



EMPLOYMENT TRIBUNALS

Claimant: Mr N Davidson

Respondent: Birmingham Ormiston Academy

FINAL HEARING

Heard at: Birmingham

On: 18 to 20 October 2021

Before: Employment Judge Camp

Appearances

For the claimant: in person

For the respondent: Ms S Garner, counsel

RESERVED JUDGMENT

The claimant was not constructively dismissed, and his claim fails.

REASONS

Introduction

1. The claimant was employed from 1 October 2012 as Director of Curriculum Support-SEN Coordinator at the respondent school, which caters for students in years 10 to 13. He resigned by a letter dated 18 July 2018 in accordance with an agreement reached between the respondent and his trade union representative, at a time when he was facing allegations of what was deemed potential gross misconduct. He resigned with notice expiring on 31 October 2018 and by agreement was on garden leave throughout his notice period.
2. The claimant went through ACAS early conciliation from 14 November to 14 December 2018. His claim form was presented on 28 January 2019. The complaints made in the claim form were constructive unfair dismissal and direct age discrimination. The age discrimination complaint was subsequently dismissed upon withdrawal in accordance with rules 51 and 52 of the Employment Tribunals Rules of Procedure.

3. The claimant's allegation that he was constructively dismissed is based on an alleged course of conduct, said to have breached the so-called 'trust and confidence term' (see below), consisting mainly of the following things:
 - 3.1 alleged bullying by Mr A Pitt, Assistant Principal and the claimant's line manager between September 2017 and July 2018;
 - 3.2 the suspension of the claimant for alleged gross misconduct on 4 July 2018;
 - 3.3 the disciplinary proceedings the claimant was facing and, in particular, a prospective disciplinary hearing, originally due to take place on 12 July 2019 and subsequently postponed to 19 July 2019. (It never actually took place because of the claimant's resignation);
 - 3.4 the subject matter of the age discrimination complaint. Although that complaint has been withdrawn, its subject matter remains relevant. In short, the claimant alleges that the respondent's Principal, Ms G Cheshire was annoyed with him because he didn't attend shows put on by the respondent's pupils. The respondent is a school that has a particular specialism in the performing arts. The allegation in the claim form is that Ms Cheshire communicated to the claimant in a meeting on 29 June 2018 that the respondent expected staff to attend shows at the school outside of his contracted working hours, something he was unable to do due to family and personal circumstances.

Issues & section 111A

4. The only issue I have had to deal with is broadly: was the claimant constructively dismissed? Had I decided that issue in the claimant's favour, other issues would have arisen; but as it is, I have not decided them.
5. This is a convenient point to discuss an evidential issue that was raised by the Employment Judge on his own initiative on the afternoon of day 1 of this 3-day final hearing. It concerns section 111A of the Employment Rights Act 1996 ("section 111A"; "ERA"). It appears that the issue had previously been overlooked because the claim had originally included allegations of discrimination, meaning that the practical effect of that section was limited.
6. As already mentioned, the claimant resigned further to an agreement that had been reached between his trade union representative, a Mr Pearce, and Ms Cheshire. Within both the claim and response forms, the discussions that led to that agreement are mentioned. Those discussions were partly by email; some of the relevant emails are in the hearing bundle. At the point in the hearing when I raised the section 111A issue, the claimant had given evidence touching on the negotiations between his trade union representative and Ms Cheshire. Ms Cheshire's witness statement, which I have read, also made reference to the negotiations.
7. The contents of those negotiations – or at least something allegedly said during the course of them – may be of central importance to the proceedings. Although the claimant stated something different in his witness statement, when asked directly by the Employment Judge when he was giving his oral evidence, the claimant said that the 'last straw' in response to which he resigned was something that Mr Pearce had allegedly told him Ms Cheshire had suggested or indicated during the course of the

negotiations. The alleged suggestion or indication was that the claimant not attending shows put on by students was a burning issue for her.

8. That evidence from the claimant about the law straw came at the very end of his oral evidence, at the end of day 1 of the hearing. At the start of day 2, having asked the parties – and Miss Garner, respondent’s counsel, in particular – to give the matter some thought overnight, we had a discussion about how best to proceed in light of the section 111A ERA issue.
9. On any view, I had by then heard and looked at evidence that section 111A makes inadmissible, namely evidence of discussions held, before the termination of employment, with a view to it being terminated on terms agreed between the claimant and the respondent. I told the claimant that in the circumstances he should consider whether to ask me to recuse myself.¹ I explicitly said to the parties that what I wanted to avoid was a situation where we had the whole hearing and I made and gave my decision, only for the losing party to seek to appeal on the basis that I had read and heard inadmissible evidence. Neither the claimant nor Miss Garner made a recusal application or asked for more time to consider their position. Neither side wanted the hearing to be adjourned. And neither side appeared at all concerned that I had before me material that section 111A makes inadmissible.
10. Miss Garner referred me to some authorities which explain the mental gymnastics that section 111A requires of a Tribunal in a case where there is both an unfair dismissal and a discrimination claim. She suggested, and I agree with her, that if a Tribunal is deemed to be capable of putting a ‘protected conversation’ out of its mind when considering an unfair dismissal claim that is being prosecuted in conjunction with a discrimination claim, then it must logically be capable of doing the same when the unfair dismissal claim is the only claim before the Tribunal. In addition, it has to be said that were I to recuse myself every time I saw or heard evidence I was not supposed to – correspondence that a litigant in person has referred me to that turns out to be without prejudice, for example – I would be recusing myself every other week.
11. In many cases, there would be no difficulty at all in this kind of situation. I would simply say to the parties that I was proposing to ignore everything that had been put before me that touched on pre-termination negotiations covered by section 111A. That is what I am doing in the present case in relation to all of the offending or potentially offending material; but with a reservation. The problem that arises in this case is that, as just mentioned, the claimant is apparently relying as his last straw on something potentially covered by section 111A. To deal with the problem, it was agreed by both sides, at the start of day 2, that I would make two alternative decisions on the question of whether the claimant was constructively dismissed: one taking into account, and one not taking into account, what Mr Pearce said to the claimant about his discussions with Ms Cheshire.
12. At the time, I thought the question of whether these discussions were covered by section 111A was not clear-cut. The situation I was concerned about was one where I got the answer to that question wrong, necessitating remission on appeal. Now that I come to write this decision, I have become firmly of the view that what the claimant wants to rely on as the last straw has to be excluded in accordance with that section.

¹ I did not use these precise words, but tried to explain the situation using plain English and not legalese.

