



EMPLOYMENT APPEAL TRIBUNAL

Appeal No EA-2024-001359-AT

EA-2024-001359-AT

BEFORE

**ANDREW BURNS KC
DEPUTY JUDGE OF THE HIGH COURT
SITTING ALONE**

IN THE MATTER of an Appeal under Section 21(1) of the Employment Tribunals Act 1996 from the decision of an Employment Tribunal sitting at London South Employment Tribunal and sent to the parties on 6 September 2024

BETWEEN:

Mr P Mundy-Castle

Appellant

- and -

Woodcote High School

Respondent

ORDER AMENDED on 23 June 2026 pursuant to Rule 33 of the Employment Appeal Tribunal Rules 1993 (as amended)

UPON HEARING Mr Lawrence Davies, Solicitor, on behalf of the Appellant

AND UPON the Appellant's application pursuant to Rule 3(10) of the Employment Appeal Tribunal Rules 1993 (as amended)

IT IS ORDERED that the application is dismissed

IT IS DIRECTED that no further action be taken on the appeal and the said appeal is thereby dismissed for the amended short-form written reasons attached

IT IS FURTHER DIRECTED that any application for permission to appeal should be made direct to the Court of Appeal within 7 days of the seal date of this Order

D A T E D 04 June 2026

TO: Equal Justice Solicitors, for the Appellant

Gunnercooke LLP, for the Respondent

The Secretary, Central Office of Employment Tribunals, England &
Wales

(Case No. 2305702/2021 & 2301425/2022)

Rule 3(10) application

Short-form Written Reasons

Appellant	Mr P Mundy-Castle
Respondent	Woodcote High School
EAT Reference	EA-2024-001359-AT
Date of Hearing	4 June 2026
Judge	Andrew Burns KC, Deputy Judge of the High Court
Reasons: 1. The ET held that the Claimant's claims of direct race discrimination, harassment, victimisation, whistleblowing detriment and unfair dismissal (both automatic and ordinary) were not well-founded and were dismissed. 2. The hearing took 8 days plus 2 days in chambers and involved numerous witnesses and a bundle of over 3500 pages. Essentially in a very thorough and detailed 91 page judgment (running to 459 paragraphs together with an attached 8 page list of issues) the ET accepted the Respondent's evidence and its approach to the facts and issues and rejected the Claimant's evidence where it was disputed and rejected his allegations as unsupported on the facts. 3. The claimant appealed in a notice of appeal received on 18 October 2024. The appeal was referred to John Bowers KC, Deputy Judge of the High Court, in accordance with Rule 3(7) of the Employment Appeal Tribunal Rules 1993 and in his opinion the Notice of Appeal disclosed no reasonable grounds for bringing the appeal. The r.3.10 application on behalf of the Claimant by Mr Davies, Director of Equal Justice Solicitors who appears today did not address those points directly as required to do by the EAT PD. The submissions in Claimant's skeleton argument also fail to engage with them. Orally today he said that he challenges points 1,3, 5, 7, 9 and 10 but accepts points 2, 4, 6 and 8 of Judge Bower's reasons. 4. Having reviewed the grounds of appeal afresh I find that I agree that the appeal is not reasonably arguable for substantially the same reasons as articulated by DHCJ Bowers KC. 5. The ET's findings can only be overturned on the usual high threshold where there is 'an overwhelming case' is made out that the ET reached a decision which no reasonable tribunal, on a proper appreciation of the evidence and the law, would have reached (<i>Yeboah v Crofton</i> [2002] IRLR 634).	

