



EMPLOYMENT TRIBUNALS

Claimant: Mrs M Williams

Respondent: Foxwood Academy

Heard at: Nottingham ET

On: 23 June 2026

Before: Employment Judge Ost (sitting alone)

Representation:

Claimant: Did not attend

Respondent: Mrs Thomson (Solicitor)

RESERVED JUDGMENT

After consideration of the evidence provided, the judgment of the Tribunal is as follows:

1. The complaint of unfair dismissal is not well founded and it is dismissed

REASONS

Introduction

2. The Respondent is a school for students aged between 4 and 18 who have special educational needs.
3. The Claimant was employed by the Respondent as a Computing and E-Safety Teacher on 31 August 2021. The Claimant continued in that role until her employment ended on 30 April 2025.
4. This claim is focussed upon the Respondent's response to discovering in October 2024 that the records published by the Teaching Regulation Agency indicated that the Claimant did not have "Qualified Teacher Status". (The Teaching Regulation Agency being the executive body sponsored by the Department of Education which is responsible for regulating the teaching profession). The Respondent undertook some initial exploration with the Claimant and with the Teaching Regulation Agency but that did not resolve the Respondent's concern regarding the Claimant's status. On 13 December 2024 the Respondent suspended the Claimant pending the outcome of a full

investigation and any disciplinary process. On 30 December 2024 the Claimant submitted a letter in which she both raised a grievance relating to her treatment and she resigned giving notice that her employment would end on 30 April 2025. The Claimant asserts that she was constructively and unfairly dismissed by the Respondent.

5. The Claimant provided the information to initiate the ACAS early conciliation process on 26 February 2025 and received the certificate to that effect on 9 April 2025. She submitted a claim form on 9 May 2025 indicating a complaint of unfair dismissal (including constructive dismissal) only.
6. The Respondent submitted a response on 1 July 2025 in which it indicated that it resisted the Claimant's complaint.

The preparation of the case for final hearing

7. It is necessary, for the purpose of explaining the decision made on an application at the outset of the hearing, to summarise the preparatory history of the case.
8. By a letter dated 5 June 2025 the parties were given notice that the case would be heard on 29 November 2025 and they were given case management orders to enable the case to be prepared for hearing on that date. Within this letter the parties were ordered (amongst other orders) to undertake the following preparatory steps:
 - 8.1. to send to each other copies of all the documents they have which are relevant to the claim by 31 July 2025
 - 8.2. to agree the documents which were going to be used at the final hearing by 14 August 2025; and
 - 8.3. to send to each other copies of all their witness statements by 28 August 2025.
9. One of the Respondent's witnesses was then called up for jury service for a two week period coinciding with the listed final hearing. On 5 July 2025 the Respondent applied for a postponement of the hearing and supplied evidence of the jury service summons. The Claimant agreed to the postponement requested on 14 July 2025. The postponement was granted by Legal Officer Skinner on 30 July 2025.
10. The final hearing was relisted for 19 February 2026 but this was inconsistent with the Respondent's previously notified dates of non-availability. On 15 December 2025 Acting Regional Employment Judge Heap postponed that hearing date. On 21 January 2026 the final hearing was relisted for 23 June 2026.
11. On 27 January 2026 the Claimant made an application to postpone this date on the basis that it coincided with her wedding anniversary and she would be away. On 9 February 2026 the Respondent requested the Claimant provide the evidence to support her application.
12. On 2 May 2026 the Tribunal directed the Claimant to provide evidence of the anniversary trip and when it was booked. The Claimant responded by email

the same day saying that she and her husband go away to celebrate every year and the dates were on their calendar. She attached a screenshot of a hotel booking page and a copy of her marriage certificate. She did not appear to have provided evidence of when the booking was made.

13. On 21 May 2026 the Respondent applied for an unless order that the Claimant must exchange her witness statement on or before 2 June 2026 on the basis that the Claimant had failed to exchange her witness statement in accordance with the case management orders, and, despite correspondence attempts to agree this on 30 March 2026, 4 April 2026 and 5 May 2026. The Respondent also repeated that the Claimant had still not provided evidence of the wedding anniversary booking and in particular when the booking was made as ordered by the Tribunal.
14. On 3 June 2026 Employment Judge Atkinson considered the outstanding applications. He refused the Claimant's application for postponement on the basis that the Claimant had not provided evidence that she had booked the trip before being notified of the hearing date. He also granted the application for an unless order and required that both the Claimant and Respondent must no later than 2 days from when the order was sent to the parties send to the other statements of all factual witnesses on whom they each relied. The Claimant was warned that if she did not do so, then she and the witnesses she wished to rely on would not be able to give oral evidence. Notification was sent to the parties by letter dated 9 June 2026. Therefore the date for both parties' compliance with Employment Judge Atkinson's order was the end of 11 June 2026.
15. On 9 June 2026, the Claimant wrote to the Tribunal stating "*I do not feel that I am in a suitable frame of mind to participate effectively in the hearing.*" She went on to explain that she was dealing with serious family issues which were impacting on her well-being and her ability to prepare for the hearing. She said that she had not heard from the Respondent for several months and the Respondent had not requested her witness statement. The Claimant offered to provide supporting medical evidence.
16. On 11 June 2026, Employment Judge McTigue considered the Claimant's second application for postponement. His decision was sent to the parties by letter dated 12 June 2026. Employment Judge McTigue explained that he had refused the postponement because:

"... the claimant has provided no medical evidence from a medical practitioner that, in their opinion, she is unfit to attend the hearing, the prognosis of her condition and an indication of when that state of affairs may cease."
17. Employment Judge McTigue specifically referred the Claimant to the Presidential guidance on seeking a postponement of a hearing. The Claimant did not respond at that time.
18. On 21 June 2026 the Claimant made a further application for postponement on various grounds including the same serious family issue and now also referring to being notified by her GP that her own blood pressure was elevated and required monitoring. The Claimant indicated that she had attended her GP on 15 June to obtain medical evidence and would provide it

when it was received. The Claimant stated that these issues had materially affected her ability to prepare for and participate in the hearing. She stated that proceeding with the hearing would significantly prejudice her ability to participate effectively and would be contrary to the interests of justice. The Claimant provided a letter from Highbury Hospital indicating that a family member of the Claimant had been admitted as an inpatient on 6 June 2026.

19. The Respondent opposed the application by email dated 22 June 2026. Amongst other representations it referred to Employment Judge McTigue's direction, stating:

"The Claimant was informed 13 days ago that she would need to provide medical evidence to support her application and we are now the day before hearing and no such evidence has been provided confirming that the Claimant is unable to attend, the prognosis of the condition or any indication of when that state of affairs might cease."

20. On 22 June 2026 Regional Employment Judge Clark considered the Claimant's third application for postponement. He refused it and his decision was sent to the parties the same day. His decision noted that the timing of the application meant that rule 32 was engaged, requiring exceptional circumstances. He stated the circumstances of the family member's health were no doubt upsetting for the Claimant but they did not support a postponement. When addressing the Claimant's health issues, Regional Employment Judge Clark stated:

"The Claimant's concerns about her own health were not supported by medical evidence and do not suggest that the claimant cannot participate in the hearing."

21. At 17:03 on 22 June 2026 the Claimant sent to the Tribunal a fit note stating that the Claimant was not fit for work due to 'anxiety and high blood pressure' for the period from 20 June 2026 to 6 July 2026. She also provided a short seven line letter from Dr Fazakerley at the Claimant's GP surgery which referred to the Claimant's health and the hearing. Dr Fazakerley stated:

"Mrs Novlet Williams has been to see me at the GP surgery and has told me that she is currently under a significant amount of stress due to family circumstances ... She is struggling immensely with this and as such feels that she will not be able to attend a scheduled employment tribunal due on 23/06/2026."

"From what she has told me, I would agree that postponing this date until things are a little calmer would be in her best interests, if possible."

The hearing

22. The Claimant did not attend the hearing by any means. Mrs Thomson, a solicitor, represented the Respondent. She was accompanied by Mr Carrick (a trainee solicitor).
23. Ms Norton and Ms Morgan from the Respondent attended in person as witnesses. Mr Hutchinson from the Respondent attended by video to give evidence. (No issues were noted or raised regarding the Mr Hutchison's

ability to fully participate by video). Ms Angood the HR director for the Respondent attended to observe.

24. The Respondent had produced a bundle of 336 pages (but with pages numbered from 1 to 332 due to some pages being labelled with “a” etc.) in preparation for the hearing.

The application for postponement

25. At the start of the hearing the Tribunal explained that it was treating the new documentation provided by the Claimant after communication of Regional Employment Judge Clark's decision as a fourth application for postponement. In preparation for any need to postpone (but without having made any decision) the Tribunal obtained from the listing team the next date when a postponed a one day hearing could be relisted. The earliest dates available were 7 December 2026 and then 21 or 28 January 2027.
26. The Claimant did not attend either in person or online to advance or support her application for postponement and she did not provide any further written representations. In the absence of the Claimant to make oral representations, the Tribunal reviewed the written information and evidence she provided on 9, 21 and 22 June 2026. The Tribunal invited the Respondent to respond to the Claimant's application for postponement.
27. In summary, the Respondent submitted that:
 - 27.1. The Claimant had made at least 3 applications for postponement and had given different reasons.
 - 27.2. The Claimant had also asked for postponement of aspects of the internal disciplinary procedure due to high blood pressure. In the end, she had requested a postponement to the final hearing and, after that was granted, she not turned up to the rearranged hearing anyway.
 - 27.3. Within the Tribunal proceedings, the Claimant had been asked to provide evidence to support her original reason of a trip to celebrate her wedding anniversary but had failed to show that the booking had been made before the hearing was listed.
 - 27.4. The Claimant had made another application due to family circumstances and her own wellbeing and the Tribunal had set out what needed to be provided as evidence. She had not provided that evidence at the time.
 - 27.5. The Claimant has made another application just a couple of days before the final hearing which triggers the 'exceptional circumstances' requirement. The Respondent's position was that no exceptional circumstances applied.
 - 27.6. The Respondent is ready and has turned up with two witnesses in person and with the other ready to give evidence by video, despite difficulties for them personally.

