



# EMPLOYMENT TRIBUNALS

**Claimant:** KATY ANGLISS

**Respondent:** UNIVERSITY OF WARWICK

## JUDGMENT AND WRITTEN REASONS OF THE EMPLOYMENT TRIBUNAL

**Heard at:** Birmingham via CVP

**On:** 12-15 January 2026 & 6,9,12-13 March 2026

**Before:** Employment Judge Algazy KC  
Mr D. Faulconbridge  
Ms K. Ahmad

### Appearances

For the Claimant: **In Person**

For the Respondent: **Mr C Edwards - Counsel**

## JUDGMENT

**THE UNANIMOUS JUDGMENT OF THE TRIBUNAL IS THAT:**

- 1. The claim for unfair dismissal fails and is dismissed.**
- 2. The claim for discrimination on grounds of sex fails and is dismissed.**

### **3. The claim for discrimination on grounds of age fails and is dismissed**

## **FULL WRITTEN REASONS**

Oral reasons were provided when Judgment was handed down on 13 March 2026. Subsequently, Written Reasons were requested by the Claimant on 18 March 2026 and these reasons are supplied pursuant to that request.

### **1.INTRODUCTION**

1.1 The Claimant was employed by the Respondent University, latterly as an Assistant Professor. She was employed from 20 May 2013 until her dismissal for conduct reasons on 4 June 2024. Early conciliation started on 23 May 2024 and ended on 21 June 2024. The Claim form was presented on 19 July 2024.

1.2 The Claimant represented herself and gave evidence on her own behalf. The Respondent was represented by Mr. C. Edwards (Counsel) and called 4 witnesses. They were:

- Professor Caroline Elliott, investigating officer
- Professor Michael Ward, Chair of disciplinary panel
- Professor James Hayton, Chair of appeal panel
- Ashleigh Parr, Employee Relations & Policy Manager

1.3 There was a hearing bundle running to just under 1400 pages and page references in these Reasons are to the hearing bundle unless otherwise specified.

1.4 Regular breaks were taken and any requests for additional breaks from the Parties were accommodated.

1.5 Both sides submitted written closing submissions which were augmented by oral submissions.

## **2. THE ISSUES**

2.1 The List of Issues (“LOI”) (p.93) was determined at a case management hearing on 10 March 2025. The position was discussed and clarified at the outset of the Hearing. The Claimant confirmed that the case would proceed solely on the basis of the LOI, notwithstanding some correspondence that suggested otherwise prior to the Final Hearing.

2.2 For ease of reference the numbering set out in the LOI is replicated below:

### **1. Unfair Dismissal**

1.1 What was the reason for the dismissal? The Respondent asserts that it was a reason related to conduct which is a potentially fair reason for section 98(2) Employment Rights Act 1996. It must prove that it had a genuine belief in the misconduct and that this was the reason for dismissal.

1.2 Did the Respondent hold that belief in the Claimant’s misconduct on reasonable grounds?

1.3 Was the decision to dismiss a fair sanction, that is, was it within the reasonable range of responses for a reasonable employer?

1.4 If the dismissal was unfair, did the Claimant contribute to the dismissal by culpable conduct? This requires the Respondent to prove, on the balance of probabilities, that the Claimant actually committed the misconduct alleged.

1.5 Does the Respondent prove that if it had adopted a fair procedure the Claimant would have been fairly dismissed in any event? And/or to what extent and when?

### **2 Direct discrimination (Equality Act 2010 section 13)**

2.1 The Claimant’s age raises the following protected characteristics:

2.1.1 Sex: female.

2.1.2 Age: the Claimant was aged 53 at date of dismissal and she compares her treatment with younger people.

2.2 Did the Respondent do the following things:

2.2.1 Failing to hear the Claimant grievance relating to the disciplinary process.

2.2.2 Dismiss the Claimant.

2.2.3 Permit the disciplinary hearing to be conducted by an academic with a negative bias towards females (sex discrimination only)

2.3 Was that less favourable treatment?

2.4 The Tribunal will decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the Claimant's. The Claimant is to say whether she relies upon an actual comparator.

2.5 If there was nobody in the same circumstances as the Claimant, the Tribunal will decide whether she was treated worse than someone else would have been treated.

2.6 If so, was it because of sex and/or age.

2.7 Did the Respondent's treatment amount to a detriment?

2.8 As regards age discrimination, was the treatment a proportionate means of achieving a legitimate aim?

2.9 The Tribunal will decide:

- 2.9.1 was the treatment an appropriate and reasonably necessary way to achieve those aims;
- 2.9.2 could something less discriminatory have been done instead;
- 2.9.3 how should the needs of the claimant and the respondent be balanced?

### **3 Remedy**

3.1 Does the Claimant wish to be re-instated? The Claimant has indicated she wishes to be reinstated to previous employment: see Schedule of Loss.

3.2 Does the Claimant wish to be re-engaged to comparable employment or other suitable employment?

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

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

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

3.6 Basic award for unfair dismissal.

3.7 Compensatory award for unfair dismissal.

3.8 Breaches of the ACAS Code and increase or decrease of any award to the Claimant.

3.9 There will also fall to be considered in respect of the discrimination claims:

- a declaration in respect of any proven unlawful discrimination
- recommendations
- compensation for loss of earnings flowing from discrimination
- injury to feelings

- an award of interest.

### **3. THE FACTS**

3.1 On the evidence presented to the Tribunal, we found the following material facts and such additional facts as are referred to in the Conclusions section of these reasons. We do not in these written reasons set out all of the background material and evidence that was placed before the Tribunal. We refer only to such material and salient facts as are required to determine the claims.

3.2 This is a case in which credibility issues loomed large. We deal with this topic in setting out our conclusions below.

3.3 The Claimant commenced continuous employment with the University of Warwick on 20 May 2013 as a Teaching Fellow within the Warwick Manufacturing Group (WMG).

3.4 During the 2020/2021 academic year, Ms Angliss submitted her first application for promotion to Associate Professor. The WMG promotions committee did not support the application, and Professor Robin Clark, Dean/Head of Department (HoD), provided an unsupportive statement stating that there was insufficient evidence to meet the promotion criteria (pp. 429, 436–438).

3.5 On 1 June 2021, the Claimant's job title changed to Assistant Professor, though this represented a title change only, with no substantive change in duties.

3.6 In the 2022/2023 academic year, Ms Angliss was verbally informed that her promotion application would not be supported during that cycle.

