



EMPLOYMENT TRIBUNALS

Claimant: Asia Mahmood
Respondent: Dawat-E-Islami
Heard at: Leeds Employment Tribunal (remotely by CVP)
On: 18 and 18 May 2026
Before: Employment Judge Wilkinson

Representation

Claimant: Mr A MacMillan (counsel)
Respondent: Mr L Baker (solicitor)

JUDGMENT having been sent to the parties on **20 May 2026** and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

Preliminary matters

1. At the hearing of this claim the tribunal gave short-form oral reasons. This request is made pursuant to rule 60(4B) and (4C) of the Employment Tribunal Rules of Procedure 2024. The request received was for “full written reasons”. Given that rules 60(4B) and (4C) allow for short-form reasons only in such circumstances the tribunal has decided, further to rule 60(4E), that it is appropriate to provide full written reasons because:
 - a. That is what was requested; and
 - b. It seemed that there was a likelihood that upon receipt of the short-form reasons full written reasons would thereafter be requested, given the wording of the email requesting “full written reasons”; and
 - c. In those circumstances the tribunal considered that it was in the interests of proportionality and in accordance with the overriding objective to provide full written reasons at this stage.

Introduction and background

2. My decision in this case was that neither of the claims are not made out and both are dismissed.
3. These are the tribunal's reasons in the claims brought by Mrs Asia Mahmood ("the claimant") against Dawat-e-Islami UK ("the respondent").
4. The claimant was employed by the respondent as a head teacher. Her employment commenced on 11 September 2017 and was terminated summarily on 30 May 2025.
5. It is common ground that:
 - a. The claimant was an employee within the meaning of section 230 Employment Rights Act 1996 ("ERA").
 - b. She had sufficient qualifying service to bring a claim for unfair dismissal.
 - c. She was dismissed on 30 May 2025.
 - d. Her claim was presented within the applicable time limits, taking into account ACAS early conciliation.
6. The claimant brings two claims:
 - a. A claim for unfair dismissal under section 98 ERA; and
 - b. A claim for wrongful dismissal (notice pay).
7. The respondent resists both claims. Its case is that the claimant was dismissed for conduct, namely comments made on 2 May 2025, amounting to gross misconduct.
8. The claimant presented her claim by way of ET1. The respondent filed an ET3 resisting the claims.

The hearing and evidence

9. The hearing took place over two days.
10. I heard oral evidence from:
 - a. the claimant in support of her claims; and
 - b. Mr Khan and Mr Ashraf for the respondent.
11. I also considered written witness evidence from a number of witnesses called on behalf of the claimant, including students. Those witnesses were not cross-examined. I have considered their written evidence, attaching weight as set out below.

12. I was provided with a documentary bundle and, importantly, I listened to the recording of the incident of 2 May 2025.
13. I confirm that I had read the parties' written closing submissions in full.
14. At the outset of the hearing, the claimant sought to rely upon: (1) letters suspending the two student witnesses; and (2) a series of undated WhatsApp messages of unclear provenance.
15. That additional evidence was admitted into evidence without opposition during the hearing. Their relevance was considered in the context of whether an adverse inference should be drawn against the respondent. I address the substance and weight of this material in my analysis below.

The law

Unfair dismissal

16. By sections 98(1) and (2) of the ERA, it is for the employer to show the reason for dismissal, and that it is a potentially fair reason. Conduct is a potentially fair reason under section 98(2)(b).
17. Section 98(4) provides that, where the employer has established a potentially fair reason, the question for the tribunal is whether the dismissal was fair or unfair, having regard to whether the employer acted reasonably in treating that reason as sufficient to dismiss.
18. In conduct cases, the tribunal applies the principles in British Home Stores v Burchell. The tribunal must determine:
 - a. Whether the employer held a genuine belief in the employee's misconduct;
 - b. Whether that belief was based on reasonable grounds; and
 - c. Whether, at the time the belief was formed, the employer had carried out as much investigation as was reasonable in the circumstances.
19. The tribunal must then consider, in accordance with section 98(4), whether dismissal fell within the range of reasonable responses open to a reasonable employer.
20. If a dismissal is found to be procedurally unfair, compensation may be reduced to reflect the likelihood that the dismissal would have occurred in any event (Polkey v AE Dayton Services Ltd). Separately, where the employee's conduct contributed to the dismissal, any award may be reduced on a just and equitable basis (sections 122(2) and 123(6) ERA).