- 27.7. The Claimant is already prevented from relying on witness evidence. The Respondent did not consider that the Claimant is disadvantaged by not being present.
- 27.8. The hearing had already been postponed.
- 27.9. The Respondent speculated that if another postponement was granted then the relisted hearing would have to take place in 2027.
- 27.10. The medical evidence only stated that the Claimant felt that she was not able to attend, with the GP agreeing that it may be better to postpone until things were a little calmer.
- 27.11. The Respondent has made great efforts to attend today's hearing and to make its 3 witnesses available at significant cost and disruption to the organisation. The consequence for the Respondent of having senior leadership team members such as its Headteacher and its Deputy Headteacher out of school had a significant impact on the running of the school and disrupted other teachers and classes which impacted on pupils.
- 27.12. The Respondent's witnesses would not be able to attend a postponed hearing on 7 December 2026 because they were already required to attend as witnesses to a separate professional regulatory hearing on 7-9 December 2026 which was being held by the Teaching Regulation Agency to consider the Claimant's conduct.
- 27.13. The Claimant has had the Respondent's witnesses' statements for some time and she could have made submissions in response.
28. The Tribunal retired for a period to consider the postponement application carefully, given the evidence now received, the unusual circumstances and the serious implications for all involved. The Tribunal considered its power to postpone a hearing under rule 32 of the Employment Tribunal Procedure Rules 2024 which sets out limits on postponements when an application is made less than 7 days before the date on which the hearing begins.
29. Rule 32 provides so far as is relevant:
- “32.—
- (1) *An application by a party for a postponement must be received by the Tribunal as soon as possible after the need for a postponement becomes known.*
- (2) *In the circumstances listed in paragraph (3) the Tribunal may only order a postponement where—*
- (a) ...
- (b) ... or
- (c) *there are exceptional circumstances.*

(3) *The circumstances are—*

(a) *a party makes an application for a postponement less than 7 days before the date on which the hearing begins, or*

(b) ...

(4) *In this rule—*

(a) *“postponement” means a postponement of a hearing including any adjournment which causes the hearing to be held or continued at a later date;*

(b) *“exceptional circumstances” may include ill health relating to an existing long term health condition or disability.”*

30. Before making its determination, the Tribunal took into account:

30.1. the overriding objective in rule 3;

30.2. the Presidential Guidance on seeking a postponement of a hearing; and

30.3. the cases referenced below.

31. The Court of Appeal established in ***Teinaz v London Borough of Wandsworth 2002 ICR 1471, CA*** that while the Tribunal’s discretion on postponements is broad, it must be exercised judicially. As Mr Justice Langstaff, then President of the EAT, put it in ***Pye v Queen Mary University of London EAT 0374/11***, the discretion must be exercised ‘with due regard to reason, relevance and fairness’, and subject to the overriding objective. The overriding objective is to deal with cases ‘fairly and justly’, which includes ‘avoiding delay, so far as compatible with proper consideration of the issues’ and ‘saving expense’. In ***O’Cathail v Transport for London 2013 ICR 614, CA***, Lord Justice Mummery stressed that the overriding objective requires fairness to both parties. It is not necessarily predetermined by the situation of one of the parties, such as the potentially absent claimant who is denied an adjournment.

32. In ***Phelan v Richardson Rogers Ltd and anor 2021 ICR 1164, EAT***, His Honour Judge Auerbach reviewed the Court of Appeal case law and identified some ‘important guiding principles’ regarding postponement applications on medical grounds. He noted that where a party seeks to postpone a hearing on medical grounds, his or her right to a fair trial is engaged (at least where the outcome of the hearing may determine the complaint). In such a situation, proper weight must be given to the serious implications for that party of refusing a postponement. These serious implications would usually outweigh the inconvenience and cost to the other party of granting the postponement, such that a tribunal properly carrying out the balancing exercise would be bound to grant the application. However, the implications for the other party’s right to a fair trial, and the wider public interest of not postponing, must also be weighed in the balance. The Tribunal’s assessment of when, realistically, the matter is likely to come to an effective hearing if the application is granted, and what the medical evidence indicates about that, will often be important considerations. The tribunal may also properly draw on other relevant

evidence and information, including in relation to the course and conduct of the litigation hitherto, when forming a view on that question. The kinds of factors that may be taken into account by tribunals in deciding whether to order a postponement or adjournment include:

- 32.1. the degree of prejudice to the other side
 - 32.2. whether the parties had any say in the original listing date (e.g. by being asked for their dates to avoid)
 - 32.3. whether the case has previously been postponed or adjourned and the length of time the case has been waiting to be heard
 - 32.4. in the case of a party who is unable to attend through illness, the prospect of that party being well enough to attend within a reasonable time.
33. Given the serious implications of its decision the Tribunal has set out the reasons for its decision in detail.
34. The Tribunal noted that the Claimant was originally due to exchange her witness statement by 28 August 2025. As at 11 June 2026 just two weeks before the current hearing she had still not done so. As a result, the Claimant was not permitted to provide oral evidence in support of the claim. This indicates that for more than an entire year the Claimant has not been able to prepare her case for hearing by putting her account into writing.
35. The Tribunal disagreed with the Respondent's submission that the Claimant would not be disadvantaged by not being present. The Claimant was still entitled to cross examine the Respondent's witnesses and to make submissions at the end of evidence. Not attending to do so would be a disadvantage to the Claimant. The Tribunal was satisfied that the outcome of the hearing would determine the complaint and so the right to a fair trial was engaged. In accordance with **Phelan (above)** the Tribunal gave proper weight to the serious implications for the Claimant of refusing a postponement.
36. The Tribunal also disagreed with the Respondent's submission that there were no "exceptional circumstances" within the meaning of rule 32(3). Rule 32(4)(b) provides that "*exceptional circumstances may include ill health relating to an existing long term health condition or disability*". The Tribunal was satisfied that the Claimant's high blood pressure would amount to ill health related to a long-term health condition. Therefore, the application for postponement could be granted in accordance with rule 32, if the Tribunal decided to exercise its judicial discretion to do so with due regard to reason, relevance and fairness as per **Pye (above)**.
37. The Tribunal noted that one of the specified factors to be taken into account when dealing with cases fairly and justly in accordance within the overriding objective is "avoiding delay, so far as compatible with proper consideration of the issues". Another factor is 'saving expense'. The Tribunal noted that granting the postponement would cause substantial delay and it would increase expense to all involved but particularly to the Respondent.
38. The Tribunal noted that this case had already been postponed once and the next available date for a postponed hearing would be in seven months at the

earliest. There are many other litigants are waiting to have their turn before the Tribunal and the reality for current litigants is that there are ever increasing timescales for reaching final hearing. Postponing this hearing would delay and cause additional expense to this case, but it would also cause delay to other litigants' ability to have their disputes determined.

39. The Claimant had made four applications to postpone the current hearing relying on three different reasons at different points: first an anniversary trip, then a serious family issue, and latterly her own blood pressure. The current application is based partly on the disruption to her preparation caused by the serious family issue, but primarily upon the Claimant's blood pressure which is now supported by some medical evidence which she submitted on 22 June 2026. The medical evidence is central to the application for postponement on medical grounds.
40. The Tribunal noted that in his letter of 12 June 2026 responding to the second application, Employment Judge McTigue had explained to the Claimant the nature of the medical evidence which she needed to provide to support an application for postponement on health grounds, namely:

"...medical evidence from a medical practitioner that, in their opinion, she is unfit to attend the hearing, the prognosis of her condition and an indication of when that state of affairs may cease."
41. The Respondent had responded to the Claimant's third application by referring to the Claimant's failure to provide evidence that she was unable to attend, the prognosis of the condition or any indication of when that state of affairs might cease.
42. In his decision on that application, Regional Employment Judge Clark has similarly emphasised the absence of evidence that the Claimant cannot participate in the hearing.
43. The Tribunal carefully considered the medical evidence now provided on the evening. The Claimant had provided a fit note which referred to her not being fit for work but that made no reference to fitness to participate or attend the hearing. The letter from Dr Fazakerley was directly relevant to the interaction between the Claimant's health and the final hearing, but it did not provide the clear and simple medical opinion described in advance to the Claimant by Employment Judge McTigue.
44. As a preliminary point, the Tribunal noted that the letter from Dr Fazakerley repeatedly indicated that the opinion was based upon the Claimant's reported feelings. The letter stated: "*Mrs Novlet Williams has told me ...*", "*She ... feels that she will not be able to attend a scheduled employment tribunal due on 23/06/2026*" and "*From what she has told me ...*". (This does not mean that the medical evidence is flawed, but it does underline that the medical advice relied on the Claimant's reports to Dr Fazakerly on her ability to deal with the hearing; a hearing which she had not properly prepared for more than a year and which she had already sought to postpone multiple times.)
45. More importantly, the Tribunal noted that Dr Fazakerley's letter did not state or suggest that the Claimant was medically unfit to attend the hearing as had been clearly explained by Employment Judge McTigue on 12 June 2026. Furthermore, Dr Fazakerley's letter did not state or suggest that attendance at

the hearing would pose any form of risk to the Claimant's health, or, that the Claimant was unable or even less able to properly participate in any particular aspect of a hearing. The Tribunal would expect that if any of those medical circumstances existed, then the medical practitioner would state this to be the case. The Tribunal noted that the medical advice within the letter was only that "*postponing things until things are a little calmer would be in her best interests, if possible*". The Tribunal further noted that Dr Fazakerley's support for a postponement was explicitly caveated so that it was applicable where a postponement was possible. In doing so, Dr Fazakerley anticipated that the postponement may not be possible and therefore the hearing may proceed without making any further medical comment. The Tribunal therefore understood and categorised Dr Fazakerley's opinion to be medical support for the Claimant's health-based preference for a postponement, rather than evidence that she was medically unfit to attend.