Nevertheless, my intention was to give my decision in the alternative, because that is what I said, and everyone agreed, I would do. I have not done so as, ultimately, the section 111A issue has proved to be an irrelevance. This is because I am not satisfied that anything was said or suggested or indicated by Ms Cheshire to Mr Pearce that impacted on the relationship of trust and confidence to any significant extent.

Law

13. Apart from in relation to the section 111A issue, there does not seem to be any dispute or controversy in relation to the law I have to apply. It is accurately set out in paragraphs 13 to 22 of Miss Garner's written submissions, with none of which the claimant took issue and to which I refer. There are three points I would like to emphasise:
 - 13.1 the test for whether something breaches the trust and confidence term² is a high-threshold one – a course of conduct calculated or likely to destroy or seriously to damage the relationship of trust and confidence between employer and employee. Merely unreasonable conduct is not enough;
 - 13.2 there must be no reasonable and proper cause for conduct that breaches the trust and confidence term. An example of conduct by an employer that might well be likely to damage trust and confidence seriously but for which there would be reasonable and proper cause is taking disciplinary action against an employee (assuming there are grounds for doing so);
 - 13.3 the Tribunal has to assess whether conduct is calculated or likely to destroy or seriously damage trust and confidence objectively.

Findings of fact

14. There is an agreed cast list and chronology attached to these reasons as an appendix, and I refer to them.
15. The witnesses I heard from were:
 - 15.1 the claimant;
 - 15.2 Ms Cheshire;
 - 15.3 Mr A Pitt, Assistant Principal and the claimant's line manager between September 2017 and July 2018. His main role in the proceedings is as the subject matter of a complaint the claimant made;
 - 15.4 also for the respondent, Mr M Penn, the Vice Principal. His main role in the events with which this claim is concerned was that he investigated a complaint by the parents of a student known as Y, a complaint which, at least to some extent, related to the claimant. He also investigated the incident that led to the claimant being subjected to disciplinary proceedings;
 - 15.5 the respondent's final witness was Ms Cheshire.

² The implied term in everyone's contract of employment that neither employer nor employee will, without reasonable and proper cause, behave in a way calculated or likely to destroy or damage seriously the relationship of trust and confidence between them.

16. This case has some features which are common in constructive dismissal proceedings and that I would like to emphasise here and now, before discussing the facts in any detail.
17. First, I mentioned just above when discussing the law that the test for whether or not there has been a breach of the trust and confidence term is a purely objective one. Unlike in relation to, for example, a discrimination claim, what was actually going through the claimant's head and through the heads of the respondent's witnesses is not relevant to the application of that test.
18. The claimant has evidently convinced himself there was what can only be described as a conspiracy against him to remove him from the respondent's employment. I have no doubt that he is wrong about this. The respondent, and Ms Cheshire in particular, had no such plan. However, the fact that the respondent had no such plan does not necessarily mean he cannot base an allegation that he was constructively dismissed on his belief that there was. This is because it is possible in principle for the respondent to have given him the impression that such a conspiracy existed even though it did not. The relevant question for me is whether a reasonable person in the position of the claimant would have believed that such a plan existed (whatever the claimant believed and whether or not it actually did exist).
19. Similarly, during cross-examination, Ms Cheshire referred to the claimant's suspension and the disciplinary action against him as a "*warning shot*". I found that evidence surprising; almost shocking. The respondent's policies are to the effect that the normal sanction for employees found guilty of gross misconduct is summary dismissal. Given this, charging someone with gross misconduct if you don't really mean it and if all you mean to do is to scare them and/or take a 'shot across their bows' is an appalling thing for an employer to do. However, all of that is almost completely irrelevant because, as just explained, I have to look at how the respondent's actions would have appeared to an objective person in the claimant's position. I look at this based on what the respondent actually did rather than what, unbeknownst to the claimant, was going on behind the scenes and in the heads of Ms Cheshire and the other people involved.
20. Secondly, someone like the claimant – a professional with many years of experience, who had worked for the respondent for 6 years or so – does not resign for no reason. An insinuation often made by claimants and on their behalf in constructive dismissal cases of this kind is that the respondent must have behaved very badly indeed for the claimant's resignation to make sense. Superficially attractive though an argument along those lines may seem, I do not accept it. What it ignores is the human capacity for misunderstanding, misperception, and self-delusion.
21. Putting to one side the relatively tiny number of constructive unfair dismissal claimants who are simply 'trying it on' (and the claimant is emphatically not one of these), people like the claimant resign because at the time of their resignation they genuinely feel that it is intolerable for them to continue in employment. If they had held on without resigning for a little longer, that feeling might well have dissipated, and they might well have realised that things were not that bad and that resigning would be a mistake. But even if, shortly after the resignation, they regret having done so deep down, human nature being what it is, they will have a tendency to persuade themselves that it was definitely the right decision. That tendency can be particularly marked where the person who resigns brings an Employment Tribunal claim for constructive unfair dismissal, where

the success of the claim is dependent on the claimant convincing the Tribunal that, essentially, things really were that bad.

22. What this means is that by the time we get to a hearing like this one, the claimant will tend to have convinced himself that everything the respondent did to which he took exception was significantly worse than it was in reality; every negative thing will tend in his mind be magnified and every positive thing tend to be diminished. It is therefore necessary when dealing with this kind of constructive unfair dismissal claim for the Tribunal to be particularly careful when looking at the claimant's evidence and to examine the specifics of what is alleged to have happened and the extent to which there is corroboration of the claimant's witness evidence from elsewhere.
23. What has particularly highlighted this for me in the present case is the fact that the claimant is putting forward what I have already described as a conspiracy theory, many parts of which seem to me to have no rational basis and to fly in the face of logic and common sense. The claimant believes what he told me. And the fact that he, an evidently intelligent and rational man, has come to believe these things is testament to the extent to which his unconscious desire to avoid having been wrong to resign has affected his evidence.
24. With those preliminary observations in mind, I turn to the facts. When discussing them I shall, to an extent, examine the question of whether there was conduct that breached the trust and confidence term.
25. On 12 February 2018, the claimant emailed Mr Chattaway, the Vice Principal and his former line manager, in relation to concerns he had about his then new line manager, Mr Pitt. Mr Chattaway emailed back saying that he was happy to act as intermediary and was happy to meet with the claimant, but that the claimant in the first instance needed to raise his concerns with Mr Pitt himself.
26. I have found it difficult to get to the bottom of precisely what it is that Mr Pitt is said to have done to the claimant, which the claimant later characterised as bullying. In his email to Mr Chattaway, and in subsequent emails, in particular the one to Ms Cheshire of 24 May 2018 which I shall come on to later, the claimant has made a number of assertions about Mr Pitt. Superficially, they appear to be quite detailed assertions, but it occurred to me when the claimant was cross-examining Mr Pitt that I was rather hazy on precisely what bullying Mr Pitt had allegedly done and when he had allegedly done it. For example (from the claimant's email to Mr Chattaway of 12 February 2018), "*I feel that [Mr Pitt] does not understand or value the work that the team does: he has a tendency to blame when things go wrong rather than support.*" Accordingly, part of the way through his cross-examination of Mr Pitt, I asked the claimant to put the strongest/best specific examples he had of Mr Pitt bullying him.
27. Up to that point, the main thing the claimant had been questioning Mr Pitt about was the way in which Mr Pitt dealt with his line management responsibilities and in particular the nature of the meetings he held with the claimant. Mr Chattaway had held weekly, minuted line management meetings with the claimant. The claimant seems to be under the impression that that was the only proper way in which he could be line managed. No doubt he formed that impression on the basis of his own experience. However, as Ms Cheshire said during her evidence, there is no set format for a line management meeting and, particularly in relation to a senior member of staff like the claimant, having a weekly minuted meeting is certainly not necessary.