Wrongful dismissal

21. For wrongful dismissal, the question is whether the claimant was guilty of a repudiatory breach of contract entitling the employer to dismiss summarily.

The issues

22. The tribunal had the benefit of a broadly agreed list of issues which were discussed at the outset of the hearing. The principal issues for determination were:

- a. What was the reason for dismissal?
- b. Was that reason a potentially fair reason within section 98(2)?
- c. Did the respondent satisfy the Burchell test (see above)?

The first two limbs of the test were not in dispute.

- d. Was there procedural unfairness, including in relation to:
 - i. The investigation;
 - ii. The disciplinary process;
 - iii. The appeal;
 - iv. An alleged disparity of treatment;
 - v. The treatment of student witnesses.
- e. Did the respondent act reasonably in all the circumstances, including whether dismissal was within the range of reasonable responses?
- f. If the dismissal was unfair, what reductions should be made under Polkey and/or contributory fault?
- g. Did the Claimant commit a repudiatory breach so as to justify summary dismissal (wrongful dismissal)?

The witnesses

23. I summarise below the witness evidence that I heard:

- a. The claimant gave evidence that she accepted making the comment on 2 May 2025 and acknowledged that it was inappropriate. She described the context as an informal, conversational exchange with adult students arising from what she said had been distressing and repeated contact from Mrs Bukhari. She maintained that she did not intend the comment to be racially offensive and had not appreciated its connotations at the time. She emphasised her length of service, clean disciplinary record, and the pressures she was under in her role. She criticised the Respondent's process, contending that Mr

Khan had effectively prejudged matters, that relevant lines of inquiry (including the identity of the recording student and her prior communications with Mrs Bukhari) were not pursued, and that the appeal did not properly engage with her grounds. She also relied upon comparator evidence and alleged unfairness arising from the suspension of student witnesses.

- b. Mr Khan gave evidence that he acted as the Respondent's HR lead throughout the investigative and disciplinary stages. He confirmed that he conducted both the investigation and disciplinary hearing, which he accepted was a procedural defect but explained was done due to the circumstances and urgency of the matter. He described the steps taken: receiving the complaint, meeting the complainant, suspending the claimant, conducting the investigation meeting, and then the disciplinary hearing. He relied on the recording and the claimant's admissions as the basis for his conclusions. He stated that the claimant was given a full opportunity to respond and to advance mitigation, which he said he considered, including her service and personal circumstances. However, he concluded that the nature of the comments—being discriminatory and made in a classroom setting by a senior employee—meant that dismissal was the appropriate sanction. He rejected any suggestion that he had prejudged the outcome or acted with bias.
- c. Mr Ashraf gave evidence in relation to his role as the appeal decision-maker. He accepted that he had been present at the earlier meeting with Mrs Bukhari but maintained that his involvement there was limited and did not affect his independence at the appeal stage. He described the appeal as a review process in which the claimant was given full opportunity to present her case and set out her grounds. He accepted that the appeal outcome letter did not address each ground in detail but stated that he had considered the substance of the matters raised during the hearing. He confirmed that he agreed with the findings and sanction imposed at first instance and considered that dismissal remained appropriate. He denied that the appeal was a rubber-stamping exercise and rejected any suggestion of pre-determination.

- 24. I remind myself that as the tribunal that heard the evidence I am uniquely placed to form an assessment of the witnesses.
- 25. Overall I found that the claimant had exaggerated matters in her written case; for example painting an overly negative picture of Mr Khan's behaviour in the initial disciplinary stages which she conceded under cross-examination was not accurate. I found that the claimant's written evidence was often not supported by the written documents: for example she sought to suggest that she had not had the opportunity to put her appeal points to Mr Ashraf during the appeal meeting and that these were not therefore considered; whereas the minutes of this meeting demonstrated clearly that the claimant had this opportunity. I found that the claimant was not particularly credible or persuasive as a witness.