46. The Tribunal noted that Dr Fazakerley's letter did not provide a prognosis of the Claimant's condition and it did not address
47. The Tribunal accepted the medical evidence from Dr Fazakerley but noted the precise nature and scope of its contents.
48. Furthermore, The Tribunal noted that the medical evidence provided by the Claimant did not provide (a) a prognosis of the condition and/or (b) give any indication as to when the current state of affairs may cease or how likely it was that the same health issues would arise for a postponed hearing, or, in the event that other life or family issues arise. These were evidential issues which Employment Judge McTigue had explained would be required in the letter of 12 June 2026. This was also demonstrated in the guidance (at example number 1 regarding seeking a postponement for a medical reason) within the Presidential Guidance on seeking a postponement of a hearing which Employment Judge McTigue notified to the Claimant in the same letter.
49. The Tribunal noted that the reason and evidence relied upon by the Claimant for non-attendance at the final hearing was her blood pressure. The Tribunal noted that there was evidence within the bundle and the witness statements that back on 17 December 2024 the Claimant had said that her high blood pressure at that point meant that she would not attend her employer's internal meeting. This showed that the high blood pressure was a long term issue. There was also evidence that on 20 March 2025 the Claimant requested a postponement of the final disciplinary hearing planned for 2 April 2025 but after the postponement was agreed to accommodate her wishes, the Claimant did not attend the rearranged hearing on 30 April 2025 in any event. Therefore the Tribunal noted that there was a pattern of requests by the Claimant for postponement of hearings both in internal proceedings and in Tribunal proceedings. It was also noteworthy that even where a postponement was granted, it did not necessarily lead to attendance by the Respondent.
50. The Tribunal was mindful of the guidance in **Teniaz (above)**. It noted that the Court of Appeal gave guidance that once a claimant's unfitness to attend a particular hearing has been established, it does not automatically follow that the adjournment or postponement must be granted. In this situation the Tribunal noted (as described above) that the Claimant had not been declared medically unfit to attend as such, but rather there was medical support for the

Claimant's health-based preference for a postponement. As stated above, the Tribunal considered the medical evidence within Dr Fazakerley's letter to be evidence of a health-based preference, not a statement of medical unfitness.

51. The Tribunal noted that the medical reason relied upon by the Claimant was high blood pressure. A legal hearing is inherently a pressurised event which usually causes stress to those involved. That stress and the impact of such stress on the Claimant's blood pressure is unlikely to lessen for the Claimant whether the current hearing was postponed or not. The evidence of the numerous postponement requests and reasons provided also suggests that significant life events will have a substantial impact upon the Claimant and make it less likely that she will be able to participate in a final hearing.
52. The Tribunal also considered whether postponement was likely to result in the Claimant's attendance and participation so as to achieve an effective hearing as per **Phelan (above)**. The Tribunal noted the patterns of requests for postponement over 18 months or more and also the long term nature of the blood pressure issue. The Tribunal noted that the Claimant had not provided any evidence that the current state of affairs would cease. Looking ahead to the nearest possible alternative hearing dates the Tribunal was not persuaded that life would necessarily be calmer for the Claimant so that she would not have the same health issues and the same preference for postponement in the foreseeable future.
53. There was also no evidence that the serious family issue which the Claimant had said had contributed to her current health issue would be short term or that it would be unlikely to reoccur.
54. The Tribunal noted that the next available dates for a postponed were in December 2026 and January 2027 but was mindful that the Claimant is due to attend the Teaching Regulation Agency hearing into her conduct on 7-9 December 2026. That will be an important process for the Claimant and her ability to pursue her profession. It will quite naturally be a highly pressurised during the build up to the regulatory hearing, at the time of the regulatory hearing itself, as the Claimant awaits the outcome, and then as she processes and addresses the implications (whatever they may) for her current employment, the implications for her domestic circumstances, and her long term career. This suggests to the Tribunal that the regulatory hearing will be another significant life event which is likely to trigger similarly heightened levels of stress which may well exist for an extended period of time. The evidence suggests that the Claimant would have the same stress related health and well-being issues.
55. Regrettably, the Tribunal concluded that if it postponed the current hearing, then there was a material likelihood, that the Claimant, the Respondent, the Respondent's witnesses would all be back in the same situation at a postponed hearing listed for 2027.
56. The Tribunal noted that the Claimant was already barred from using witness evidence. This did not mean that the absence of the Claimant was not considered important for a fair trial; her reduced participation was important. However, the fact that the Claimant was not able to provide witness evidence means that this particular aspect of participation was not lost by virtue of the Claimant's non-attendance at the hearing and it lowered (but did not remove)

the prejudice which would be caused to the Claimant by refusing her fourth application to postpone.

57. In accordance with the guidance in ***O’Cathail (above)*** the Tribunal also considered the fairness to the Respondent. The prejudice to the Respondent of postponement in this case was more than financial. The Tribunal noted that the Respondent required evidence from three of its senior leaders in the form of the Headteacher, the Deputy Headteacher and the Chair of Governors. In addition to the financial costs of releasing and covering the Headteacher and the Deputy Headteacher, the practical impact of those senior leaders being absent from their responsibilities in the school was significant for the Respondent and would have a disruptive impact on the educational provision to the pupils. This is different in nature to economic costs incurred by commercial organisation. The Respondent’s pupils with special educational needs are third parties who cannot necessarily recover the impact of disturbed or reduced educational provision at a later stage. Therefore this prejudice to the Respondent and to other persons who would be impacted carried more weight than simple financial cost and inconvenience.
58. The Tribunal started its decision on whether to exercise its discretion to postpone under rule 32 by noting the importance of the Claimant’s right to a fair trial but it placed that in the context of the medical support from Dr Fazakerley for the Claimant’s health-based preference for a postponement (rather than a statement that she was medically unfit). The Tribunal balanced the Claimant’s right to a fair trial within that specific context with the Respondent’s corresponding right to a fair trial within a reasonable period. The Tribunal took into account the need to be fair and just between the parties, the requirement to be fair and just to other litigants, the desirability of avoiding delay and additional expense in accordance with the overriding objective, the wider public interest of not postponing hearings, the implications of postponement for the Respondent and its pupils, the reduced level of prejudice to the Claimant due to her previously limited right to participation in the final hearing, the absence of any medical evidence to indicate that the Claimant’s current health issues (which have been preventing the Claimant from attending different types of hearings since December 2024) would not reoccur in any future relisted hearing, and the evidence based indication that if the application was granted then the case would not come to an effective hearing within the next 7 months and possibly far longer. Having done so the Tribunal concluded that, in these rare circumstances, it was not in accordance with the overriding objective to postpone the final hearing. The application for postponement was therefore refused.
59. Having made that decision, the Tribunal wished to ensure that the Claimant could participate as much as possible during the proceeding hearing, and, that if she wished to do so she could participate by providing written comments or submissions for consideration which may be less pressurised or stressful for her.
60. Upon the recommencement of the hearing, Tribunal gave its oral decision to refuse the application. The Tribunal also explained that it would direct the clerk to notify the Claimant by email as follows:

“Employment Judge Ost has considered the evidence provided yesterday afternoon and treated that as a renewal of the application for

postponement on 21 June 2026 which was previously refused by Regional Employment Judge Clark on 22 June 2026. Employment Judge Ost has carefully considered the application and the evidence but has refused the application (his reasons will follow). However, Employment Judge Ost wishes to remind the Claimant that as per paragraph 7 of the 'Notice of Hearing' issued on the 8th of September 2025, Claimant can make any written submissions for consideration by the Tribunal. Whilst that paragraph stated that the Tribunal may not take the representations into account if they were received less than 7 days before the hearing, in these circumstances, the Tribunal will take into account any written representations received from the Claimant by 3pm today."

61. During the hearing the Tribunal heard evidence from the following witnesses:
 - 61.1. Mr James Hutchinson – the Headteacher of the Respondent
 - 61.2. Ms Lindsey Norton – the Deputy Headteacher of the Respondent
 - 61.3. Ms Sarah Morgan – Chair of Governors of the Respondent
62. Each of the above witnesses provided a written witness statement.
63. In the particular circumstances of this hearing in which there would be no cross examination, the Tribunal decided that it wished to hear each witness read out their statement. Each witness:
 - 63.1. was sworn in;
 - 63.2. confirmed that their statement was true to the best of their knowledge and belief;
 - 63.3. was given the opportunity to correct or amend anything within their statement which they considered needed correcting or amending;
 - 63.4. was asked questions by the Tribunal (which put to the witnesses the key elements of the Claimant's case as outlined in her claim form); and
 - 63.5. was given the opportunity to be re-examined in respect of issues which had arisen in the Tribunal's questions.
64. Both parties were given the opportunity to make closing submissions. The Respondent was invited to do so orally. The Claimant had been invited to make any written submissions which she wanted to make as per the earlier email. Just before 4pm the Tribunal checked with the clerk whether the Claimant had provided any written submissions. She had not done so.
65. In summary, the Respondent's submissions were that:
 - 65.1. The claim is for constructive unfair dismissal based on the Claimant's resignation after the decision to suspend was made and implemented. The Claimant set out her position in her ET1 but there is additional detail in the resignation letter of 30 December 2026.