6. The Claimant was dismissed on 2 August 2021. The ET found that the Claimant commenced employment under his contract on 1 September 2019. The Tribunal accepted that incoming Heads did preparatory work before they started employment and he did that work under a confidentiality agreement and not an employment contract. He subsequently asked for and was paid for this work at 60% of his employment salary through the payroll, but the ET made findings against him at paras 449 -450 which deals with Ground 3.
7. The Claimant relies on *Koenig* para 21. The ET determined all these issues and expressly considered all this points. It clearly explained why the Claimant lost. The reasons are clearly *Meek* compliant and adequately reasoned.
8. The ET's conclusion that there was no mutuality of obligation is not arguably perverse. The ET took into account all the relevant factors – that his former employment ceased on 31 July 2019, that the Claimant worked (under the NDA) during in August 2019. PAYE is not determinative of employment status – neither is the Claimant's suggestion of being paid through a business. It was relevant to consider that the school was not permitted to employ two Headteachers and that pay was only agreed after the event. The ET's judgment does not meet the high threshold of perversity.
9. The ET's decision that the Claimant was dismissed because he committed "gross misconduct" is not perverse. It is thoroughly reasoned and fully explained and this ground of appeal is a naked attempt to reopen the facts.
10. While the ET does not deal with procedural unfairness under a separate heading, it does make proper findings at para 446, para 435, para 436 and para 437.
11. The ET's decision that it was fair to proceed in the claimant's absence was not perverse in light of the medical evidence and the review in paras 385 to 390.
12. The ET were entitled to find that the Claimant was pursuing a strategy of minimal involvement with the disciplinary process. It was not perverse in those circumstances to reject the arguments that his dismissal was procedurally unfair.
13. The ET did take into account that "Mr Taylor also had regard to the fact that to date had been postponed, that the school summer holidays were approaching and was aware that the claimant was shortly to acquire two years' service." The ET took this into account and decided that the process was fair in all the circumstances.

14. The Tribunal found that the Respondent genuinely and reasonably believed that the Claimant committed gross misconduct and the Claimant is not entitled on appeal to challenge the findings of fact that he committed serious financial mismanagement knowing full well the limits of his financial authority and expressing frustration at the decision not to increase them. As the ET properly found, all the leases committed the Respondent to payments in excess of the threshold and needed governor and external approval and that was a clear breach by the Claimant. The Claimant is not entitled to reopen that finding on appeal. The fact that the leases were retrospectively approved by the Board or that the Respondent had to check whether they needed external approval, does not exculpate the Claimant from his gross misconduct in entering into them improperly.
15. The ET at para 276 found some of the evidence was strongly suggestive of the claimant misleading the respondent during the course of his employment. An example of this was his telling the FGB that he had committed the school to £25,000 of expenditure in respect of the WiFi, when two weeks previously he had committed the school to £38,000 expenditure.” The ET said ‘We found the claimant’s evidence unsatisfactory’.
16. The Tribunal accepted the Claimant made various protected disclosures and protected acts but it is not arguable that its findings of fact that these were not causative are perverse. The Claimant seeks to reargue the claim which is impermissible on appeal.
17. It was not perverse for the ET to fail to reverse the burden of proof on the Equality Act 2010 claims, but in any event, the ET was in a position to make and did make positive findings on the evidence, one way or the other and made clear findings in para 443 that “even if the burden were to shift, we are satisfied on the evidence that the reason why the respondent dismissed the claimant was that it genuinely believed he was guilty of gross misconduct. It has provided a non-discriminatory explanation for the treatment.”
18. This also deals with Ground 2 – there is no arguable perversity in the ET’s approach to comparators. The ET found at para 359 “that Mr Savla would have acted in exactly the same way if the same material circumstances arose with a hypothetical head teacher who was not the same race as the claimant. It was the circumstances that drove his actions not the claimant’s race” and at para 390 used the hypothetical comparator when assessing the victimisation claim. The ET also used comparators in para 372, 379 and 442.
19. Ground 4 – no gross misconduct is not arguable for the same reasons. Ground 5 is not pursued and not arguable.
20. Ground 6 is unarguable.

21. The appeal has no reasonable prospects of success and the Claimant's application is dismissed and no further action will be taken on the appeal.