3.7 In May 2022, a comparator named by the Claimant, Harjinder Lallie, was promoted to Reader (p. 1324).

3.8 On 27 January 2023, Ms Angliss submitted her second promotion application. This application was accompanied by a HoD statement which was different to the previously submitted HoD statement. It changed from being unsupportive to supportive (pp. 436, 448). It also increased the overall score from 15 to 18 (p. 447). The Respondent alleges that it included the Dean's signature without authorisation (pp. 439, 448–449, 251 and that the department was not, in fact, supportive of the application.

3.9 It is also the Respondent's case that the Claimant had received verbal feedback that a promotion application would not be supported in that academic year. There is an email chain on 31 October 2022 that specifically refers to this matter (pp.247/246). Professor Gill Cooke, Pro-Dean (Education) had met with the Claimant on that day and told her this in terms and at 10.18 a.m. wrote to Associate Professor Dr Jane Andrews to inform her of the exchange:

*"Hello Jane*

*Today I met with Katy to provide feedback on her promotion application. Katy was most disappointed that currently WMG are unable to support the case. I agreed that I would put her in contact with you (in your Staff development and mentoring remit) such that you can provide support. If you need further information, please do not hesitate to contact me. Best wishes"*

3.10 Professor Andrews then responded at 10.44 a.m. with the subject line "*Re: Promotion application*". Ms Angliss was copied in-to that email, and it included Professor Cooke's earlier email in the thread:

*"Thanks Gill*

*Katy, I'm sorry to hear you didn't get through the process this time. The best thing we can do now is to look at the feedback and to identify how we can get you in a position to more confidently resubmit in the future.*

*I'm returning to work Thursday and will send you an appointment for either Thursday or Friday  
In the meantime, if you could please send me your application and any written feedback in advance that would be helpful  
Take care and speak soon"*

3.11 The Claimant replied to all at 15.55 that day:

*"Hi Jane,  
Thanks. I've never received any written feedback. Previously, I've been told the one category that needed improvement was Research and Scholarship (R&S). Today, I am being told that R&S is ok and the other categories need more impact statements.  
Current application attached.  
Regards  
Katy"*

3.12 The Claimant nonetheless denied in cross-examination that she was aware that her application was not supported by the department. Indeed, Ms Angliss went further. After a lengthy pause, the Claimant did not accept that the email sent at 15.55 on 31 October 2022 was in fact her reply. The Claimant confirmed that position when asked by the Tribunal if she was sure about that, given the apparently clear wording of the emails. There then followed this exchange between Mr Edwards and the Claimant:

***R - I will be saying you are lying to this Tribunal – do you want to reconsider?***

***C - No***

***R - You are lying when you are saying that as you know it clearly shows you knew the department was not supporting your application – Do you have any comment on that?***

***C – No***

3.13 The Tribunal has no, or no proper or reasoned, basis for concluding other than that the email thread of 31 October 2022 represents an accurate

reflection of the events and exchanges that took place at the time and we so find.

- 3.14 This was not the only occasion that the Claimant made assertions in the Tribunal which were flatly contradicted by the contemporaneous correspondence. In cross-examination of Professor Elliot, Ms Angliss was to say that she was not told of the allegations that she was facing in advance of the investigation interview. That is plainly incorrect – see letters of 20 February 2023 and 21 March 2023 (pp.338 and 362).
- 3.15 Returning to the relevant chronology, the Tribunal notes that the promotion-application deadline for everyone for that promotion cycle had been extended to 30 January 2023.
- 3.16 Whilst monitoring her Inbox on 27th January, Professor Clark's PA (Kathleen Choudary) noticed that the Claimant had sent an email to Academic Processes with "Academic Promotion" in the title. She opened the PDF and saw the HoD Statement with the HoD's signature on it. She thought this was strange as upon checking with Professor Clark, it transpired that it had been submitted without his knowledge or permission. She was told to let Academic Processes, and HR, know about this which she did by email the same day (pp.250 – 252) and the application was pulled accordingly.
- 3.17 On 20 February 2023, a disciplinary investigation was opened into allegations that the Claimant had fraudulently falsified the HoD statement and had used the Dean's signature to endorse her application (p. 338).
- 3.18 On 28 March 2023, the Claimant was interviewed by investigator, Professor Caroline Elliott. She said that she already had the Dean's previous statement from an earlier promotion application which was not supported by WMG and that she "*had a decision to make*" so that she sent her form with the previous HoD statement. The Claimant repeated that she

had used the statement written by Professor Clark from two years ago along with his signature. She explained that she didn't think she was doing anything wrong. The Claimant also stated that she couldn't recall whether she changed that HoD statement on the version that she then submitted on 27th January 2023 but that she thought she just copied and pasted it (pp. 419–428).

3.19 On 4 April 2023, Ms Elliott issued the Disciplinary Investigation Report (p386) after interviewing a number of witnesses, namely:

- Robert Cruickshank [390]
- Louise Oddy [394]
- Gill Cooke [400]
- Kathleen Choudhary [404]
- Robin Clark [409]
- Nancy Olson [415]
- Katy Angliss [419]

3.20 On 14 April 2023, the Respondent wrote to Ms Angliss confirming that there was a disciplinary case to answer and scheduled a hearing for 9 May 2023 (p. 458).

3.21 On 24 April 2023, the Claimant's Union Representative, Myka Tucker-Abramson, sought a postponement due to teaching commitments, which request was initially refused by the Respondent (p. 463).

3.22 Between 24 April and 9 June 2023, the Claimant was absent due to stress and referred to occupational health (p. 465).

