EMPLOYMENT TRIBUNALS

Claimant: **Mr P Sheward**

Respondent: **Great Learners Trust**

Heard at: **Watford Employment Tribunal (by video hearing)**
On: **9 – 12 March 2026**

Before: **Employment Judge Youngs**

Representation
Claimant: In person
Respondent: Mr R Holland, counsel

JUDGMENT having been sent to the parties on 2 May 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunal Procedure Rules 2024, the following reasons are provided:

REASONS

1. By a Claim Form dated 10 April 2024, the Claimant brings claims for constructive dismissal and direct discrimination because of belief. The Respondent responded on 4 June 2024, resisting the claims.

2. The final hearing of this matter was held by video hearing from 9 to 12 March 2026.

3. The Claimant represented himself and gave evidence on his own behalf. The Respondent was represented by Mr Holland of Counsel. Evidence was given for the Respondent by Mr Johnny Magee, Headteacher of Great Missenden Church of England Combined School, and Mr Harry Sperring, currently Headteacher of Steeple Claydon School but, at the time relevant to this Claim, Mr Sperring was the Deputy Head at Great Missenden.

4. I had before me an agreed bundle of documents. Each witness had a written statement that stood as their evidence in chief.

5. I took into account the evidence and the submissions of both parties.

6. In this Judgment, numbers in square brackets are references to page numbers in the Bundle.

Issues

7. The issues to be determined were discussed and agreed at a preliminary hearing on 19 November 2024. At the start of this final hearing, I went through the issues with the parties. Save that the Claimant confirmed that he was paid his full notice period and is not claiming wrongful dismissal, and the Claimant referred to his expanded explanation of the belief he relies on for the purposes of his discrimination claim, the issues were confirmed as set out in the Case Management Order following the 19 November 2024 preliminary hearing. The issues are therefore as follows:

1. Time limits / limitation issues

1.1. Were all of the Claimant's discrimination complaints presented within the time limits set out in section 123 of the Equality Act 2010 ("EQA").

1.2. For the avoidance of doubt, the Respondent accepts that the constructive unfair dismissal claim under the Employment Rights Act 1996 is in time, which it plainly is based on the effective date of termination, but disputes that the discrimination claim is in time.

1.3. Dealing with this issue may involve consideration of subsidiary issues including: when the treatment complained about occurred; whether there was an act or conduct extending over a period, and/or a series of similar acts or failures; whether time should be extended.

1.4. Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before 30 October 2024 is potentially out of time, so that the Tribunal may not have jurisdiction to deal with it, subject to consideration of the matters mentioned in the previous paragraph.

2. Constructive unfair dismissal

2.1. Was the Claimant dismissed, i.e.
- 2.1.1. was there a fundamental breach of the contract of employment, and/or did the Respondent breach the so-called 'trust and confidence term', i.e. did it, without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously to damage the relationship of trust and confidence between it and the Claimant?
- 2.1.2. did the Claimant affirm the contract of employment before resigning?
- 2.1.3. did the Claimant resign in response to the Respondent's conduct (to put it another way, was it a reason for the Claimant's resignation – it need not be the reason for the resignation)?

2.2. The conduct the Claimant relies on as breaching the trust and confidence term is:
- 2.2.1. In 2020 the Claimant was assigned on a 1-1 basis to a pupil with serious behavioural issues, despite not having been trained or briefed.
- 2.2.2. The child should have had two-to-one supervision at all times, but the Claimant was required to provide one-to-one supervision between 2020 and either 2021 or 2022).
- 2.2.3. The child subsequently assaulted the Claimant (in around 2020 or 2021 or 2022)
- 2.2.4. The Claimant was not supported and the Respondent implied the incident was the Claimant's own fault.
- 2.2.5. Despite requesting an individual risk assessment for working with this pupil this was not done.

2.2.6. The Claimant was chastised by management for having allegedly been "disruptive and unprofessional" during a staff training session, in around 2021. About 6 weeks after the training, the head teacher, Mr Magee, told the Claimant to apologise to the trainer.
2.2.7. In 2023, the Claimant was accused of using "inappropriate and offensive language" to describe a pupil
2.2.8. In 2023, the Claimant was given an "unofficial" verbal warning for allegedly spreading malicious gossip about two new pupils
2.2.9. In September 2023, the Claimant was required to attend a meeting to discuss things that he had been accused (apparently by an anonymous "tip off") of having written on Facebook.
2.2.10. The Claimant was told the allegations would be investigated formally (in accordance, according to the Respondent, with the Respondent's disciplinary procedure)

2.3. If the Claimant was dismissed: what was the principal reason for dismissal and was it a potentially fair one in accordance with sections 98(1) and (2) of the Employment Rights Act 1996 ("ERA"); and, if so,

2.4. Was the dismissal fair or unfair in accordance with ERA section 98(4), and, in particular, did the Respondent in all respects act within the so-called band of reasonable responses?

3. Remedy for unfair dismissal

3.1. If the Claimant was unfairly dismissed:
3.1.1. Should reinstatement or re-engagement be ordered
3.1.2. What adjustment, if any, should be made to any compensatory award to reflect the possibility that the Claimant might still have been dismissed had a fair and reasonable procedure been followed?
3.1.3. Would it be just and equitable to reduce the Claimant's basic award because of any blameworthy or culpable conduct before the dismissal, pursuant to ERA section 122(2)? If so to what extent?
3.1.4. Did the Claimant, by blameworthy or culpable actions, cause or contribute to dismissal to any extent? If so, is it just and equitable to reduce the amount of any compensatory award, pursuant to ERA section 123(6)?

4. EQA Section 10. Belief

4.1. The Claimant claims to have held the following belief at all relevant times. He states that this is not a "religious belief", and thus relies on the argument that it is a philosophical belief as mentioned in section 10 EQA.

We have poorly behaved children in the school. They may have undiagnosed additional needs or they may not. But their appalling behaviour may not be attributable to an additional need.

This belief is further explained by the Claimant in his Further Information document on page 53 of the Bundle, in which he describes further his beliefs "surrounding badly behaved children". Whilst I have referred to that document in full in considering the issues, extracting belief statements from the examples given, the Claimant says:

It is my genuinely held belief that some children with behavioural issues (which, in some cases, are severe) do not have any additional or Special Educational Needs (SEN). I firmly believe that SEN is being routinely used as an excuse for violent

outbursts and a failure or unwillingness to comply with instructions. There seems to be an obsession with identifying the causes of, or finding reasons for, appallingly bad behaviour.

It would seem that there is no such thing as 'naughty' children any more. There has to be an underlying explanation. I do not believe this is the case. My belief is that some children are just badly behaved. There are no underlying issues. It's purely down to how they've been brought up.

