EMPLOYMENT TRIBUNALS

Claimant: Ian Wilson

Respondent: The Pension Regulator

Heard at: London South **On:** 29 June 2026

Before: Employment Judge Tueje
Mr Dixon
Ms Murphy

REPRESENTATION:

Claimant: Mr Green (Counsel)
Respondent: Ms Leonard

JUDGMENT having been sent to the parties on **14th May 2026** and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunals Rules of Procedure 2024, which were forwarded to me on 18th June 2026, the following reasons are provided:

REASONS

Factual Background

1. Mr Ian Wilson was employed by the Respondent, The Pensions Regulator ("TPR"), from 17 August 2009 until his dismissal on 12 October 2023. He was employed as a Covenant and Financial Analyst, also referred to as a Business Analyst. TPR is the statutory regulator responsible for workplace pensions in the United Kingdom.

2. We note Mr Walmsley's evidence that, as a regulator which initially seeks to interact with employers on a voluntary basis, it is essential that industry participants trust that TPR will keep strictly confidential any dealings it has with companies, including any information supplied to it.

3. Mr Wilson accepted during cross-examination that TPR's handling of sensitive information is the most important of its policies insofar as it relates to his role.

4. The Respondent states that it dismissed Mr Wilson for two reasons. The first was printing TPR information and taking it home, which it says was in breach of TPR's Insider Information Handling ("IIH") policy. The second was accessing TPR information related to cases without a business justification, which it says was in breach of TPR's Acceptable Use policy.

5. The Respondent also relies on Mr Wilson accessing sensitive case documents without authorisation and refers to the need properly to categorise the different types of data it holds.

6. Mr Wilson's claim is that the reason for his dismissal was that he had made protected disclosures. He relies on three disclosures in support of that case.

7. On 8 February 2018, Mr Wilson emailed Ms Lesley Titcomb, who was then TPR's Chief Executive Officer, raising concerns about the British Steel pension fund. This was followed by a meeting on 12 March 2018 between Mr Wilson and Ms Titcomb to discuss those concerns. According to Mr Wilson's unchallenged evidence, Ms Titcomb asked him during that meeting whether he was whistleblowing. For a number of years following that disclosure, Mr Wilson was not allocated any clearance work.
8. Mr Wilson raised further concerns two years later, in June 2020, in relation to a matter known as Project Aero. Between 20 and 23 June 2020, he sent emails regarding Project Aero to Mr Jim Winstanley, Mr David Walmsley, and others.

9. Following those discussions, Mr Winstanley suggested that Mr Wilson take some time off work, which he did. Shortly after commencing leave, Mr Wilson learned from a colleague that the position of Lead Business Analyst was being advertised. The post was in fact re-advertised. Mr Wilson applied for the role but was unsuccessful.

10. In 2022, Mr Wilson was working on Project Laser. On 1 April 2022, he emailed Mr Birch regarding Project Laser. On 5 April 2022, he emailed Mr Philip Wilson, who was then the Lead Business Analyst and also Mr Wilson's line manager from July 2020 until July 2022. Mr Wilson also exchanged Microsoft Teams messages with Mr Philip Wilson about the same project. On 6 April 2022, Mr Wilson attended a meeting with Mr Winstanley and Mr Philip Wilson to discuss Project Laser.

11. In July 2022, Mr Walmsley became Mr Wilson's line manager. Upon taking up that role, Mr Walmsley's first statement to Mr Wilson was that he would provide honest feedback.

12. In around September or October 2022, Mr Walmsley conducted Mr Wilson's mid-year performance review. Despite Mr Wilson previously having been

assessed as “meeting expectations”, Mr Walmsley informed him that he had received some negative feedback which would result in his grading being reduced if his behaviour did not change.

13. The events which ultimately led to disciplinary proceedings began in December 2022.

14. On 1 December 2022, Mr Walmsley emailed Mr Wilson asking him to list the cases on which he was working and their level of intensity. Mr Wilson responded by listing approximately eight cases, all categorised as low intensity, except for one which he categorised as medium intensity. He further warned that this case could become high intensity, adding that he was preparing instructions to counsel and awaiting a PwC report. Although redacted within the bundle, it is now accepted that this case was Project Violet.