3.23 David Pontin, another of the Claimant's named comparators, was promoted to Assistant Professor in May 2023.

- 3.24 The first disciplinary hearing, scheduled for 9 May 2023, did not take place due to the Claimant's sickness absence.
- 3.25 On 18 May 2023, the Claimant raised a grievance concerning her promotion process and the alleged inconsistent feedback she had received (pp.496, 555). This paused the disciplinary process, as the Claimant was advised on 5 June 2023 (p. 493),
- 3.26 On 25 May 2023, the Claimant raised an Academic Freedom Infringement Review in respect of academic freedom with reference to her promotion application (p. 565).
- 3.27 There were two further attempts to hold the disciplinary hearing on 19 and 22 June 2023. The 2nd attempted hearing was moved to 22 June at the Claimant's representative's request. The 3rd attempted hearing did not take place as her grievance was still extant.
- 3.28 The Academic Freedom Review Committee (AFRC) convened on 13 July 2023 (p. 583), issuing its report on 28 August 2023. The conclusion was that it found no infringement of the respondent's academic freedom that would have impacted directly on the conduct subject to disciplinary action (p. 741). This was sent to the Claimant on 1 Sept 2023 (p754)
- 3.29 The grievance outcome rejecting the Claimant's initial grievance was issued on 18/23 August 2023 (pp. 726, 739).
- 3.30 The Claimant appealed her grievance outcome on 31 August/1 September 2023 (p. 746). An appeal hearing took place on 10 October 2023 (p. 776). On 18 October 2023, the appeal outcome was issued, partially upholding one element relating to inconsistent feedback, which was remitted for further consideration (p. 788).
- 3.31 The further grievance hearing was initially scheduled for 20 November 2023 (p. 792) but was postponed to 13 December 2023 (p. 797) at the

Claimant's request. That hearing took place, and on 20 December 2023, the inconsistent-support element was not upheld (p. 803).

3.32 On 15 January 2024, the disciplinary hearing—previously postponed due to sickness absence and grievances—was rescheduled for 30 January 2024 (p. 822).

3.33 On 17 January 2024, the Claimant attempted to raise a further grievance regarding the tone of the disciplinary investigation report and seeking that the words 'fraudulently falsified' be removed.

3.34 On 18 January the Respondent wrote to Ms Angliss indicating that she should raise the 17 January 2024 matters at her disciplinary hearing. That same day the Claimant asked if the disciplinary was on hold pending her further ongoing grievance appeal.

3.35 On 23 January 2024 (p840), the Claimant requested a change of HR business partner ("HRBP"), as she believed that the HRBP (Katie Tindall) assigned to her was:

*"... not following or advising on HR processes correctly and it would be better if they had a more impartial perspective."*

3.36 The disciplinary hearing re-scheduled for 30 Jan 2024, the 4th attempted hearing, did not take place due to the Claimant's grievance appeal.

3.37 A grievance appeal hearing took place on 15 March 2024 (p. 854). It had been rescheduled from 19 February 2024 at the Claimant's request. On 25 March 2024, the further grievance appeal was dismissed (p. 859).

3.38 By letter dated 9 May 2024 but sent on 13 May 2024, the disciplinary hearing was rescheduled again for 28 May 2024 (p. 870). This was the 5<sup>th</sup> attempt.

- 3.39 Leading up to the hearing, the Claimant raised concerns on 16 and 23 May 2024 regarding the panel composition, room location and the status of her grievance. (pp. 883, 886). Notwithstanding that the identity of the Chair was made known to Ms Angliss before even the first failed attempt at holding the disciplinary hearing in May 2023, no objection had been made until now. Further, the Claimant wanted the grievance regarding the disciplinary process to be concluded before the disciplinary hearing.
- 3.40 On 24 May 2024, despite not agreeing that there was any proper basis for changing the Chair of the disciplinary hearing, the Respondent agreed to alter the panel and room (p. 882). The new Chair was to be Professor Mike Ward.
- 3.41 On 28 May 2024, the Claimant's representative raised further objections to Professor Ward one hour before the hearing, citing unsubstantiated and unevicenced allegations concerning his suitability. The Respondent refused an adjournment (p. 950).
- 3.42 The Disciplinary Hearing proceeded on 28 May 2024 before Professors Ward and Rudd (pp. 971–975).
- 3.43 On 4 June 2024, the Claimant was informed that she was immediately dismissed for gross misconduct due to falsification of the supporting statement and signature when submitting her promotion application (p.1018).
- 3.44 Ms Angliss lodged her ET1 on 19 July 2024 (p. 17). The ET3 was filed on 23 August 2024 (p. 35).
- 3.45 Additional Disciplinary Appeal materials were submitted by the Claimant in September 2024 (p. 1120).

- 3.46 A dismissal appeal hearing scheduled for 23 September 2024 did not proceed at the Claimant's request (p. 1090). On the same date, she sought to amend her ET claim to include wrongful dismissal, unpaid holiday and notice pay, and sex and age discrimination (p. 49).
- 3.47 The reconvened dismissal appeal hearing took place on 7 October 2024; Professor Ward did not attend at the Claimant's request (pp. 1230–1239, 1229). On 25 October 2024, a provisional outcome was issued (p. 1256) offering the Claimant a right to comment on additional statements, that had been obtained. The Claimant duly did provide comments. The final outcome of 31 October 2024 upheld the dismissal (p. 1282).
- 3.48 On 10 March 2025, at a case-management preliminary hearing before EJ McLuggage, the Tribunal granted limited permission to amend her claim adding the sex and age discrimination allegations set out in the LOI. (pp. 85, 93). On 18 March 2025, The Claimant identified her named comparators (p. 98).
- 3.49 On 11 April 2025, the Claimant sought to add a race discrimination claim (p. 101) which was not ultimately pursued. The Respondent filed amended Grounds of Resistance on 29 August 2025 (p. 103).
- 3.50 A request for anonymity pursuant to Rule 49(3)(b) of the 2024 Procedure Rules was raised by the Claimant on 5 December 2025 and was objected to by the Respondent on 8 December 2025. That application was refused by the Tribunal at the final hearing on 13 January 2026 for the reasons given orally at the time which was principally that there was insufficient evidence or reason advanced by the Claimant to displace the principle of open justice. We concluded that the balancing exercise was in favour of upholding that principle.
- 3.51 At the commencement of the final hearing, the Claimant indicated that she had not received the Respondent's witness statements. This came as

a complete surprise to the Respondent. After inquiries were made, it was established that the Claimant had indeed been sent the witness statements by 18 December 2025. In fact, they had also previously been sent via a link on 18 November 2025. In any event, no further point was taken, and no adjournment was sought by the Claimant.

3.52 The final hearing did not conclude in the initial 4 days allocated and on 15 January 2026 the hearing was adjourned part heard for a further 4 days to 6<sup>th</sup>, 9<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> March 2026 – with 12<sup>th</sup> March being a Chambers Day without the Parties. At the conclusion of the hearing on 15 January 2026, the Tribunal specifically asked the Parties if there were any issues that needed to be dealt with regarding documents or anything else before the reconvened hearing. Both parties confirmed that there were not.

3.53 At the conclusion of the Claimant's evidence on day on 6<sup>th</sup> March 2026, the Tribunal invited submissions on whether either party wished to introduce any further evidence as there had been correspondence on this eventuality during the adjournment. Neither side wished to do so, and we proceeded to hear submissions on 9<sup>th</sup> March 2026.

