any further awkwardness between us caused by my ridiculous behaviour. Sorry for being a typical dickhead, I’d have liked to consider myself better than that so I must try harder.”*
- 16. Following the disclosure of the KS messages to the respondent company, the claimant raised concerns about the conduct of the respondent’s Chief People Officer, Amy McGuinness (AM). It seems to be agreed that the claimant at that time did not in fact know about the messages that had been disclosed to the respondent by KS.
- 17. On 24 June 2024 at a meeting requested by the claimant, the claimant told the Chief Executive of the respondent, Paul McMullan (PM) that he believed AM had behaved inappropriately towards him in the past, referencing in particular an incident in December 2023 involving a Secret Santa gift and earlier exchanges concerning the payment of his Q3 2023 bonus. PM advised the claimant that any such concerns would need to be raised in writing and under the respondent’s formal grievance procedure. The claimant was to subsequently submit a written grievance on 8 July 2024. The messages submitted by KS and the prospect of disciplinary action were not discussed during this meeting.
- 18. On the 26 June 2024, the claimant was due to have a “PDR” development meeting with PM. However, rather than proceeding with that PDR meeting, PM instead handed conduct of the meeting to Jonathan Coleman (JC - Group Finance Director) who disclosed the fact of KS’s complaint and suspended the claimant pending an investigation into an allegation of gross misconduct. The allegation specifically was that he had sexually harassed KS via the text messages that had been disclosed. JC also agreed with the claimant the date and time for him to attend a subsequent investigation meeting.
- 14. The first investigation meeting took place on 27 June 2024, conducted by JC (the Group Finance Director, acting as Investigation Manager). At the outset, JC explained the purpose of the meeting, the allegation arising from the messages disclosed by KS, and the need for confidentiality. The claimant queried the timing of the suspension letter and raised concerns about the short notice of the meeting, but confirmed he understood the allegation being put to him.
- 15. In terms of process, JC then took the claimant through the KS messages. The claimant accepted that he had sent the messages and described them himself as inappropriate, saying that they had been sent late at night and while he was intoxicated.

16. The claimant also told JC that he had been struggling with personal and financial pressures, that he had been drinking heavily outside work as a coping mechanism, and had deleted the messages from LinkedIn the following morning because he felt ashamed of them.
17. The claimant also stated that he believed there had been some mutuality in his exchanges with KS, referring to occasions on which she had complimented him. He also said that she had continued to seek him out for work-related advice after her receipt of the messages. When specifically asked whether he had ever behaved in a similar way towards any other female colleague, the claimant explicitly stated that he had not. This was later to turn out to be untrue. The notes of that investigation meeting appear at pages 161-163 of the bundle.
18. KS, who was by then a former employee, was not interviewed by the respondent as part of their investigation, the respondent instead relying upon the content and screenshots of the messages themselves, allied to the claimant's acceptance that he had indeed sent them and that they were inappropriate.
19. On 1 July 2024, JC interviewed KS's former line manager, Gerard Turk (GT), regarding matters KS said she had raised during her employment as disclosed in her solicitor's letter. The notes of that meeting and the matters discussed therein appear at page 164 of the bundle. The relevance of this is that the claimant asserts that effectively he was the only one investigated, and that there was a lack of equivalence in term of any investigation into these aspects of KS's allegations that did not involve him.
20. In that meeting, GT confirmed that KS had raised several concerns with him over time about comments or behaviour from colleagues which she had found uncomfortable, although she had often been reluctant to provide specific detail. GT recalled an incident she had mentioned during her PDR on 28 February 2024, where she said that a male colleague had stood behind her "*in a suggestive way*" when she bent over her desk to reach for a post-it-note. GT believed this had occurred in the R&D office near the desk of another colleague and thought the individual concerned may have been an employee with the initial DB, but he emphasised during the meeting that KS had not provided full detail. When other incidents occurred, he had either spoken informally to the relevant manager or encouraged KS to speak to HR but noted that she frequently declined to take the matter further or did not give enough information for him to escalate it formally.
21. On 2 July 2024, a further investigation meeting was held with the claimant after JC informed him that additional messages had been recovered from his company mobile phone, this time involving another junior female employee, Christine Barr (CB), sent while they were both away overnight on a business trip in June 2024.