Whilst some children with behavioural issues may indeed have other needs that aren't being adequately met (both diagnosed and undiagnosed), there are others whose poor discipline is a direct result of parental failings and a lack of boundaries at home. It's a convenient excuse frequently used by senior management, when in reality the fault lies with the parents and their inability (or refusal) to enforce proper boundaries.

The oft-repeated mantra that "all behaviour is a form of communication" - which may have some merit in certain instances - is being used to excuse dreadful behaviour which isn't acceptable or in any way. Nor is it "the norm" in a civilised society. Society and children need boundaries. Without clear boundaries, we descend into anarchy
…
In recent years, another condition has come to the fore; Oppositional Defiance Disorder (ODD). It is my firmly held, genuine belief that this is a completely fabricated condition. It simply does not exist. It is just another made-up diagnosis used by so-called professionals to justify terrible behaviour in children, when in reality it is down to poor parenting.
…
These are my beliefs when it comes to childhood behaviour. I am not denying that there are some SEN factors at play but there are also parents and management who are hiding behind a diagnosis or using it as a convenient excuse to explain or even justify terrible behaviour.

4.2. Is that belief a protected characteristic within the definition of section 10 EQA:
- 4.2.1. Was the alleged belief genuinely held.
- 4.2.2. Is it a “belief” as defined in section 10(2) EQA [or is it an opinion or viewpoint based on the present state of information available].
- 4.2.3. Is it a belief as to a weighty and substantial aspect of human life and behaviour.
- 4.2.4. Does it attain a certain level of cogency, seriousness, cohesion and importance.
- 4.2.5. Is it worthy of respect in a democratic society? Is it incompatible with human dignity? Does it conflict with the fundamental rights of others? Is it an affront to the principles set out in European Convention of Human Rights (ECHR) or the Human Rights Act 1998?

5. EQA, section 13: direct discrimination because of belief

5.1. Did the Respondent subject the Claimant to the following treatment:
- 5.1.1. On 26 September 2023, calling the Claimant to a meeting (which turned out to be a discussion about Facebook points)
- 5.1.2. Informing the Claimant that there would be a disciplinary investigation. (The exact date on which the Claimant was told will be a matter of evidence and will need to be decided by the Tribunal; it seems to be common ground that it was no later than 10 October 2023, and that a formal letter inviting him to an investigation meeting was sent on – approximately – that date).

5.1.3. Dismiss the Claimant. [The allegation being that this was a dismissal defined by section 39(7)(b) EQA ie a so-called "constructive dismissal"].

5.2. Was that treatment "less favourable treatment", i.e. did the Respondent treat the Claimant as alleged less favourably than it treated or would have treated others ("comparators") in not materially different circumstances? The Claimant relies on hypothetical comparators.

5.3. If so, was this because of the Claimant's protected characteristic (ie the belief mentioned above).

6. Remedy

6.1. If the Claimant succeeds, in whole or part, the Tribunal will be concerned with issues of remedy and in particular, if the Claimant is awarded compensation and/or damages, will decide how much should be awarded.

Findings of fact

8. The Respondent is a multi-academy trust. The Claimant worked at one of the Respondent's schools, Great Missenden Church of England Combined School (the School) from December 2017 to 2 November 2023. He was employed as a Midday Supervisor and a Learning Support Assistant (LSA). When working as an LSA, his role was to work with children who needed support. Initially, this was more 1:1 support with children with SEN, but it could involve supporting a small group of children.

9. It was not disputed that behaviour in schools, and in the School, has declined since the Covid-19 pandemic.

10. The Claimant was assigned to work 1:1 with a particular pupil in 2020. This pupil had an Education Health and Care Plan ("EHCP") in place. An EHCP is a legal document which identifies, among other things, the child's special educational needs and the additional or specialist provision required to meet their needs. One of the provisions identified on this pupil's EHCP is that she should have 1:1 supervision at all times. During the times that the Claimant was assigned to this pupil, he was providing that 1:1 supervision.

11. A risk assessment was undertaken by the School in relation to this pupil. A separate safeguarding risk assessment was undertaken by the School in May 2020 in relation to the Claimant. Neither assessment identified a requirement for 2:1 supervision.

12. The Claimant has subsequently argued that 2:1 supervision should have been provided for this pupil, but that is not what required by the EHCP. There is no suggestion that the risk assessment for the pupil indicated that 2:1 supervision was required. 2:1 supervision was suggested by the Claimant's trade union representative as something that should have been done, but was not part of any professional recommendation made by persons who had assessed the pupil.

13. The Claimant at some point, although it is not clear when, says in his Claim Form that he requested an individual risk assessment to be carried out for working with this pupil, but this was not done. The Claimant did not address this in his witness evidence, but raised it in cross examination with Mr Magee, who pointed the Claimant to the two separate risk assessments referred to above, which he considered were sufficient, whether with or without taking into account the existing EHCP.

14. In the Claimant's claim form, he alleges that he was assaulted by this pupil and then made to feel that it was his fault. No evidence was presented to the Tribunal by either party in relation to that allegation.

15. In 2022, the Respondent started rolling out "Steps" training for staff. This training was rolled out across the Respondent. There are two parts: The first is called "Step On", which addresses de-escalation techniques, getting to know the child and ways to regulate the child, such as distractions or humour. The second part is called "Step Up", and this is restraint training, to teach staff how to appropriately hold a child if they are behaving in an unsafe way and the de-escalation techniques are not working or cannot be used. De-escalation techniques are encouraged to be used first wherever possible, with restraint being seen as a last resort.

16. In February 2022, Mr Sperring witnessed the Claimant speaking to a pupil in way that Mr Sperring considered to be unacceptable. Following an altercation between a pupil and one of the Claimant's children (who attended the School), the Claimant had asked a third pupil (who was not happy with how the altercation was dealt with by the Claimant) "who do you think you are" in a tone that Mr Sperring found objectionable. Mr Sperring dealt with this informally with the Claimant and spoke to the Claimant about it [125].

17. The Claimant attended Step On training in 2022. It was during this training that there was an incident between the Claimant and the trainer, Mrs Marsh. The Claimant says that he asked a clarification question of Mrs Marsh during the training and in response she "lost it". Mrs Marsh did not give evidence to the Tribunal, but at the time during a break in the training she spoke to Mr Sperring and his evidence was that she told him that the Claimant was being disruptive and that she was considering asking him to leave the training.

18. I make no findings as to fault in the exchange between the Claimant and Mrs Marsh; it is not material to the issues I must decide.

19. However the Claimant thought he was behaving, Mrs Marsh was unhappy and raised this as such. Subsequent to that Mr Magee spoke to the Claimant about the incident. Mr Magee's evidence was that the Claimant offered to apologise.