#### **4. THE LAW**

##### **UNFAIR DISMISSAL/CONDUCT**

4.1 Section 98 (1) of the Employment Rights Act 1996 ("ERA") provides:

###### **"98 General**

**In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show – the reason (or, if more than one, the principal reason) for the dismissal, and that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the**

**dismissal of an employee holding the position which the employee held.”**

4.2 Section 98 (4) of the ERA provides, so far as material:

**“(4) [Where] the employer has fulfilled the requirements of subsection (1), the determination of the .....whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and shall be determined in accordance with equity and the substantial merits of the case.**

4.3 The well-known case of **British Home Stores v. Burchell [1978] IRLR 379** applies to conduct cases. The three-fold test that must be successfully negotiated by the employer is that (i) at the time of dismissal the employer believed the employee to be guilty of misconduct with the burden of showing that there is a potentially fair reason for dismissal lying on the employer; (ii) at the time of dismissal the employer had reasonable grounds for believing the employee was guilty of that misconduct; (iii) at the time that the employer formed that belief on those grounds, it had carried out as much investigation as was reasonable in the circumstances.

4.4 As was held in **Burchell**:

***“What the tribunal have to decide every time is, broadly expressed, whether the employer who discharged the employee on the ground of the misconduct in question (usually, though not necessarily, dishonest conduct) entertained a reasonable suspicion amounting to a belief in the guilt of the employee of that misconduct at that***

*time. That is really stating shortly and compendiously what is in fact more than one element. First of all, there must be established by the employer the fact of that belief; that the employer did believe it. Secondly, that the employer had in his mind reasonable grounds upon which to sustain that belief. And thirdly, we think, that the employer, at the stage at which he formed that belief on those grounds, at any rate at the final stage at which he formed that belief on those grounds, had carried out as much investigation into the matter as was reasonable in all the circumstances of the case. It is the employer who manages to discharge the onus of demonstrating those three matters, we think, who must not be examined further. It is not relevant, as we think, that the tribunal would themselves have shared that view in those circumstances. It is not relevant, as we think, for the tribunal to examine the quality of the material which the employer had before them, for instance to see whether it was the sort of material, objectively considered, which would lead to a certain conclusion on the balance of probabilities, or whether it was the sort of material which would lead to the same conclusion only upon the basis of being "sure," as it is now said more normally in a criminal context, or, to use the more old-fashioned term, such as to put the matter "beyond reasonable doubt." The test, and the test all the way through, is reasonableness; and certainly, as it seems to us, a conclusion on the balance of probabilities will in any surmisable circumstance be a reasonable conclusion."*

4.5 The Tribunal also had regard to **Burdett v Aviva Employment Services** **UKEAT/0439/13/JOJ**. Gross misconduct could be made out by deliberate/wilful wrong-doing or gross negligence. Dishonesty was not required. See §§29 and 66.

4.6 The Tribunal reminded itself of **Iceland Frozen Foods Limited v. Jones** **[1983] ICR 17** and the "band of reasonable responses" test.

In applying this test, whether or not the tribunal would have dismissed the employee is not a relevant consideration. The tribunal must not substitute its view for that of the employer **Foley v Post Office; Midland Bank plc v Madden [2000] IRLR 82**

4.7 We also heeded the guidance in **London Ambulance Service NHS Trust v. Small [2009] IRLR 563** in respect of the dangers of Tribunals falling into the substitution mindset.

4.8 The reasonableness test equally applies both to the investigation which led to that decision **Sainsbury's Supermarkets Ltd v Hitt [2003] IRLR 23.** The issue for the tribunal is not whether it would have investigated things differently, but whether the investigation was within the range of investigations that a reasonable employer would have carried out. What the tribunal should look at and assess is the reasonableness of the employer's conduct, not the level of injustice to the employee - **Chubb and Fire Security Ltd v Harper [1983] IRLR 311.**

#### **Discrimination/Burden of Proof**

4.9 The Tribunal considered **S 136 Equality Act 2010 ("EqA")** and the correct approach to the burden of proof as set out in **Igen V Wong [2005] IRLR 258** and other authorities.

4.10 With regard to the timeless question of the "reason why". Underhill J. (as he then was) said this in **A Gay v Sophos plc UKEAT/0452/10/LA:**

**27 "It is now very well-established that a tribunal is not obliged to follow the two-stage approach: see Laing v Manchester City Council [2007] ICR 1519, at paras. 71-77 (pp. 1532–3) (approved in Madarassy). If it makes a positive finding that the acts complained of were motivated by other considerations to the exclusion of the proscribed**

**factor, that necessarily means that the burden of proof, even if it had transferred, has been discharged.”**

4.11 The then President of the EAT, Simler J. opined in **Pnaiser v. NHS England and another** [2016] IRLR 170 at §38:

**“Although it can be helpful in some cases for tribunals to go through the two stages suggested in Igen v Wong, as the authorities demonstrate, it is not necessarily an error of law not to do so, and in many cases, moving straight to the second stage is sensible”**

4.12 Following the guidance given by the EAT in **Barton v. Investec Henderson Crossthwaite Securities Ltd** [2003] IRLR 352, as developed and refined by the Court of Appeal in **Igen Ltd v. Wong and others** [2005] IRLR 258 & **Madarassy v. Nomura International plc** [2007] IRLR 246, the burden of proof in a discrimination claim falls into two parts.

### **Stage One**

4.13 Firstly, it is for C to prove on the balance of probabilities facts from which a reasonable tribunal could properly conclude, on the assumption that there is no adequate explanation, that R has committed an act of discrimination which is unlawful. (The outcome of the analysis by the tribunal at this stage will usually depend on what inferences it is proper to draw from the primary facts found by the Tribunal.)

4.14 In **Royal Mail Group v Efobi** [2021] ICR 1263, the Supreme Court confirmed that a claimant is still required to prove, on the balance of probabilities, facts from which, in the absence of any other explanation, the Employment Tribunal could infer an act of unlawful discrimination.

4.15 If C does not prove such facts, he/she must fail.

## Stage Two

4.16 Secondly, where C has proved facts from which it could be inferred that R has treated C less favourably on proscribed grounds, then the burden of proof moves to R.

4.17 It is then for R to prove that it did not commit or, as the case may be, is not to be treated as having committed that act.