28. I would go as far as to say that what Mr Chattaway did in terms of meetings with the claimant was unusual. I would not expect someone in the claimant's position to want or need line management of the kind the claimant clearly felt was appropriate. My conclusion in relation to this part of his allegations is that he had an expectation of line management practice that did not fit with Mr Pitt's line management practice; but Mr Pitt's line management practice was not unreasonable, wrong or inadequate in this respect.
29. When I asked the claimant to put to Mr Pitt the best examples he could come up with of Mr Pitt's alleged bullying, what he put to him was an incident where the claimant had emailed a colleague called Mr Kennedy in relation to a student who has been referred to as student "Z". Z had been receiving counselling from an external provider, but (as I understand it) the funding and/or the provision of counselling by an external provider was under threat. The claimant was emailing Mr Kennedy asking for the provision of Z's counselling to be transferred to the respondent's own in-house counsellor. Mr Pitt, who was busy with a personal matter at that time, emailed Mr Kennedy, copying-in the claimant, to say, "*Do not give [the claimant] a solution on this*".
30. This allegation is part of general allegations the claimant was making about Mr Pitt allegedly blocking the claimant's access to colleagues, and of a more specific allegation about Mr Pitt allegedly obstructing access to counselling for students with special educational needs – referred to as "EHCP" students – for whom the claimant was responsible.
31. It is clear that the claimant's concerns about this email festered. If he genuinely felt (as he seems to have done) that Mr Pitt had accidentally copied him into the email to Mr Kennedy and was capriciously ordering Mr Kennedy not to provide something for Z that Z really needed, it is strange that the claimant didn't immediately raise it with Mr Pitt or with Ms Cheshire. Be that as it may, Mr Pitt was not behaving in that way; it would be extraordinary for someone in Mr Pitt's position to do so; he had a good reason for emailing Mr Kennedy in the terms he did.
32. The reason Mr Pitt emailed Mr Kennedy to the effect that Z's counselling should not just be taken in-house was to do with funding. The respondent had an in-house counsellor, but had far more students in need of counselling than that individual could possibly provide counselling to. There was local authority funding in place for counselling for Z. The local authority were threatening to pull that funding. Mr Pitt's view was that they had no right to do so; that they had a duty to continue to fund. As I understand it, Mr Pitt was concerned that if the school simply took over the provision of counselling to Z from the local authority, there would be little prospect of the local authority ever beginning to fund it again. And if the in-house counsellor spent time counselling Z, they would have less time for other students in need of counselling who did not have local authority funding for it. What Mr Pitt therefore wanted to achieve was for Z to continue to have her counselling, funded by the local authority, from an external provider, as had previously been the case.
33. All of that makes perfect sense to me. I have already expressed surprise that the claimant didn't raise the issue with Mr Pitt or Ms Cheshire almost immediately. Perhaps if he had done so, the situation would have been explained to him and he would have understood the respondent's logic. But given that he did not raise it at the time, he didn't

get that explanation and instead convinced himself that Mr Pitt was doing something monstrous, namely sabotaging Z's counselling.

34. A similar process of the claimant not raising a concern at the time it arose and of it festering happened in relation to another of the claimant's complaints. It is a complaint that even to him appears to be relatively minor in the grand scheme of things, but which nonetheless featured as part of his allegations against Mr Pitt. The allegation is that:
 - 34.1 following the 2017 end of year exams, the claimant was charged with preparing a report relating to his area, EHCP (I think he had been asked to do this by Mr Chattaway);
 - 34.2 based on what had happened in previous years, the claimant expected to have a meeting to discuss the report he had prepared, in September 2017;
 - 34.3 the meeting didn't happen;
 - 34.4 the claimant mentioned this to Mr Pitt around September / October 2017. Mr Pitt recalls having mentioned it to Ms Cheshire at this time. Ms Cheshire has no such recollection;
 - 34.5 the claimant did not raise the matter again until he raised it directly with Ms Cheshire in or around May 2018. She told him she had been unaware of his concern.
35. The claimant put forward what happened as an example of Mr Pitt deliberately failing to pass on to the senior leadership team things that he feels ought to have been passed on.
36. I agree with what Ms Cheshire said in relation to this when she was being cross-examined, which is that if it was a matter of such concern to the claimant that he hadn't had a meeting, why did he say nothing to Ms Cheshire about it before May 2018? And in any event, given that he had been tasked with producing this report by Mr Chattaway, why didn't he have the relevant meeting with Mr Chattaway about it?
37. After the claimant raised his concerns with Mr Chattaway in February 2018, there is an unexplained gap of 3 to 4 weeks before, on 5 March 2018, the claimant sent a short email to Mr Pitt asking to meet to discuss some concerns he had regarding four points: "*Line management*"; "*Your attitude to other members of the CS Team*"; "*The representation of the CS issues at higher school levels*", and "*Communication*". The two of them then met. There is very limited evidence about precisely what they discussed. Neither of them kept and produced any notes of that meeting. There seems to have been some kind of resolution between them, though, in that the claimant didn't raise his concerns about Mr Pitt again until he escalated them on 24 May 2018 by emailing Ms Cheshire, something I shall come onto. The claimant has not explained why, if things were as bad as he has suggested in the course of this hearing, he did nothing about them between early March and late May 2018.
38. The lapse of time between 2018 and now, and the lack of specifics concerning most of the claimant's allegations of bullying against Mr Pitt, make it impossible for me to make firm findings about exactly what happened in every respect. Based on the evidence I do have, however, and on the fact that (as I shall explain) the claimant has a marked tendency to exaggerate the extent of what he labels bullying by the respondent, I am

not satisfied that there was significant bullying of him by Mr Pitt at any relevant time. Still less am I satisfied that – looking at matters objectively – any bullying by Mr Pitt had a significant impact on the relationship of trust and confidence between employer and employee at the time of the claimant's resignation.