20. The Claimant suggests that this training was rolled out because of an increase in challenging pupils / challenging behaviour. This is likely, in my finding, to have been the case, and it is not challenged by the Respondent as a reason for this training being more widely rolled out.

21. In February 2023, Mr Magee spoke to the Claimant about reports that the Claimant was spreading "gossip" about two pupils who were joining from another school. It was reported to Mr Magee that the Claimant was discussing with colleagues that the pupils had been excluded and were poorly behaved. No disciplinary warning was given.

22. On 17 August 2023, the Claimant was contacted by the Headteacher of Hyde Heath Infant school about a 1:1 LSA role at that school [99]. The Claimant interpreted this as an approach for him to consider applying for the role. At that time, the Claimant decided that he did not want to leave his position at the School. He confirmed to the Tribunal that he made a conscious decision not to apply for that position.

23. The Claimant was a member of a Facebook Group called Teaching Assistants UK. The Claimant says that only members of the group can see what is posted in the Group. This

was not challenged by the Respondent. However, even if a Facebook Group is "members only", the audience can still be very wide.

24. In September 2023, the Claimant commented on a post in the Group. The content of the original post is not known, and the Claimant says (and I accept) that it can no longer be accessed. The Claimant commented as follows:
"So TAs who sign up to help children learn to their fullest potential and watch them grow are instead being used as glorified childminders for ill-disciplined feral brats? Where and when did we agree to that?"

25. Another member of the Group replied to the Claimant:
"or children with additional needs that aren't being met in the classroom environment? Lack of funding, specialist provision, training and compassion/understanding are to blame. Not the children! Your view of children is vile."

26. And then the Claimant replied again:
"Inclusivity is a wonderful idea, on paper. But then again, so's communism"

27. On 20 September 2023, a screenshot of the Facebook Group exchange was sent to the School with a covering email saying:
"Shocked to see this comment from one of your support staff. I think some SEN and social media training may be needed!"

28. The sender of this email is unknown to the School and to the Claimant. The School surmised that a member of the Facebook Group had seen the exchange of messages, searched online for the Claimant and found him on the School's website. Whether that is the case is not known and it is not necessary for me to make a finding of fact as to how the Claimant was identified as working for the School.

29. Both Mr Magee and Mr Sperring believed that the Claimant's reference to communism was intended by the Claimant to mean that inclusion was akin to communism. They were both concerned that the Claimant had referred to school children as "ill-disciplined feral brats" and they reference these two statements in their witness evidence.

30. 26 September 2023 was the Claimant's first day back at work following a three-week period of sickness absence. At 14.30 he was called into a meeting with Mr Magee and Mr Sperring. This was a brief meeting, described to the Claimant as "informal", at which Mr Magee showed the Claimant the screenshot of the Facebook conversation. The Claimant confirmed that what he was shown was his comments (i.e. it was not another Paul Sheward who had made the comments). During the course of this discussion, the Claimant commented "I thought I might get in trouble with this". The Claimant highlighted that the School was not named in his Facebook profile. The Claimant asked what was going to happen. Mr Magee explained that he would need to take advice and that he would need to decide whether the threshold had been met for misconduct, serious misconduct or neither. Mr Magee explained that the post did not fit in with the vision and values of the School, to which the Claimant replied "I get that".

31. The Claimant was worried about the reference to "serious misconduct". The Claimant's evidence to the Tribunal was that the conduct of this meeting, and what he saw as a threat of serious misconduct (and therefore dismissal), was the last straw that led to his resignation.

32. A subsequent investigation report (which I shall come back to) records a timeline of events [124]. I accept the following timeline set out in that report, which was not challenged, is not contradicted by other evidence and which the contents of other available documents supports:
    a. The Claimant submitted a Doctor's note to the School on 27 September, signing him off sick for one month (the whole of his notice period) [126].
    b. On 29 September 2023, the School discussed the matter with the LADO, who advised that their threshold for intervention had not been met but that further action by the School was necessary. They said that they were recording the issue as "substantiated" because the Claimant had admitted to writing the posts.
    c. On 6 October 2023, the School took advice from HR and contacted Occupational health.
    d. On 9 October 2023, Occupational Health confirmed that they would provide support to the Claimant and advised as to next steps.
    e. On 10 October 2023, the Claimant was updated by letter as to the fact that there would be a formal investigation. This is the letter at page 142 of the Bundle.

33. On 29 September 2023, the Claimant contacted the Headteacher at Hyde Heath Infant School to let her know that he had submitted an application for their LSA vacancy.

34. The Claimant attended an interview at Hyde Heath on Wednesday 4 October 2023. It is likely that a verbal offer was confirmed that day, as the Claimant emailed Mr Magee at 18.03 that day to resign from his post at the School [109]. The Claimant's resignation letter is written in positive terms. He gave a month's notice, with his last working day stated to be 2 November 2023. The Claimant says, and I accept, that the resignation was written positively because the Claimant was trying to leave with a reference. He did not want to make the situation worse for himself regarding the Facebook comments.

35. In my finding, based on the timing of the resignation, and the Claimant's strong reaction (both at the time and in his evidence) to being told that an outcome could be serious misconduct, by resigning the Claimant was seeking to avoid the issue regarding the Facebook conversation being taken any further. He was seeking to avoid a disciplinary process.

36. A written offer of employment was sent to the Claimant from Hyde Heath dated 5 October 2023 [110]. The offer was subject to references.

37. In the event, the School did not consider the matter to have been resolved by the Claimant's resignation and, having spoken to the LADO about the issue, decided to pursue a disciplinary process. As I have referred to, the Claimant was updated about this decision by letter dated 10 October 2023. I find that receiving this letter was when the Claimant was made aware that the matter would be formally investigated. This letter sought the Claimant's consent to a referral to Occupational Health and reminded the Claimant of an Employee Assistance Programme open to him to access, both of which were matters referenced by Occupational Health on 9 October. Further, the Claimant's trade union representative in her written submission to the investigation [135] complains that no one had contacted the Claimant about his health until they contacted the Claimant about the investigation, and therefore he did not know about the investigation until the date of this letter, when both the investigation and a referral to Occupational Health was addressed.

38. In response to a request for a reference for the Claimant, the School informed Hyde Heath that it was "unable to provide a reference at this time due to an ongoing investigation. At

the conclusion of the investigation, we will provide a reference". This subsequently resulted in the withdrawal of the Claimant's job offer.

