EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8003002/2025

Held in Glasgow on 11 to 13 May 2026

Employment Judge Neilson

Mr J McGuinness	**Claimant** **In person**
Sky Subscribers Services Limited	**Respondent** **Represented by** **Ms Evanson** **Counsel**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that the claimants claim for unfair dismissal under section 94 of the Employment Rights Act 1996 fails and is dismissed.

REASONS

1. The claimant lodged a claim in the Employment Tribunal on 10 December 2025 claiming unfair dismissal in terms of the Employment Rights Act 1996 ("ERA"). At the beginning of the hearing the claimant confirmed that the remedy he was seeking was reinstatement in his job with the respondent.

2. The claimant attended the hearing in person and represented himself. The respondent was represented by Ms Evanson, Counsel.

3. There was a Joint Bundle of 247 pages. In addition, the respondent lodged a schedule of loss on the last day of the hearing along with a written skeleton of their submissions.

4. For the respondent Lyndsey Jamieson, Sales Centre Manager ("Ms Jamieson") and Michelle Denovan, Head of Customer Service ("Ms Denovan") gave evidence. The claimant gave evidence and Mr David Toner, former Head of Sales with the respondent ("Mr Toner") gave evidence on behalf of the claimant.

5. The background to the claim is that the claimant alleged that he had been unfairly dismissed from his employment as a Customer Experience Leader on 31 July 2025. The respondent position was that the dismissal was a fair dismissal on the grounds of the conduct of the claimant.

Issues

6. The issues are as follows:-

   a. What was the reason for dismissal;

   b. whether the respondent acted reasonably in treating that as the reason for dismissal under section 98(4) of the ERA;

   c. what, if any, compensation or other remedy might be due to the claimant.

The Law

7. Section 94 of the ERA established the right not to be unfairly dismissed.

8. Section 98 of the ERA provides:

   "(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show-

   (a) the reason (or, if more than one, the principal reason) for the dismissal, and

   (b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

   (2) A reason falls within this subsection if it

   …(b) relates to the conduct of the employee,

   ….

   (4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) -

(a) depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and

(b) shall be determined in accordance with equity and the substantial merits of the case.”

9. In accordance with *British Home Stores Limited -v- Burchell 1978 IRLR 379* for a dismissal on the grounds of conduct to be fair under what is now section 98(4) of the ERA it must be established that at the time of dismissal (1) the employer believed the employee to be guilty of misconduct; (2) the employer had reasonable grounds for believing that the employee was guilty of that misconduct and (3) at the time it held that belief, it had carried out as much investigation as was reasonable. In addition, the tribunal must decide whether the employer's decision to dismiss the employee fell within the range of reasonable responses that a reasonable employer in those circumstances and in that business might have adopted – *Iceland Frozen Foods Limited -v- Jones 1983 ICR 17.*

Findings of Fact

10. The claimant commenced employment with the respondent on 19 June 2006 and was employed prior to his dismissal as a Customer Experience Leader. In that role he managed a team of 12 to 15 advisers. The claimant was based out of the respondents Glasgow office having previously worked in their Uddingston office.

11. The respondent was part of a group of companies providing news and broadcasting, on demand streaming, broadband and telephone services to customers in the United Kingdom.

12. The claimant was employed under a written contract of employment dated 19th June 2006. At paragraph 14 of that contract of employment under the heading Access to Friends, Family and Staff Accounts it stated “Under no circumstances should you view, or action, an account held by yourself, a friend, acquaintance, family member or staff member without explicit instruction or permission by management. Viewing or actioning such accounts could constitute gross misconduct under the Company Disciplinary Policy.”.

13. The respondent has an IT system called Sirius which allows customer service employees, such as the claimant, to access customer accounts. When logging on to Sirius a warning pops up on screen which states “Please remember not to access your own account or those of friends, family or colleagues known to you. These accounts should be transferred to your Line

Manager." The claimant used Sirius on a daily basis. The claimant could not access customer accounts without going through Sirius.

14. The respondent has an Acceptable Use Policy. Paragraph 4.3.1 of that Policy states "You may only access accounts, systems or information for which you have authorisation. You may not use or attempt to use another person's account." Paragraph 6 of the Policy stipulates that "Failure to comply with this Policy (without an approved exception if applicable) may result in disciplinary action up to and including termination of employment."