26. I found both Mr Khan and Mr Ashraf to be direct witnesses. Both of them made appropriate concessions. Both were keen to stress to me the serious nature of the comments made by the claimant (which she continued to underplay in her own evidence) and the need that they had to factor that into the mitigation. I found their evidence to be clear, consistent with the documents and compelling. I was satisfied that in respect of their approach to their respective roles I could attach weight to their evidence and that I was able to reach conclusions, supported by the wide canvas of the documents, which enabled me to accept their accounts.

Factual matters and findings of fact by reference to the list of issues

General observations

27. I turn to consider the factual disputes in this case and how they factor in to my overall analysis. It is neither necessary nor proportionate for me to decide every disputed fact and I therefore consider only those which are probative to my decision. Where I make a specific factual finding I have relied upon my overall analysis of the witness evidence as set out above and, where appropriate and necessary have given further explanation as to the reason that I have made any specific finding.
28. In doing this I remind myself that any finding must be made to the civil standard; namely the balance of probabilities – whether a fact is more likely than not to have happened. I have considered all relevant evidence in the case when reaching my conclusions.

Unfair dismissal

Reason for dismissal

29. This is a claim in which the respondent asserts that the reason for dismissal was misconduct; namely comments made by the claimant, which it is accepted that she made on 2 May 2025.
30. During that conversation, the claimant when discussing matters in a classroom setting, in the presence of adult students, made some comments about a member of the public, Mrs Jabin Bukhari, with whom she had had some disagreements in the days leading up to the comments being made. Those comments were recorded surreptitiously by a student, and I have been played the recording.
31. The comment made by the claimant was that Mrs Bukhari “sounds like she's come off the banana boat”. During that conversation, which I have heard, the conversation is light in tone, it is jovial, there's laughing between the claimant and students, and the conversation takes place in a context where the claimant was making criticisms of Mrs Bukhari: pausing and playing voice notes and commenting on them, in discussions with the students.
32. The respondent found out about these comments because Mrs Bukhari herself

found out about them and made a complaint.

33. In my judgment, that comment was the reason for the dismissal. I say that because it is clear from the documentary evidence that that's the reason for the dismissal. The respondent, in my judgment, was entitled to treat the banana boat comment as derogatory or discriminatory language. I say that because, regardless of whether or not the claimant knew or appreciated the connotations of the comments (and I struggle to accept that she did not, despite her assertions and those of her witnesses), approaching matters objectively it appears to me that the respondent acted wholly reasonably in determining that the comments had that connotation. Objectively those comments have clear negative racial connotations which I am satisfied the respondent properly considered when determining that they were a reason for dismissal.
34. In reaching that conclusion, I have considered the claimant's evidence as to context, including that the remark was made in a conversational setting, that she did not intend it to be racially offensive, and that she and the subject of the comment were of the same ethnic background. Whilst those matters form part of the factual matrix, they do not displace the objective character of the language used. The question for the respondent, and for me on review, is not limited to the claimant's subjective intention but extends to how the words used would reasonably be understood. Having heard the recording and considered the expression in its ordinary meaning, I am satisfied that the respondent was entitled to treat the language as carrying racial overtones. That was a conclusion open to a reasonable employer, irrespective of the claimant's asserted lack of knowledge or intent.
35. The respondent also asserted as part of its dismissal, that such comments are capable of causing reputational harm. It is right to say that there has been no actual harm. But in the context of this case, where comments were made by a head teacher, to students in a classroom setting which were clearly derogatory and discriminatory on their face, I am satisfied that the respondent acted reasonably in coming to that conclusion, as set out by Mr Baker in his closing written submissions, that such comments were likely (were they to be disseminated into the wider public) to cause reputational harm to the respondent company.
36. In my judgment those comments were properly classified as gross misconduct by the respondent under the relevant policies that I have seen and I am therefore satisfied that the respondent has shown that the principal reason for dismissal was a potentially fair reason within the meaning of section 98(2) of the Employment Rights Act 1996.