39. The Claimant remained employed during his notice period, but, as I have referred to, he went and remained off sick.

40. Mr Sperring investigated the Facebook issue.

41. The Claimant attended a formal investigation meeting on 2 November 2023 with Mr Sperring, who was the investigating officer. The questions asked at this meeting by Mr Sperring reveal that the concern about the Claimant's Facebook posts was that he had referred to children as "ill-disciplined feral brats" and "compared inclusivity to communism". The Claimant was asked about the tone that he usually uses with children at the School. At this meeting, the Claimant expanded on his Facebook comments and what his view was in respect of inclusivity and children with challenging behaviour. The Claimant made the following comments:

I am not against inclusivity. We have had severe additional needs at this school. One in particular I remember. You know. They are challenging in their own way, not behaviourally maybe. Inclusivity is a problem when other people are affected such as staff wellbeing. Like Chair throwing, vandalism had happened while I am away I understand. That does not sit well with me. There is a lack of focus on the other 29 children. This is meant to be their safe space too. I understand that children have additional needs. The wait for state assessment is so long. A lot of parents from Great Missenden have money to pay for assessment unlike other areas. When you are paying for a diagnosis you are paying for what you want. I have struggled with behaviour you both know that. I have spoken to both of you about that. It does not sit easy with me. PTSD takes many forms and causes. Too many people are affected. Are they going to understand that chair throwing? Why should we come to work and be hurt. Inclusivity is great on paper. Lots of things are brilliant ideas on paper like HS2.
…
When I posted I was very angry. My roles have changed over the years. Lots of firefighting not responding. I posted them yes but I am not the only one to hold these views. Us LSA's talk, which is good. I am not the only one but I am only the one brave enough to post these. Considering the year, I have had. Watching Charlotte die – I haven't processed it. Injuring myself in front of the school was embarrassing. It was a traumatic injury, which I didn't know. Very demoralised. I have had conversations with you both about how I felt and Johnny and I did not feel heard.

We have children that are ill disciplined. I am not the only one who felt that way, I was the only one who would speak out.
…
Inclusivity is a great idea but not if it impacts others.

42. The Claimant used the Facebook Group to, at least in part, vent his frustration. The Claimant appears to accept, in his comments to the investigation, and I find it to be the case, that his reactions were influenced by his own emotional response to recent events, including the death of his partner and the Claimant sustaining an injury outside of the School. It is not disputed that the Claimant had had a bad year and was greatly affected by these matters.

43. The Claimant's union representative added, among other things, that the Claimant's beliefs were protected under the Equality Act, and that the Claimant had used the Facebook Group to vent his frustration. In her written representation, the Trade Union

representative said that the belief relied upon was that "everyone needs consequences or they will not learn right from wrong".

44. Mr Sperring's view was that the language used by the Claimant was not appropriate and that referring to pupils and inclusivity in the way he had was behaviour that could bring the School, the Respondent and the teaching profession into disrepute.

45. The matter therefore proceeded to a disciplinary hearing, which was not concluded until after the Claimant's employment terminated.

46. After the termination of his employment, on 23 November 2023 the Claimant raised a grievance. A response was sent to the Claimant by letter dated 26 January 2024, the same date that a disciplinary outcome was sent.

47. The outcome of the disciplinary process was that the Claimant was found to have breached the School's Code of Conduct / Social Media policy and that had the Claimant remained employed at the School he would have been issued with a first formal written warning. The Claimant was informed that any reference would be obliged to state that the written warning was on the Claimant's file.

48. The Claimant appealed the outcome. His appeal included a statement by the Claimant that "whilst the school may not necessarily agree with my views, I have a legal right to hold and articulate them, whether the school agrees with those views or not" and refers to his rights under the Equality Act. The appeal did not proceed. This does not form part of the Claimant's complaint.

49. The Claimant's employment terminated on 2 November 2023. He contacted ACAS for early conciliation on 29 January 2024, and a certificate was issued by ACAS on 11 March 2024. The Claimant filed his claim on 10 April 2024.

50. In relation to the Claimant's asserted belief, the Claimant has set out his stated belief in his Further Information document, as recorded above. In addition to the findings already made, I record that in his witness statement, the Claimant explained that he objected to "an obsession with Inclusivity … being routinely used to justify and excuse dreadful behaviour within educational settings". When he was cross-examined on his belief, his evidence shifted to an objection to what he described as all bad behaviour being "attributed to children with SEN". He stated that there may be underlying issues, but not always. The Claimant accepts that some children do have SEN related behavioural difficulties, and that some children have other unmet needs which can explain their behaviour. The Claimant objects to children "getting away with stuff" that is not because of SEN.

51. Later in cross examination, the Claimant's position shifted again. The Claimant accepted that children with EHCPs have had their additional needs outlined, but some are not assessed and are naughty. When it was put to him that those children were unassessed (and therefore it could not be known whether there was an underlying cause for any challenging behaviour), the Claimant said that "there is no such thing as naughty children any more". It was put to the Claimant that no one in education has said that there is no such thing as naughty children. The Claimant agreed that no one had said this, but said "every time there's an excuse". The Claimant appeared to accept that it was good practice to look at why children behave in the way that they do.

52. The Claimant suggests that parental failings are a cause of behavioural issues. That in itself is an underlying cause of behavioural issues on the Claimant's own case, and contradicts his assertion that some behaviour has no underlying cause.

53. The Claimant objects to "appalling" and/or "dangerous" behaviour in a mainstream classroom. He does not believe that behaviour should be tolerated in a mainstream school whatever the cause. He referred to the distress and fear experienced by staff and other pupils as a result, which he says is unfair to have to deal with.

54. The Claimant referred to a number of incidents that he had witnessed or heard about that he considered to be distressing or unsafe. Two incidents related to unacceptable behaviour towards the Claimant's son, who was a pupil at the School. He referred to "children running riot in school", he objects to this and said that his belief was a matter of common sense. He referred in his cross examination of the Respondent's witnesses to the potential of having to evacuate a classroom to protect the other pupils, and how frightening it is when a child flees the school.

55. The Claimant's Further Information document included the assertion that Oppositional Defiant Disorder ("ODD") was a "fabricated" diagnosis. In his evidence, the Claimant did not dispute that medical diagnoses (reflected in an EHCP plan, for example) may legitimately explain behaviour. He did not reconcile these two positions.

56. The Claimant also complained during the course of the disciplinary process and in his witness statement to this Tribunal about a breach of his Data Protection rights. However, he confirmed in evidence that this was not something he was aware of at the time of his resignation, and therefore it did not play a part in his decision to resign. The alleged breach is not part of the Claimant's discrimination claim either. The Claimant has issued separate Court proceedings in relation to the matter.