22. At that meeting, JC presented the newly-identified messages, which included the claimant inviting CB to “*put your door on the snip and come for a snuggle*”, referring to watching “*Naked Attraction*”, and suggesting that she was welcome to join him. Those messages are reproduced at pages 149 -153 of the bundle. CB was also not interviewed as part of the respondent’s investigation.
23. The claimant accepted that he had sent the messages and said they had been sent late at night while he was intoxicated. When asked why CB’s number had been saved in his phone under the generic label “*Sigmatex*”, the claimant said this was because his wife was jealous of CB and he did not want her seeing CB’s name appear on his phone. JC then reminded the claimant that, in the first meeting on 27 June, he had been expressly asked whether he had ever behaved in a similar way towards any other colleague, and that he had answered “*no*.”
24. The claimant ultimately accepted that this earlier answer in the previous meeting had not been truthful, explaining that he had lied because he felt panicked and was trying to protect himself. He further said that the situation had contributed to his decision to contact Alcoholics Anonymous after his meeting with PM on 24 June, and that he had begun attending AA meetings and had not consumed alcohol since. The notes of that second investigation meeting appear at pages 168-169 of the bundle.
25. The investigation report was completed on 3 July 2024 (pages 170-171) and recommended that the matter proceed to a disciplinary hearing.
26. In the meantime, a grievance meeting took place on 10 July 2024 in respect of the grievance lodged earlier by the claimant on 8 July 2024. PM chaired the meeting, accompanied by Jonathan Trainor (JT), the UK Operations Manager. The claimant was accompanied by his father. During that meeting, the claimant set out his concerns regarding AM’s alleged conduct over the previous 12–18 months. PM subsequently undertook further enquiries, including speaking with several members of staff. PM issued the grievance outcome on 15 July 2024, concluding that the grievance was not upheld and informing the claimant of his right of appeal.
27. Also on 15 July 2024, the claimant was invited to a disciplinary hearing scheduled for 18 July 2024 in respect of his conduct towards KS. The invitation letter set out the allegations and confirmed that dismissal was a potential outcome. The basis of the action (amongst other things) was the respondent’s Employee Handbook and associated Code of Conduct, which prohibited harassment, required leaders to set standards, and provided for sanctions up to and including termination in respect of such conduct. The respondent’s definition of Gross Misconduct is as contained in their Disciplinary Policy (pp.59 – 68 of joint bundle).

28. The disciplinary hearing took place on 18 July 2024 in two parts. It was heard before PM, who was the Hearing Manager and ultimate decision-maker, The claimant was accompanied at the meeting.
29. In the initial in-person session around midday, the claimant confirmed that he had nothing further to add beyond what he had already stated during his two investigation interviews. The typed notes of that disciplinary meeting appear at pages 344-346 of the bundle. The claimant had received an evidence pack prior to the meeting and was again warned about the possibility of dismissal as an outcome. During that meeting the following was recorded:

SP: Details he doesn't deny the text messages he sent to KS; however he does not see it as sexual harassment. SP states this was a two way relationship both equally between SP & KS.

SP states he and KS had a close relationship and often discussed personal issues about close friends and family.

SP explains that when it was stated by KS that she didn't welcome these advances / text messages SP subsequently apologised and discussions continued between SP & KS in an amicable manner.

SP states that KS only looked for advice after she left the business to put in a claim and that was down to her leaving the business that this come up.

The notes also record:

PMc: Then asks SP if he has anything to add?

SP: Confirms he has stated everything already.

30. The hearing reconvened later the same day by video round 4pm. The typed notes (346) record:

PMc: Asks does SP have anything to add?

SP: Discusses mental health & Alcohol issues in investigation with Jonathan (JC). Confirms he has been receiving support, attended over 20 meetings since my suspension, "I realise that change is needed and I'm striving to improve the best I can". SP also confirms he has a sponsor who supports him.

31. At the conclusion of that session, PM (identified in the notes as PMc) informed the claimant that he was summarily dismissed for gross misconduct. The reasons given are summarised as (at page 346):

- *Over the period of time from January 2023 to May 2023, the clear evidence shows that you sent inappropriate messages of a sexual nature to KS*
- *Your behaviour was unwarranted and resulted in an allegation of sexual harassment from KS against Sigmatex.*
- *Evidence gathered from the investigation process conducted by Jonathan Coleman (JC)*
- *Your testimony discussed both in the Investigation and today – on both occasions admitting you did in fact send those messages*
- *Your length of service, the business code of conduct, the bullying and harassment policy & leadership values namely:*
 - *Bullying & Harassment – section 17.3*
 - *Code of conduct – company culture*
 - *Our leadership principles, Integrity, Disciplined*
 - *Our company values, Mindful*
- *Our disciplinary policy notes the following reasons as gross misconduct*
 - *Actions liable to open the company to prosecution, which KS has done*
 - *Conduct capable of bringing the company into disrepute*

PMc: “After considering all of this, you leave me with no choice other than your summary dismissal for the business today 18th July 2024 from gross misconduct.”