39. The claimant did not at this hearing explain what the immediate cause was of him contacting Ms Cheshire on 24 May 2018, but it is fairly obvious it was a meeting that he had the day before with Mr Pitt. The trigger for that meeting on 23 May 2018 is less easy to discern. The claimant hasn't even mentioned the meeting in his witness statement. No meeting notes have been produced either by the claimant or Mr Pitt. In *his* witness statement, Mr Pitt suggested that the meeting was about missing laptops, the use of reader pens (see below) and teaching assistant support for a student referred to in this hearing as student "X". Under cross-examination, the claimant appeared to concede that those three things were discussed with him.
40. The issue concerning laptops was about a number of laptops that had been issued to the claimant's department. They were provided initially to the claimant, for him to distribute to others, and were registered on the respondent's electronic administrative systems as being taken out in the claimant's name. They had disappeared and the claimant was unable to account for their whereabouts. The claimant seems to have taken the attitude that it was nothing to do with him; and that it was anyway not important that relatively expensive pieces of computer equipment had gone missing. Certainly, that's how it came across when he was being cross-examined about it at this hearing.
41. A reader pen is a device to help students with particular special educational needs with their work, and with exams in particular. A number of reader pens, costing a total of £1,000, had been ordered at the claimant's request. They arrived with the respondent around 24 April 2018, and then sat in a box unused. The claimant knew they were there. The impression given by his evidence at this hearing was that he was not intending to do anything with them until the following academic year. Mr Pitt's expectation was, evidently and perhaps understandably, that having bought them at such expense, they would be used that summer term. Although it was too late for the them to be used by the year 11s in their exams in 2018, he thought they could start being used by relevant year 10s, so that by the time those year 10s were year 11s and were taking their formal exams, they would be comfortable with and proficient at using them.
42. The issue with X was more complicated. Both sides agree that X was a very difficult individual with complex needs. He had a history of exclusion from school and of violent outbursts. In December 2017, he had been briefly excluded from the respondent after an incident outside school where he had bashed the head of another student against a wall.
43. I am reasonably clear as to what the respondent thought the nature of the disagreement between them and the claimant relating to X was. I am, though, unclear about what the claimant's perspective is on this, apart from a broad denial of the respondent's case. The respondent's case is that the claimant thought X's problems were primarily behavioural rather than to do with his special educational needs. They say there was an ongoing issue connected with this going right back to September 2017, when X first started in the school, about the provision of teaching assistants ("TA"s) for X. By late

June 2018, the respondent, in the form of Mr Pitt and Ms Cheshire, wanted X to have a TA with him in every lesson. The claimant says he did not appreciate this until after he had been accused of misconduct for interfering with X having a TA in a particular lesson on 3 July 2018. That accusation, and the incident giving rise to it, is central to this claim.

44. Another thing that was happening shortly before the claimant emailed Ms Cheshire on 24 May 2018 to complain about Mr Pitt was that the respondent received a complaint from the parents of a student referred to as "Y". The handling of complaints from Y's parents is part of the alleged course of conduct the claimant relies on in support of his constructive dismissal claim.
45. In the course of his evidence before this Tribunal, he seemed all but to suggest that the complaints had been manufactured, or at least that the respondent had turned complaints that were not about him into ones that were. That is patently not the case. The claimant disagreed with the complaints and felt that they were not well founded. But the complainants' perspective was different and the respondent, when investigating the complaints, was not bound to take the claimant's side. The claimant had been identified by complainants as the individual with whom they had communicated Y's needs and the gist of the complaint was that those needs had not been fully provided for. Everyone agreed that there had been a particular problem with some of Y's GCSE exams. Y's parents blamed the claimant personally for at least part of this, and on any view he was, as Special Educational Needs Co-ordinator, the individual with overall responsibility for ensuring that Y's needs were met.
46. The complaints relating to Y may well have been praying on the claimant's mind when he had his meeting with Mr Pitt on 23 May 2018. One impression I have formed of the claimant is that he is not someone who takes criticism well, nor someone who readily accepts fault or blame if things go wrong. It appears, though, that those complaints were not discussed at that meeting.
47. Turning directly to the claimant's email to Ms Cheshire of 24 May 2018, it is an important part of his claim that that email was a formal grievance and should have been treated as such in accordance with the respondent's policies and procedures. I reject this part of the claimant's case. Within the email, the claimant does not use the word "*grievance*"; the email does not read like a grievance; the claimant does not ask Ms Cheshire to do the things that one would expect her to do if this were a grievance. Instead: the email has as its subject "*Confidential Ref: Line management*"; it begins, "*I am finding it increasingly frustrating to work with [Mr Pitt] as my line manager*"; it ends with "*Could I therefore request an alternative line manager? // Thanks for your time in considering this request.*"
48. I think that had the claimant wanted to raise a formal grievance that he expected to be investigated and dealt with in accordance with the respondent's grievance procedure he would have said so in terms. In any event, Ms Cheshire was entitled to take the view that it was not one and was entitled not to treat it as one. The notion that her failure to treat it as a formal grievance and to follow the respondent's grievance procedure was, objectively, the cause of any significant damage to the relationship of trust and confidence between the claimant and the respondent at the time he resigned is fanciful.
49. In his witness statement, the claimant refers to an "*unprecedented*" "*series of frequent interactions with [Ms] Cheshire and other members of the Senior Leadership Team*

during the month of June [2018]” and to “*being blamed for problems on a daily basis*” during that month. In his oral and written witness evidence, he made statements to the effect that during 2018, as time progressed, having previously been the victim of individual bullying by Mr Pitt, he became the victim of institutional bullying by the respondent. Those allegations and assertions are not objectively based. What in fact happened in June 2018 was that complaints from Y’s parents, which involved allegations directly against the claimant himself, had to be investigated. At the same time, the claimant’s own complaints against Mr Pitt were looked into. And, unsurprisingly, when Ms Cheshire spoke to Mr Pitt about the claimant’s complaints, Mr Pitt raised with her issues that he had with the claimant.