- 65.2. The burden of proof to show a constructive dismissal rests with the Claimant.
- 65.3. The Claimant referred to five reasons in the resignation letter; four aspects of alleged procedural unfairness and one alleged breach of confidentiality. She had said that these circumstances meant that the Respondent had fundamentally breached the implied term of mutual trust and confidence.
- 65.4. The Respondent's position was set out in its ET3 and grounds of resistance.
- 65.5. The Respondent asserts that it was justified in suspending the Claimant. The Respondent didn't suspend her immediately, it gave the Claimant ample time to provide her explanation and any evidence regarding her teacher status and it had sought clarification from her and the Teaching Regulation Agency as to her status. The Respondent says it acted reasonably in suspending and carried out the process in accordance with its policies and it kept the Claimant on full pay. The Respondent did not demonstrate that no longer intended to be bound by the contract of employment with the Claimant.
- 65.6. The handling of a disciplinary processes can amount to a repudiatory breach, but the Respondent did not rush and handled carefully. The Respondent says had reasonable and proper cause to suspend the Claimant on 10 December 2024 when it was informed by Teaching Regulation Agency that the Claimant did not have Qualified Teacher Status.
- 65.7. Not only was Qualified Teacher Status essential for the role, but the Claimant was also being paid as teacher with Qualified Teacher Status. The Respondent had to consider that the Claimant may have known this and deceived the Respondent to obtain the role.
- 65.8. The Claimant's first reason was that the Respondent had failed to conduct proper checks prior to employment. Mr Hutchinson had explained that he originally thought that the fact that the Claimant had completed the Graduate Teacher Programme meant she had Qualified Teacher Status.
- 65.9. The Claimant's second reason was that the Respondent had provided a lack of justification because the reasons for suspension were vague and were insufficiently explained. However the Claimant had meetings with Mr Hutchinson and she had received emails from Teaching Regulation Agency so she knew what this was about. The Claimant had subsequently explained in the meeting on 3 February 2025 with Ms Norton that this issues was not about fact of suspension but about its timing: she asked why she was not suspended earlier in November 2024. The reason for this was that the Claimant claimed that she had passed 3 skills test which would enable her to have Qualified Teacher Status. Mr Hutchinson has given evidence that he didn't feel the need to suspend in November because of the Claimant's assurance that it was mistake. After being

informed by the Teaching Regulation Agency that the Claimant did not have Qualified Teacher Status on 10 December 2024, he needed to act.

- 65.10. The Claimant's third reason was that the Respondent had failed to follow proper procedure, specifically because the Respondent had not asked what support the Claimant would need in relation to collecting her belongings that would take into account the emotional impact of the suspension. The Respondent relied on the notes of the process and the evidence of those involved. The evidence suggests the Claimant was fine. She was not followed into classroom; the accompaniment was discreet. The Claimant was offered another route around school but she chose to walk through the school. The Respondent followed the process that school uses whenever suspended teacher needs to leave. It was all dealt with discreetly. The evidence from Mr Hutchinson was that he wanted the Claimant to be able to access union and legal advice before weekend so she wasn't left over the weekend without guidance and support. This shows that he took her feelings into account. Assistant Headteacher, Nikki Glover had also confirmed in interview that she had prioritised the Claimant's discretion and dignity, for example by waiting to collect the Claimant's lanyard at gate.
- 65.11. The Claimant's fourth reason was the impact on her professional standing, namely that the suspension had caused undue stress both personally and professionally. The Claimant said that she didn't know what to tell colleagues but it is not unusual for teachers to be absent for periods in school environment.
- 65.12. The Claimant's fifth reason was the Respondent's alleged breach of confidentiality by sharing details of the suspension with Nikki Glover, Sarah Morgan and Susan Porter who were not directly involved in the investigation process. All three of these individuals were in senior leadership roles. Mr Hutchinson had given evidence as to why Susan Porter was chosen to be the link for the Claimant namely that Ms Porter was the Claimant's line manager and had supported the Claimant in the investigation process. At the time of suspension and Ms Porter's appointment as a link person, the Claimant didn't raise any objection or issue about Ms Porter being involved. Ms Morgan is the Chair of Governors. She was not present at the suspension meeting but the notes were sent to her. This is because the School Disciplinary Procedure states at section 3.7 that the Headteacher should consult with the HR Director and chair of governors before the suspension meeting, and after the suspension meeting the Headteacher must consult and inform the governing body of the suspension decision on a confidential basis. Ms Glover was another member of the Senior Leadership team who had reasonably been appointed to make notes of the suspension meeting.
- 65.13. In the Claimant's application form she declares that she has Qualified Teacher Status. However the evidence from the Teaching Regulation Agency was that the Claimant did not have Qualified Teacher Status: she had deferred the completion of the skills test which needed to pass to be able to obtain Qualified Teacher Status. The role which

the Claimant applied for and which she obtained was clear that Qualified Teacher Status was essential. Mr Hutchinson had confirmed this to the Claimant as part of the application process.

- 65.14. The Tribunal had heard from 3 witnesses. Mr Hutchinson said that he wouldn't do anything differently. He only acted when he had evidence that the Claimant didn't have Qualified Teacher Status. The Claimant was earning £16k more than she would be paid for doing the same job without Qualified Teacher Status.
- 65.15. The Claimant needed to collect her belongings. This included the need to collect her car keys so that she could leave the school premises. The Claimant didn't seem distressed. She went to her classroom first, then to the Tutor room which was empty.
- 65.16. Ms Norton subsequently concluded that the Claimant had been told on 6 occasions that she didn't have Qualified Teacher Status and she had first become aware in 2016/17.
- 65.17. Ms Morgan gave evidence on the decision made on the connected disciplinary and grievance. If the Claimant hadn't ended her employment before the disciplinary hearing, then the Respondent would have terminated with immediate effect on the grounds of gross misconduct. The Claimant did not attend the hearing and she didn't appeal.
- 65.18. The Respondent carried out a thorough investigation before making its decision. The Teaching Regulation Agency is investigating the same issues on a regulatory basis and the hearing is due to be heard at end of year.
- 65.19. The Respondent does not accept that it breached the term of mutual trust and confidence as alleged or at all.
- 65.20. The timing of the Claimant's resignation was unusual being some fourteen days after the suspension but before disciplinary process. If the Claimant had evidence to show the disciplinary process wasn't necessary then she could have provided it. The Respondent's actions were reasonable in all the circumstances.
- 65.21. If the Tribunal finds that the Respondent breached the contract then the Respondent says that the Claimant affirmed contract by waiting from 13 December 2024 to 30 December 2024 to resign. She was not signed off sick during that time and didn't raise such issues at time but just says the Teaching Regulation Agency has made an error. After suspension she engaged with investigation, she asked for postponement and this was granted. The Respondent asks the Tribunal to find that she didn't resign in response to the suspension but because she had been told by an agency she could obtain a job.
- 65.22. If the Tribunal finds that there was a constructive dismissal, then the Tribunal is reminded of the evidence from Ms Morgan about the process for making the decision regarding the dismissal. The Respondent asserts that it followed a fair process and that the decision was within band of reasonable responses.

- 65.23. If the Tribunal finds that the dismissal was an unfair dismissal, then the Respondent asks the Tribunal to find that the Claimant contributed to that dismissal. The Respondent highlights that in more than four months of investigation the Claimant did not make robust efforts to obtain evidence that she had and provide evidence that she had Qualified Teacher Status.
66. At 4:30pm the hearing was concluded and the decision was reserved to deliberate.

The Issues

67. The list of issues for the Tribunal to determine were as follows:

Unfair Dismissal Liability

1 Was the Claimant dismissed?

1.1 Did the Respondent do the following things:

- 1.1.1 Fail to conduct proper checks at the time of employing the Claimant;
- 1.1.2 Fail to provide justification for the decision to suspend the Claimant;
- 1.1.3 Fail to follow proper procedure by not asking what support the Claimant would need in relation to collecting her personal belongings that would take into account the emotional impact of the suspension;
- 1.1.4 Impact on the Claimant's professional standing; and
- 1.1.5 Breach the Claimant's confidentiality by sharing details of the suspension with Ms Glover, Ms Morgan and Ms Porter.

NB The Claimant alleges that this conduct amounted to a breach of the term of mutual trust & confidence.

1.2 If the alleged conduct took place, did it breach the implied term of trust and confidence? The Tribunal will need to decide:

- 1.2.1 whether the Respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent; and
- 1.2.2 whether it had reasonable and proper cause for doing so.

1.3 Did the Claimant resign in response to the breach? The Tribunal will need to decide whether the breach of contract was a reason for the Claimant's resignation.

1.4 Did the Claimant affirm the contract before resigning? The Respondent says that the Claimant did affirm the contract by waiting for 17 days to resign. The Tribunal will need to decide whether the Claimant's words or actions showed that they chose to keep the contract alive even after the breach.

- 1.5 If the Claimant was (constructively) dismissed, what was the reason or principal reason for the breach of contract? The Claimant asserts that the reason was conduct.
- 2 If the Claimant was dismissed, was that dismissal unfair?
 - 2.1 Was it a potentially fair reason?
 - 2.2 Did the Respondent act reasonably in all the circumstances in treating it as a sufficient reason to dismiss the Claimant?
 - 2.3 If the reason was redundancy, did the Respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the Claimant.

Remedy for unfair dismissal

- 3 If the Claimant was unfairly dismissed, what remedy should be ordered?

NB The Claimant confirmed within her claim form that she did not wish to be reinstated to her previous employment or be re-engaged to comparable employment or other suitable employment. She sought only compensation as a remedy.

- 3.1 If there is a compensatory award, how much should it be? The Tribunal will decide:
 - 1.1.1 What financial losses has the dismissal caused the Claimant?
 - 1.1.2 Has the Claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?
 - 1.1.3 If not, for what period of loss should the Claimant be compensated?
 - 1.1.4 Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?
 - 1.1.5 If so, should the Claimant's compensation be reduced? By how much?
 - 1.1.6 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
 - 1.1.7 Did the Respondent or the Claimant unreasonably fail to comply with it?
 - 1.1.8 If so, is it just and equitable to increase or decrease any award payable to the Claimant? By what proportion, up to 25%?
 - 1.1.9 If the Claimant was unfairly dismissed, did s/he cause or contribute to dismissal by blameworthy conduct?
 - 1.1.10 If so, would it be just and equitable to reduce the Claimant's compensatory award? By what proportion?

1.1.11 Does the statutory cap of fifty-two weeks' pay or £118,223 apply?

3.2 What basic award is payable to the Claimant, if any?

3.3 Would it be just and equitable to reduce the basic award because of any conduct of the Claimant before the dismissal? If so, to what extent?