15. The respondent has a conduct policy to deal with misconduct in the workplace. At paragraph 5.1 it contains a definition of gross misconduct. An example where gross misconduct may arise is specifically included of failure to comply with Sky's policies.

16. The respondent has Customer Contact Guiding Principles which set out expectations on following processes when dealing with customers. It states that it is the employee's responsibility to ensure that they know the process for applying offers, credits and vouchers within their department guidelines.

17. In carrying out his duties the claimant was provided with access to an Offer Add Tool ("OAT"). The OAT allowed the claimant, and others who had access to it, to effectively add discounts to the accounts of customers in respect of the services being provided. The OAT was to be used to rectify errors that arose in certain specified circumstances.

18. The OAT was accessed through an intranet page on the respondents IT system. The opening page set out the circumstances in which the OAT was to be used. It was expressly stated that "The Offer Add Tool (OAT) must only be used in situations as detailed in the Acceptable Use Scenarios section below. Use of the OAT outside these scenarios may result in a warning or removal of access to the tool." It when on to state "Use of the OAT on accounts where there is a personal connection are strictly prohibited." The intranet page then set out the Acceptable Use Scenarios and listed a number of scenarios where errors or mistakes had been made and where it was appropriate to use the OAT. It also went on to specify situations "when NOT to use the Offer Add Tool" and gave examples under this heading of "Goodwill Gestures" and "As a Save or Sell tool".

19. In or about March 2025 the respondent carried out an investigation into what they considered may be excessive use of the OAT within the Glasgow office. A list of individuals was identified who might have been misapplying the OAT. The claimant was one of those individuals.

20. The claimant was invited to, and attended an investigation meeting with Martin Green, the claimants line manager, on 24, 25 and 30 April and on 12 May

2025. During the course of that investigation the claimant admitted that he had entered his father in laws account (account 7722) on two occasions in an 18 month period and utilised the OAT to add discounts that his father in law was not entitled to and that he had added discounts to customers accounts through the OAT that they were not entitled to. Specifically, he admitted to entering the account of a fellow employee, Tammi McCloy's wife (account number 4051) and the account of a Mr McMahon (account number 2774) and adding discounts through OAT without checking whether they were entitled to these discounts. The claimant claimed that he entered these accounts at the request of Tammi McCloy in respect of account 4051 and of a more senior employee Scott Adams in respect of account 2774. Martin Green recommended that a formal disciplinary meeting take place with the claimant.

21. As part of his investigation Martin Green interviewed Tammi McCloy on 24 April 2025 and arranged for Laura Fryer to interview Scott Adams on 19 May 2025. Laura Fryer conducted this interview as Martin Green was junior to Scott Adams.

22. The claimant was absent from work on ill health grounds from 1 May 2025 returning on 31 July 2025.

23. By letter of 3 June 2025 the claimant was invited to attend a disciplinary meeting to take place on 6 June 2025. Two allegations were set out in the written invitation as follows:-

    1. Breach of the Contract Centre Guiding Principles by misusing the Offer Add Tool, specifically by accessing a family members account and adding offers which they were not eligible to on account number xxxxxxxx7722

    2. Breach of the Contact Centre Guiding Principles by misusing the Offer Add Tool, specifically by adding an offer to a customers account which they were not entitled to on account numbers xxxxxxxx4051 & xxxxxxxx2774.

24. The invite letter stipulated that in respect of the first allegation that if upheld it would constitute gross misconduct which may lead to dismissal. It further stipulated that if the second allegation was upheld it would constitute misconduct. The disciplinary invite letter was from Ms Jamieson who would conduct the meeting. The invite letter gave the claimant the right to be accompanied at the disciplinary hearing and the right to notify the respondent of any witnesses that he would like to call. The invite letter also contained documents as set out in the invite letter.

25. The claimant contacted Ms Jamieson and asked that the disciplinary meeting be rescheduled due to his absence from work on ill health. The claimant and Ms Jamieson agreed to hold the meeting on 20 June 2025. A further invitation letter dated 5 June 2025 was sent to the claimant for the disciplinary hearing

on 20 June 2025. During that conversation the claimant asked for Scott Adams and Tammi McCloy to attend as a witnesses. Ms Jamieson stated that they would not be relevant witnesses.