15. Mr Wilson and Mr Walmsley met on 2 December 2022. During that meeting, Mr Walmsley asked Mr Wilson about periods of time during working hours when he appeared offline, one such period being approximately six hours. Mr Wilson explained that he had been reading reports which he had printed.

16. It is common ground that Mr Wilson did not specify during that meeting that the reports were unpublished price-sensitive information (“UPSI”). Mr Walmsley confirmed in his oral evidence that, because of the length of time spent offline and the nature of the case, he concluded that the documents Mr Wilson was reading were, or included, UPSI material.

17. As a result, on 2 December 2022, Mr Walmsley reported Mr Wilson for an alleged information breach. On the same day, Mr Walmsley emailed Mr Wilson stating that Mr Wilson had confirmed during the meeting that he had printed documents to read at home, and that printing UPSI and taking it off TPR premises was contrary to TPR’s Insider Information policy.

18. On 5 December 2022, Mr Wilson responded to Mr Walmsley, stating that none of the printed material he had taken home was UPSI. Mr Wilson explained that, being unaware of the IIH policy and seeing an express reference to UPSI documents, he had understood Mr Walmsley to be referring to the UPSI policy. Mr Walmsley replied, thanking Mr Wilson for confirming this.

19. In January 2023, TPR advertised the role of Covenant and Financial Analysis Principal.

20. On 16 January 2023, Mr Walmsley suspended Mr Wilson from work. Shortly thereafter, on 20 January 2023, Mr Wilson was signed off sick. He did not return to work prior to the termination of his employment.

21. We have been provided with an email sent by Mr Walmsley on 21 February 2023 which contains advice received from Agatha Croker, who was part of the Respondent's legal team. Mr Walmsley added his own comments to that advice and reproduced it within his email.

22. Ms Croker's advice is below; the comments added by Mr Walmsley are underlined:

    "It is worth noting that the requirements in the Insider Information Policy reproduced below are expressed as "general principles" so there isn't an outright ban (and I am not advocating that there should be) on printing off hard copies if it can be justified and the process outlined in the policy is followed strictly. However, for this specific type of information (UPSI) it may be that the policy could benefit from clarifying that a "business need" doesn't include day-to-day work which since we're now hybrid working may well include working from home. Again such an outright ban would need to be considered carefully before implementing.

    To the extent that such a ban is only currently hinted at in the policy and not expressly stated, it is arguable that the only breach here is the failure to follow the process for handling Insider Information in hard copy form set out in the policy (see below).

    As to whether to recommend formal disciplinary action I am not sure I'm in a position to say either way (especially as I haven't seen the information printed off), all I can say is that it seems to me a) the individual has a preference for working off printed copies and whilst it may appear willful it could go towards the individuals effectiveness at their job and how that can be facilitated, and <u>Some of the breaches related to casework Ian was removed from due to behavioral concerns and Ian had no reason to access these, never mind print them</u> b) much depends on the attitude of the individual and whether they are willing to now accept and follow the processes set out in the policy in future. <u>I have serious reservations about this given Ian's previous attitude towards concerns raised."</u>

23. On 2 March 2023, Ms Rachel Hulme, Head of Data Privacy and Compliance at TPR, was appointed to investigate the disciplinary allegations against Mr Wilson.

24. The terms of reference included an assertion to the Employee Relations Team that Mr Walmsley believed Mr Wilson had printed a substantial volume of extremely sensitive documents and that Mr Wilson had removed those documents from TPR premises and taken them home in breach of TPR's Unpublished Price Sensitive Information ("UPSI") policy.

25. On 10 March 2023, Mr Walmsley attended an investigation interview conducted by Ms Hulme. Towards the end of the interview, Ms Hulme asked Mr Walmsley whether there was anything further he wished to raise. At that point, Mr Walmsley stated that Mr Wilson had accessed files in July 2022 relating to a case from which he had been removed in April 2022.

26. We understand that Mr Walmsley had seen the print log referred to during the interview, noticed that Mr Wilson had printed documents connected with the Laser project, and made enquiries as to when Mr Wilson ceased working on that project. From those enquiries, Mr Walmsley learned that Mr Wilson had accessed documents connected with the Laser project after that date.

27. Mr Walmsley stated that he “got the print log”, which some took to mean that he had proactively obtained it. We accept Mr Walmsley’s clarification in his oral evidence that he received the print log because it had been provided to him and he had been asked to review it.