The Relevant Facts

68. In making findings of fact, the Tribunal carefully considered all of the evidence provided, both documentary and oral, and it made its findings on the balance of probabilities. There was little factual dispute evident within the claim form and response form about the events leading up to the Claimant's resignation. (Rather, the dispute appeared to mainly concern the appropriateness of the Respondent's actions and whether that entitled the Claimant to consider herself constructively dismissed.)
69. For the reasons stated above, the Claimant was not permitted to provide witness evidence. Therefore the Tribunal only had the documentary evidence and the Respondent's witnesses' evidence in respect of the majority of the issues. This meant that little of the Respondent's evidence was contested by the Claimant except by means of her claim form. Where there was a dispute of facts the Tribunal has indicated how it resolved that dispute. The relevant facts found are set out below.

The role and the Claimant's application

70. Since Mr Hutchinson was appointed as Headteacher, the Respondent only employs teachers who have Qualified Teacher Status. The Respondent's advertisements and job offers reflect this requirement.
71. The Respondent advertised for a Computer and E-Safety Teacher. The role was initially advertised as a permanent role (but during the process it was changed to a 12 month fixed term contract). The role required the successful applicant to have "Qualified Teacher Status". This was reflected on the application form which asked applicants the question "Do you have Qualified Teacher Status?".
72. When the Claimant completed her application dated 18 May 2021, the Claimant answered the question "Do you have Qualified Teacher Status?" by typing "Yes". She later indicated that she had completed her teacher training at Nottingham Trent University.

The Respondent's records check

73. During the recruitment process, the Respondent's then Business Manager, Claire Walters, carried out a check of the Claimant's teacher status. The records indicated that the Claimant did not have Qualified Teacher Status so Ms Walters asked the Claimant for proof of her Qualified Teacher Status. The Claimant provided a letter from Nottingham Trent University dated 2016 which confirmed that the Claimant had passed the Graduate Teacher Programme. Ms Walters and Mr Hutchinson incorrectly accepted the evidence that the Claimant had passed the Graduate Teacher Programme as proof that she

had obtained Qualified Teacher Status. (The Graduate Teacher Programme was an “Initial Teacher Training” route into teaching at that time, but passing the Graduate Teacher Programme did not mean that the individual had obtained Qualified Teacher Status. An individual pursuing that route also had to successfully complete three skills tests in numeracy, literacy and ICT and then successfully complete an induction year in a school before they obtained Qualified Teacher Status.)

74. In June 2021 the Claimant was appointed to the role on a 12 months fixed term basis, she was paid on the pay scale applicable for those with Qualified Teacher Status.
75. In preparation for the end of the 12 month contract, the Respondent advertised the same role on permanent contract. The job description referred to the need for “Qualified Teacher Status”. The person specification for the role also listed “Qualified Teacher Status” as an ‘essential criteria’. The Claimant applied for the role. The Respondent subsequently decided not to proceed with the permanent role recruitment process due to the lack of interest in the role. Instead, the role was offered to the Claimant on another 12 month fixed term contract. Again, she was paid on the pay scale applicable for those with Qualified Teacher Status.
76. In November 2022 the Respondent decided to offer the permanent role to the Claimant and she accepted the offer, signing the permanent contract on 17 December 2022 to start on 1 December 2022.
77. The Respondent subsequently became part of a new trust, White Hills Park Trust”. The organisation put greater focus on carrying out ‘safer recruitment’ practices and maintaining its ‘Single Central Record’. The new School Business Manager, Samantha Harrison-Marshall, carried out a routine check on teachers’ records in October 2024. When she checked the Claimant’s record on 30 October 2024, she discovered that the Teaching Regulation Agency website stated that:
 - 77.1. the Claimant did not have Qualified Teacher Status;
 - 77.2. the Claimant had not completed a valid induction; and
 - 77.3. the Claimant’s course result stated “deferred for skills test”.
78. On 4 November 2024 Ms Harrison-Marshall raised this issue with the Claimant who said she would chase Nottingham Trent University for clarification. The Claimant did not provide suitable evidence and so Ms Harrison-Marshall raised the issue with Mr Hutchinson.
79. On 21 November 2024 Mr Hutchinson appointed Ms Norton to investigate the Claimant’s teacher status. Mr Hutchinson had a meeting with the Claimant and Ms Harrison-Marshall to discuss the issue and to let the Claimant know that Ms Norton would be investigating. The Claimant assured the Respondent that she did have Qualified Teacher Status. She informed Mr Hutchinson that the Teaching Regulation Agency website was incorrect because she had passed the Graduate Teacher Programme, she had also passed the three skills tests for English, maths and ICT, and, she had completed her induction year at William Sharp School. The Claimant said she had a letter from Nottingham Trent University confirming she had passed all

three skills tests. Nottingham Trent University should have sent this to the Department of Education but she thought they had failed to do so. The Claimant was adamant that she had passed all three skills tests.

80. Mr Hutchinson believed the Claimant and he stated this to her in the meeting but he also explained that there would need to be an investigation into the issue which would be undertaken by Ms Norton. Mr Hutchinson was expecting the Claimant to show that she did have Qualified Teacher Status and he did not consider it necessary to suspend the Claimant at this time.
81. On 27 November 2024 Ms Norton contacted Laura Oakey of Nottingham Trent University to verify the Claimant's teacher status. On 2 December 2024 Ms Oakey replied to Ms Norton but she was not able to provide confirmation that the Claimant had Qualified Teacher Status, she could only explain what Nottingham Trent University would have done as part of the assessment process at the time.
82. On 28 November 2024 Ms Norton contacted the Teaching Regulation Agency to seek to verify the Claimant's qualifications and in particular her Qualified Teacher Status. On 3 December 2024 Finlay Baldwin in the Teacher Qualifications Unit of the Teaching Regulation Agency responded to Ms Norton stating that *"Yes we are aware of the case and we are currently investigating this case as a matter of priority."* Ms Norton chased Mr Baldwin for an update on 10 December 2024.
83. On 10 December 2024, Mr Baldwin from the Teaching Regulation Agency wrote to Ms Norton stating:

"We have been in touch directly with Maxine and unfortunately [sic] her maths test is outstanding and we unfortunately [sic] have no evidence in our records of this skills test and therefore we have advised that Maxine is to undertake the assessment only route (AOR) which leads to QTS."
84. As a result, Ms Norton decided she needed to invite the Claimant to a formal investigation meeting to explore this information from the Teaching Regulation Agency. She wrote to the Claimant to arrange that meeting for 18 December 2024. (Subsequently on 17 December 2024 the Claimant emailed Ms Norton to request that this meeting be postponed due to her high blood pressure and that it be held at a different location so the meeting was rearranged to 8 January 2025 at a different location.)
85. Ms Norton also updated Mr Hutchinson on the information she had received.

The Respondent's suspension of the Claimant

86. Mr Hutchinson thought that the Claimant may be working as a teacher without Qualified Teacher Status, and, that she may have intentionally made statements to the Respondent about her Qualified Teacher Status that were untrue.
87. The Respondent's 'Standards of Conduct Relating to School Employees' listed at section 4 explicit examples of potential acts of gross misconduct. This list included:

- 87.1. *“Theft, fraud and deliberate falsification of records” and*
- 87.2. *“Conduct which fails to uphold the public trust in the profession; fails to have proper and professional regard to the ethos, policies and practices of the school; or fails to act within the statutory frameworks as set out in the Teachers standards and other relevant professional standards”.*
88. The Respondent’s ‘Disciplinary Procedure for School Staff’ (the “Disciplinary Procedure”) states at section 2.4 entitled ‘Note takers’:
- “Notes should be taken at all meetings. ... The note taker should understand the confidential nature of the meetings.”*
89. The Disciplinary Procedure provides at section 3.7 entitled ‘Suspension’ the following elements of guidance:
- “Prior to the meeting the Head Teacher should consult with the HR Director and the chair of governors ...*
- ...*
- At the suspension meeting the Head Teacher will:*
- ...*
- (c) Request that the employee returns school property immediately including computer equipment/documents/mobile phone/keys as appropriate. The employee may need supervised time to locate and take home personal property.*
- (d) Acknowledge and take into account the emotional impact of the suspension process and ask the employee what support is needed. The school may need to consider a referral to occupational health. The employee should be reminded of the wellbeing resources available via SAS. In all cases the school should identify a contact person in school who will be expected to regularly update the employee ...*
- Following the meeting:*
- ...*
- (c) the Head Teacher must consult and inform the governing body of the suspension decision on a confidential basis.*
90. On 13 December 2024, Mr Hutchinson discussed the situation with the Respondent’s HR Director, Sue Angood. Mr Hutchinson decided that he should suspend the Claimant on the grounds of potential gross misconduct and so he planned to have a formal meeting with the Claimant to inform her of her suspension. Mr Hutchinson wanted to do this immediately so that the Claimant had the full day to contact her union and to obtain legal advice before the weekend commenced.
91. Mr Hutchinson wanted to have someone else present at the meeting to take notes which was in accordance with section 2.4 of the Respondent’s

Disciplinary Policy. Mr Hutchinson chose Assistant Headteacher, Nikki Glover, because she was a member of the senior leadership team and, as Designated Safeguarding Lead, Ms Glover understood the importance of safer recruitment practices.