4.18 To discharge that burden it is necessary for the R to prove, on the balance of probabilities, that the treatment was in no sense whatsoever on the proscribed grounds of which complaint is made.

4.19 That requires a Tribunal to assess not merely whether R has proved an explanation for the facts from which such inferences can be drawn, but further that it is adequate to discharge the burden of proof on the balance of probabilities that the proscribed ground was not any part of the reasons for the treatment in question. If R can do this, the claim fails.

4.20 Since the facts necessary to prove an explanation would normally be in the possession of R, a Tribunal would normally expect cogent evidence to discharge that burden of proof.

4.21 If the burden is not discharged, the Tribunal is bound to find that discrimination has taken place.

4.22 As observed by Langstaff J. (EAT President, as he then was) when considering whether “stage one” has been satisfied by a claimant in a discrimination claim:

**“It has been so well-established as to be trite that the bare facts of a different status and a difference in treatment are insufficient to achieve this; they only indicate a possibility of discrimination”. – Millin v. Capsticks Solicitors LLP - UKEAT-0093/14 and UKEAT/0094/14.**

4.23 More than a difference in treatment and a difference in the protected characteristic is needed to shift the burden. It is not enough to prove facts from which the Tribunal could conclude that the respondent 'could have' committed an act of discrimination; the Claimant has to prove facts from which the tribunal 'could conclude' that the respondent 'had'. The "Bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient..." **Madarassy v Nomura International plc [2007] EWCA Civ 33.**

4.24 The Tribunal may draw inferences from the fact that there are inconsistencies in the employer's explanation: "the substance of the explanation should be excluded from consideration when deciding whether the burden of proof should be reversed, but the fact that explanations had been given which were inconsistent could be taken into account" - **Veolia Environmental Services UK v Gumbs - EAT 0487/12.**

4.25 Unreasonable or unfair conduct is not, by itself, enough to raise an inference of discrimination to shift the burden of proof. If unreasonable conduct occurs alongside other indications that there might be discrimination on racial grounds, that would alter the position, but those indications must relate to the prohibited ground - **Commissioner of Police of the Metropolis and anor v Osinaike - EAT 0373/09.**

4.26 The Supreme Court in **Efobi v Royal Mail Group Ltd [2021] UKSC 33** reaffirmed the approach in **Igen v Wong** and **Barton**:

"(1) Pursuant to s 63A of the SDA 1975, it is for the claimant who complains of sex discrimination to prove on the balance of probabilities facts from which the tribunal could conclude, in the absence of an adequate explanation, that the respondent has committed an act of discrimination against the claimant which is unlawful by virtue of Part II or which by virtue of s 41 or s 42 of the SDA 1975 is to be treated as having been committed against the claimant. These are referred to below as "such facts".

(2) If the claimant does not prove such facts he or she will fail.

(3) It is important to bear in mind in deciding whether the claimant has proved such facts that it is unusual to find direct evidence of sex discrimination. Few employers would be prepared to admit such discrimination, even to themselves. In some cases the discrimination will not be an intention but merely based on the assumption that “he or she would not have fitted in”.

(4) In deciding whether the claimant has proved such facts, it is important to remember that the outcome at this stage of the analysis by the tribunal will therefore usually depend on what inferences it is proper to draw from the primary facts found by the tribunal.

(5) It is important to note the word “could” in SDA 1975 s 63A(2). At this stage the tribunal does not have to reach a definitive determination that such facts would lead it to the conclusion that there was an act of unlawful discrimination. At this stage a tribunal is looking at the primary facts before it to see what inferences of secondary fact could be drawn from them.

(6) In considering what inferences or conclusions can be drawn from the primary facts, the tribunal must assume that there is no adequate explanation for those facts.

(7) These inferences can include, in appropriate cases, any inferences that it is just and equitable to draw in accordance with s 74(2)(b) of the SDA 1975 from an evasive or equivocal reply to a questionnaire or any other questions that fall within s 74(2) of the SDA 1975.

(8) Likewise, the tribunal must decide whether any provision of any relevant code of practice is relevant and if so, take it into account in determining, such facts pursuant to s 56A(10) of the SDA. This means that

inferences may also be drawn from any failure to comply with any relevant code of practice.

(9) Where the claimant has proved facts from which conclusions could be drawn that the respondent has treated the claimant less favourably on the ground of sex, then the burden of proof moves to the respondent.

(10) It is then for the respondent to prove that he did not commit, or as the case may be, is not to be treated as having committed, that act.

(11) To discharge that burden, it is necessary for the respondent to prove, on the balance of probabilities, that the treatment was in no sense whatsoever on the grounds of sex, since “no discrimination whatsoever” is compatible with the Burden of Proof Directive.

(12) That requires a tribunal to assess not merely whether the respondent has proved an explanation for the facts from which such inferences can be drawn, but further that it is adequate to discharge the burden of proof on the balance of probabilities that sex was not a ground for the treatment in question.

(13) Since the facts necessary to prove an explanation would normally be in the possession of the respondent, a tribunal would normally expect cogent evidence to discharge that burden of proof. In particular, the tribunal will need to examine carefully explanations for failure to deal with the questionnaire procedure and/or code of practice."

The Supreme Court conformed that **Igen** remains good law and that a tribunal cannot conclude that, in the words of s 136(2), 'there are facts from which the court could decide... “unless on the balance of probability from the evidence it is more likely than not that those facts are true.”

## 5 Direct discrimination

5.1 Section 13(1) of the EqA provides that direct discrimination occurs where, because of a protected characteristic, a person (A) treats another (B) less favourably than (A) treats or would treat others. An employee claiming direct discrimination must show that she has been treated less favourably than a real or hypothetical comparator in circumstances that are not materially different to theirs – see Section 23 EqA. The relevant “circumstances” are those factors which the employer has taken into account in deciding to treat the Claimant as it did with the exception of the Claimant’s – see **Shamoon v. Chief Constable of the Royal Ulster Constabulary [2003] ICR 337.**

5.2 Therefore, in a claim based on the Claimant’s age or sex the comparator must be someone whose circumstances are identical to the Claimant in all material respects but does not share the claimant’s protected characteristic.

5.3 According to the EqA, discrimination based on sex/age occurs where the less favourable treatment is “because of” the Claimant’s protected characteristic. The EqA requires the Tribunal to consider the reason why the Claimant was treated less favourably and determine what was the employer’s conscious or sub-conscious reason for the treatment.

## **6 DISCUSSION AND CONCLUSIONS**

6.1 We set out our conclusions by reference to the numbering in the LOI but firstly address the issue of the credibility of the witnesses who gave evidence at the final hearing.