26. On or about 18 June 2025 the claimant submitted a written grievance to the respondent's employee relations team. In that written grievance he raised a number of concerns regarding the investigation and disciplinary process. He also raised a concern regarding an alleged breach of a duty of care towards him during his recent absence from work and a concern about a recent redundancy exercise. The claimant was told by the respondent that any concerns regarding the investigation and disciplinary process should be raised in the Disciplinary hearing. The claimant agreed to do that. Subsequently the claimants concerns regarding a breach of a duty of care were dealt with through a separate grievance process.

27. The disciplinary hearing took place on 20 June 2025. The claimant was accompanied at that meeting by Kirsty Cairney, a fellow employee. Krystal Cummings was in attendance to take notes. The claimant confirmed he was fit to attend the meeting.

28. At that hearing the claimant had the time and the opportunity to raise any issues. In particular at that hearing the claimant raised the issues he had set out in his written grievance. These issues were – mistakes in the investigation notes; no notes from any meeting with Scott Adams provided in the pack of information; not being allowed to invite witnesses to the hearing; the link to the OAT Acceptable Use Policy only being added since the investigation started and that there is a practice of senior stakeholders asking employees such as the claimant to sort accounts by way of price and offer. In particular the claimant made reference at the hearing to a culture within the respondent of those with access to the OAT being asked to go into the friends and family accounts of other employees to fix them. When pressed the claimant referenced Scott Adams and "Director Ben" but declined to give any other names.

29. During the disciplinary hearing the claimant admitted that he had accessed his father in laws account on two occasions. Firstly, on 22 September 2023 and then on 8 March 2025. He admitted he had accessed the account on 8 March 2023 as the original offers were coming to an end after 18 months. He admitted that his father in law was not entitled to all of the offers he put on the account, that he had not checked and was just looking to keep the account at the same price he had been paying.

30. In relation to the second allegation the claimant admitted at the hearing that he had accessed the accounts 4051 and 2774 and applied discounts through

the OAT without checking whether the account holders were entitled to these discounts. He admitted he had not done the due diligence.

31. The disciplinary hearing was adjourned on 20 June 2025 and reconvened on 31 July 2025.

32. Ms Jamieson met with Martin Green on 3 July 2025 and asked Martin Green about his awareness of personal issues going on in the claimant’s life around March 2025. Martin Green referenced one incident around that time when the claimant referenced a serious argument with his son.

33. By letter of 16 July 2025 the claimant was invited to attend a reconvened disciplinary hearing to deal with the two allegations. The claimant was provided with copies of the investigation notes with Adam Scott dated 19 May 2025 and the investigation notes with Martin Green dated 3 July 2025. The claimant was given the right to be accompanied at that reconvened meeting. The reconvened meeting was to be on 31 July 2025.

34. The reconvened disciplinary hearing took place on 31 July 2025. In attendance were Ms Jamieson, Krystal Cummings as note taker, the claimant and Kirsty Cairney his employee representative. At the start of the hearing the claimant was asked if he was ok to proceed with the hearing and he replied that he was.

35. At the hearing on 31 July 2025 Ms Jamieson responded to the points raised by the claimant at the previous meeting. On the inaccuracies in the notes Ms Jamieson confirmed that she did not consider these points relevant to the allegations being made. In relation to the investigation notes for Scott Adams these were also not relevant to the allegations as it was not disputed that through whatsapp messages Scott Adam had asked the claimant to go into account 2774 and a copy of his interview notes had now been provided. In relation to the refusal of witnesses Ms Jamieson stated that they had no additional relevant evidence to give. On the OAT Acceptable Use Policy Ms Jamieson agreed to take this into consideration in her decision, insofar as relevant. In relation to the position of other users of the OAT she stated it was not appropriate for to comment on these other cases.

36. Ms Jamieson adjourned the hearing on 31 July 2025 for 3.5 hours to consider her decision.

37. At the reconvened hearing Ms Jamieson notified the claimant that she was upholding the first allegation and partially upholding the second allegation. She only upheld the second allegation in relation to account 4051 and accepted that in light of the seniority of Scott Adams in respect of the claimant she was not upholding the allegation in relation to account 2774. I relation to the first allegation Ms Jamieson was satisfied that the claimant knowingly and

intentionally accessed the account of his father in law and applied offers that he was not entitled to. Ms Jamieson determined that in relation to the first allegation this amounted to gross misconduct. Ms Jamieson took into consideration the mitigation factors of the claimant's personal circumstances and length of service. She took into consideration the claimants alleged lack of knowledge of OAT User Guide but did not consider that directly relevant. In relation to the allegation that there was a culture of mis-use of the OAT in the absence of any specifics provided by the claimant she could not see any connection to the allegations under consideration. Ms Jamieson determined that dismissal was the appropriate sanction in respect of allegation 1.