57. At this point, I pause to note an evidential issue raised by the Respondent. The Claimant submitted documents for the Bundle, which appear to be screenshots of documents held on the Respondent's Sharepoint. Although the complete title of the document is not visible, the partial title is "!CONFIDENTIAL! Children Causing C…". It starts at page 171 of the Bundle and is an internal School document that contains comments about children's behaviour at the School. The expectation of this document is that it is not accessible outside of the School. The entries in the document post-date the Claimant's employment. The Claimant includes the document because one staff member has included an entry in relation to two children, or their behaviour, that says "Completely feral – not listening to any adults – bullying other children…". It is not disputed that this entry was made. Mr Magee and Mr Sperring's evidence was that the member of staff was spoken to about this entry and was apologetic. No external complaint was made.

58. The Respondent is understandably concerned about how the Claimant came to have a copy of this document. These documents were not disclosed by the Respondent to the Claimant. The Claimant was asked about this. I did not compel the Claimant to respond. Insofar as the Claimant did respond, it is not possible to draw any conclusion as to how the Claimant accessed or obtained a copy of the document. That is a matter for the Respondent to investigate with its IT support and/or any appropriate authority. I am not persuaded that this is relevant to matters in issue in determining liability in this case.

Law

Constructive dismissal

59. Section 95 of the Employment Rights Act 1996 ("ERA") provides:

> 95 Circumstances in which an employee is dismissed
>
> (1) For the purposes of this Part an employee is dismissed by his employer if …
> … (c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct. …

60. An employee seeking to establish that he has been constructively dismissed must prove that the employer fundamentally breached the contract of employment and that he resigned in response to the breach. The leading case on constructive dismissal remains Western Excavating (ECC) Ltd v. Sharp [1978] IRLR 27.

61. It is an implied term of the contract of employment that the employer will not, without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence between employer and employee (Malik v. BCCI plc [1997] IRLR 462, as clarified in Baldwin v Brighton & Hove CC [2007] IRLR 232).

62. It is not uncommon for an employee to resign in response to a "final straw". In Omilaju v. Waltham Forest London Borough Council [2005] EWCA Civ 1493, [2005] IRLR 35, CA the Court of Appeal held that where the alleged breach of the implied term of trust and confidence constituted a series of acts the essential ingredient of the final act was that it was an act in a series the cumulative effect of which was to amount to the breach. It followed that although the final act may not be blameworthy or unreasonable it had to contribute something to the breach even if relatively insignificant. As a result, if the final act was totally innocuous, in the sense that it did not contribute or add anything to the earlier series of acts, it was not necessary to examine the earlier history.

63. The case of Williams v Governing Body of Alderman Davies Church in Wales Primary School [2020] IRLR 589, decided that a constructive dismissal may be held to be unlawful discrimination "if it is found that discriminatory conduct materially influenced the conduct that amounted to a repudiatory breach."

Discrimination – protected belief

64. Section 4 of the Equality Act 2010 ("EqA") provides that religion or belief is a protected characteristic for the purposes of that Act. Section 10, so far as relevant, provides:

> "(2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief."

65. The EqA does not define "philosophical belief". However, in the leading case on the definition of a philosophical belief, Grainger Plc and Ors. v Nicholson [2010] ICR 360 EAT, the Employment Appeal Tribunal provided important guidance of general application on the ambit of this category of protected belief.

66. In the course of this Judgment in Grainger, Mr Justice Burton drew heavily on Case Law decided under Article 9 of the European Convention on Human Rights and distilled from

this the basic criteria that must be met in order for a belief to be protected under s.10 of the Equality Act 2010. As he himself recognised, there have to be some limitations. He then set out what have commonly become known as the Grainger Principles, which are:

i. The belief must be genuinely held.
ii. It must be a belief and not simply an opinion or viewpoint based on the present state of information available.
iii. It must be a belief as to a weighty and substantial aspect of human life and behaviour.
iv. It must obtain a certain level of cogency, seriousness, cohesion and importance.
v. It must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others.

67. Mr Justice Burton in Grainger held that "it is necessary, in order for the belief to be protected, for it to have a similar status or cogency to a religious belief. However, … even a religious belief is not required to be one shared by others". The belief need not constitute or allude to a fully fledged system of thought.

68. Mr Justice Burton referred to a number of authorities, including the House of Lords authority in In R (Williamson and Ors.) v Secretary of State for Education and Employment [2005] UK HL15. Lord Nicholls said in Williamson that:

The belief must relate to matters more than merely trivial. It must possess an adequate degree of seriousness and importance. As has been said, it must be a belief on a fundamental problem. With religious belief this requisite is readily satisfied. The belief must also be coherent in the sense of being intelligible and capable of being understood. But, again, too much should not be demanded in this regard. … Depending on the subject matter, individuals cannot always be expected to express themselves with cogency or precision. Nor are an individual's beliefs fixed and static. The beliefs of every individual are prone to change over his lifetime. Overall, these threshold requirements should not be set at a level which would deprive minority beliefs of the protection they are intended to have under the Convention.

69. The EAT in Harron v Chief Constable of Dorset Police UKEAT/0234/15/DA made clear that:

The proper approach to determining whether or not there was a qualifying belief is not simply to set out the wording in the Code of Practice or that in paragraph 24 of Burton J's decision in Grainger, but to have regard also to the way in which the criteria there set out are to be applied, as, for instance, indicated by the speech of Lord Nicholls [in Williamson].

70. The Employment Appeal Tribunal conducted a detailed consideration of the scope of Grainger criterion v. in Forstater v CGD Europe and Ors. [2022] ICR 1EAT, with much of its analysis resting on Case Law under Articles 9 and 10 of the ECHR (European Convention of Human Rights). When reviewing the ECHR Case Law, the EAT held that the types of belief that are excluded by the fifth Grainger criterion must be defined by reference to Article 17 of the ECHR which prohibits the use of conventional rights to destroy or limit the convention rights of others. Thus, the fifth Grainger criterion is apt only to exclude the most extreme beliefs akin to Naziism or totalitarianism, or which incite hatred or violence. Beliefs which are offensive, shocking or even disturbing to others including those that would fall into the less serious category of hate speech can still qualify for protection. This suggests that few cases fall at this hurdle.

71. In relation to manifestation of belief, the Court of Appeal in Higgs v Farmor's School [2024] EWCA Civ 346 emphasised that the Tribunal's focus is on the reason for the employer's treatment: whether the action was taken because of the belief or because of the manner of its expression (for example tone, language, or impact in a school safeguarding context). While proportionality considerations arise under Articles 9 and 10, the key inquiry in a direct discrimination claim remains causation.

Direct Discrimination

72. Direct discrimination is prohibited conduct under s.13 of the EqA:

A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

73. The comparator's circumstances must be the same as the Claimant's, or at least not materially different (s.23 EqA).

74. The protected characteristic need not be the only reason for the less favourable treatment, or the main reason: London Borough of Islington v Ladele [2009] IRLR 154 (EAT). The decision must be more than trivially influenced by the protected characteristic.