The Burchell test

37. Turning to the issue of misconduct, I have got to consider the Burchell test; namely:
 - a. Did the respondent genuinely believe that the claimant had committed the misconduct alleged?

- b. Did the respondent hold that belief on reasonable grounds?

And finally,

- c. At the time the belief was formed, had the respondent carried out as much investigation into the matter as was reasonable in the circumstances; namely, did the respondent act in a procedurally fair manner?

38. Taking those points in turn. It is accepted in this case that the respondent genuinely believed that the claimant had committed the misconduct alleged. Indeed, she accepted it and apologised for it throughout the process and again repeats that in her written evidence for the tribunal. The respondent had a copy of the recording and the claimant's admissions, and therefore, I am satisfied both that the respondent genuinely believed that the claimant had committed the misconduct alleged and that the respondent held that belief on reasonable grounds.
39. The key issue in this case is whether the respondent had carried out as much investigation into the matter as was reasonable in the circumstances and whether, in all of the circumstances, the respondent acted in a procedurally fair manner.

Investigation and procedure

40. In respect of the investigation process, a meeting took place with at Mrs Bukhari that was attended both by Mr Kahn and Mr Ashraf. Mr Khan had the primary conduct of it. He asked Mrs Bukhari for her account of what had happened.
41. It is right to say that during that meeting Mr Khan asked Mrs Bukhari what she wanted the respondent to do and that she intimated that she wanted the claimant to lose her job. I shall come on to that and the impact of that in due course; but I am satisfied at that, that it did not materially influence the respondent in its decision to dismiss the claimant in all of the circumstances.
42. I expand briefly on that finding. Although it is apparent that Mrs Bukhari expressed a desire that the claimant be dismissed at an early stage, I am satisfied that the respondent did not adopt that position uncritically. The evidence demonstrates that a structured process followed, including suspension, investigation, and disciplinary hearing, at which the claimant was given a full opportunity to respond. The decision to dismiss was taken following those steps and was based on the recording and the claimant's admissions. There is no evidential basis upon which I can conclude that the outcome was predetermined or that the decision-maker abdicated independent judgment. In those circumstances, I find that the complainant's stated preference did not taint the fairness of the process.
43. Thereafter, an investigation and disciplinary process was undertaken with the claimant. Mr Khan carried out at that process, attending both meetings. It is

accepted by the respondent that there is a defect in Mr Khan having carried out both of those roles and it is right to say that it is not in compliance with the ACAS Code of Conduct; albeit there is nothing about this within the respondent's own policies.

44. I add this in respect of the ACAS Code. I accept that paragraph 6 of the Code indicates that, where practicable, different individuals should undertake the investigation and disciplinary stages. That is plainly good practice and was not followed here. However, the Code does not impose an absolute requirement and the question for me is whether, in all the circumstances, the procedure adopted was fair. Having regard to my findings that there was no evidence of bias, that the claimant was given clear notice of the allegations and full opportunity to respond, and that the decision was grounded in an admitted and recorded incident, I am satisfied that the failure to separate roles did not render the process outside the range of reasonable responses.
45. That having been said it is common ground that it is good practice, and indeed that's what ACAS say, for those roles to be separated.
46. In any event having heard the evidence I am satisfied that Mr Khan did not pre-judge matters and that the process was fair. I say that for the following reasons:
47. First of all, the allegations were clearly put to the claimant. She was provided written notice of both meetings, in which the allegations are clearly set out and the recording and the complaint were disclosed.
48. Secondly, the claimant was given a full opportunity to respond, and to that extent I have seen the detailed minutes of both of the meetings that took place between the claimant and Mr Khan.
49. In her written evidence, the claimant asserted that Mr Khan, in the first of those two meetings, prejudged matters, that he did not give her the opportunity to properly respond, and in effect, he ambushed her. That was something she asserted in her ET1. Those matters were not put to Mr Khan in cross examination. Mr Baker did explore this issue with the claimant; and the claimant, when taken forensically through the questions put and the answers given alongside the opportunities given in the first meeting to her by Mr Khan, more or less conceded that the original meeting was not unfair and neither was it an ambush. I am satisfied in all of the circumstances that it was a fair opportunity for the claims and the allegations to be put to the claimant at the first opportunity.
50. Whilst Mr Khan carried out a dual role, as I've said already, I am not satisfied that that was an unfairness per se. There was no evidence that I can see of any bias. Indeed the respondent, throughout this process, was dealing with a situation, in which the claimant had made a racially derogatory remark about a member of a public, in a classroom setting in front of students, in circumstances where she was the head teacher of the particular academic institution where she worked.
51. What is clear to me from both the disciplinary and investigatory processes, is