38. The employment of the claimant was terminated with immediate effect on 31 July 2025 on the ground of gross misconduct.

39. The claimant was given written confirmation of his dismissal in a letter from Ms Jamieson, dated 1 August 2025. The claimant was given a right of appeal.

40. The claimant appealed the decision to dismiss him in an e mail of 13 August 2025. In that e mail the claimant set out his grounds of appeal. There were ultimately 5 grounds of appeal considered by the respondent (1) The correct process was not followed as his request to call witnesses was not fairly considered; (2) The correct process was not followed as the claimant was dismissed prior to his grievance being investigated and the outcome given; (3) the correct process was not followed as the disciplinary meeting took place the day after sick leave ended and there was no consideration of the claimants health or fitness to attend a formal meeting; (4) the decision was unduly harsh and inconsistent with precedents, specifically outcomes for cases of a similar kind and (5) the claimant only applied offers on his father in laws account on 22 September 2023 after one of the advisors asked him to do so.

41. The claimant was invited to attend an appeal hearing with Ms Denovan on 17 September 2025. The claimant was given the right to be accompanied at that hearing.

42. The appeal hearing took place on 17 September 2025. The claimant had the opportunity to go through his points of appeal. Sacha Anderson attended as note taker alongside Ms Denovan. Kirsty Cairney attended as the claimant's employee representative.

43. The appeal hearing on 17 September 2025 was adjourned to allow Ms Denovan to carry out further investigation. On 25 September 2025 Ms Denovan interviewed Ms Jamieson in relation to the appeal points.

44. By letter of 29 September 2025 Ms Denovan dismissed the appeal by the claimant. Ms Denovan did not uphold any of the appeal points.

Discussion & Decision

Evaluation of witnesses

45. I found both Ms Jamieson and Ms Denovan to be credible witnesses. They were both experienced managers who had between them considerable experience of conducting disciplinary and appeal hearings. I also found the claimant on the whole to be a credible witness – although I did find that he was not wholly reliable in relation to the circumstances surrounding him accessing his father in laws account – as his version of what occurred did change over time. I will return to this point. This was not a case where there was (save in relation to the circumstances surrounding the accessing of the claimants father in law's account) any material disagreement upon the facts. With regard to Mr Toner I accept the evidence that he provided but ultimately did not consider it to be relevant to the issues in this case.

Reason for Dismissal

46. It was not disputed that the reason for dismissal in this case was conduct. The claimant accepted that he was dismissed because of his actions with regard to the account of his father in law. He disputes the fairness of that decision but not that the respondent proceeded on the basis of conduct.

Fairness of the Dismissal

47. Applying the tests set out in *British Home Stores Limited -v- Burchell 1978 IRLR 379* I must consider (1) Did the respondent believe the claimant to be guilty of misconduct? (2) Did the respondent have reasonable grounds for believing that the claimant was guilty of that misconduct and (3) At the time it held that belief, had the respondent carried out as much investigation as was reasonable?

48. It is not disputed that the claimant admitted that he had accessed the account of his father in law and had put in place discounts that his father in law was not entitled to. This is really they key allegation as it is this allegation that the respondent dismisses the claimant for. Both Ms Jamieson and M Denovan were very clear in their evidence that the first allegation regarding the accessing his father in laws account was the allegation which was considered to be gross misconduct. The second allegation was categorised as just misconduct and by itself would not have been grounds for dismissal. The different approach to these allegations is clear from the initial letters inviting the claimant to a disciplinary hearing. The letters of 3 June 2025 and 5 June 2025 both make a clear distinction between gross misconduct with dismissal as a sanction for the first allegation and misconduct for the second allegation. It is clear from the evidence of both Ms Jamieson and Ms Denovan that they believed the claimant was guilty of the misconduct – in light of his admission

both during the investigation stage, the disciplinary stage and the appeal stage.

49. There can also be no doubt that the respondent did have reasonable grounds for believing that the claimant was guilty of the misconduct – as he had admitted to it.