75. The question of less favourable treatment can be intertwined with the reason for that treatment: the principal question is why was the Claimant treated as he was? If there were discriminatory grounds for that treatment then there will 'usually be no difficulty in deciding whether the treatment …was less favourable than was or would have been afforded to others.' There is a single question: did the complainant, because of a protected characteristic, receive less favourable treatment than others': Shamoon v Chief Constable of the Royal Ulster Constabulary 2003 ICR 337 HL.

Burden of proof – discrimination cases

76. Section 136 EQA applies to any proceedings relating to a contravention of the EQA. By section 136(2) and (3), if there are facts from which the Tribunal could decide, in the absence of any other explanation, that a person contravened the provision concerned, the Tribunal must hold that the contravention occurred, unless A shows that A did not contravene the provision.

77. In Igen v. Wong [2005] EWCA Civ 142, the Court of Appeal issued guidance to Tribunals as to the approach to be followed to the burden of proof provisions in legislation preceding the EqA. They warned that the guidance was no substitute for the statutory language. I do not recite all of the points raised by the Court of Appeal in this Judgment, but I briefly note that the Claimant bears the initial burden of proving 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. 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 (in this case), belief, then the burden of proof moves to the Respondent.

78. It is not sufficient for the employee to only prove a difference in protected characteristic and a difference in treatment in order to shift the burden of proof (Madarassy v Nomura International Plc [2007] EWCA Civ 33.

79. It is good practice to follow the two-stage approach to the burden of proof, in accordance with the guidance in Igen v. Wong, but a Tribunal will not fall into error if, in an appropriate case, it proceeds directly to the second stage. Tribunals proceeding in this manner must be careful not to overlook the possibility of subconscious motivation: Geller v. Yeshrun Hebrew Congregation [2016] UKEAT 0190/15.

80. I am reminded by the Supreme Court in Hewage v. Grampian Health Board [2012] UKSC 37 not to make too much of the burden of proof provisions. They will require careful attention where there is room for doubt as to the facts necessary to establish discrimination, but this is not the case where the Tribunal is in a position to make positive findings on the evidence one way or the other.

Conclusions

Time Limits

81. The acts relied upon by the Claimant as constituting discrimination occurred more than three months before the presentation of the Claim Form and therefore fall outside the primary limitation period in section 123(1)(a) Equality Act 2010.

82. No evidence was presented and very little argument made on time limits.

83. The Claimant explained in submissions, and I accept, that he misunderstood the relevant statutory test and believed that time ran from the date of termination of employment rather than from the date of the alleged discriminatory acts. The Respondent did not assert any prejudice arising from the delay, and no evidential disadvantage has been identified. Having regard to all the circumstances, and the absence of prejudice to the Respondent, I am satisfied that it is just and equitable to extend time under section 123(1)(b) Equality Act 2010. Accordingly, the Tribunal has jurisdiction to determine the discrimination claim.

84. I have dealt with whether the Claimant had a protected belief and/or was discriminated against first, given that if there was discrimination, that may be relevant to whether there was also a fundamental breach of contract for the purposes of the Claimant's constructive dismissal claim.

Did the Claimant have a protected belief within the meaning of section 10 Equality Act 2010?

85. Whilst the Respondent describes the Claimant's case as "hopeless", consideration of whether the Claimant has a protected belief required careful and detailed consideration.

86. The first step is to identify the belief relied on. The content of the belief, as advanced by the Claimant, is summarised in paragraphs 4.1 of the List of Issues above and supplemented by my findings of fact in paragraphs 41 and 50-55.

87. Applying the Grainger criteria therefore:

(i): the belief must be genuinely held

88. I am satisfied that the Claimant genuinely holds the beliefs he articulated. He did not seek to distance himself from his views and held strongly to them. The Respondent did not suggest that the views were fabricated.

89. I conclude that Grainger criterion i is satisfied.

(ii): the belief must be more than an opinion based on present information

90. This part of the Grainger test was strongly contested by the Respondent.

91. This part of the test is not about how strongly the Claimant feels. It is about whether he is expressing opinion or something more than that.

92. I have carefully considered the application of the Grainger test, including how it should be applied.

93. The Claimant's own evidence demonstrated that his stance shifted. Sometimes he described the belief as a criticism of the "over use" of SEN to justify behaviour. At other times he said his objection was to there always being an excuse (or a search for an underlying issue) for misbehaviour. He did not dispute medical evidence that indicated that behaviour was affected, but denied that ODD exists. He asserted that some children who display appalling behaviour have "no underlying issues" at all whilst advocating that bad parenting explains the behaviour. In some cases he agrees with professional judgment, in others he does not, and there is no value or other system for distinguishing between these positions.

94. The Claimant accepted that some behaviour is caused by SEN or unmet needs. His view that "bad parenting" explains or is the cause of bad behaviour contradicts his proposition that some children have "no underlying issues".

95. He strongly believes that the sorts of behaviour he has referred to has no place in mainstream schools, whatever its cause.

96. His objection is, on his own evidence, fundamentally an objection to severe or disruptive behaviour, regardless of its cause and the strain he says it places on staff and other pupils in mainstream schools. He has an opinion that this behaviour is wrongly tolerated, and he has various views as to why that is or what has or has not caused bad behaviour.

97. The Claimant's position is a practical frustration with the realities of behaviour management in mainstream settings, and what he had to deal with in his role. He gave evidence about challenging behaviour he witnessed in his own school, the distress he personally experienced, and the perceived lack of institutional support. These matters are sincerely felt, but they are essentially workplace experiences, grounding his views in incidents at the School (e.g. paragraph 54 above). He has formed opinions based on the present state of information.

98. I accept that lived experience can shape a protected belief. However, in this case, the Claimant's evidence shows that his stance is situational, and not anchored in any enduring philosophical commitment. His stated propositions vary across the spectrum from acknowledging legitimate unmet needs, to asserting "no underlying issues", to saying the root cause is "bad parenting", to asserting that ODD is "fabricated". These positions are not presented as a moral or philosophical system, but as a series of assertions in response to individual cases he encountered.

99. For these reasons, I conclude that the Claimant's stance is a collection of opinions, driven by his personal experiences, frustrations and perceptions of declining behaviour particularly post-Covid-19.

100. Grainger Criterion ii is therefore not satisfied.

Grainger (iii): the belief must relate to a weighty and substantial aspect of human life and behaviour

101. I consider that the matters addressed by the Claimant, discipline, behaviour, and the appropriate treatment of children in schools, are weighty and substantial features of human life and social organisation.