50. On the evidence before me, Mr Pitt’s concerns about the claimant are more clearly demonstrated than the claimant’s concerns about Mr Pitt; although it has to be said that the evidence on both sides in relation to this is of rather poor quality.
51. Ms Cheshire was therefore faced with two senior members of staff attacking each other and she had a difficult decision to make as to how best to sort that out. There was nothing unreasonable about her approach, which was to look into it informally and make a decision that one of the two – the claimant – was more to blame than the other. Naturally the claimant disagrees with what she decided, but Ms Cheshire had reasonable and proper cause for doing what she did. As she said when she was giving evidence (this was the gist), if she treated every complaint by a member of staff about another member of staff as a formal grievance, she would have a full time job dealing with grievances.
52. Ms Cheshire met with the claimant on the 4 June 2018 to discuss his 24 May email. Coincidentally, 4 June 2018 was also when Y’s parents escalated the concerns that they had raised on the 16 May 2018 into a formal complaint, according to them “*after another day of mismanagement of exams today*”.
53. What happened next was that that formal complaint was investigated. It was investigated by Mr Penn. One of the people Mr Penn spoke to during his investigation was, as one might expect, the claimant. I simply do not, though, know what the claimant is talking about when he alleges that June 2018 was a month in which he had unprecedented frequent interactions with the Senior Leadership Team involving him being blamed for problems on a daily basis. It is a hyperbolic allegation that damages his credibility.
54. Mr Penn interviewed the claimant as part of his investigation on 12 or 13 June 2018. Mr Penn produced his report on 17 June 2018. The outcome was not, so far as I can tell, shared with the claimant until the end of June 2018. At this stage the claimant was seemingly refusing to communicate with Mr Pitt other than by email, and he did not mention in his evidence any particular interaction with Mr Pitt in June 2018 which allegedly constituted bullying.
55. There are some email chains in the bundle dating from June 2018, but nothing there to my mind is of any great significance in terms of the claimant’s allegations against the respondent. There is a series of emails between the claimant and Ms Cheshire of 19 June 2018 about Special Educational Needs provision, in particular concerning the number of TAs. On my reading of it, Ms Cheshire was trying to explain to the claimant that the respondent simply could not afford to have the number of staff in the claimant’s department that the claimant wanted. The claimant appeared not to be listening to her.

The claimant asks the Tribunal to read into her last email of that day, timed at being sent at 17:36 hrs, some kind of threat towards him. Suffice it to say that I read it differently.

56. Whatever the claimant has come to believe, the significant events leading to his resignation seem to me to be confined to a couple of weeks or so, from around 29 June 2018 onwards. By “significant”, what I mean is the events which, in practice, were he going to succeed in his claim, would cumulatively have to amount to a breach of the trust and confidence term.
57. There had evidently been an ongoing issue concerning provision of TAs for X – see paragraph 43 above. There is not a great deal of documentation relating to it, but what there is, taken together with some undisputed facts, are consistent only with the ‘student X issue’ having been in play for some time before the end of June / start of July 2018 and the incident on 3 July 2018 that led to the claimant being subjected to disciplinary proceedings. There is a hint of it in an email from Mr Pitt to the claimant on 13 June 2018 which begins, “*I have read your email re cover for [X] this morning. Does this mean he will not have a TA with him? Given that he is very unsettled as a result of recent contact with mum and that grandparents kept him at home for a period, can we make sure he is supported?*” Mr Pitt was, then, clearly concerned that X should have a TA with him the whole time in mid June 2018 even if not before.
58. On 28 June 2018, Ms Cheshire emailed the claimant (copying in, amongst others, Mr Pitt) new timetables covering all of X’s and Z’s lessons which showed X having a TA in every single relevant lesson. Her email begins, “*Please find attached the revised timetables for your department. Please ensure your staff are aware as it will start tomorrow.*” Ms Cheshire also took a step which everyone agrees was unprecedented, namely personally to take copies of the timetables up to the office in which the claimant and his team were based and hand them to the TAs who would be responsible for assisting in relation to X and Z in accordance with the revised timetables.
59. The claimant was there when Ms Cheshire did this. I asked him about it and he suggested he had no idea why Ms Cheshire had acted as she had, adding something to the effect that it did not even occur to him that she might have done so because of a concern that X should have a TA with him at all times. I simply don’t believe him. I am quite sure he knew what Ms Cheshire wanted. However, he clearly disagreed with her. I think he thought that because she had not in terms, either in the email or when she came up to the office, said to him and to the TAs that X must have a TA with him at all times in every lesson, he felt that he didn’t have ensure this was the case, even though he well knew that was what Ms Cheshire meant and wanted. I am, however, equally sure that he did not realise quite how strongly Ms Cheshire felt about it and that had he done so he would not have acted as he did on 3 July 2018.
60. On 29 June 2018, the claimant met with Ms Cheshire. They discussed his relationship with Mr Pitt and his complaint against Mr Pitt as well as the complaint from Y’s parents. Once again, there is nothing approaching proper notes or minutes of the meeting.
61. There are two particular matters allegedly raised during the meeting that have some potential importance to later events.
62. The first is a conversation between the claimant and Ms Cheshire as to how many student shows the claimant attended. The claimant’s recollection is that he said he did

not attend shows that took place outside of normal school hours. What Ms Cheshire clearly took away from this conversation was that the claimant had attended no shows at all, during or outside of normal school hours. I think the most likely explanation for this difference of recollection is that the claimant said something which was a little ambiguous and Ms Cheshire got the wrong end of the stick. I can quite see why she was surprised and disappointed that someone in the claimant's position would not see any student shows at all, given the respondent's specialism in performing arts.