92. Mr Hutchinson directed Ms Glover to invite the Claimant to come to the meeting. Ms Glover went to the Claimant's classroom during period one. Ms Glover was intentionally discreet in how she did this so as not to raise suspicion in front of others. Whilst walking with the Claimant to Mr Hutchinson, Ms Glover stayed quiet so as not to get drawn into discussion about the nature of the meeting.
93. When the Claimant arrived at the meeting, Mr Hutchinson explained that he was suspending her. He explained that the reason for suspension was that it appeared that the Claimant did not have Qualified Teacher Status. He explained that the Teaching Regulation Agency had confirmed in writing that the Claimant did not have Qualified Teacher Status and the Claimant had not been able to provide any evidence that she did have Qualified Teacher Status. Therefore there was a serious issue to consider in a full formal investigation as to whether the Claimant had Qualified Teacher Status and whether the Claimant has misrepresented her Qualified Teacher Status qualification in her application. During that meeting the Claimant said that the Teacher Regulations Agency claimed to have informed her in 2017 that she was not qualified. Mr Hutchinson recommended that the Claimant obtain legal advice and he also asked the Claimant if she had any questions. The notes of the meeting with the Claimant on 3 February 2025 support this.
94. If the Claimant was unclear about the allegations against her at that point, then she had the opportunity to seek more details or clarification. No such questions were reported by the Claimant and none are recorded.
95. The Tribunal accepts the documentary evidence within the resignation letter and the notes of the meeting of 3 February 2025, that within this meeting Mr Hutchinson did not specifically ask the Claimant what support she wanted whilst collecting her belongings.
96. Mr Hutchinson made a note of the suspension meeting and sent this as an email to Ms Angood, Ms Morgan, Ms Norton and Ms Glover. This note contained a section entitled 'Support and Next Steps' which stated:
- *Maxine was advised to contact her union and seek legal advice.*
 - *A formal follow up meeting was scheduled for the coming Wednesday*
 - *Interim Support was offered by Nikki Glover and HR. A senior staff member, Susan Porter, was assigned to check in with Maxine on Monday. SAS*
97. The meeting was also summarised in a letter from Mr Hutchinson to the Claimant dated 13 December 2024 which stated:
- "Further to the meeting which took place on 13th December 2024, I confirm that in view of the allegations regarding lack of Qualified*

Teacher Status/misrepresentation of qualification, you are suspended from your post of Teacher at Foxwood Academy with immediate effect.”

98. It later went to say:

“... I can assure that I am aware of how difficult this situation must be for you and it will take place as quickly as possible.”

99. Mr Hutchinson then provided contact details for Ms Porter who would act as the link or contact person, and, for Ms Angood as the HR director. Mr Hutchinson thought that Ms Porter would be a suitable link person because she was a member of the senior management and the Claimant had previously asked Ms Porter to support her in an investigation meeting.

100. Towards the end of the letter Mr Hutchinson wrote:

“Please note that if you wish to access any welfare support for example confidential counselling, this is available to you via the Schools Advisory Service. I enclose the relevant details of how you may contact them direct. A referral to Occupational Health can be undertaken, as appropriate.”

101. The Claimant was asked to return to her classroom (the IT room) to hand over items of school property (including her laptop) and then collect her personal belongings, which she did. Ms Glover explained that she would have to go with the Claimant to collect the belongings. There were other adults in the classroom as well as pupils who were engaged in work. There is no suggestion that the students and other adults were told that the Claimant had been suspended. The Tribunal accepted the documentary evidence of the notes of the interview with Ms Glover on 5 February 2025 that the Claimant appeared to be “very collected” and “genuinely appeared not to be distressed”. Ms Glover was discreet about accompanying the Claimant. Accordingly, there was no indication to others that the Claimant had been suspended. The Tribunal accepted the documentary evidence within the Claimant’s claim form that she found this ‘humiliating’ but it considers that this was because of the situation itself and because the Claimant knew what had happened.

102. The Tribunal accepted the documentary evidence of the notes of the interview with Ms Glover on 5 February 2025 which was largely consistent with the documentary evidence within the notes of the interview with the Claimant on 3 February 2025 that the Claimant was offered a choice of routes of walking around the school or going through the school when going to the Tutor Room and she decided to walk straight through the school. Again Ms Glover allowed the Claimant to go in alone even though the room was empty because there were few people on that part of the School because of the time. After she had collected her belongings the Claimant was required to leave the school premises and she was accompanied to the school gates by Ms Glover. Ms Glover finished her interaction with the Claimant by obtaining her lanyard and by repeating Mr Hutchinson’s recommendation that the Claimant contact her union and obtain legal advice. The Tribunal accepted the documentary evidence of the notes of the interview with Ms Glover on 5 February 2025 that Ms Glover was seeking to be discreet during all these tasks for example by

not going into the IT room with the Claimant, by giving the Claimant a bit of space/dignity, by waiting until they were at the gate before asking form the Claimant's lanyard.

103. The Respondent's managers sought to conduct the suspension process sensitively and in accordance with its normal process. They were concerned for the Claimant's well-being whilst carrying out the process. Despite this the suspension process was, perhaps inevitably, still a highly distressing process for the Claimant.

The Claimant's resignation

104. The Claimant submitted a letter raising a grievance on 30 December 2025 in which she also resigned and she expressly stated was the basis that she had been constructively dismissed. The letter stated that the suspension was:

"... unwarranted and unfair for the following reasons:

- ***The Academy failing to conduct proper checks:*** Evidence of the completion of my Teacher Qualifications was provide prior to employment. (June (2021) Therefore any discrepancies should have been addressed at the onset [sic]
- ***Lack of Justification:*** The reasons provided for my suspension were vague and insufficiently explained, leaving me unable to properly respond or defend myself.
- ***Failure to Follow Proper Procedure:*** I was not asked what support I would need in relation to collecting my personal belongings that would take into account the emotional impact of the suspension.
- ***Impact on my Professional Standing:*** The suspension has damaged my professional reputation and caused undue stress, both personally and professionally."

105. The letter then also referred to a breach of confidentiality stating:

"In a letter dated 25th November it highlighted that the investigation was confidential process. However, details of my suspension have been shared with NG, SM and SP who are not directly involved in the investigation process. This breach of confidentiality is not only a violation of my trust but also a breach of the company's obligation to protect sensitive employee information.

106. NG is a reference to Ms Glover. SM is a reference to Ms Morgan. SP is a reference to Ms Porter.
107. There was no evidence of any other actions or decisions by the Respondent between 13 December 2024 and 30 December 2024 which the Claimant asserted had contributed to her resignation or which made any such constructive dismissal unfair.

The Law

108. The test for unfair dismissal is found in **s.98 of the Employment Rights Act 1996** ("ERA"):

"(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—

- (a) relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,*
- (b) relates to the conduct of the employee,*
- (c) is that the employee was redundant, or*
- (d) is that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.*

.....

(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."*

109. A claim for unfair dismissal requires the claimant to have been dismissed. **Section 95 of the Employment Rights Act 1996** ("ERA") provides the types of dismissal sufficient to found a complaint of unfair dismissal:

(1) For the purposes of this Part an employee is dismissed by his employer if (and, subject to subsection (2), only if)

- (a) the contract under which he is employed is terminated by the employer (whether with or without notice),*
- (b) he is employed under a limited-term contract and that contract terminates by virtue of the limiting event without being renewed under the same contract, or*

(c) *the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct.*

110. The burden is on the employee to prove there has been a constructive dismissal within s. 95(1)(c) ERA. The Tribunal's starting point is the test set out by the Court of Appeal in **Western Excavating (ECC) Ltd v Sharp [1978] IRLR 27**.

111. In order to establish that they have been constructively dismissed, the employee must show:

111.1. there was a fundamental breach of contract on the part of the employer that repudiated the contract of employment; and

111.2. the employer's breach caused the employee to resign, and

111.3. the employee did not delay too long before resigning, thereby affirming the contract and losing the right to claim constructive dismissal.

112. The breach of contract may consist of a breach of the implied term of trust and confidence, which provides that employers (and employees) will not, without reasonable and proper cause, conduct themselves in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence between employer and employee (**Malik v Bank of Credit and Commerce International SA 1997 ICR 606 HL** as clarified in **Baldwin v Brighton & Hove City Council [2007] IRLR 232**).

113. The test of whether there has been a breach of the implied term of mutual trust and confidence is an objective one in which the subjective perception of the employee can be relevant but is not determinative. As Lord Nicholls said at p611A of **Malik**:

"The conduct must, of course, impinge on the relationship in the sense that, looked at objectively, it is likely to destroy or seriously damage the degree of trust and confidence the employee is reasonably entitled to have in his employer. That requires one to look at all the circumstances".

114. Not every action by an employer which can properly give rise to a complaint by an employee will amount to a breach of mutual trust and confidence. The serious nature of conduct required before a repudiatory breach of contract can exist has been addressed by the Employment Appeal Tribunal in **Frenkel Topping Limited v King UKEAT/0106/15/LA** in which Langstaff J said:

"12 We would emphasise that this is a demanding test. It has been held (see, for instance, the case of BG plc v O'Brien [2001] IRLR 496 at paragraph 27) that simply acting in an unreasonable manner is not sufficient. The wording qualifying damage is "seriously". This is a word of significant emphasis. The purpose of such a term was identified by Lord Steyn in Malik v BCCI [1997] UKHL 23 as being:

"... apt to cover the great diversity of situations in which a balance has to be struck between an employer's interest in managing his

business as he sees fit and the employee's interest in not being unfairly and improperly exploited."