102. Grainger Criterion iii is therefore satisfied.

Grainger (iv): the belief must have cogency, seriousness, cohesion and importance

103. Even if the Clamant could satisfy Grainger ii, I in any event find that his position does not meet the requirement of cogency and cohesion.

104. I have taken into account that "not too much should not be demanded in this regard" and have carefully considered the application of this criterion.

105. The Claimant advanced inconsistent propositions. His stance shifted. He accepts that some behaviour is caused by SEN or other underlying needs; he accepts sometimes behaviour is caused by parenting; he also maintains that in some cases there is no underlying cause of challenging behaviour, yet in those cases still asserts that "bad parenting" is the explanation (see the findings of fact at paras 50-52 in particular, where I recorded the Claimant's acceptance of causes such as SEN, unmet needs and parenting, contrasted with his insistence elsewhere that there are no underlying causes). These are mutually inconsistent positions which cannot be reconciled within a coherent belief system. The Claimant's account therefore both asserts and denies the existence of underlying causes, depending on the example being discussed.

106. The Claimant's categorical assertion that ODD is a "fabricated" condition, juxtaposed with his acceptance that some diagnoses are genuine and explain behaviour, illustrates the lack of cogency in the belief. It is unclear whether the Claimant is advancing a principled critique of the medicalisation of childhood, or simply disputing clinical judgments he finds unconvincing. On the evidence, his position appears to be the latter.

107. The Tribunal is unable to identify a coherent or cohesive organising principle across these positions.

108. The Claimant's evidence also revealed that his real concern is that mainstream schools should not be required to cope with severe or disruptive behaviour, whatever the source. That is not expressed as a philosophical belief about the nature of SEN, child development, or the purposes of inclusion; it is a practical objection to having to deal with certain unacceptable behaviours in his workplace. His belief, on his own account, is that staff and other pupils should not have to "put up with" unsafe behaviour. This is a reaction to experience, not a cohesive worldview with the seriousness or stability contemplated in Grainger.

109. It was put to the Claimant that he does not live his life around the expressed views, the inference being that the Claimant's beliefs are not akin to a religious belief. The Claimant said that this proposition was "interesting, but doesn't mean I don't have that belief". He said that how behaviour is mismanaged goes against what he holds dear, and his own parenting approach. The Claimant's views are clearly of personal importance.

110. I have taken into account that a belief need not be sophisticated or academically expressed but it must nonetheless enable the Tribunal to identify a consistent proposition capable of, for example, guiding conduct, being an organising principle, or indicating a worldview. I find that the Claimant's stance does not achieve this. It is marked by internal tension, inconsistent causal propositions, and a focus on practical and personal frustrations, rather than a cohesive philosophical position about human behaviour.

111. I therefore conclude that Grainger iv is not satisfied.

Grainger (v): the belief must be worthy of respect in a democratic society, not incompatible with human dignity, and not in conflict with the fundamental rights of others

112. As referred to in the Forstater case, the threshold here is low. A belief may be offensive to others, but that is not sufficient to fail Grainger v.

113. The Claimant does not deny the existence of SEN.

114. The Claimant is not expressing a belief akin to Nazism or Totalitarianism.

115. Grainger v is satisfied.

116. For the reasons above, I find that the Claimant's asserted stance does not meet the requirements of Grainger (ii) or Grainger (iv). His position represents a series of reactive opinions, grounded in his own experience of challenging behaviour and dissatisfaction with how his School addressed it, rather than a philosophical belief. The propositions advanced are internally inconsistent, shifting between acceptance and rejection of underlying causes, and are not expressed as a coherent, principled worldview.

117. The Claimant's core objection is to behaviour he considers appalling, and he objects to such behaviour regardless of cause, whether SEN-related, trauma-related, or parenting-related. That is not capable of constituting a philosophical belief for the purposes of section 10 Equality Act 2010.

Direct discrimination

118. Whilst I have found that the Claimant's belief is not a protected belief, I have in any event gone on to consider whether the Claimant's claim for Direct Discrimination would have succeeded had his belief been a protected belief. For the purposes of this section of the Judgment, I refer to the Claimant's views as his "belief" and do so without prejudice to the above findings.

119. The Claimant's direct discrimination claim centres on being called to a meeting on 26 September 2023 to discuss his Facebook comments and then being told that there would be a disciplinary investigation about this. The Respondent accepts that these things

happened, but denies discrimination. The Claimant then says that his resignation amounted to a constructive dismissal, which the Respondent disputes.

120. I have first considered why the Respondent called the Claimant to a meeting and then decided to pursue a disciplinary investigation. Was it because of the Claimant's stated belief? If a belief is protected, an expression of the belief of itself amounts to a belief for these purposes. The way in which a belief is expressed is severable.

121. I accept the Respondent's witnesses' evidence as to their reasons for action; I found them measured, consistent with the documents, and not motivated by hostility to the Claimant's belief. I have found as a fact that what Mr Magee and Mr Sperring were concerned about was the use of the term "feral brats" and the likening of inclusivity to "communism". This was the reason for the 26 September meeting and for the subsequent investigation. I find, on the evidence, that the Respondent's objection was to the language and tone used by the Claimant, i.e. the matter in which the Claimant expressed himself: derogatory language towards pupils and an inflammatory analogy.

122. I have considered whether the Claimant's words were an expression of his stated belief.

123. I accept that saying "inclusion is a good idea in theory" is consistent with the Claimant's belief as expressed. However, the manner of expression ("but so is communism") was rhetorically charged, and unnecessary to articulate the underlying belief.

124. More significantly, describing pupils as "feral brats" bears no necessary relation to the philosophical belief and is plainly derogatory.

125. Applying the principles in *Higgs* to the facts in this case, I find that the Claimant's statements expressed a level of disrespect wholly separable from the Claimant's belief. The manner of expression went beyond what was reasonably necessary to manifest his stated belief. It is not possible to ascertain from the statements what the Claimant's belief is. He does not express that SEN is overused as an excuse for bad behaviour, for example. Rather, taking the two statements together, it can be read that the Claimant is referring to children with additional needs as "feral brats" generally. This does not articulate or logically follow from the Claimant's stated belief.

126. It being the case that the treatment of the Claimant was not because of his belief, but rather what the School considered to be inappropriate language in the posts, I have considered how an appropriate comparator would be treated.

127. The Claimant has referred to an employee of the School who described two pupils (or their behaviour) on a confidential internal document as "completely feral". The Claimant says that that person was not subject to an investigation and that therefore this evidences that he has been treated less favourably.