that the claimant was given ample opportunity to put forward mitigation. Whilst it is correct that the claimant invited Mr Khan to carry out further inquiries, including who undertook or who made the recording and to explore phone calls and messages sent by Mrs Bukhari to the claimant; those matters were not, in my judgment, material in all the circumstances because the claimant had admitted to making the comments that she did within the initial meeting with Mr Khan. It seems to me highly unlikely that even if those further inquiries had been followed up, the respondent would have been in any more of an informed position, or have come to a different conclusion.

52. I also make clear why those further inquiries would not have altered the position of the respondent. The claimant's case is that such material would have provided context and mitigation. However, the central facts of the conduct were not in dispute and were evidenced by the recording which I have heard. The respondent was therefore entitled to focus its investigation on the admitted conduct and its implications, rather than on collateral matters which did not bear upon whether the comments were made. In those circumstances, whilst further inquiries might have added background, I am satisfied that their absence did not undermine the reasonableness of the investigation or the ultimate decision reached.

53. Therefore, I am satisfied in all of the circumstances that the process was fair in substance.

The claimant's mitigation – was it considered?

54. The claimant, throughout the process, has set out mitigation which she invites the tribunal to consider when looking at the reasonableness and the range of reasonable responses. In this case they are things which she set out to the respondent, both at the initial stage and throughout the appeal process:

- a. She has a lengthy and unblemished service record. It is right to say that there have been previous occasions where the respondent has raised, potential disciplinary matters with the claimant. Mr Khan was asked about these. They went nowhere. There was no evidence, and I accept Mr Khan's responses, that he was biased or prejudged the outcome of this particular misconduct allegation.
- b. The claimant also invited the respondent to consider the stress and the pressure she was under, particularly given her important role as a head teacher at the school, and what she said were repeated communications from Mrs Bukhari.

55. I am satisfied that all of those matters were properly considered by the respondent in its overall investigation and decision making and in respect of the sanction imposed. But both Mr Khan and Mr Ashraf repeatedly stressed to me that they were faced with a situation at where clear discriminatory remarks had been made by the claimant; and therefore on balance they came to the conclusion that dismissal was the only appropriate sanction. They told me that the mitigation, on balance, did not excuse the conduct which the claimant admitted.

56. The also told me that whilst the claimant accepted wrongdoing, throughout each of the meetings, she also sought to minimise any misconduct and deflect responsibility. I accept this evidence because I have read the minutes from those meetings. It is clear that within them the claimant paid lip service to apologising and acceptance of the fact that what she said was wrong and that she did seek to deflect blame or culpability for making the remarks.
57. I am asked to consider by the claimant a number of discrete points. I deal with these now.