32. The typed reasons (page 348 -349 broadly reflect the same reasons as recorded in the meeting notes. A dismissal letter authored by PM in the same terms was also sent the same day (see page 351-353). After summarising the relevant parts of the company disciplinary policy and associated company standards, the final paragraph of that letter stated:

“Therefore, having considered everything in totality, I have found the allegation of Gross Misconduct to be appropriate in this situation. In particular, it was proven on the balance of probabilities that you have behaved inappropriately towards female colleagues on more than one occasion, over a sustained period of time. Your actions, which you admit to, have placed the business at risk of litigation and put the reputation of the business at risk given that you are in a position of senior leadership. It is for these reasons, plus your dishonesty during the investigation process, that I have no option other than to summarily dismiss you from your role.”

33. On 25 July 2024, the claimant appealed both (a) the dismissal decision and (b) the grievance outcome (see pages 354-359). The appeals were heard by Tony Eaden (TE), a non-executive director who had not been involved in the earlier stages of the process
34. On 6 August 2024, Amy McGuinness (AM) emailed TE providing procedural guidance relating to the forthcoming grievance and disciplinary appeal meetings, including clarification of the process and the documentation that TE would need to review in preparation. TE responded the same day confirming the proposed meeting date and logistical arrangements for the appeal hearings and copied AM into that correspondence for co-ordination purposes. The merits of the case were not discussed, and on the face of the documents and emails provided, AM had no input into those issues.
35. Both appeals were heard at a meeting held on 14 August 2024 before TE. The typed notes of both sets of meetings appear at pages 365 -372.
36. At the disciplinary appeal meeting, the claimant restated his written concerns that the disciplinary process had felt like a “*fait accompli*” and that he believed JC’s investigation had been flawed. He said that the investigation had not, in his view, given sufficient consideration to contextual or mitigating factors surrounding his conduct. TE asked the claimant to elaborate, and the claimant repeated that he felt that he was “*not listened to*” and that events had “*moved too quickly*.” TE noted those points and asked whether the claimant wished to draw his attention to any specific procedural step that he believed had been mishandled. The claimant did not identify a specific step but reiterated that he felt the investigation lacked balance.
37. The claimant also addressed mitigation at this meeting, telling TE that he had been dealing with alcohol dependency, stress and personal pressures, and that these factors had contributed to his behaviour. He confirmed he had begun attending AA meetings following his suspension. TE questioned the claimant about whether he had previously disclosed alcohol issues to the respondent; the claimant confirmed he had not. TE noted that point and confirmed that he would take the mitigation into account.
38. The claimant then raised his clean disciplinary record and long service, saying that he believed these should have resulted in a lesser sanction and that summary dismissal was excessive. TE asked the claimant whether he accepted that the messages to both KS and CB had taken place; the claimant confirmed he did, though he sought to describe them as alcohol-influenced and out of character.

39. Finally, the claimant submitted that dismissal was disproportionate. He repeated that he had made mistakes, but that he had apologised, sought help, and had not intended harm. TE asked whether the claimant wished to present any further evidence or any additional mitigation; the claimant confirmed there was nothing further he wished to add. TE adjourned after the meetings to consider the materials and the points made by the claimant.
40. Further email exchanges between AM and PE took place on 28 August 2024, after the appeal meetings had been held, in which TE informed AM that the appeal outcome letters were being sent to the claimant and sought confirmation of internal administrative steps to finalise the process. None of this email contact on its face concerned the substance of the appeals or the merits of the claimant's grounds. The correspondence appears to be related only to procedural arrangements and the handling of documentation.
41. TE subsequently wrote to and emailed the claimant on 24 August 2024 confirming that both of his appeals were unsuccessful (see pages 380 – 383).
42. In relation to the disciplinary appeal, TE dealt in turn with each of the four points raised by the claimant on appeal (predetermined outcome/fait accompli, failure to consider his mitigation, his clean disciplinary record and the disproportionate nature of the punishment) and confirmed that he nevertheless upheld PM's decision to dismiss the claimant for gross misconduct (see page 373 -375). TE noted that the allegation concerned sexual harassment of a junior colleague by a senior manager with long service and inappropriate behaviour towards more than one female colleague.
43. The letter recorded that TE had considered the claimant's mitigation - including his references to alcohol misuse, his steps taken to seek help, his length of service, and the absence of any prior disciplinary issues or warnings - but emphasised that he company had a zero tolerance approach to harassment of any kind. The letter further stated that given that there was a significant amount of evidence to substantiate inappropriate conduct, the claimant's conduct was regarded as completely contrary to the company values, leadership principles and contravened the company Code of Conduct. TE therefore upheld the sanction of dismissal as previously imposed.
14. In relation to the grievance appeal (376 -377), TE stated that he had found no basis to overturn PM's conclusion that the grievance against AM was not substantiated.
15. The letters taken together therefore confirmed that both appeals were unsuccessful and that the Respondent's internal procedures were thereby exhausted.
16. Following this the claimant's dismissal therefore stood, and he duly presented his claim for unfair dismissal to the Tribunal on 18 December 2024.