63. What the claimant evidently took away from the conversation was that Ms Cheshire was disappointed that he didn't attend shows outside of normal school hours, something he didn't do because it was difficult to accommodate both that and his personal family commitments. Even on the claimant's case, taken at its reasonable highest, though, Ms Cheshire did not say anything to him to the effect that he was obliged to attend shows outside of his contracted hours or anything of that kind. A suggestion the claimant is making that she was breaking or was intending to break his contract by requiring him to attend shows outside his contracted hours is completely overblown.
64. The other thing of potential importance allegedly discussed at this meeting³ is what the claimant's preferred outcome was from his email complaining about Mr Pitt of 24 May 2018. As already mentioned, the email itself asks just for a change of line manager. When questioned about it at this hearing, however, he suggested, for the first time at any stage of these proceedings (to my knowledge), he had said something to the effect that he also wanted Mr Pitt disciplined and punished for his alleged bullying. I think the claimant is mistaken about this. I think that if he had said that to Ms Cheshire in term, given that she did not do that and given that a large part of his claim is a complaint about what Ms Cheshire did or did not do in response to his complaint, I am quite sure he would have mentioned it during the three-and-a-bit years between June 2018 and this Tribunal hearing. I think his email of 24 May 2018 says it all: he was unhappy with his line management and what he wanted, no more and no less, was for it to be changed.
65. The last thing I note about the meeting of 29 June 2018 between the claimant and Ms Cheshire is that, apart from the suggestion that Ms Cheshire was immensely angered by the claimant not attending shows (another exaggeration, I think), the claimant does not seem to be suggesting that anything particularly untoward happened during that meeting.
66. On 2 July 2018 Ms Cheshire wrote to the claimant informing him that he had a meeting on Friday, 6 July 2018 with a new Principal of the respondent – a Mr Reilly – and that Mr Reilly would be his line manager from the start of the new school year, i.e. that the claimant would get what he wanted, namely a new line manager. The letter also stated that Ms Cheshire had asked Mr Penn “*to investigate both matters*” i.e. to investigate both the claimant's complaint regarding Mr Pitt and the formal complaint made by Y's parents. The letter ended: “*I will try to conclude this matter next week but certainly before the end of term.*”
67. The claimant's case, as advanced during this hearing, is that when Ms Cheshire wrote this, she was plotting to 'get rid' of him and had already decided that she would do so

³ Possibly it was discussed at the meeting on 4 June 2018 instead; the evidence is less than clear.

by witnessing X being in a lesson without a TA, following which she would charge the claimant with gross misconduct and ultimately ensure he was dismissed. The claimant has also referred to the investigation into Y's parents' complaint and its outcome as some kind of failed attempt to have him dismissed or persuade him to resign. Neither of those allegations is plausible.

68. So far as concerns Y, there was a parental complaint. It did concern the claimant personally. There was a conflict of evidence between the claimant and Y's father as to what they had and had not spoken about. It was investigated by Mr Penn. Mr Penn had already produced a report on it by the middle of June 2018. The report, dated 17 June 2018, shows who was spoken to and roughly what they had said. Mr Penn's conclusions seem to me to be entirely unremarkable and to fit with the evidence that was before him. The report does have some criticisms of the claimant, but it is hardly damning. I cannot fathom what the claimant means by the respondent's handling of the complaint being a 'dress rehearsal' for the ultimate attempt to get rid of him – the latter being, according to the claimant, what happened in relation to X and the incident on 3 July 2018 and following that incident.
69. There is dispute and confusion over some of the details of what happened on 3 July 2018, but not as to the essentials: a TA was due to support X in a particular lesson – citizenship; the claimant decided this was unnecessary and instructed the TA not to be present during that lesson; Ms Cheshire looked in on the lesson and discovered that this had occurred. There was an email exchange between the claimant and Ms Cheshire later that day. Ms Cheshire accused the claimant of insubordination and said she intended to commence disciplinary proceedings if she was dissatisfied with the claimant's explanation.
70. The reasons why the allegation, referred to in paragraph 67 above – that Ms Cheshire had somehow planned catching the claimant out on 3 July 2018, with a view to forcing him out of employment using trumped up misconduct charge – makes no sense include: how would she know before 3 July 2018 that the claimant would instruct the TA not to accompany X to the citizenship lesson, something that, on the claimant's own case, he did spontaneously, in response to conversations on the day with the TA and the teacher taking that lesson?
71. The next relevant thing that happened was that on 4 July 2018, Ms Cheshire provided the claimant with a letter setting out her "*response to your complaint against Mr Pitt and Mr and Mrs [Y]'s complaint against yourself.*" I refer to it. It is a rather odd and unfortunate letter, both in timing and content.
72. The timing problem is that: it ends by recording an agreement to making "*a fresh start*" and with the statement that, "*The two complaints are now closed and actions identified above.*"; later on 4 July 2018, the claimant was suspended to allow for investigation into allegations of gross misconduct of "*insubordination/Refusal to obey orders*" and "*Negligence in matters relating to Health and Safety*" in relation to what happened with X and the TA on 3 July 2018. Ms Cheshire's explanation for this in her oral evidence was, broadly: that she was acting on advice; that she had wanted to 'put to bed'⁴ the two complaints, which is what her letter of 4 July 2018 was intended to do; but that she felt she could not ignore what she genuinely viewed as insubordination and so, having

⁴ My expression, not hers.

drawn a line under the complaints, she moved on to the 3 July 2018 incident as the next thing to be dealt with, conscious of the time pressure created by her reasonable desire to have things sorted out before the end of term.

73. I can quite understand how Ms Cheshire came to send, in the same day, a letter talking about a fresh start and a letter suspending the claimant on allegations of gross misconduct. There was an unavoidable difficulty caused by the fact of the claimant's conduct on 3 July 2018 coinciding with a decision having been made as to the outcome of the complaints about Mr Pitt and (from Y's parents) about the claimant. However, even without the benefit of hindsight, it ought to have occurred to Ms Cheshire that once the claimant was suspended in the afternoon of 4 July 2018, the letter she sent him that morning with that outcome would appear disingenuous.
74. I think the real problem was not the timing of the letter, but the apparent desire in the morning of 4 July 2018 to ignore and not to acknowledge the fact that the claimant was about to be charged with a serious disciplinary offence. A better approach would have been something like: adding a covering note or postscript to the letter, to the effect that the letter was drafted before the incident on 3 July 2018 and that although that incident did not affect the outcome of the two complaints (as set out in the letter), the incident was viewed as a serious one that the respondent would be dealing with separately later that day.
75. The other problem with the contents of the letter is that it attempts to deal with two separate issues and ends up dealing with neither of them properly and reading like something of an attack on the claimant. Although the complaint the claimant made about Mr Pitt was not a formal grievance, the respondent chose to treat it as something akin to an informal one, to investigate it to some extent and to give an "outcome". The claimant would, reasonably, not have expected the outcome to be, as it was, to the following effect: I do not uphold your grievance because you yourself are guilty of various acts of misconduct. As the outcome letter of a complaint or informal grievance, it is unorthodox, to say the least.
76. In the other half of the letter, Ms Cheshire's news about the outcome of Y's parents' complaint is given in four sentences, with no explanation as to why particular complaints against the claimant were upheld. This was then followed by Ms Cheshire suggesting she had grounds for taking capability or disciplinary action, albeit she was not going to take any.
77. In summary, the letter of 4 July 2018 was ill-thought-out and reads as if it was rushed, and was carelessly written in a way that would have annoyed and upset the claimant to no particular purpose.
78. What happened next was, as just mentioned, the claimant's suspension and then an investigation into the 3 July 2018, conducted by Mr Penn. On or about 5 July 2018, Mr Penn produced what has been called a "report" but which was in fact little more than a summary of interviews with some of the people involved. Bizarrely, there was no formal interview with the claimant or with Ms Cheshire. Had the claimant been dismissed on the basis of this perfunctory investigation and 'report', the dismissal would almost certainly have been unfair.
79. The final relevant events were the invitations of 8 and 9 July 2018 to a disciplinary hearing (originally to have been on 12 July 2018 and then put back by a week at the

Mr Pearce's request and any part of any discussions between him and Ms Cheshire about the claimant not attending student shows that was admissible in evidence.