### **Credibility**

6.2 The Respondent has made a wholesale attack on the credibility of the Claimant identifying what it alleges are multiple instances of dishonesty and outright lies both in the internal proceedings and in the final hearing before

the Tribunal which we do not think necessary to rehearse in full in these Written Reasons.

6.3 Regrettably, we find considerable force in those submissions. In particular, the Tribunal was struck with the Claimant's explanation in the final hearing as to how the HoD's statement which was supplied to support her 2<sup>nd</sup> promotion application came into existence. The explanation proffered was in marked contrast to the previous occasions on which this was addressed in the internal investigatory, disciplinary and appeal processes. Nor did this latest version of events feature with any clarity, if at all, in the Claimant's witness statement before the Tribunal.

6.4 For the first time, on day two of the final hearing, the Claimant advanced a stark and unambiguous account on this issue. That account was that Professor Clark had, in fact, sent an email containing the version submitted from which she merely cut and paste the contents. The email was no longer in her possession, and the Claimant was unable to give any satisfactory explanation as to why this wholly exculpatory document was never referred to, much less produced at a time when it would have been in her possession if it existed, at any stage of the investigatory, disciplinary or appeal processes. We are driven to the conclusion that the Claimant cannot be considered to be a reliable witness of truth before this Tribunal by this and the other examples advanced by the Respondent.

6.5 In contrast, we found that the Respondent's witnesses gave considered, measured and compelling evidence which was not damaged or shaken by cross-examination or from questions from the Tribunal. Insofar as there were direct conflicts of evidence that required to be resolved by the Tribunal in arriving at our conclusions, we generally preferred the evidence of the Respondent's witnesses. However, we did not do so in a mechanistic way, and we approached and resolved any such conflict on its individual merits.

### **Unfair dismissal - Issues 1.1 - 1.3**

6.6 Conduct is advanced by the Respondent as the reason for the dismissal and the task of the Tribunal was here approached by consideration and application of the three-fold test in **British Home Stores v. Burchell [1978] IRLR 379**.

- (i) *At the time of dismissal did R discharge the burden of showing that it believed C to be guilty of misconduct.*

Based on the oral testimony of Professor Ward and the supporting documentary evidence placed before the Tribunal, we unhesitatingly conclude that the Respondent has indeed discharged that burden. The Tribunal agrees with the observation of Professor Ward at the final hearing that the issue to be determined by the disciplinary panel was not complicated. It was put succinctly in the disciplinary outcome letter thus:

*“It is clear upon reviewing the evidence that Katy provided a falsified HOD statement to Academic Processes which incorrectly indicated departmental support for her Academic promotion application, despite having been told earlier that her application would not be supported. This represents a falsification of records and fraudulent activity.”*  
(p.1019)

6.7. The remaining two limbs of the **Burchell** Test are:

- (i) *At the time of dismissal R had reasonable grounds for believing that C was guilty of that misconduct; and*
- (ii) *At the time that R formed that belief on those grounds, it had carried out as much investigation as was reasonable in the circumstances.*

We deal with these 2 limbs of the test together. The Tribunal finds that there were both ample and reasonable grounds for the Respondent to conclude that the misconduct had occurred as was alleged, not least from the

Claimants' own evidence given at the investigatory and disciplinary hearing stages of the process.

6.8 In Professor Ward's cross examination, the Claimant sought to establish that she had never been directly asked if she had "done it" and that the dismissal letter only said that she had not denied it. Professor Ward's response was clear and unequivocal. He told the Tribunal that he asked for an explanation for how the wording had changed and that the Claimant had already admitted that she had prepared and sent the 2023 document. Further that the fact that she prepared it was not in doubt as she had already acknowledged it.

6.9 The Tribunal notes the following passages from the disciplinary hearing Notes (pp 971-975):

*MW invited KA to present her case, including any information, evidence or mitigation which she felt helpful to her case and helpful for MW to be aware of to help clarify his understanding. KA explained that at the time she thought she was doing right thing based on information she had, trying to follow process and she felt her actions were helping in the way of completing that. She was receiving the emails connected to application, and she felt she informed the HoD and WMG that she planned to submit. KA highlighted that the process does allow for her to submit the application without HOD support – MW confirmed this is accepted as process and not in contest. KA said her action was in hindsight an honest mistake.*

...

*MW asked to revisit KA's earlier comment of 'doing the right thing.' He noted the changes to the HoD statement, and explained that the ultimate effect of these changes was a change in tone and support, so much so that the overall position was the opposite of what the HOD had said in his statement from KA's previous application regarding the support of the department for KA's promotion. KA said she made a change to research and scholarship as she was advised verbally that her score was ok in this area. Other than that, she wasn't given any other formal feedback about scores. KA said she used the statement from two years*

*ago, changed research/scholarship as said before. Said she didn't change the other categories.*

...

*MW said KA had left certain parts untouched, but added in other sentences (support sentence), which hadn't appeared before. Asked if that was her invention, KA said no. MW asked where it came from. KA did not directly answer this question. She said she wasn't given any feedback. MW asked again if she'd written it. He then clarified the purpose of the hearing was divided into two parts: what happened according to the investigation and the opportunity for hearing her defence/mitigation. He said he was confused regarding statements that said different things: Part B, his was not fraudulently falsified as it was "unintentional" – MW asked KA to confirm what she meant by her use of the word unintentional. KA said she made the mistake under pressure, that she got the document, tried to find previous one, put the statement in there and sent the application with HoD cc'd. Reiterated she was under pressure and couldn't properly think about it regarding the deadline.*

....

*JR asked about KA's 'wanting to help' and 'right thing' phrasing that she had mentioned throughout this discussion. He said that her actions had resulted in her expediting matters but that the changes she made to the HOD statement substantially changed the content and tone – from not supporting her submission to supporting. He asked how KA felt her actions in changing the HOD statement would have helped and who it helped. KA said she thought she was doing right thing by changing research/scholarship. JR explained he felt it changed the nature of the document and repeated question. KA said she used previous two years statements as a basis for the application/statement.*

6.10 Further, the notes of the investigation meeting with Ms Angliss (pp.423 - 425) were before the disciplinary hearing and contain these important exchanges:

*CE: To confirm, the HoD statement you used was the one Robin has written 2 years previously, in January 2021.*

*KA: Yes*

*CE: The signature you used; how did you have that?*

*KA: It was on the statement from 2021. I didn't think I was doing anything wrong.*

*CE: So you used the signature from 2 years ago?*

*KA: Yes, I didn't think I was doing anything wrong.*

*CE: You used the supporting statement from 2 years previously.*

.....