Relevant law – unfair dismissal

17. Section 94 of the Employment Rights Act 1996 confers on employees the right not to be unfairly dismissed. Enforcement of the right is by way of complaint to the Tribunal under section 111. The employee must show that they were dismissed by the respondent under section 95, but in this case the respondent admits that it dismissed the claimant (within section 95(1)(a) of the 1996 Act).
18. 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.
19. In this case it is in dispute whether the respondent dismissed the claimant because it genuinely believed on reasonable grounds that he was guilty of misconduct, here specifically gross misconduct by way of sexual harassment. Misconduct is a potentially fair reason for dismissal under section 98(2).
20. Section 98(4) then 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.
21. In misconduct dismissals, there is well-established guidance for Tribunals on fairness within section 98(4) in the decisions in **Burchell 1978 IRLR 379** and **Post Office v Foley 2000 IRLR 827**.
22. The Tribunal must decide whether the employer had a genuine belief in the employee's guilt. Then the Tribunal must decide whether the employer held such genuine belief on reasonable grounds and after carrying out a reasonable investigation. In all aspects of the case, including the investigation, the grounds for belief, the penalty imposed, and the procedure followed, in deciding whether the employer acted reasonably or unreasonably within section 98(4), the Tribunal must decide whether the employer acted within the band or range of reasonable responses open to an employer in the circumstances. It is immaterial how the Tribunal would have handled the events or what decision it would have made, and the Tribunal must not substitute its view for that of the reasonable employer (**Iceland Frozen Foods Limited v Jones 1982 IRLR 439**, **Sainsbury's Supermarkets Limited v Hitt 2003 IRLR 23**, and **London Ambulance Service NHS Trust v Small 2009 IRLR 563**).

23. Both Mr McNerney on behalf of the claimant and Mrs Shaw on behalf of the respondent, provided me with oral submissions on the above issues in the context of the evidence that I have both read and heard. Mrs Shaw also produced brief written submissions on behalf of the respondent. I have considered all of those carefully in reaching my conclusions and refer to them where necessary.

Conclusions and Findings of Fact

What was the reason or principal reason for dismissal?

24. There is no dispute that respondent dismissed the claimant. Further, there is no dispute that misconduct is potentially a fair reason for dismissal. The claimant's case is that in fact there was an ulterior motive for his dismissal.
25. The claimant in his evidence suggested that he had been targeted, and that it suited the business the engineer his exit. He gave evidence to the effect that he had been scapegoated, with the messages being used, in his words, as "*a shroud*". He recounted other issues that had arisen in terms of a sales forecast he had prepared prior to the messages coming to light, which he said was regarded as unsatisfactory, and a resulting conversation with PM where he had asked him, "*what do you want me to do make it up?*".
26. The claimant also gave evidence around incidents, difficulties and a generally fractious relations he had with AM, which he stated also fed into the respondent's true motivation to dismiss him (see for instance, the matters raised his formal grievance).
27. The claimant also called evidence from Bonnie Morgan (BM) to the effect that she had also been dismissed for what she felt were unwarranted reasons. She gave evidence that AM was vocal about not liking the claimant, had a vendetta against him, and she held the feeling that the claimant was subjected to a "*witch hunt*".
28. The evidence given by Claire Smith (CM) on behalf of the claimant was in a similar vein. She described a generally toxic work environment, and stated that prior to her own dismissal in March 2024, she had also seen hostility from AM towards the claimant. She had recalled AM saying in December 2022 that "*she would love to get something on him*". She also felt that that the respondent was looking for what she called a convenient excuse to dismiss the claimant.
29. PM gave evidence to the effect that he could not recall any conversation with the claimant around any difficulties with the sales forecast. In contrast, he described himself and the claimant as having a good relationship, with him having promoted the claimant into a leadership role around 2021 and having positively encouraged him and coached him thereafter.