28. In that respect, we do not find that Mr Walmsley was conducting his own investigation. However, we do find that by raising this issue regarding Mr Wilson’s access to the Laser project, the scope of the investigation broadened, and this subsequently became one of the two alleged contraventions for which Mr Wilson was dismissed.

29. On 23 March 2023, Mr Wilson submitted a formal grievance.

30. As part of the grievance process, on 22 May 2023, Mr Walmsley attended a grievance interview.

31. On 2 June 2023, Ms Laura Foster of TPR informed Mr Wilson’s solicitors that TPR had discovered that Mr Wilson had printed and taken home a large volume of information in breach of the UPSI policy.

32. At that stage, Ms Hulme and Ms Foster were referring to the UPSI policy, which had in fact been superseded in July 2021 by TPR’s IIH policy. Ms Croker’s advice also referred to the UPSI policy.

33. On 7 July 2023, Mr Wilson provided written responses to both the grievance and misconduct investigations. Ms Hulme completed her investigation report on 25 July 2023.

34. On 23 August 2023, Mr Wilson was invited to attend a combined disciplinary and grievance outcome hearing and was provided with the investigation report.

35. It is common ground that Mr Wilson was not provided with the interview records from Mr Winstanley and Mr Walmsley’s interviews with Ms Hulme, notwithstanding that TPR’s policy requires that interview notes be disclosed.

36. Mr Wilson set out in his witness statement in detail how he would have dealt with that information in connection with both his grievance and the disciplinary proceedings had he received it.

37. Mr Wilson did not attend hearings in person and instead provided written submissions. On 30 August 2023, he provided written responses in lieu of attending a disciplinary hearing and also submitted written representations in relation to the grievance outcome.

38. On 5 September 2023, Mr Will Dunn, Head of Cyber Security and Assurance at TPR, put further questions to Mr Wilson regarding the disciplinary allegations and informed him that a decision would be made during the week commencing 25 September 2023. Mr Wilson provided further written information on 8 September 2023.

39. Mr Dunn accepted during cross-examination that there were various matters raised in Mr Walmsley's interview which were not specifically put to Mr Wilson when questions were subsequently raised with him.

40. On 12 October 2023, Mr Wilson was dismissed without notice. He was informed at the same time that his grievance had been rejected.

41. Mr Wilson appealed against his dismissal on 18 October 2023. On 16 November 2023, he was invited to attend a disciplinary appeal meeting. He provided written representations in lieu of attending the appeal hearing on 22 November 2023.

42. The appeal was determined by Mr Darran Burton, Director of Change, Corporate and Financial Services at TPR. On 5 December 2023, Mr Wilson's appeal was rejected.

43. Following his dismissal, Mr Wilson commenced ACAS Early Conciliation on 15 December 2023. ACAS issued an Early Conciliation certificate on 4 January 2024. Mr Wilson presented his claim to the Employment Tribunal on 2 February 2024.

The Law on Protected Disclosures

44. By section 43C, a qualifying disclosure made to an employer is protected. Only those disclosures which meet the statutory requirements set out in section 43B qualify for protection. There are five requirements which must be satisfied under section 43B. These were summarised by HHJ Auerbach in *Williams v Michelle Brown* UKEAT/0044/19/00, as set out below.

45. First, the disclosure must be a "disclosure of information" made by the worker bringing the claim. There is no additional requirement that the claimant must have had a reasonable belief that the information disclosed, and any allegation contained within it, was substantially true. Accordingly, it will not always be necessary to determine whether the employee believed that the disclosed information was correct. However, determination of the factual accuracy of the disclosure may be an important tool in assessing whether the worker held a

reasonable belief that the disclosure tended to show a relevant failure (*Darnton v University of Surrey* [2003] IRLR 133).

46. Second, the worker must believe that the disclosure tends to show a “relevant failure” in one of five specified respects, or deliberate concealment of such a failure. In other words, the worker’s belief must be genuine. The statutory definition is concerned with what the worker believed at the time the disclosure was made, not what they may have come to believe later (*Dodd v UK Direct Solutions Limited* [2022] EAT 44 at paragraph 55).