13. *Those last four words are again strong words. Too often we see in this Tribunal a failure to recognise the stringency of the test. The finding of such a breach is inevitably a finding of a breach which is repudiatory: see the analysis of the Appeal Tribunal, presided over by Cox J in **Morrow v Safeway Stores [2002] IRLR 9**.*
14. *The test of what is repudiatory in contract has been expressed in different words at different times. They are, however, to the same effect. In **Woods v W M Car Services (Peterborough) Ltd [1981] IRLR 347** it was "conduct with which an employee could not be expected to put up". In the more modern formulation, adopted in **Tullett Prebon plc v BGC Brokers LP & Ors [2011] IRLR 420**, is that the employer (in that case, but the same applies to an employee) must demonstrate objectively by its behaviour that it is abandoning and altogether refusing to perform the contract. These again are words which indicate the strength of the term.*
15. *Despite the stringency of the test, it is nonetheless well accepted that certain behaviours on the part of employers will amount to such a breach. Thus in **Bournemouth University Higher Education Corporation v Buckland [2010] ICR 908 CA** Sedley LJ observed that a failure to pay the agreed amount of wage on time would almost always be a repudiatory breach. So too will a reduction in status without reasonable or proper cause (see **Hilton v Shiner Builders Merchants [2001] IRLR 727**). Similarly the humiliation of an employee by or on behalf of the employer, if that is what is factually identified, is not only usually but perhaps almost always a repudiatory breach.*
115. In cases where a breach of the implied term is alleged: the tribunal's function is to look at the employer's conduct as a whole and determine whether it is such that its effect, judged reasonably and sensibly, is such that the employee cannot be expected to put up with it (**Woods v WM Car Services (Peterborough) Limited [1981] IRLR 347**).
116. The Tribunal has to decide whether the conduct in question in the particular case amounts to a breach of the term, by considering:
 - 116.1. Whether there was a 'reasonable and proper cause' for the conduct; and
 - 116.2. if not, whether the conduct was 'calculated or likely to destroy or seriously damage trust and confidence'. When addressing this question the Tribunal should consider the circumstances objectively, from the perspective of a reasonable person in the Claimant's position (**Tullett Prebon plc v BGC Brokers LP 2011 IRLR 420, CA**).
117. A breach of the implied term of trust and confidence can be caused by one act, or by the cumulative effect of a number of acts or a course of conduct. A 'last straw' incident which triggers the resignation must contribute something to the breach of trust and confidence, but need not amount to a breach of contract itself (**Omilaju v Waltham Forest London Borough Council 2005 ICR 481 CA**).

118. In **Western Excavating v Sharp (above)**, Lord Denning confirmed that an employee “must make up his mind soon after the conduct of which he complains; for, if he continues for any length of time without leaving, he will lose his right to treat himself as discharged.”
119. Recent authorities however, including **Leaney v Loughborough University [2023] EAT 155** have established that affirmation of contract is not a question of the passage of time but rather a matter of conduct. The Employment Appeal Tribunal confirmed that affirmation may be expressly communicated or may be implied from conduct.
120. In **Chindove v William Morrison Supermarkets plc EAT 0201/13** the Employment Appeal Tribunal ruled that the mere passage of time prior to resignation will not, in itself, amount to affirmation. However, given the ongoing and dynamic nature of the employment relationship, a prolonged or significant delay may give rise to an implied affirmation because of what occurred during that period. Where the injured party is the employee, the proactive carrying out of duties or the acceptance of significant performance by the employer by way of payment of wages are liable to be treated as evidence of implied affirmation. However, that will not necessarily be the case if the injured party communicates that he or she is considering his or her position or makes attempts to seek to allow the other party some opportunity to put right the breach of contract before deciding what to do.
121. When an Employment Tribunal decides that the termination of a claimant’s employment falls within section 95(1) it still remains for the Tribunal to determine whether the dismissal was fair or unfair in accordance with s.98 set out above. The burden is on the employer to show the reason for dismissal and that the reason for dismissal was a potentially fair one under section 98(1) and (2) ERA.
122. In a constructive dismissal claim, the reason for dismissal is the reason why the employer breached the contract of employment (**Berriman v. Delabole Slate Limited [1985] IRLR 305** at para 12).
123. When considering the burden of proof, the burden usually rests with the person who is asserting something to be a factual allegation and the standard of proof is on the balance of probabilities as summarised by HHJ Auerbach in **Hovis Limited v Louton [2021] UKEAT/1023/20/LA**.

The analysis – application of facts to law to determine the issues

124. The first question to determine is whether the Claimant was dismissed. The issues necessary to determine that question are as follows:
- (1.1.1) Did the Respondent fail to conduct proper checks at the time of employing the Claimant;*
125. The Tribunal found that the Respondent did fail to conduct proper checks at the time of employing the Claimant. This is because the Respondent’s then business manager, Ms Walters, spotted the website information which indicated that the Claimant did not have Qualified Teacher Status but she and Mr Hutchinson incorrectly accepted evidence of Claimant passing the Graduate Teaching Programme as evidence of her having Qualified Teacher Status. (As an aside, the Tribunal notes that the Claimant knew in 2021 that

the Respondent had accepted evidence of Claimant passing the Graduate Teaching Programme as evidence of her having Qualified Teacher Status at the time it happened. This was her intention. She did not resign in response to that failure)

(1.1.2) Did the Respondent fail to provide justification for the decision to suspend the Claimant;

126. The Tribunal found that the Respondent did not fail to provide justification for the decision to suspend the Claimant.
127. The Claimant knew from the discussions with Ms Walters and Mr Hutchinson in November 2024 that the issue under investigation was the Teaching Regulation Agency's position that she did not have Qualified Teacher Status. The Claimant had been in discussion with both the Respondent and the Teaching Regulation Agency about this topic. In the suspension meeting on 13 December 2024, Mr Hutchinson explained that she was being suspended because she may be working as a teacher without Qualified Teacher Status and she may have misrepresented her qualifications and these were potential grounds for gross misconduct. Mr Hutchinson's notes of that suspension meeting recorded that "*The absence of QTS and the misrepresentation of qualifications were cited as potential grounds for gross misconduct*". Mr Hutchinson also summarised this in the letter dated 13 December 2024 which confirmed the content of the suspension meeting as "*lack of Qualified Teacher Status/misrepresentation of qualification*". The Claimant herself then quoted this description in her resignation letter. A more detailed explanation was not required for the suspension stage. This description was sufficiently clear for the Claimant to understand why she had been suspended. (The Claimant would later be provided with the evidential materials before being invited to respond to the allegations at the disciplinary hearing.)

(1.1.3) Did the Respondent fail to follow proper procedure by not asking what support the Claimant would need in relation to collecting her personal belongings that would take into account the emotional impact of the suspension;

128. The Tribunal found that the Respondent did fail to follow proper procedure but only by not asking the Claimant what support she required whilst carrying out the property exchange. Section 3.7(d) of the Disciplinary Procedure required Mr Hutchinson to "... ask the employee what support is needed". He did not do so.
129. A suspension is very sensitive for most people to whom it happens. The Tribunal notes that such circumstances are often extremely upsetting for the individual in question. The Tribunal does not minimise the strength of emotion that often arises in such circumstances, but that sensitivity and upset is a natural consequence of being suspended. The Claimant was required to hand over various items of school property including her work laptop and security lanyard, and, she needed to collect her own property including the car keys she would need to go home. Some of these items were in her classroom and some in the Tutor Room. The Respondent is entitled to facilitate that exchange of property. Whilst the Respondent should not deliberately or recklessly cause the inherent level of distress or upset, it is not required to minimise the chance of contact with other persons. The Tribunal notes that if

the Respondent had waited until a break time, then whilst there would be less people in the classroom, there would have been more adults and pupils around generally in corridors and general areas such as the Tutor Room of the school to see the Claimant there and to see her leaving the school premises altogether. The Tribunal found that the Respondent's process to exchange property and requiring the Claimant to leave the premises was reasonable in its approach.

(1.1.4) Did the Respondent impact on the Claimant's professional standing;

130. The Tribunal found that that the Respondent did impact on the Claimant's professional standing by suspending her.
131. The Claimant stated within her resignation letter dated 30 December 2024 and the grievance meeting on 3 February 2025 that she didn't know how she would explain to people that she knew why she was off work. This is an inevitable difficulty that arises from suspension. This is not a breach of the implied term of mutual trust and confidence; it is an unpleasant but inevitable side effect of suspension that the absence from work may well trigger queries from others who expect the individual to be in work, or, it may cause the individual to feel they need to explain their absence to others. Doing so will be deeply uncomfortable to some individuals. But being uncomfortable does not mean there is a breach of contract. If this were a breach of the implied term of mutual trust and confidence then every suspension would be a breach and that is not correct. The Respondent had proper cause based on strong evidential grounds for deciding to suspend.

(1.1.5) Did the Respondent breach the Claimant's confidentiality by sharing details of the suspension with Ms Glover, Ms Morgan and Ms Porter.

132. The Tribunal found that the Respondent did not breach the Claimant's confidentiality by involving Ms Glover, Ms Porter and Ms Morgan. The Respondent had said in the letter of 25 November 2024 that the investigation process was confidential. However, that was a description of its nature: it did not mean (and given the Respondent's Disciplinary Procedure it could not logically mean) that no other individual would be made aware of the issue. Additional individuals would need to be made aware to enable them to carry out support functions, administrative functions, investigation functions, any subsequent disciplinary functions and any subsequent appeal functions.
133. The Respondent did inform the three named individuals of the Claimant's suspension. However, they each had legitimate functions which justified their awareness of the suspension. The Claimant did not have a right to keep the matter confidential from each of Ms Glover, Ms Porter and Ms Morgan. Therefore, informing the three named individuals of the suspension for the purposes of their respective specific roles as notetaker at the suspension, link person during investigation and chair of governors was not a breach of the implied term of mutual trust and confidence. Ms Morgan's involvement was required by virtue of her unique role as the Respondent's chair of governors. A note taker and link person were both roles which were anticipated if not required by the Respondent's Disciplinary Procedure. There was no evidence before the Tribunal that Ms Glover and/or Ms Porter were in any way unsuitable persons for the respective roles allocated to them. The Tribunal

notes that they were both members of the senior leadership team who could reasonably be expected to understand the sensitivity of the situation and the requirement for their personal confidentiality.

If the alleged conduct took place, did it breach the implied term of trust and confidence? The Tribunal will need to decide:

Did the Respondent behave in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent?

(1.1.1) By failing to conduct proper checks at the time of employing the Claimant;

134. The Tribunal had found that the Respondent did fail to conduct proper checks at the time of employing the Claimant because it conflated passing the Graduate Teacher Programme with obtaining Qualified Teacher Status and accepted the Claimant's assurance that she did have Qualified Teacher Status. However, the Tribunal found that the Respondent's action was not calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent. Whilst the Respondent may not have properly fulfilled its regulatory obligations by acting this way, trusting the Claimant's declaration that she had Qualified Teacher Status cannot sensibly be conduct which is calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent. Rather it is an example of being insufficiently aware of the strict requirements and/or being overly trusting.