30. When it was specifically put to PM that the claimant effectively had a '*target on his back*', that there had been a souring of the relationship, and that he was generally dissatisfied with his performance, PM strenuously denied this. He maintained the only reason for the claimant's dismissal was the messages as sent to Ks and subsequently recovered, amounting as they did in his view to conduct that amount to sexual harassment and therefore gross misconduct.
31. In the circumstances I prefer and accept the evidence of PM on this issue. I detected no past or indeed present hostility at all in his attitude towards the claimant, either borne out of performance issues or anything else. There was equally no documentary or other evidence to substantiate that view. To the extent that there may have been conversations around, or even disagreements about, sales forecasts or similar issues, I conclude that these did not form any part of the respondent's reason for dismissing the claimant.
32. This view is fortified by what I accept were PM's efforts to promote and encourage the claimant into a senior leadership role, and by an absence of any prior difficulties, disciplinary or performance matters being raised as against the claimant before these allegations emerged.
33. Whilst the claimant may well have had a difficult relationship with AM, it is worthy of note that it was not challenged in evidence that she was on leave abroad from 15 – 26 July inclusive, during the exact time first disciplinary hearing took place. There is therefore no positive evidence (bar speculation) that she was in any way substantively involved in that process. I accept both her and PM's evidence to the effect that she was not. Whilst I note the evidence of CS and BM, neither could give any direct evidence to the effect that AM was in any way involved in the claimant's dismissal. Indeed, CS had already left the company in March 2024 by the time the matters came later came to light in July.
34. The reasons given by PM at the conclusion of the second part of disciplinary meeting and in the accompanying letter itself of 18 July 2024 in my view make clear the respondent's real reason for the claimant's dismissal on its face, namely gross misconduct relating to the messages sent by the claimant to KS. I accept that this document, and indeed Mr McMullan's reasoning and conclusions therein, represented the respondent's principal reason, indeed I find only reason, for dismissing the claimant.
35. Given those facts, I conclude therefore on the evidence that the respondent has established, on the balance of probabilities, a potentially fair reason for dismissal in the form of the claimant's conduct. It was the principal reason, indeed I find the only reason, for the claimant's dismissal pursuant to section 98 (2) (b) ERA.
36. It follows that the next issue in the case is whether, considering the state of the evidence, the respondent genuinely believed, or indeed had grounds to genuinely believe, that the claimant was in fact guilty of gross misconduct.

37. With reference to that and indeed the remaining list of issues agreed at the outset, my conclusions are as follows:

Did the respondent genuinely believe the claimant had committed misconduct?

38. The respondents assert that they did. The claimant asserts that given the nature of the conduct, the quality of the evidence, and the context of and the claimant's explanation for the behaviour, the respondent could not have had a genuine or honest belief that the claimant had committed misconduct or indeed gross misconduct. In essence, the claimant contends that any belief that may have existed was artificially constructed rather than genuine.
39. In this regard, there is a substantial overlap with the factual matters relied on by the claimant as outlined above i.e. the assertion that the respondent had an ulterior motive to dismiss him in terms of performance matters and his relationship with AM. The test at this stage for me to apply is nonetheless different, dealing as it does with the genuineness of the respondent's belief rather than the reason or principal reason for dismissal.
40. As above, whilst it is for the respondent to prove on the balance of probabilities, the sole or principal reason for dismissal, in considering fairness the burden is neutral.
41. The claimant's case was and is that the messages sent to KS in truth were not in any sense to be classified as sexual harassment, merely representing a man "*asking a woman out*" and being politely rejected. The claimant's position was that KS's responses thereafter were "*amicable*", which potentially should have caused PM to doubt that misconduct had taken place at all. The claimant argued that the absence of any interview or account from KS conducted by the respondent added weight to this.
42. The claimant also relied upon the way the allegations emerged and their timing as further evidence that the respondent could not have genuinely believed that they amounted to misconduct. It was submitted that the allegations against the claimant were '*a makeweight*' to much more serious claims of sexual harassment as contained in the letter of 17 July 2024 (e.g. the incident involving KS and potentially another employee, DB). The claimant further asserted that the other messages as sent to CB, whilst not central to the claimant's dismissal, had been mischaracterised, arising as they did from an ostensibly consensual relationship between CB and the claimant that had existed some time earlier.

43. On the evidence I find that, on the balance of probabilities, the respondent, more particularly those who dealt with the claimant's disciplinary and appeal hearings, held a genuine belief that the claimant was guilty of gross misconduct.
44. The evidence of PM was clear, considered, detailed, corroborated by the documents and consistent throughout as to why he had reached the conclusions he did. It was equally clear as to the evidence that they had considered at various stages in doing so. I accept his evidence in that respect.
45. His evidence before me when questioned by the claimant was equally clear, namely that all of those individuals considered all relevant matters thoroughly and carefully before arriving at a genuine belief that the claimant was guilty of gross misconduct. It is worthy of note that there is in fact no positive evidence to suggest that any such belief on their part was anything other than genuine.
46. I conclude that the claimant has not proven on the balance of probability that any of his challenges to genuine belief had an influence on, or were somehow the '*true cause*' cause of, the respondent's decision to dismiss him.
47. I therefore find as a fact that the respondent's belief at various relevant stages (investigation, disciplinary hearing, appeal) was genuine.