80. The individual who was going to conduct the disciplinary hearing was a Mr P Thickett, one of the respondent's trustees. As the claimant was aware, he was or had been an academic at Birmingham City University. The claimant has sought to paint him as in some way beholden to Ms Cheshire and therefore willing to do her bidding; but there is no objective basis in the evidence for that allegation. Moreover, as the claimant was also aware, had Mr Thickett made a decision adverse to the claimant, the claimant's appeal would have been to the Chair of the Board of Directors of the respondent, someone else whose independence and integrity the claimant had no good reason to doubt.
81. So far as concerns what was or may have been said about the claimant's non-attendance at shows by Ms Cheshire to Mr Pearce, the claimant's evidence about this was so vague as to render me unable to come to any conclusions at all. Even if that evidence were admissible – and as it was plainly evidence about part of discussions held, before the termination of employment, with a view to it being terminated on terms agreed between the claimant and the respondent, it isn't admissible – I am not satisfied that anything in particular was said, let alone something untoward or otherwise capable of constituting a 'last straw' as a matter of law.
82. The claimant's letter of resignation of 18 July 2018, addressed to Ms Cheshire, gave no indication as to his reasons for resigning, other than by reference to matters that are inadmissible in accordance with section 111A.

Decision on the issues

83. I have previously explained that nothing that happened before the last couple of days of June 2018 breached the trust and confidence term to any significant extent. I have also just decided that the thing relied on by the claimant as the last straw is not one as a matter of law – or, rather, would not be one were evidence about it to be admissible. That leaves the following things as potential ingredients of a breach of trust and confidence:
 - 83.1 the discussions at the meeting between the claimant and Ms Cheshire on 29 June 2018;
 - 83.2 events of 3 July 2018;
 - 83.3 the letter provided to the claimant on the morning of 4 July 2018;
 - 83.4 making gross misconduct allegations against the claimant and suspending him on the basis of them on the afternoon of 4 July 2018;
 - 83.5 summoning the claimant to a disciplinary hearing to face charges of gross misconduct, and doing so on the back of an inadequate investigation.
84. Not even the claimant himself seems to be alleging that the meeting on 29 June 2018 was particularly significant so far as concerns the relationship of trust and confidence or his decision to resign. The main points that he makes about it in his witness statement (in paragraphs 14 to 18) relate to his allegations about historic matters, that I have addressed and dismissed above, and the issue of attendance at shows, in

relation to which I think he is making a mountain out of a molehill (see paragraphs 62, 63 and 65 above).

85. So far as concerns events of 3 July 2018 itself, the claimant's perception that he was set up by Ms Cheshire has no objective basis. The claimant may have persuaded himself that he did nothing wrong, but I think he knew in his heart of hearts what Ms Cheshire's expectations were and he chose to do something different because he disagreed with her – see paragraphs 58, 59, 69, and 70 above. In the circumstances, although it is not the case that the claimant was definitely guilty of gross misconduct for which dismissal was justified, there was reasonable and proper cause for Ms Cheshire to accuse him of insubordination and to threaten him with disciplinary proceedings, as she did in her emails on the day.
86. The letter sent dealing with the claimant's and Y's parents' complaint of 4 July 2018 was not well drafted – see paragraphs 71 to 77 above – but:
 - 86.1 whether the letter's conclusions about Mr Pitt and about the parental complaint were right or wrong – and I am not in a good position to decide this either way – on the limited evidence before me there was a valid basis for them (see in particular paragraphs 38, 45, 50 and 68 above);
 - 86.2 the outcome of the letter was positive, in that nothing against the claimant was being taken any further and Ms Cheshire was giving him what he wanted, namely a new line manager.
87. The main problem was not the letter itself but that it was sent on the same day that the claimant was suspended and a disciplinary process started – see paragraph 73 above. This was to my mind the single thing that, objectively, did most to damage the relationship of trust and confidence. However:
 - 87.1 there was reasonable and proper cause for beginning a disciplinary process against the claimant. He was guilty of wilfully or recklessly ignoring Ms Cheshire's instructions;
 - 87.2 I repeat what has just been stated about the substance of the letter;
 - 87.3 although I think the respondent could and should have anticipated and taken action to limit the claimant's feeling that the respondent was being disingenuous by writing about fresh starts in the morning only to hit him with an allegation of gross misconduct in the afternoon, there was no way of Ms Cheshire achieving what she legitimately wanted to achieve, namely closing off the student Y issue and the claimant's complaint against Mr Pitt and beginning a disciplinary process in time for it to conclude before the end of term, without the claimant seeing the respondent as somewhat two-faced;
 - 87.4 this was an error in the wording of the letter, rather than a substantial mistake as to what the respondent did.
88. As set out in paragraph 85 above, there was nothing wrong or unreasonable about starting a disciplinary process against the claimant. He had been insubordinate. The respondent's concerns about X and the risk to health and safety he posed were real and understandable, given his history. Suspending the claimant was probably not strictly necessary and appears to have been done for no better reason than that doing

so was usual when someone was accused of gross misconduct, but it was not and never threatened to be a long suspension, the suspension letter was a standard and unobjectionable example of its kind and was relatively anodyne, and I can see real practical difficulties in terms of working relationships and interactions with colleagues, a number of whom had been involved in the events of and leading up to 3 July 2018, had the claimant remained in work while the allegations of gross misconduct were outstanding.