Disparity – Sofina Bibi

58. She invites me to consider, when looking at the range of reasonable responses, a lady Sofina Bibi, who also faced disciplinary conduct at the same time. Mr McMillan, on the claimant's behalf, invites me to consider that the treatment of Ms Bibi by the respondent demonstrates that there was an inconsistency and that that plays into the range of reasonable responses in this case; essentially that there was a disparity of treatment.
59. I have read, with care, what is within the bundle about Ms Bibi. The claimant suggest that Ms Bibi made caste-related remarks and that is essentially discriminatory language. The claimant says that in respect of Ms Bibi, she was accused of misconduct rather than gross misconduct and received a written warning rather than dismissal in circumstances which were materially similar.
60. I am not satisfied that Ms Bibi is a truly analogous or a truly accurate comparator. When one looks at the formal letters leading to the sanctions being imposed they relate to issues such as encouraging students to record matters and inappropriate communications with students. Whilst they are the underlying factual occurrences which led to the claimant's remarks being identified and coming to the respondent's attention in an irrefutable manner in this case, there is no suggestion that the reason for the disciplinary action in respect of Ms Bibi related to discriminatory remarks on the fact of the correspondence relating to that disciplinary matter.
61. Whilst in her witness statement the claimant suggests that Ms Bibi made those caste-related comments I have no detailed evidence about that to properly conclude that this is a case in which it can be said that Ms Bibi was a comparator and that there was an inconsistency of approach by the respondent. Indeed the official correspondence would clearly suggest otherwise.

The claimant's supporting witnesses and the suspension letters

62. I am also asked by the claimant to consider, as part of my consideration of the overall reasonableness in this case, the alleged treatment of two of the claimant's witnesses: Miss Zara and Miss Hussain. I did not hear from those witnesses but I did receive, and admitted into evidence by consent yesterday, two 1- page letters signed by the current head teacher of the school, suspending both of those ladies, who are students, for a two-week period

starting today.

63. The claimant, through Mr McMillan, invites me to draw an adverse inference into the respondent's attitude and behaviours. Mr McMillan goes so far as to suggest that I can draw an adverse inference that the respondent is trying to interfere with the witnesses and that that should factor into my overall consideration of the respondent's actions and reasonableness.
64. I am not satisfied that I can draw such an adverse inference. I say that because neither Mr Khan nor Mr. Ashraf were able to give any evidence about these matters. I do not criticise them for that and I do not draw any adverse inferences from that. It seems to me that Mr Khan's role is a human resources officer. He is not in charge of the day to day running of the school. Whilst Mr Ashraf is a trustee of the respondent company, it seems to me that there is no particular reason why he would involve himself or the trustees would be involved in decisions to suspend students.
65. Both gentlemen gave evidence that that was a decision which was undertaken by the head teacher, and indeed the letters are signed by the current head teacher of the school. Whilst it is correct that no witnesses were called to refute the invitation to draw an adverse inference, I am not satisfied that that would have assisted me. First of all, the letters were only admitted into evidence on the first morning of this two day hearing. Secondly, it was therefore not possible for a witness to give a statement and to be heard within this two day listing. What would have had to have happened, it seems to me, would be that this final hearing would have had to have been adjourned yet again, in circumstances where it has been adjourned once already. Two days of tribunal time would have been lost and I am not satisfied that even if this had happened that it would have particularly assisted me much in any event. No party invited me to adjourn and I am wholly satisfied it would not have in the interests of justice or in accordance with the overriding objective to have done so.
66. So, I am not satisfied that I can draw an adverse inference. Whilst there is, on the face of it, a possible link; that is not, in my judgment, sufficient for me to properly draw an adverse inference that this shows that the respondent has acted unreasonably in its decision and the process it carried out relating to the claimant's dismissal in May of last year.
67. Those two witnesses that I just referenced, and indeed other witnesses that were relied upon by the claimant, gave what is unchallenged written evidence. I am invited by Mr McMillan to accept their evidence as truthful on that basis on the balance of probabilities.
68. I say this briefly in respect of this evidence: I made observations about this during the course of the hearing on day one to the effect that none of those statements took this matter much further. Each of the witnesses gave their own personal views of the situation. They gave their accounts of what they understood the claimant to have said. They gave their accounts of what they were told by other people and what the other people have said that they were told. For example: that the student who had made the recording commented that her father had said that the claimant was going to be dismissed and that

that had happened prior to the claimant's at actual dismissal. Well, that is second or third hand hearsay evidence. In my judgment it does not take me much further. I do not know why the student's father would have said that or where he got that information from. It is clearly the case that Mrs Bukari wanted the claimant to be dismissed; but in my judgment, it is neither probative nor particular determinative to consider what other people may or may not have said when I look at the respondent's attitudes or reasonable responses in this case.