Did the respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the claimant? In particular:

Were there reasonable grounds for that belief?

48. This question considers the information available at the time of the investigation, dismissal and appeal decisions and, at this stage, I am evaluating whether the employer's view that there was misconduct is a view within the band of reasonable responses. The way in which the respondent assessed any competing versions of events, along with their assessment of the claimant's explanations regarding the incident and alleged behaviour, is all potentially relevant to whether they had reasonable grounds for their belief that the claimant was guilty of misconduct.
49. The question is whether the employer had reasonable grounds for their belief in the claimant's guilt, based upon the material assembled as a result of their investigation and up to the point of dismissal.
50. In my judgment the respondent did have reasonable grounds, based on the material available to it, for believing that the claimant had committed the misconduct alleged. The respondent possessed contemporaneous evidence in the form of the messages exchanged with KS, which the claimant admitted sending and which in my view the respondent was entitled to view as both inappropriate and unwanted.

51. The claimant submitted during submissions that these messages amounted merely to “*a man asking a woman out*”, being politely rejected on “*amicable terms*”, and that they were a “*galaxy away*” from sexual harassment and other incidents within the employer’s knowledge. I do not accept that the employer was bound to accept that characterisation when forming its belief.
52. The context, content, timing and tenor of the messages - including the disclosure of the claimant’s hotel room number at 3.30am, the nature of the language and words used, the pressing for “*decisive*” answers after KS had referred expressly to “*boundaries*”, and the immediate follow-up when she attempted to keep matters professional — in my view would permit a reasonable employer to view the conduct as both unwanted and inappropriate and as amounting to sexual harassment. That is particularly so given the obvious imbalance of position and age as between the parties.
53. I also considered the submission that, because KS and the claimant allegedly maintained a civil and professional working relationship thereafter, the employer could not reasonably form a belief in misconduct. The relevant question is not whether KS either complained or exhibited visible distress or discontent with the claimant - but whether the employer could reasonably regard the messages as inappropriate and unacceptable. In that sense, whether KS later continued to seek the claimant out for work-related advice, in my view does not undermine the employer’s grounds for belief in the claimant’s misconduct.
54. The claimant further submitted that KS’s solicitor’s letter of 17 June was “*overwhelmingly about others*” and that his messages were annexed merely as a “*makeweight*” to far more serious allegations about other employees (including the 28 February 2024 “post-it-note” incident). I do not accept that submission.
55. The dismissal and appeal letters and oral evidence make plain that the respondent’s belief was based upon the claimant’s own conduct, not on allegations concerning third parties. The respondent was not required to reach findings on earlier, separate and vaguely particularised complaints about others that had not been raised or pursued before it could form a reasonable belief about the claimant’s conduct in respect of the admitted messages. The employer was entitled to treat the claimant’s own actions as the relevant misconduct, and the presence of potential material relating to others, in my view, does not erode the reasonableness of the respondent’s belief.

56. The respondent was also entitled to take into account that the messages recovered from the claimant's company mobile phone sent to CB while on a different business trip. Whilst I find these were not central, the existence of these messages directly contradicted the claimant's explicit denial that he had behaved similarly towards any other colleague. His lack of candour during the investigation (and on one view, deliberate dishonesty) was clearly a further ground that fortified the employer's belief that he had committed misconduct.
57. I therefore conclude that there were reasonable grounds for the respondent's belief that the claimant had committed gross misconduct as alleged. An analysis of the above matters demonstrates that the respondent was more than entitled to come to that view. In doing so, I conclude that the respondent was acting well within the range of reasonable responses.

At the time the belief was formed had the respondent carried out a reasonable investigation?

Did the respondent otherwise act in a procedurally fair manner?