47. Third, in addition to being genuine, the worker’s belief must also be reasonable. Reasonableness requires the application of an objective standard to the worker’s personal circumstances. Of the five categories set out at section 43B(1)(a) to 43B(1)(e), two are relevant in this case: disclosures tending to show a failure to comply with a legal obligation (section 43B(1)(b)), and disclosures tending to show that the health and safety of any individual has been, is being, or is likely to be endangered (section 43B(1)(d)). Although Tribunals should consider the particular wrong alleged, there is no requirement that the worker expressly identify a specific legal obligation or accuse the employer of its breach. Further, the nature of the health and safety risk may be stated in general terms (*Fincham v HM Prison Service* EAT 0925/01).

48. Fourth, at the time the disclosure is made, the worker must believe that it is made in the public interest. That belief must again be genuine.

49. Finally, the worker’s belief that the disclosure is made in the public interest must also be reasonable. What amounts to a reasonable belief in the public interest was considered by the Court of Appeal in *Chesterton Global Limited v Nurmohamed* [2018] ICR 731.

50. *Kuzel v Roche* states as follows:

“…when an employee positively asserts that there was a different and inadmissible reason for his dismissal, he must produce some evidence supporting the positive case, such as making protected disclosures. This does not mean, however, that, in order to succeed in an unfair dismissal claim, the employee has to discharge the burden of proving that the dismissal was for that different reason. It is sufficient for the employee to challenge the evidence produced by the employer to show the reason advanced by him for the dismissal and to produce some evidence of a different reason.

Having heard the evidence of both sides relating to the reason for dismissal, it will then be for the Tribunal to consider the evidence as a whole and to make findings of primary fact, either on direct evidence or by reasonable inferences from primary facts established or not contested.

The Tribunal must then determine the reason or principal reason for the dismissal. The burden is on the employer to show what that reason was. If the employer fails to do so, it is open to the Tribunal to find that the reason was as asserted by the employee.”

51. *Applying Kuzel v Roche, the first issue for determination is whether Mr Wilson has produced some positive evidence that he made protected disclosures. We remind ourselves that he does not bear a burden of proof at this stage; rather, he must produce some evidence.*

52. We find that he has done so. Mr Wilson’s email to Ms Titcomb dated 8 February 2018 sets out a number of concerns relating to the British Steel case. His unchallenged evidence is that Ms Titcomb recognised this as a potential protected disclosure.

53. We next consider is the parties’ competing cases as to the reason, or principal reason, for the dismissal: Mr Wilson contends that dismissal occurred because of his disclosures; the Respondent says dismissal followed gross misconduct.

54. We turn therefore to consider each alleged disclosure in turn.

Decision and Reasons Regarding Automatic Unfair Dismissal

55. The first disclosure relied upon concerns the British Steel Pension Fund in February 2018. In particular, Mr Wilson raised concerns about Mr Soper’s former senior role at TPR and the fact that, while there, he had line-managed Mr Cruickshank, whom he had promoted. Mr Cruickshank was now dealing with the project on behalf of TPR, while Mr Soper was advising the pension scheme employer.

56. Applying the *Williams v Brown* framework, we first find that there was a disclosure of information. The prior professional relationships of Mr Soper and Mr Cruickshank were factual matters which were disclosed.

57. Second, we accept Mr Wilson’s evidence that he genuinely believed the disclosure tended to show a failure by the Respondent to comply with its legal obligations as a regulator of work-based pensions. There is no evidence to the contrary.

58. However, applying an objective test to Mr Wilson’s personal circumstances, we do not consider that belief to have been reasonable. Although the disclosure was made shortly after the collapse of Carillion and at a time of significant public scrutiny of the Respondent, we were provided with no evidence demonstrating that such circumstances were anything other than relatively rare. In our judgment, that rarity is insufficient to render Mr Wilson’s belief reasonable.

59. In a small and specialist sector, it is not unusual for individuals who have previously worked together to act for different parties on the same matter. These individuals are professionals regulated by professional bodies. We do not consider that prior working relationships alone provide a reasonable basis for believing there would be a failure to comply with the Respondent's legal obligations.

60. Accordingly, this disclosure was not a protected disclosure for the purposes of the legislation.

61. The second disclosure relied upon is contained in a series of emails exchanged between 20 and 23 June 2020 concerning Project Aero.

62. Project Aero involved a company listed on the London Stock Exchange. Mr Wilson raised concerns about reliance on a report, Project Willow II, produced by the employer's financial advisers. He identified inconsistencies in the employer's liquidity position and questioned the regulator's failure to consider alternative financing options.