89. Because the thing relied on as the last straw is not one, the only thing that could be one in practice becomes inviting the claimant to attend a disciplinary hearing following an inadequate investigation. This is, it seems to me, capable of being a last straw as a matter of law (in accordance with Omilaju v Waltham Forest London Borough Council [2005] EWCA Civ 1493 and Kaur v Leeds Teaching Hospitals NHS Trust [2018] EWCA Civ 978). Although there was, as previously explained, reasonable and proper cause for accusing the claimant of insubordination and taking insufficient care for health and safety in connection with what happened on 3 July 2018, the same could obviously not be said about convening a disciplinary hearing without first carrying out an adequate investigation. However, it was far from being sufficient to amount to a breach of the trust and confidence term wholly or mainly by itself:
- 89.1 the claimant was guilty as charged, albeit there may well have been sufficient mitigation to make what he did something less serious than gross misconduct;
 - 89.2 there was time for the respondent to rectify the inadequacies in its investigation before making a decision on the disciplinary charges facing the claimant. In particular, Mr Thickett could and almost certainly would have asked the claimant to give his own detailed account of events at the disciplinary hearing scheduled for 19 July 2018;
 - 89.3 there was no good reason for the claimant to assume – as he seems to have done – that Mr Thickett would act unfairly and would not, for example, have ensured that any points the claimant raised at the disciplinary hearing were properly investigated before he came to a decision;
 - 89.4 similarly, there was no good reason for the claimant to assume that he would necessarily or even probably have been dismissed for gross misconduct by Mr Thickett, nor for him to assume that if he was dismissed, he would not be offered a full, fair and independent appeal.
90. The question for me therefore becomes: on an objective assessment, was the relationship of trust and confidence sufficiently badly damaged before the claimant was invited to a disciplinary hearing (following the investigation, such as it was) for that invitation to make it seriously damaged?
91. Briefly: no it wasn't. I reach that conclusion taking into account everything the claimant has mentioned, but in particular the three things identified by the claimant at the preliminary hearing for case management on 12 June 2019 as the ingredients of the alleged breach of the trust and confidence term: his suspension; bullying and harassment by Mr Pitt and "*the failure to properly and fully investigate that*"⁵; the subject matter of his (subsequently withdrawn) age discrimination complaint, namely the

⁵ Quotation taken from the written record of that preliminary hearing.

allegation that there was an expectation that he would attend student shows outside normal working hours and a tacit threat that he would be, or was being, punished for his inability to do so.

92. I have gone through the claimant's relevant and potentially relevant allegations in detail. Some are not made out as a matter of fact. Some, to the extent proved in fact, would not have affected trust and confidence at all, or have caused negligible damage to it, even at the time of the events the claimant is making allegations about. There was reasonable and proper cause for much of what happened. At best for the claimant, taken together they amount to something that would, by early July 2018, have damaged trust and confidence to some extent, but it was a very long way from being seriously damaged or destroyed. Adopting the last straw metaphor, the load already on the camel's back was insufficiently weighty for the only potential last straw that could realistically be put forward to break it.
93. Accordingly, the claimant was not dismissed and his claim, which is purely for unfair dismissal, therefore cannot succeed.

Employment Judge Camp

On 10 January 2022

APPENDIX*CAST LIST*

Gaynor CheshireExecutive Principal and CEO of BOA
 John Reilly.....Principal (starting September 2018)
 Michael Penn.....Vice Principal
 Michael Painter.....Assistant Principal
 Alastair Chattaway.....Vice Principal (until July 2018)
 Derek Pitt.....Assistant Principal, Pastoral, C's line manager
 Samantha Care.....Teaching Assistant - permanent
 Siobhan Darcy.....Teaching Assistant - permanent
 Sarah Alcock.....Teaching Assistant - temporary one year contract
 Robert Paterson.....Citizenship teacher of Student X
 Student X.....Y10 student
 Student Z.....Y10 student
 Student Y.....Y11 student
 Tony Pearce.....Claimant's NEU representative

AGREED CHRONOLOGY

1/10/12	C starts work at R in the role of Director of Curriculum Support (SENCO)	
Sep 17	Derek Pitt, Assistant Principal, Pastoral, takes over line managing C from Alastair Chattaway, Vice Principal.	
12/02/18	C emails AC, with concerns about DP AC responds	78-79 79a
5/03/18	C emails DP with concerns about his line management	74
16/05/18	Parents of Student Y make a complaint about examination provision to MPa.	93, 96-97
18/05/18	MPa responds to parents of Student Y	95
23/05/18	DP meets with C to discuss a range of issues.	
24/05/18	C raises his concerns about DP with Gaynor Cheshire, Executive Principal.	76-78

4/06/18	C meets with GC to discuss his concerns about DP and a range of other issues. Formal parental complaint is made by parents of Student Y.	101
5/06/18	GC emails C about a parental complaint that involves him (Student Y) and asks him to attend a discussion about it. They meet briefly after school.	104
7/06/18	GC appoints MPe to investigate the parental complaint.	106-108
13/06/18	C meets with MPe as part for the formal investigation into the parental complaint Student Y	
17/06/18	MPe completes and sends Parental Complaint investigation (Student Y) report to GC	115-126
28/06/18	Formal response sent to Parents of Y. Complaint partially upheld.	131-133
29/06/18	C attends a meeting with GC to discuss his grievance and the parental complaint.	133a-133c
2/07/18	GC writes to C commenting on their meeting and other related issues.	80
3/07/18	C is approached by Samantha Care, Teaching Assistant about Student X. Student X does not want a TA with him in a Citizenship lesson. After discussing the matter with the class teacher (Robert Paterson) Samantha Care does not attend the lesson as X's TA but is on standby. GC is concerned at this departure from X's agreed timetable, and asks for an explanation from C C responds. GC responds stating that the explanation is inadequate, and informs C that she will be starting disciplinary proceedings.	140 141-142 143
4/07/18	C is given the outcome of his grievance complaint about Derek Pitt and the outcome of the Parental complaint from Student Y's parents. C is later asked to attend a meeting with GC at 17:00. C is suspended to investigate a matter of gross misconduct. GC asks MPe to investigate the allegations of gross misconduct against C.	81-82 144-145
5/07/18	MPe concludes his investigation into the allegations against C	146-148
8/07/18	C is sent an email asking him to attend a hearing on 12/07/18, and also a letter (9/07/18)	149 151

10/07/18	Tony Pearce, NEU Representative contacts School and asks for postponement of disciplinary hearing.	42-43
11/07/18	Requested postponement is granted	48
18/07/19	TP sends a signed copy of the Claimant's resignation.	52-54
19/07/19	GC writes to accept C's resignation	54a
31/10/18	C's contract terminates	
14/11/18	C contacts ACAS regarding a potential claim	1
14/12/18	ACAS issues the EC certificate	1
28/01/19	ET1 is filed	2