50. The claimant's contract of employment explicitly states that "Under no circumstances should you view, or action, an account held by yourself, a friend, acquaintance, family member or staff member without explicit instruction or permission by management. Viewing or actioning such accounts could constitute gross misconduct under the Company Disciplinary Policy." The claimant accepted that this was in his contract of employment. Further the Sirius log in page has a clear warning that would have popped up every time the claimant logged on - "Please remember not to access your own account or those of friends, family or colleagues known to you. These accounts should be transferred to your Line Manager." The claimant accepted this was on the log in page but explained that he had not read it. Under cross examination the claimant accepted that his friends and family accounts should not be accessed directly by him.

51. There is accordingly no dispute that there was misconduct and that the respondent had reasonable grounds to believe that the claimant was guilty of that misconduct.

52. The real issue in this case turns upon two matters – whether the respondent carried out as much investigation as was reasonable (and I will include within this the other procedural issues raised by the claimant) and whether dismissal was within the band of reasonable responses.

53. The claimant raised a number of issues regarding both the process and lack of investigation. These were all points dealt with during the appeal stage before Ms Denovan and the claimant has re-iterated them as part of his claim. I will deal with these in turn – dealing with procedural issues and then the cultural issue.

Procedural Issues

54. Firstly, the failure to call witnesses. The claimant submits that both Tammi McCloy and Scott Adams should have been called as witnesses for the disciplinary hearing. However, neither of these witnesses would have had any relevant evidence to provide. They were both concerned with the second allegation. The facts there were not in dispute. Both asked the claimant to access accounts and apply discounts for them. I consider that Ms Jamieson was entitled to take the view that it would not be reasonable to call them as

witnesses. Insofar as Scott Adams may have been able to provide evidence on the cultural issue I address that below.

55. Secondly that the claimant was dismissed prior to his grievance being finalised. I do not consider that it would have been reasonable or necessary for the respondent to delay the outcome of the disciplinary to determine the grievance. Those aspects of the original grievance which impinged upon the disciplinary were specifically dealt with within the disciplinary process. The remaining aspects related to an alleged breach of the duty of care to the claimant during his absence on sick leave from May to July 2025. This was quite separate from the disciplinary issues.

56. Thirdly that the respondent failed to consider the claimant's health by holding the reconvened disciplinary hearing on the day the claimant returned to work – 31 July 2025. The meeting notes for 31 July 2025 record that the claimant was happy to proceed. The claimant did not raise his health as an issue at that time. The claimant had previously requested additional time before the first disciplinary hearing scheduled for 6 June 2025 so he could have requested additional time rather than attend on 31 July 2025. The claimant has not identified any specific prejudice to him arising from the hearing proceeding on 31 July 2025. The claimant also had the appeal process through which he could have raised any specific points he felt unable to raise on 31 July 2025. I do not consider that there was any procedural defect in the respondent proceeding on 31 July 2025.

57. Fourthly the claimant raised a new matter in the appeal process regarding the circumstances surrounding the claimant accessing his father in laws account on 22 September 2023. The claimant maintained that an agent MAM35 had taken a call from the claimants father in law and completed a sale that was mobile related. Off the back of this the claimant claimed he was asked by the advisor to apply an offer to the account. It is clear that Ms Denovan did investigate this issue as part of the appeal. She was not satisfied that this was a credible explanation. I am satisfied that as set out by Ms Denovan at paragraph 5 of the appeal outcome letter of 29 September 2025 that there were grounds for her to come to the view that the claimants explanation was not credible. In particular I note that the claimants account of what occurred in September 2023 has changed from the position he set out in the investigation with Martin Green to the position in the appeal before Ms Denovan. There is also the issue that even if the version now put forward by the claimant is correct he has still accessed his father in laws account and applied discounts that he was not entitled to.

58. In overall terms I am satisfied that there was reasonably thorough investigation and a fair disciplinary and appeal process.

Cultural Issue

59. The more material issue here was the "cultural issue" as referenced above. Essentially this was an allegation by the claimant that there was a culture within the respondent of senior employees asking those who have access to the OAT to access the accounts of the family and friends of the senior employees to apply discounts. The implication being that no one expected much in the way of due diligence to be carried out in determining whether the discounts were justified. The claimant raised this during the investigation with Martin Green but refused to give any details or name any names. In the disciplinary hearing with Ms Jamieson on 20 June 2025 he raised it again but other than Scott Adams and someone called "Director Ben" he refused to provide any further examples. At the reconvened disciplinary hearing on 31 July 2025 the claimant again refused to give any further names to Ms Jamieson but did state once he was made aware of the decision to dismiss him "I haven't brought any other names into this but it now looks like I will have to during my appeal." In his written letter of appeal of 13 August 2025 the claimant does mention nine individuals in respect of whom he stated:- "For the avoidance of doubt, I confirm that the following individuals of a far higher position than myself, have made specific requests to myself and other employees who I am aware of, to use the offer add tool or managers toolkit in order to obtain a better deal for family members, friends or neighbours."