69. Similarly in respect of the context of the claimant's "banana boat" comment, and what Miss Hussein, for example, understood by that. I am dealing with a situation where I have heard the recording for myself and where the respondent heard the recording for itself. The observations of the witnesses in that regard do not take this matter much further and therefore, whilst I do pay attention to what they have said and have factored them into my overall analysis I am driven to the conclusion that I would have attached and do attach limited weight to what they say in circumstances where the comments themselves are primarily derogatory and racially offensive and this is now agreed by the claimant.
70. For those reasons I can understand why, in circumstances when the factual matters contained therein were not challenged by the respondent, they were not cross-examined by Mr Baker. This seems to me to be a wholly proportionate way of dealing with those unchallenged factual witness statements.

Range of reasonable responses

71. When I look at, therefore, the band of reasonable responses in this case and whether the respondent acted reasonably in reasonably coming to the conclusion that the comments and the misconduct alleged was capable of dismissal and whether dismissal was the appropriate sanction, I have come to the conclusion that the respondent did act reasonably, and that dismissal was reasonable in all of the circumstances. I say that for the following reasons:
- a. This is a comment which was racial in its overtones and derogatory in its connotations.
 - b. The claimant was a head teacher, making the comment in front of students, in a situation where, ultimately, she was recorded.
 - c. That recording could have been played and disseminated into the wider community.
 - d. The respondent is an Islamic school.
 - e. It sets out within its policy documents what would amount to gross misconduct and those matters include racially racist or discriminatory language and language which may place the respondent or put the respondent into disrepute. That is not an exhaustive list, and I remind myself that simply labelling something 'gross misconduct' is not

determinative of matters; but this is a situation where the respondent has a disciplinary matrix in which gross misconduct is defined and it is made explicit that this can result in summary dismissal.

- f. The respondent was left in a situation where it considered lesser sanctions, and I heard Mr Khan's evidence on that, but they were faced with a situation where the claimant had made these comments, where, while she apologised for them, she, continued to deflect in meetings.

72. Against all of those matter I am satisfied, in all the circumstances, that dismissal was within the range of reasonable responses, and that dismissal, therefore, was reasonable.

73. I am not satisfied that this was a borderline case. I am satisfied that the respondent, in dismissing the claimant, acted within what was a reasonable range of responses.

The appeal

74. I deal briefly with the appeal and how that factors in to my overall conclusions. Mr Ashraf had been present back at the initial meeting with Mrs Bukhari during which, as I have already said, Mrs Bukhari stated that her preferred outcome was for the claimant to be dismissed. That is unfortunate because the respondent's policy suggests that an appeal decision maker should be independent *of any previous decision making* (my emphasis). In this case there was no evidence put before me, nor is it asserted, that Mr Ashraf was part of any decision making undertaken by Mr Khan at the initial stages leading to the dismissal.

75. Mr Ashraf's evidence on this point was that he was not involved with the decision making, nor was he influenced by what he had heard at the meeting with Mrs Bukhari in early to mid-May. I accept that evidence to me. There was nothing to suggest otherwise and Mr Asraf's own evidence explaining his thought processes and rationale was consistent and coherent.

76. When I look at the appeal, it is right that the appeal outcome letter does not properly engage with the claimant's mitigation. It sets out in bullet point form, as did the invitation to the appeal. The four which amounted to the claimant's basis of appeal. That it is unfortunate and does not necessarily reflect best practice. However when I engage properly with what happened at the appeal decision hearing, and with the appeal process, I note that within the appeal meeting the process allowed for the claimant to provide full representations as to her position. This was not a case where the claimant was shut down or not afforded the opportunity to put forward her mitigation again as part of the appeal process. Indeed, when I look at the appeal minutes, there appear to be huge swathes of the minutes where the claimant is providing a monologue, setting out her side of the story. It seems to me, and I accept Mr Ashraf's evidence on this point, that whilst he did not explicitly in writing set out his responses to the claimant's four points of appeal, he considered them in substance, and considered them by listening to her during the appeal hearing,

in respect of each of those points.