63. Although Mr Wilson expressed opinions regarding whether and how the Respondent should exercise its statutory powers, his email correspondence contained sufficient factual content and specificity to amount to a disclosure of information.

64. We also accept that Mr Wilson genuinely believed that the Respondent was failing to comply with its legal obligations by not using its statutory powers.

65. However, we do not find that belief to have been reasonable. Mr Wilson stated that he had no prior experience of cases of this nature and sought guidance and additional support. Mr Walmsley, as Lead Business Analyst, offered support and explained why it was premature to exercise regulatory powers. We do not consider it reasonable, in those circumstances, for Mr Wilson to persist in disagreement given his admitted inexperience.

66. Accordingly, this disclosure also does not qualify for protection.

67. The third disclosure relates to Project Laser in March and April 2022.

68. Mr Wilson queried the Respondent's acceptance that a profitable employer was inevitably insolvent, a conclusion which would result in a significant reduction in pension benefits. He proposed alternative financing options.

69. Mr Wilson's proposal is set out in his email to Mr Philip Wilson on 5 April 2022 and was discussed further in a meeting on 6 April 2022.

70. We accept that these communications contained sufficient factual content and specificity to constitute a disclosure of information. Mr Winstanley's comments acknowledge Mr Wilson's genuine belief in his proposal.

71. However, we accept Ms Leonard's submission that there is a theme in Mr Wilson's conduct whereby he becomes fixed in a particular idea and resistant to alternative perspectives. We do not consider this supports a reasonable belief. For that reason, we conclude that none of the disclosures relied upon qualify as protected disclosures.

72. Accordingly, Mr Wilson's claim for automatic unfair dismissal must fail.

73. In any event, and for completeness, we have considered whether the disclosures—protected or not—were the reason or principal reason for dismissal. We find that they were not.

74. First, there was a significant lapse of time between the first disclosures and the dismissal, namely approximately 5½ years.

75. Although Mr Wilson states that he was not allocated clearance work thereafter, we were also given evidence that clearance applications reduced generally. We consider that more likely explains the absence of allocation.

76. Further, Ms Titcomb's handling of the 2018 disclosure demonstrates that the issues were taken seriously rather than ignored or penalised.

77. Second, the suggestion that Mr Wilson take leave in April 2020 reflects concern for his health rather than an attempt to subject him to detriment. Mr Wilson's GP later recorded work-related anxiety, supporting that concern.

78. Finally, there is no evidence that the Respondent was troubled by Mr Wilson expressing alternative viewpoints. Mr Walmsley was confident in TPR's approach and supported by extensive professional advice. The correspondence demonstrates measured engagement rather than hostility.

79. In other words, the automatic unfair dismissal claim is not being dismissed on a technicality.

80. We therefore find that the disclosures were not the reason, nor the principal reason, for Mr Wilson's dismissal.

81. Having addressed the claim of automatic unfair dismissal, we now turn to the ordinary unfair dismissal claim and address the List of Issues.

The Law on Unfair Dismissal

82. Section 94 of the Employment Rights Act 1996 provides employees with the right not to be unfairly dismissed. Enforcement of that right is by way of complaint to an employment tribunal under section 111. The Claimant must show that he was dismissed by the Respondent within the meaning of section 95.

83. Section 98(1) of the Employment Rights Act 1996 provides:

"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."

84. A reason falls within subsection (2) if it relates to the conduct of the employee.

85. Section 98(4) deals with fairness generally and provides that the determination of whether a dismissal is fair or unfair, having regard to the reason shown by the employer, depends on whether, in the circumstances (including the size and administrative resources of the employer's undertaking), the employer acted reasonably or unreasonably in treating that reason as sufficient to dismiss, and must be determined in accordance with equity and the substantial merits of the case.