58. These two matters can be dealt together in the circumstances of this case.
59. I am satisfied that the investigation carried out by JC was reasonable in all the circumstances. It involved two interviews with the claimant, the presentation of the relevant evidence, the opportunity for him to respond, and follow-up when further messages (as sent to CB) were discovered. A written investigation report and accompanying recommendation was also produced. Moreover, the roles of investigator, disciplinary manager and appeal manager were properly separated.
60. During the hearing, the claimant heavily criticised the respondent for not interviewing KS. In my judgment the respondent was reasonably entitled not to do so.
61. KS was by then a former employee and had already provided extensive and incontrovertible documentary evidence in the form of screenshots of the messages exchanged with the claimant - which importantly, the claimant accepted as accurate. The issue for the employer was therefore not one of credibility between competing accounts, or indeed KS's attitude to the messages as of now, or indeed her relationship with or attitude towards the claimant after they were sent. The central alleged misconduct was contained in the nature and wording as captured on the face of the messages themselves, with KS's attitude and response to them at the time also being captured. The weight of the evidence was clearly to the effect the messages were both unsolicited and (as per KS's responses) unwanted and occurred in the context of a clear imbalance in terms of age, status and respective roles.

62. Thereafter, the claimant was informed of the allegation, suspended on full pay (with suspension expressly described in the letter of 24 June as a neutral act), interviewed twice, and provided with the investigation materials in advance of the disciplinary hearing. The disciplinary hearing was conducted by the CEO, PM, who himself was not involved in the investigation and who I conclude considered the matter afresh following receipt of the investigation report. The claimant was ultimately accompanied and, I conclude, had the opportunity to make all points he wished. The decision reached was explained in detail in writing, cross-referencing the various policies relied upon.
63. Whilst I note the length of the disciplinary hearings that were held (split over two parts, one remote) I reject the claimant's criticism in terms of the alleged brevity and/or speed with which the process unfolded. Speed or even brevity in itself does not necessarily amount to unfairness, particularly where the substance of the evidence is documentary and undisputed. What matters is whether the claimant had a fair opportunity to understand the allegations and to respond as fully as he wished, which I conclude he did. (see for instance the claimant's explicit concessions across both parts of the hearings that he had nothing further he wished to add to his interview or to the matters he had raised in the first part of the hearing).
64. In terms of the appeal, this was heard by TE, a non-executive director who had no prior involvement in any stage of the process. In my view, TE's appeal outcome letter demonstrates a careful and reasoned consideration of each ground raised, including all points concerning alleged bias, mitigation, character, procedural concerns, and proportionality.
65. Further, the email communications in the bundle also show that HR input into the appeal process (specifically AM) was strictly limited to procedural guidance and administrative arrangements, with no involvement regarding the merits. This aligns with the respondent's evidence as given by PM, and AM's evidence, both of which I accept.
66. Absent speculation, I conclude that there is no proper evidential basis for the claimant's contention that his grievance or disciplinary outcome had been either predetermined or somehow improperly influenced by AM. AM was not involved in the decision-making at either disciplinary or appeal level and, importantly, was in fact overseas during the critical period. I find there was no procedural unfairness in that regard.
67. I also considered the claimant's submission that the process generally was a '*fait accompli*'. I reject this. The contemporaneous notes consistently show proper questions being asked, explanations being received and considered, notes being checked for accuracy, and consideration of mitigation. There is no persuasive evidence that the outcome was in any way predetermined. I accept PM's evidence that in terms of the disciplinary hearing itself, he approached matters, effectively, with an open mind, and that prior to the allegations he had a good and supportive relationship with the claimant.

68. The claimant also criticised the respondent for failing to investigate what were termed KS's other, earlier allegations, including those concerning DB and various other employees. As I have already noted, in my view those matters were vague, lacked detail, and did not relate to the claimant's conduct. A reasonable employer is not required to embark on a wide-ranging inquiry into other matters before deciding whether the claimant's admitted messages constituted misconduct. On the evidence I have heard and read, I do not find there was any deliberate lack of equivalence or lack of appetite in terms of those investigations in order to somehow particularly target the claimant.
69. The claimant also argued that he was "*the only person investigated*" and that the investigation was one-sided. The evidence does not support this. GT was interviewed, and when further material concerning messages to CB came to light, a further interview with the claimant was convened. The fact that no one else was subject to disciplinary action does not of itself undermine the fairness or depth of the investigation in these circumstances – especially where the claimant's own conduct towards KS was plainly evidenced and undisputed.
70. I also considered the claimant's suggestion that the employer failed to probe KS's motives, particularly given the timing of her disclosure after redundancy. In my view, in these circumstances the employer was not required to determine KS's motive for disclosure. What mattered was the objective evidence placed before it in terms of the messages, and whether they amounted to misconduct.
71. Having read, heard and considered all of the evidence in this case I therefore find that that respondent did carry out a reasonable investigation and, moreover in terms of procedure, that it did act in a fair manner.

Was dismissal within the range of reasonable responses?