(1.1.3) By failing to follow proper procedure by not asking what support the Claimant would need in relation to collecting her personal belongings that would take into account the emotional impact of the suspension;

135. In relation to the Respondent's organisation of the way in which the Claimant handed over her school property and collected her personal possessions, this was not the way in which the Claimant would have wanted the process to be carried out given the sensitive nature of the suspension process she had just been through. However, it is both common and acceptable for an employee who is suspended to be required to handover employer property and to collect some items of personal property before leaving the employer's site. It is also not unusual for the employee to be accompanied in these circumstances. The Respondent as a school was entitled to require an individual who was no longer working to leave the controlled environment of the school premises. The Respondent followed its normal process and did so in a reasonably sensitive and discreet manner.
136. The Tribunal found that Mr Hutchison did fail to ask a specific question to the Claimant as to what support she wanted whilst collecting her belongings. However, the context shows that Mr Hutchinson was clearly focused on providing support to the Claimant. He did explain the main sources of support available in the form of a senior person on the day, access to HR, a senior link person, access to the Schools Advisory Service and the option of an occupational health referral. Within his letter of 13 December 2024. Mr Hutchinson did say that if the Claimant wished to access any welfare support, then she should contact the Schools Advisory Service. Whilst this is not

phrased as a question it conveys to the Claimant that she can ask for the welfare support she wants and does not place any limitations upon that so the effect of this statement is similar in nature to asking the question. Mr Hutchinson's failure to ask the direct question as to what support the Claimant wanted as per section 3.7 of the Disciplinary Policy is a failure of form rather than substance. The Tribunal also found that the process was carried out to avoid unnecessary distress for the Claimant.

137. The Claimant found the process upsetting and she may have preferred a different process but that is not the test for a breach of contract. Similarly, the Respondent failed to follow this aspect of its procedure but that is not the test for a breach of contract. The Tribunal objectively assessed the Respondent's conduct in the suspension process as a whole and the failure to ask the Claimant what support was required in particular. When considering the circumstances objectively, from the perspective of a reasonable person in the Claimant's position as per **Tullett Prebon (above)** and assessed reasonably and sensibly the Tribunal concluded that was not conduct which the employee cannot be expected to put up with it as per **Woods (above)**. The Tribunal determined that the Respondent's conduct it did not satisfy the demanding test for a repudiatory breach of contract taking into account the guidance in **Frenkel Topping (above)**. The Respondent had not demonstrated objectively by its behaviour that 'it was abandoning and altogether refusing to perform the contract'.

(1.1.4) By impacting on the Claimant's professional standing;

138. The Tribunal found that the Respondent's impact upon the Claimant's professional standing by suspending her was not calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent. Whilst the Claimant would not like and did not like being suspended herself, there was no evidence or indication that the Claimant thought that generally persons who were suspected on reasonable grounds of falsifying their qualifications or their Qualified Teacher Status should not be suspended to allow investigation.
139. Her position appeared to be that she had passed the maths/numeracy skills test and she did have Qualified Teacher Status. However, there was material evidence from the Teaching Regulation Agency that the Claimant had not passed her maths/numeracy skills test and therefore she had not obtained Qualified Teacher Status. This evidence came from a credible source; the Teacher Qualification Unit of the Teaching Regulation Agency being the executive agency responsible for regulating the teaching profession. The evidence indicated that the Claimant may have committed an act of gross misconduct because she had declared that she did have Qualified Teacher Status, and, she had been working as a qualified teacher without having Qualified Teacher Status. This meant that suspension in these circumstances was justified so the act of suspension was not calculated or likely destroy or damage the trust and confidence between the Claimant and the Respondent.
140. On the basis of these findings the Tribunal concluded that the Claimant had not been constructively dismissed when she resigned. The absence of a dismissal within the meaning of section 95 of the Employment Rights Act 1996, means that there cannot be an unfair dismissal within the meaning of section 98 of that act.

141. Therefore, the Claimant's complaint of unfair dismissal must fail.
142. For completeness on the issue of whether the Claimant was dismissed, the Tribunal records the findings it would have made on the remaining issues within this question.

If so, did the Respondent behave reasonable and proper cause for doing so.

143. The Tribunal records briefly that if it had determined that the Respondent had behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent, then it would have found that the Respondent:

143.1. did not have reasonable and proper cause for failing to conduct proper checks at the time of employing the Claimant (issue 1.1.1) – because there was no evidence of any just and proper cause for such a failure.

143.2. did not have reasonable and proper cause for failing to provide justification for the decision to suspend the Claimant (issue 1.1.2) – because there was no evidence of any just and proper cause for such a failure.

143.3. did not have reasonable and proper cause for failing to follow proper procedure when requiring the Claimant to hand over school property and collect her personal belongings during lesson time and not asking what support she wanted (issue 1.1.3) – because there was no evidence of any just and proper cause for such a failure.

143.4. did have reasonable and proper cause for impacting on the Claimant's professional standing (issue 1.1.4) – because allegations that (i) an individual had intentionally misrepresented her qualifications to teach, and, (ii) was working in a role requiring Qualified Teacher Status without that status which was based on substantial and specific evidence from the Teaching Regulation Agency was reasonable and proper cause for suspension; and

143.5. did have reasonable and proper cause for sharing details of the suspension with Ms Glover, Ms Porter and Ms Morgan of the Claimant's suspension (issue 1.1.5) – because Ms Glover was a legitimate choice to perform the role of notetaker, Ms Porter was a legitimate choice to perform the role of link person and the Respondent's Disciplinary Procedure required that Ms Morgan was informed as chair of governors

144. The Tribunal therefore concluded that the Respondent had not conducted itself (whether as a single act or by a series of acts as per **Omilaju (above)**) in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence between itself and the Claimant as per **Malik and Baldwin (both above)**.

Did the Claimant resign in response to the breach? The Tribunal will need to decide whether the breach of contract was a reason for the Claimant's resignation.

145. The Tribunal records briefly that if it had determined that the Respondent had behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent, then it would have found that the Respondent without reasonable and proper cause, then the Tribunal would have found that:

145.1. the Claimant did not resign in response to finding out that the Respondent had not correctly carried out the original qualification checks upon her appointment in 2021 (i.e. issue 1.1.1) this is because the Claimant became aware of the flawed checks by 21 November 2024 by the latest but she did not communicate any issue over the checks at that time and she did not resign at that time. The Claimant only resigned on 30 December 2024 (after she was suspended on 13 December 2024).

145.2. the Claimant did resign in response to the relevant elements of the Respondents conduct within the suspension process which took place on 13 December 2024 (i.e. issues 1.1.2 to 1.1.5). She resigned within 17 days of the suspension process and she explicitly referenced how she had reached that decision due to the suspension process in her letter of 30 December 2024. It is not unusual or improper for an employee who is considering resigning to explore what other roles will be available. There was no evidence that the Claimant was looking for other roles prior to the suspension process.

Did the Claimant affirm the contract before resigning? The Respondent says that the Claimant did affirm the contract by waiting for 17 days to resign. The Tribunal will need to decide whether the Claimant's words or actions showed that they chose to keep the contract alive even after the breach

146. When considering the Claimant's response in the light of the guidance in **Western Excavating, Leaney and Chindove (all above)**, the Tribunal concluded and would have found as follows:

146.1. The Claimant had affirmed the contract (issue 1.1.1). This is because after finding out about the flawed 2021 checks at the latest by 21 November 2024, the Claimant continued to work under the contract of employment and to treat the contract as ongoing in all regards for several weeks after she became aware of this and did so until she was suspended. By doing so and waiting for 39 days until 30 December 2024 to resign the Claimant had chosen to keep the contract alive. Therefore, the Claimant had affirmed the contract after finding out that the Respondent had not correctly carried out the original qualification checks upon her appointment in 2021.

146.2. The Claimant had not affirmed the contract by waiting until 30 December 2024 to resign in response to the relevant elements of the Respondents conduct within the suspension process which took place on 13 December 2024 (i.e. issues 1.1.2 to 1.1.5). She resigned within 17 days of the suspension process; she was suspended during that time and she was not working so that she did little, if anything, to indicate that she was treating the contract of employment as continuing.

147. The Tribunal noted that the Claimant also referred within her claim form to the Respondent not providing a response to her request that the disciplinary hearing be changed to an alternative date within 5 days. This was alleged by the Claimant to have occurred after the Claimant after resigned and therefore, logically, it cannot have played any part in her earlier decision to resign. (The Claimant also appears to have misunderstood the action required when requesting a change to the date of a hearing which is for the employee requesting to the change to propose a date within 5 days of the original date; not for the employer to propose an alternative date within 5 days.) The Tribunal records that it would also have held that the Respondent's failure to provide an alternative date within 5 days (as alleged by the Claimant in her claim form) did not amount to a repudiatory breach of contract so that the Claimant could consider herself to be constructively dismissed.
148. Therefore, in the absence of any breach of the implied term of mutual trust and confidence, the Tribunal determined that the Claimant was not entitled to terminate her employment without notice by reason of the employer's conduct, and in turn, there was no dismissal within the meaning of section 95(1)(c) of the Employment Rights Act 1996.
149. The absence of any form of dismissal within the meaning of section 95 of the Employment Rights Act 1996 means that there is no basis for a complaint that the Claimant was unfairly dismissed in breach of section 94 of the Employment Rights Act 1996 and no requirement to consider the reason for and fairness of the Respondent's treatment of the Claimant.
150. Accordingly, the case must be dismissed.

Approved by:

Employment Judge Ost

5 September 2026

JUDGMENT SENT TO THE PARTIES ON

29/09/2026

J. Woolley

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

Written reasons for any case management decisions recorded within this document will not be provided unless they are requested by a party by written request presented within 14 days of the date this document was sent to the parties.

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 here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/