60. Under cross examination the claimant was clear that he had never said that there were examples of people who had themselves accessed directly their own friends and families accounts. He was clear that the examples he was giving related to senior people asking the claimant and others to access the accounts for them.

61. We then had the evidence of a former senior employee for the respondent, Mr Toner. He had been employed by the respondent between 2011 and 2024. He was asked to give evidence by the claimant about the culture of the respondent in relation to the use of discounts. His evidence was quite general but he did give examples of senior individuals who asked more junior employees to access the family and friends accounts of the senior employees to apply discounts. He said this was happening constantly. He also claimed that if an employee had access to the OAT they would go into their own friends and family accounts.

62. The claimant maintained that there was a failure to properly investigate this by the respondent. Ms Jamieson did not investigate because she did not have any names to go on other than Scott Adams – and in relation to him she decided not to uphold the allegation in relation to access to account 2774. Ms Denovan did not investigate these other names because she considered that the issue the claimant was raising essentially related to the second allegation.

The second allegation was accessing accounts and applying discounts without carrying out due diligence. Her position was that at no point did the claimant put forward evidence of people directly accessing their own friends and family accounts. This was the allegation that the claimant was dismissed for – the first allegation. That was the reason she did not think it relevant to investigate the names put forward by the appellant at the appeal stage.

63. I consider that there is a clear distinction between the first allegation and second allegation. The respondent has at all times clearly made the distinction between the two allegations. The first allegation – accessing directly your own friends and family accounts is a gross misconduct offence. The second allegation has been treated by the respondent as a misconduct offence – but not one that results in dismissal. It does seem that there has been a history of inappropriate use of the OAT within the respondent's premises in Scotland – but the evidence the claimant was offering all related to the second allegation. It did not relate to the first allegation. The claimant at no time offered any evidence with regard to previous examples regarding the first allegation. Although Mr Toner gave evidence at the hearing of examples of tolerated mis-use in relation to the first allegation that was not evidence that was before Ms Jamieson or Ms Denovan. Accordingly, I do not consider that it has any bearing upon the decisions that they made. They can only proceed with the information that is before them.

64. I am satisfied that in light of the distinction between the first and second allegations that it would not have been reasonable for the respondent to further investigate the names put forward by the claimant at the appeal stage. I also note that the claimant had raised the names of two other employees as examples of employees charged with misconduct but not dismissed. These were Derek Ruthven and Alan Hogg. However, I am satisfied that these were both examples of second allegation type conduct and thus a warning rather than dismissal would be appropriate. I appreciate that the claimant submitted that in Mr Hogg's case Mr Hogg was asked to go into the account of a colleague's father and submitted that as the father was known to Mr Hogg this amounted to a first allegation scenario. I do not consider that it is reasonable to expect the respondent to have treated it in this way.

Was Dismissal within the range of reasonable responses?

65. Lastly, I have considered whether dismissal was within the range of reasonable responses. The claimant had an opportunity at both the disciplinary hearings and the appeal hearing to set out his case. I am satisfied that both Ms Jamison and Ms Denovan had an awareness of the claimant's personal issues in the period prior to March 2025 and his length of service and clean disciplinary record. I am also satisfied that Ms Jamieson in particular weighed up these mitigating factors against the serious nature of

the misconduct and in particular the fact that the claimant was in a management position with responsibility for 12 to 15 other employees. Ms Jamieson also took into consideration that the claimant accessed his father in laws account on two separate occasions. It was not just a one-off mistake. Ms Denovan was also clear in her evidence that she considered the first allegation to be a more serious matter than the second allegation since it involved individuals accessing accounts without authority and raised data protection issues in addition to the conflict of interest in accessing friends and family accounts. Whilst dismissal may be seen as harsh given the claimants length of service I do consider that it falls within the band of reasonable responses.

66. I dismiss the claim.

Date sent to Parties **24 June 2026**