72. In considering whether the respondent acted reasonably in treating the claimant's conduct as a sufficient reason to dismiss, I have applied the well-established range of reasonable responses test. The question is not whether I would have dismissed the claimant, nor what sanction I would have imposed. Instead, the question is whether a reasonable employer, acting reasonably in all the circumstances, could have concluded that dismissal was an appropriate sanction.
73. The claimant's conduct fell within the respondent's definition of gross misconduct as set out in its Disciplinary Policy (pp.59–68 of the bundle). That policy expressly includes harassment, conduct capable of bringing the company into disrepute, and actions liable to expose the company to legal risk as examples of gross misconduct warranting summary dismissal.

74. The Code of Conduct (pp.71–73) also required senior managers to demonstrate integrity, to avoid conduct that could harm the company's reputation, and to act as role models. The Bullying & Harassment Policy (pp.55–58) emphasised that unwelcome sexualised conduct is unacceptable and may warrant dismissal even for a first offence. These policies applied to the claimant as both an employee and as a senior manager.
75. It follows that the claimant's conduct fell fairly and squarely within respondent's definition of gross misconduct and indeed was explicitly caught by various of the non-exhaustive list of examples given within its various policies and documentation. In those circumstances I conclude that the respondent was entitled to treat the conduct as misconduct and indeed gross misconduct. Such a response was within the range of reasonable responses.
76. In terms of the circumstances generally, the claimant was a senior manager expected to model appropriate conduct. The employer had concluded that the messages to KS and CB were late-night, sexualised, unwanted, and persisted despite KS invoking professional boundaries. The employer was entitled to regard the repeated nature of the conduct, the claimant's seniority, and his lack of candour and/or dishonesty in the investigation as being serious and as cumulatively undermining the relationship of trust and confidence.
77. PM's dismissal letter (18 July 2024) made clear the matters he considered. He reiterated these in his evidence. These included:
- a) the unwanted and inappropriate sexualised nature of the claimant's messages;
 - b) that the conduct took place over a sustained period;
 - c) the claimant's senior leadership role, requiring integrity, discipline and professionalism;
 - d) the risk that his conduct exposed the business to litigation (which in fact eventuated, in terms of KS's claims);
 - e) the potential reputational damage caused by a senior manager engaging in such behaviour; and,
 - f) the claimant's dishonesty during the investigation.
78. I considered the claimant's submission that the messages were to be regarded as at most inappropriate and could not justify summary dismissal. The claimant also submitted that his mitigation - long service, a clean disciplinary record, personal stress, alcohol dependency, and the fact he had begun attending AA - was not properly or fully considered.
79. In my view, the evidence clearly demonstrates that all of those factors were expressly and properly considered at both disciplinary and appeal stage.

80. For instance, the disciplinary hearing notes explicitly record the claimant specifically raising those matters and PM thereafter asking the claimant if he wished to add anything further. PM's dismissal letter also expressly states that the claimant's length of service, record, and leadership expectations were considered.
81. The appeal decision by TE (24 August 2024) also expressly dealt with mitigation, noting in detail that he considered: the claimant's long service, the absence of prior warnings, his personal and alcohol-related issues and his steps to seek help. TE concluded that although these points were recognised, they were effectively outweighed by the seriousness of the conduct, the repetition of behaviour with two junior colleagues, and the claimant's dishonesty.
82. In my judgement, all those matters demonstrated a clear evaluative weighing of mitigation, not a failure to consider it. In my view the respondent was entitled to decide that context and the claimant's mitigation did not outweigh the seriousness of the conduct.
83. Further, for the reasons I have indicated, I also conclude that the respondent was entitled to take the view that no sanction short of dismissal was appropriate for such conduct and also to effectively conclude that any alternative, lesser sanctions should be ruled out. Such an approach was within the range of reasonable responses.
84. I also reject the claimant's submission that the employer failed to consider lesser sanctions. PM's evidence was that he had considered alternatives but that he had concluded they were inappropriate given the seriousness of the conduct, the sustained nature of it, the claimant's seniority, the breach of trust, and the claimant's dishonesty. I accept that evidence. On appeal, TE independently reached the same conclusion. Both decision-makers referred expressly to the seriousness of the conduct, the company's policies and leadership expectations.
85. I therefore reject the claimant's assertion that a sanction of dismissal was not open to the respondent or within the range of reasonable responses on these facts, or was excessive, either in and of itself or in accordance with their stated policies.

Conclusion on Unfair Dismissal

86. I find therefore that the claimant was not unfairly dismissed by the respondent within section 98 of the Employment Rights Act 1996. In those circumstances no question of remedy, or a need for any further evidence or hearings, arises.

Case Number: 6022387/2024

Employment Judge Rawlinson

5 February 2026

Judgment and Reasons sent to
parties on:

8 April 2026

For the Tribunal Office