128. The person identified by the Claimant is not an appropriate comparator. They did not make comments on an externally-facing Facebook Group chat, and were not seen to liken inclusivity to communism. No complaint was made by an external (and unknown) member of the public. The disciplinary concern in relation to the Claimant was triggered by an external complaint about a public-facing statement, which creates a materially different context to an internal document. The audience and level of risk (where no external complaint was received) is a material difference to the Claimant's circumstances.

129. The Claimant submitted that the hypothetical comparator would be someone who expressed a view in the same Facebook Group and that view aligned with School values (as he accepted that his view did not align with the School's values). I invited the Respondent to make submissions as to the correct hypothetic comparator, but no example of a hypothetical comparator was given. The Respondent instead referred to the same potential evidential comparator, who had made a comment internally that behaviour or children were "feral".

130. In my conclusion, the appropriate hypothetical comparator is a member of staff who used the same words as the Claimant did in a post in the same (or similar) Facebook Group, and was identified to the School, but who did not hold the Claimant's belief (i.e. if it were a protected belief).

131. I conclude that such a comparator would also have been called in to discuss the posts and then subject to a disciplinary investigation. The Respondent's witnesses were clear that the language was objectionable and incompatible with the School's standards. The Respondent was acting reasonably in seeking to investigate the matter, the Claimant having referred to pupils as "feral brats" and having used an inflammatory analogy in relation to inclusivity generally. Someone who did not hold the Claimant's belief would have been treated in the same way if they used the same words in this Facebook Group chat.

132. I have gone on to consider whether the Claimant was constructively dismissed (below). However, having found that the alleged acts of discrimination relied on as a breach of contract were not discrimination, it follows that any claim in relation to constructive dismissal also fails as a complaint of a discriminatory dismissal.

133. Accordingly, the Claimant's claim for direct discrimination fails and is dismissed. The Claimant's conduct is severable from his belief, is objectionable, and a comparator would not have been treated differently.

Constructive dismissal

134. The Claimant's pleaded case (and the list of issues) identified a number of alleged incidents said to constitute a course of conduct culminating in his resignation (the so-called "straws").

135. Many of these matters are historic (taking place 18 months or more prior to the Claimant's resignation).

136. Prior to the Facebook incident, the Claimant considered himself to have been approached for another job, which he turned down to stay at the School.

137. Whilst these matters do not prevent the prior incidents from being straws, it is relevant to what was in the Claimant's mind when he resigned.

138. It is notable that the Claimant's witness statement did not refer to any of the straws set out in the list of issues, other than insofar as the straws relate to the Facebook incident and the actions taken by the Respondent in response to those Facebook comments.

139. I found as a fact that the earlier matters did not form part of the Claimant's reasons for resigning. The Claimant had, by the time of his resignation, moved past those earlier

matters, and did not treat them as repudiatory at the time: his own evidence did not identify them as operative in his decision to resign.

140. The Claimant continued in employment for a material period after the earlier incidents, without lodging or pursuing any grievance, and without signalling that those matters were intolerable. On the facts, he affirmed the contract in relation to those earlier matters and did not resign in response to them. Looking back after his employment ended, there may well have been a number of issues that he reflected on that he recalled having been unhappy about at various times, but they were not in his mind when he resigned, and they were not in his mind when drafting his witness statement explaining why he resigned.

141. I find that the only operative catalyst was the Respondent's decision to convene an informal meeting on 26 September 2023, at which the Claimant was told that possible outcomes of a process could be a finding of misconduct, serious misconduct, or nothing.

142. The convening of that meeting was a reasonable response to the Claimant's own conduct, not conduct by the employer that amounted to a breach of trust and confidence. The Claimant himself accepted that he thought he "might get in trouble" over the Facebook comments and he accepted that the comments did not align with the vision and values of the School, which supports the conclusion that the Respondent acted reasonably in raising and investigating the issue.

143. The Claimant's evidence to the Tribunal was that the conduct of the 26 September meeting, and what he saw as a threat of dismissal for serious misconduct, was the last straw that led to his resignation. In my finding, the Claimant's reaction to the meeting, and to what he saw as a threat of dismissal for serious misconduct, was the Claimant's sole motivation in deciding to pursue an alternative role and resign. At the point of resigning, the Claimant had not been told that the matter was progressing to an investigation. However, the Claimant assumed that that would be the case based on the perceived threat. The Claimant was looking to avoid a potential disciplinary process and/or dismissal and obtain a reference to enable him to move on. The Claimant went off sick immediately after this meeting, and quickly applied for a role that he thought he was bound to get, having been approached for it previously.

144. As I have said, the convening of the meeting was reasonable. Further, the Claimant was not threatened with a serious or gross misconduct dismissal. The Claimant asked what was going to happen and was given an answer that included a range of possible outcomes, including "nothing". The Claimant has focussed on the reference to whether the threshold for serious misconduct had been met, which indicates how the Claimant thought his posts would be viewed by the Respondent.

145. In the circumstances, the Respondent acted reasonably in convening the meeting, and for the same reasons, in carrying out an investigation subsequently and having taken advice. At the time, the Claimant accepted he knew his posts did not align with the Respondent's values. I do not find that the Respondent's decision to investigate was itself a repudiatory breach of the implied term of trust and confidence; it was a reasonable management response to a legitimate concern. There is no evidence that the Respondent acted in bad faith, with animus, or with a predetermined outcome.

146. In summary, the Claimant resigned because he wished to avoid a disciplinary process into his social-media comments. That is inconsistent with resignation in response to a repudiatory breach by the employer. On my findings, the 26 September meeting and

subsequent investigation process was commenced for a proper purpose and not in bad faith and the Claimant's resignation was to avoid the process rather than to accept any antecedent breach.

147. For completeness, the Claimant's witness statement refers to two other potential breaches of contract:
    a. Breach of his data protection rights. The Claimant confirmed that he did not find out about this issue until after he had resigned, and therefore it did not play any part in his resignation.
    b. That being assigned to work alongside pupils who displayed extreme behaviours was tantamount to a change in his contractual terms and conditions. This is not part of the Claimant's pleaded case. However, for reasons already stated, I do not find that this was a cause of the Claimant's resignation. In any event, the Claimant indicates that the behavioural issues worsened after Covid-19. If there was a change to his terms in or around 2020/2021, he accepted it. I do not, however, find that there was any such change. The Claimant's role was consistently to work 1:1 with children who had SEN or needed 1:1 attention. That did not change.

148. The Claimant having not resigned in response to a breach of contract, and the Respondent having not committed any repudiatory breach, the Claimant's constructive dismissal claim fails and is dismissed.

Employment Judge Youngs
Date: 4 May 2026

JUDGMENT SENT TO THE PARTIES ON

.....18 May 2026.....
….....

FOR THE TRIBUNAL OFFICE