86. In cases of dismissal for misconduct, well-established guidance on the application of section 98(4) is set out in British Home Stores Ltd v Burchell [1978] IRLR 379 and Post Office v Foley [2000] IRLR 827. The Tribunal must determine whether the employer held a genuine belief in the employee's guilt; whether that belief was based on reasonable grounds; and whether it followed a reasonable investigation. In all respects—including the investigation, the grounds for belief, the procedure followed, and the sanction imposed—the Tribunal must consider whether the employer acted within the band or range of reasonable responses open to a reasonable employer in the circumstances. The Tribunal must not substitute its own view for that of the employer (Iceland Frozen Foods Ltd v Jones [1982] IRLR 439; Sainsbury's Supermarkets Ltd v Hitt [2003] IRLR 23; London Ambulance Service NHS Trust v Small [2009] IRLR 563).

Decision and Reasons Regarding Ordinary Unfair Dismissal

87. The first issue is the reason, or principal reason, for the dismissal.

88. The Respondent contends that the reason was gross misconduct, namely breach of its insider information handling policies by printing unpublished price-sensitive information and taking it home, and by accessing sensitive case material without business justification or authorisation.

89. As this was a dismissal for alleged gross misconduct, we must consider whether, in all the circumstances, including the Respondent's size and administrative resources, the Respondent acted reasonably or unreasonably in treating that conduct as a sufficient reason for dismissal, applying section 98(4).

90. Having regard to the Respondent's size and administrative resources, we note that it has a dedicated HR function, an employee relations team, and an in-house legal team.

91. We therefore consider it to be a well-resourced employer.

<u>Reasonable Grounds for Belief</u>

92. The investigation into whether Mr Wilson had printed and taken home UPSI documents was triggered by the meeting on 2 December 2022 between Mr Walmsley and Mr Wilson, even though Mr Wilson never stated that he had done so and Mr Walmsley did not expressly ask him whether the documents were UPSI.

93. While other managers may have made further enquiries at that stage, we do not consider it unreasonable for Mr Walmsley to have been concerned and to refer the matter to the Data Privacy team for investigation.

94. We take into account that Mr Wilson accepted that the handling of sensitive data was among the most important policies operated by the Respondent; that Mr Walmsley was aware of the nature of the work Mr Wilson was undertaking; and that Mr Wilson had spent a significant period—up to six hours—working offline.

95. An investigation then followed, which presented the opportunity to determine whether there was a case to answer regarding whether Mr Wilson had printed and taken home UPSI documents.

96. In assessing whether the conclusion reached—that Mr Wilson had printed and taken home UPSI documents—was based on a reasonable belief, we take into account that Mr Dunn relied on others to define what constituted UPSI. He could not recall who had advised him, including whether that advice came from Mr Walmsley.

97. Mr Walmsley's own understanding of what constituted UPSI was not supported by the definitions contained within the relevant policy documents. His approach was such that even documents in the public domain could be treated as UPSI, which is inconsistent with the Respondent's policies and with the views expressed by Mr Dunn and Mr Burton.

98. Although we do not know who advised Mr Dunn on the definition of UPSI, we conclude, on balance, that it is more likely than not that he did not see Ms Croker's legal advice. Mr Dunn did not recall seeing that advice, acknowledged that he did

not refer to it in his dismissal outcome letter, and accepted that he would likely have done so had he seen it.

99. The Respondent's documentation recommends that advice be sought where there is uncertainty as to whether documents are UPSI. While advice was obtained, that advice was not available to the decision-maker. Accordingly, we do not consider Mr Dunn's conclusion, that Mr Wilson had taken home UPSI documents, to have been based on reasonable grounds given that he did not have the benefit of legal advice when reaching that decision.

100. Mr Dunn Employment tribunal decisions - GOV.UK explained that his conclusion was based on the print log, the volume of documents printed by Mr Wilson as shown on that log, and the time Mr Wilson spent working at home.

101. However, we accept Mr Green's submissions regarding the limitations of the print log. The log itself did not clearly identify which documents were UPSI. The Respondent proceeded on the assumption that all documents recorded on the log were UPSI unless specifically marked "Not UPSI". It became apparent that this assumption was incorrect, as some documents were not UPSI at all, including non-work-related documents printed by Mr Wilson.

102. In those circumstances, we do not consider reliance on the volume of documents shown on the print log to have been a reasonable basis for concluding that Mr Wilson had taken home UPSI documents.

103. Mr Dunn also relied on his perception that Mr Wilson did not fully understand or agree with the UPSI policy. Those factors, however, are not a reasonable basis for concluding that Mr Wilson had taken home UPSI documents, particularly in circumstances where Mr Wilson stated on 30 August 2023 that he had only taken home documents in the public domain. Mr Dunn accepted that documents in the public domain cannot constitute UPSI, which is consistent with the Respondent's own policy. We therefore conclude that this aspect of the decision was not based on a reasonable belief.