*CE: Would you still have the email with HoD statement from 2 years ago?*

*KA: I have this one (hands email print out to CE).*

*“CE: That is really helpful, you have given us the email from Julie that has Robin Clark's signed supporting statement attached. Do you still have the email electronically?”*

*KA: I can check.*

*CE: If you can look for that, that would be helpful. Please send it to KT. Just to be clear; it was that statement that you copied and included in your promotion application.*

*KA: Yes because I hadn't received the HoD statement in time.*

*KT: Did you just cut and paste, with no additions?*

*KA: I can't remember. I can check.*

*CE: And you copied and pasted the Deans signature from this earlier application as well?*

*KA: Yes, I merged it in.”*

6.11 In cross – examination, Ms Angliss initially accepted that the signed notes of her interview (at p.423) were an accurate summary of what was said only to suggest that they were not some moments later before finally accepting that:

***“It is an accurate reflection of what I said at the time”***

Nonetheless, Ms Angliss continued to cast doubt on the accuracy of the notes by then suggesting that she had been under pressure from HR to sign

the notes. The Claimant did not challenge Professor Elliot on this topic in cross - examination. The Tribunal, on balance, accepts that the interview notes are an accurate summary of the Claimant's responses at the time.

6.12 Moreover, we determine that Professor Elliot's investigation was within the range of investigations that a reasonable employer would have carried out. - **Sainsbury's Supermarkets Ltd v Hitt [2003] IRLR 23**. Nor do we consider that there was any proper basis for impugning the integrity or independence of Professor Elliot as Ms Angliss attempted to do in her evidence to the Tribunal despite being invited to articulate and substantiate this concern a number of times.

6.13 We have considered the allegations of procedural unfairness raised by the Claimant to the disciplinary process. No specific challenge is identified in the LOI. The Claimant points to, and relies on, delay in particular. From the chronology above set out, considerable delay is plainly attributable to the approach taken to the internal processes by both the Claimant and her advisor. Further, some delay was inevitably and unavoidably the result of the Claimant's sickness absence. Nonetheless there is a period of some weeks specifically relied on by the Claimant, between the final grievance appeal outcome on 25 March 2024 and the disciplinary hearing invitation on 13 May 2024. The invitation gave 15 days' notice of the DH to take place on 28 May 2024.

6.14 Whilst this additional delay is regrettable, we do not consider that this adversely affected the fairness of the disciplinary process in the overall context of the relevant chronology. This especially so given the fact that the Claimant had been on notice of the actual disciplinary hearing for more than a year, since April 2023. When asked by the Tribunal if there were other delays relied on by the Claimant, she said that there were some other smaller delays did not point to any others specifically by reference to her witness statement.

- 6.15 We equally do not see how the Claimant can claim to have been given shorter notice of the final Disciplinary Hearing than was required by the Respondent's disciplinary process (two weeks), even taking into account that a Bank holiday intervened in the 15 days – We accept the Respondent's submissions on this point at § 56 of the Respondent's closing submissions.
- 6.16 As to the late change of Chair of the Disciplinary Hearing to Professor Ward, the Claimant was unable to articulate how this, if so alleged, impacted on her ability to prepare for the disciplinary hearing. The Claimant accepted that it did not "directly relate" to her ability to prepare but that the alleged shortened notice did because "*...there was a period of uncertainty as I was told there was going to be a change*"
- 6.17 We reject the suggestion that there was any, or any material, basis or evidence for the Claimant's allegations of bias and conflicts of interest of those individuals that were tasked with conducting the investigation and disciplinary process.
- 6.18 We are unable to discern or accept that there was any unfairness in the selection of an academic to either chair or be on the panel because of the fact that they would have knowledge of the promotion process at the Respondent and/or not be independent of an HoD role. The Tribunal fails to see how that constituted any, or any material, conflict in the determination of the allegation of falsifying the promotion application and the HoD signature.
- 6.19 On the balance of probabilities, we reject the suggestion that Professor Ward said, as alleged at §6.99 of the Claimant's witness statement, "Let's get this over with shall we" at the commencement of the DH.
- 6.20 We are unable to identify any evidence of pre-determination by the Respondent of the disciplinary outcome at any stage, much less multiple stages, as alleged by the Claimant. We reject the suggestion at §9 of the Claimant's closing submission that :

*“... the Respondent framed the process towards dismissal without clarifying the facts, relying on assumptions rather than evidence.”*

6.21 For completeness, we observe that a thorough and detailed appeal process was followed which upheld the dismissal and with which the Tribunal do not find any, or any material, procedural or other failings.

6.22 We now turn to the question of whether the decision to dismiss was within the reasonable range of responses for a reasonable employer. We have no reason to conclude other than that it plainly does. Ms Angliss, a relatively senior academic was found to have committed serious misconduct and breached the trust and confidence between her and the Respondent by making the fraudulent statement she did and by using Professor Clark’s signature without his permission.

6.23 The remaining issues in the LOI under unfair dismissal do not require determination and we go on to consider the discrimination allegations.

### **Sex and age discrimination - Issue 2.2.1**

#### **Did R fail to hear the Claimant’s grievance relating to the disciplinary process.**

6.24 The Claimant clarified in her evidence before the Tribunal that this was a reference to her email of 17th January 2024 (pp. 832-833). In accordance with the Respondent’s policy, , this was heard as part of the disciplinary process (p. 134, para 3.7, 2nd bullet). So, it is clear that it was not heard separately. However, the Claimant appeared to accept that this was the correct approach in cross examination as reflected in her email exchanges with Lynsey Wooley - Khan of HR on 18 January 2024:

*“Hi Lynsey,*

*Thanks for the reply, I will send my grievance about the disciplinary investigation to Katie Tindall*

*.....”*

*(p831/832)*

6.25 We acknowledge, as the Respondent points out, that the gravamen of the Claimant’s grievance related to the adequacy of Professor Elliot’s investigation and in particular to the fact that the words ‘fraudulently falsified’ were used in Professor Elliot’s investigation report. This was addressed by Ms Angliss in her ‘Part A’ in the substantial disciplinary document she produced at p.889. We also accept the Respondent’s submission that that was effectively covered as part of the disciplinary process.