77. In my judgment therefore any defect was immaterial to the overall process of the appeal. Looking at matters objectively; even if the appeal outcome letter had properly engaged with each of the claimant's four points, it would have been wholly immaterial to overall outcome. Therefore, whilst the process does to some degree leave points for criticism, I am not satisfied that that appeal process in and of itself was fundamentally unfair so as to render any previous steps materially unfair in all of the circumstances.
78. In reaching that conclusion, I have considered the appeal stage in the context of the overall fairness of the procedure. Whilst I accept that the appeal outcome letter did not expressly address each of the claimant's grounds and that best practice would have required a clearer articulation of reasoning, I am satisfied that the substance of those grounds was considered. The appeal hearing afforded the claimant a full opportunity to make representations, which she did at length, and I accept Mr Ashraf's evidence that he considered those matters in reaching his decision. Further, given my findings as to the seriousness of the conduct, the claimant's admissions, and the limited relevance of further investigation, I am satisfied that any deficiencies in the appeal process did not render the dismissal unfair. Put another way, the defects identified did not affect the substance of the outcome.

Conclusions – unfair dismissal

79. When I take a step back and look at my overall conclusions, in respect of the unfair dismissal claim; this is a case in which I am satisfied that the respondent held a genuine belief of misconduct, that indeed is accepted. I am satisfied that the respondent carried out a reasonable investigation and gave the claimant the fair opportunity to respond. I am satisfied that the respondent properly considered the mitigation; but when faced with clear admission of misconduct, namely the racist comments made on the 2 May 2025 and claimant's responses thereafter during the disciplinary process and the appeals process (where she sought to deflect from culpability), that the respondent acted reasonably in all of the circumstances and that, for all of those reasons, the dismissal was fair within the meaning of section 98 of the Act.

Polkey and contributory fault

80. If I was wrong about that in any material way, it seems to me that the defects are procedural rather than substantive.
81. I have considered, therefore, for the avoidance of doubt, issues relating Polkey and contributory fault.
82. In respect of Polkey it seems to me that even if a fair procedure had been followed, in circumstances where the conduct is admitted and recorded (and I remind myself that I have heard the recording) that dismissal would likely have been inevitable in any event. Therefore, even if I were to have concluded that the dismissal was unfair, I would have reduced the claimant's damages by 100% as an appropriate amount.

83. Additionally, in respect of contributory fault, for the same reasons I would have considered that a reduction of 100% would have been just an equitable in all of the circumstances, for the reasons I have given relating to the comments which were made, the claimant's role as a head teacher, the fact that they were made in a classroom setting about a member of the public; and the claimant's responses thereafter.
84. So even if I were wrong about the unfair dismissal, I would have reduced the claimant's award by 100%.

Wrongful dismissal

85. Turning to the claim for wrongful dismissal, the test is whether the repudiatory breach was so serious, so as to justify the respondent dismissing the claimant summarily without notice. On any view, this was serious misconduct by a senior employee. It was misconduct which, whilst not actually causing any impact to the respondent's reputation, could very likely have done that. It is a case in which, objectively, racially discriminatory language was used by the claimant.
86. In my judgment, it is wholly capable in those circumstances of undermining the respondent's trust and confidence in the claimant; notwithstanding the mitigation to which I have already referred.
87. Therefore, in my judgment, summary dismissal was justified in all of the circumstances due to the very serious misconduct by a senior employee. Therefore, in my judgment, the wrongful dismissal claim must also fail.

Conclusions

88. Accordingly, as I have set out at the outset of these reasons, my decision is that neither claim is made out and that both claims are therefore dismissed.
89. Those are my reasons.

Approved by:
Employment Judge Wilkinson

On:
26 May 2026

JUDGMENT SENT TO THE PARTIES
ON

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FOR THE TRIBUNAL OFFICE