104. We also do not accept that a stated preference for working from hard-copy documents means that an employee would necessarily print documents in breach of policy.

Reasonableness of the Investigation

105. The investigation was carried out by Rachel Hulme, and Mr Dunn confirmed that he relied upon Ms Hulme's investigation report. The print log formed part of the material gathered during that investigation.

Procedural Fairness

106. After Ms Hulme concluded there was a case to answer, Mr Dunn was appointed as the manager to conduct the disciplinary process.

107. We have not been provided with evidence that Mr Walmsley influenced the outcome reached by Mr Dunn. Mr Dunn denied any such influence, and Mr Dunn similarly denied having been influenced by Mr Walmsley.

108. Mr Walmsley's involvement consisted of triggering the investigation, being interviewed by Ms Hulme, commenting on Ms Croker's advice (which we have found Mr Dunn did not see), and suggesting that the alleged access to the Laser Project be included within the scope of the investigation. That level of involvement does not, in our judgment, justify a finding that Mr Walmsley improperly influenced the disciplinary outcome.

109. However, we do identify a number of deficiencies in the investigation process.

110. When responding to Mr Dunn's questions, Mr Wilson asked for clarification as to which specific documents in the print log were said to constitute UPSI. He never received a response to that request, and this was not challenged in the evidence. In cross-examination, Mr Dunn stated that Mr Wilson should have known which documents were UPSI. We do not accept that position. Given the ambiguity of the log entries—some being described only as PDF applications or by reference numbers—it was important that clarity be provided so that Mr Wilson could properly respond.

111. It also emerged that documents appearing under a particular project heading were not necessarily connected to that project. For example, Mr Wilson's non-work-related documents appeared under the Project Maroon title.

112. In responding to Mr Dunn's questions, Mr Wilson raised several matters which we consider a reasonable employer ought to have addressed. He sought clarification and stated that he did not believe he had been given all the relevant information relied upon in the investigation.

113. We consider that a reasonable employer would have provided Mr Wilson with all relevant documentation, including interview notes from Mr Walmsley and Mr Winstanley, particularly given that the Respondent's disciplinary procedure states that such documentation will be disclosed. Mr Wilson explained in detail in his witness statement how he would have addressed matters raised in Mr Walmsley's interview had he seen the notes.

114. In addition, Mr Dunn made certain findings without first giving Mr Wilson an opportunity to respond. For example, Mr Dunn relied on the volume of printed documents as evidence that UPSI must have been taken home, without putting that inference to Mr Wilson. He also did not put to Mr Wilson any allegation of dishonesty regarding access to the Laser Project.

115. Mr Dunn accepted that Mr Wilson's decision not to accept a hard-copy UPSI bundle at a conference with counsel was relevant to whether he took compliance with policies seriously. However, Mr Dunn did not make enquiries of individuals who could have corroborated Mr Wilson's account before concluding he had breached policy.

116. We further consider that a reasonable employer, having concluded that an employee had taken UPSI documents home, would have considered advice from its own legal team. Ms Croker advised that "business need" was not defined within the policy. Even if Mr Dunn had concluded that Mr Wilson had taken UPSI documents home, we consider that advice ought to have been taken into account before reaching a decision to dismiss.

117. The absence of that advice resulted from it not having been provided to the decision-maker. That failing is relevant both to the procedural deficiencies and to whether the belief underlying the dismissal was reasonable.

118. Therefore, given our assessment that Mr Dunn's findings were not based on a reasonable belief, together with our finding of procedural unfairness, we conclude that the claim for ordinary unfair dismissal is well founded.

119. The above is sufficient to render the dismissal unfair. But for completeness, we add that Mr Dunn's decision regarding the second allegation refers to Mr Wilson's failure to seek authorisation from a manager before accessing the Laser Project files after he was no longer working on the case. However, Mr Dunn accepted in cross examination that it is not a requirement of the AUP that Mr Wilson obtains a manager's authorisation beforehand.

Approved by:

Employment Judge Tueje

17 July 2026

<u>Notes</u>

Judgments (apart from judgments under rule 51) and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found at www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/