6.26 Accordingly, our primary finding is that this allegation is not made out on the facts. However, if we are wrong about that, we go on to consider if that was less favourable treatment and whether that failure was because of the Claimants’s sex or age below.

### **Sex and age discrimination - Issue 2.2.2**

#### **Did R dismiss C?**

6.27 The Claimant was dismissed and we address the consequential discrimination issues below.

### **Sex discrimination - Issue 2.2.3**

#### **Did R permit the disciplinary hearing to be conducted by an academic with a negative bias towards females**

6.28 This complaint regarding Professor Ward was made by the Claimant’s representative precisely 1 hour before the scheduled disciplinary hearing on 28 May 2024. It was in these terms:

*“Dear Ashleigh,*

*Many thanks for the update. I am extremely concerned about the choice of Prof Ward as an Investigating Officer. In my extensive experience as a caseworker, I have come across Prof Ward multiple times and have found him to be extremely hostile to staff members, and often particularly so to female members of staff. I would request that a new IO be appointed, and if necessary that the meeting be moved to do so.*

*Best,  
Myka”  
(p.950)*

6.29 The reason Professor Ward was appointed was because of the Claimant’s very late challenge to Professor Fabienne Peter not long before the fifth attempt to hold the Disciplinary Hearing. Professor Peter’s appointment had been made known to Ms Angliss for more than a year since the original invitation on 14 April 2023.

6.30 Put simply, the complaint regarding Professor Ward was a bare allegation unsupported by examples or any evidence. Nor was any further particularisation or evidence produced to the Tribunal. Furthermore, Professor Ward’s unchallenged evidence when this matter was put to him in cross-examination was that the email from the Claimant’s representative was a lie and that he had in fact only met Myka Tucker-Abramson once, three years earlier. We accept that evidence.

6.31 The Tribunal does not accept that this complaint is established on the facts and so we do not need to consider the issues of whether this was less favourable treatment or because of the Claimant’s sex.

### **Sex and age discrimination - Issue 2.3**

**Was the dismissal and/or the failure to hear the Claimant’s grievance relating to the disciplinary process less favourable treatment?**

6.32 To establish direct discrimination, a Claimant must show that they have been treated less favourably in some way than a real or hypothetical

comparator has or would be. The Claimant's named comparators appear to be inapt and seem to be comparators in respect of the promotion process rather than in regard to the three specific acts of discrimination in the LOI. There were no allegations of that sort in the LOI just as there were no allegations regarding protected disclosures in the LOI, both of which are referred to in the Claimant's written closing submissions.

6.33 The Tribunal also notes that the named comparators were all either the same age or older than Ms Angliss and so could not be considered appropriate comparators for the age discrimination claims in any event. Nor was there any evidence adduced to show that any of them had been accused of forging documents to obtain promotion or had anything other than a clean disciplinary record.

6.34 There was no evidence before the Tribunal to establish, and the Tribunal does not find, that the Claimant was treated less favourably than either any of her named comparators or a hypothetical comparator whose circumstances were not materially different from those of the claimant as regards either:

6.34.1 her dismissal; or

6.34.2 the failure to hear the Claimant's grievance relating to the disciplinary process, if such failure is established, contrary to our findings.

6.35 Whilst we address the issue of less favourable treatment separately by reference to the LOI, we remind ourselves of the observation of Lord Nicholls in **Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] ICR 337** at §10 that, in certain cases:

*“ ...the less favourable treatment issue is incapable of being decided without deciding the reason why issue. And the decision on the reason*

*why issue will also provide the answer to the less favourable treatment issue.*

This leads us to the issue of why the Respondent acted as it did in respect of the impugned conduct which we now consider.

### **Sex and age discrimination - Issue 2.6**

#### **Did R dismiss C and/or fail to hear the Claimant's grievance relating to the disciplinary process because of sex or age.**

6.36 The Tribunal concludes that this case is precisely the kind of case in which it can go directly to the question of the "reason why" the Respondent acted as it did in respect of both the dismissal and, if established contrary to our primary finding, the failure to hear the Claimant's grievance relating to the disciplinary process.

#### **Dismissal**

6.37 For the reasons set out in respect of the unfair dismissal claim, the Respondent dismissed the Claimant because it held a genuine belief in the Claimant's guilt of the act of gross misconduct in fraudulent conduct by submitting a falsified HoD statement to Academic Processes which incorrectly indicated departmental support for her academic promotion application, despite having been told earlier that her application would not be supported.

6.38 The decision to dismiss was not, in our judgment, in anyway linked to, tainted by or influenced by considerations of the Claimant's age or sex.

6.39 If we approach the allegation by adopting the two stage process for reversing the burden of proof in **Igen** and **Efobi**, we determine that the Claimant has failed to prove on the balance of probabilities facts from which the Tribunal could conclude, in the absence of any other explanation, that the Respondent had committed an act of discrimination against the Claimant which is unlawful under the EqA. The burden accordingly does not shift to the Respondent and the claim fails.

**Failure to hear the Claimant's grievance relating to the disciplinary process**

6.40 If established, contrary to our primary finding, the reason why the Respondent acted as it did was because:

6.40.1 It was following the usual procedure set out in its disciplinary policy at §3.7:

*“3.7. The grievance policy and procedure does not normally relate directly to the following:*

*.....*

*• grievances relating to the disciplinary procedure should be addressed via the Disciplinary policy and procedure's appeal process” (p.134);and/or because*

6.40.2 The issues that the grievance raised relating to the disciplinary investigation, as opposed to the promotion process in general, were implicitly, if not explicitly, dealt with as part of the disciplinary hearing; and/or

6.40.3 The disciplinary outcome letter addressed those issues that were specifically raised at the Disciplinary Hearing itself. Professor Ward's evidence in cross-examination referred to the fact that the Claimant and her representative were specifically asked at the end of the Disciplinary Hearing( p.975) if they wished to raise any other matters and replied in the negative.

6.41 Any failure that might be established here was not, in our judgment, in any way linked to, tainted by or influenced by considerations of the Claimant's age or sex.

6.42 Alternatively, the Claimant failed to prove on the balance of probabilities facts from which the Tribunal could conclude, in the absence of any other explanation, that the Respondent had committed an act of discrimination against the Claimant and the burden of proof did not shift to the Respondent.

6.43 In the circumstances, the claims all fail and are dismissed. The remaining matters in the LOI do not require determination and are accordingly not considered further.

**Employment Judge Jacques Algazy K.C.**

Approved On: 17 April 2026