

JERSEY / JUDGMENT

Michelle Bruce v Chapter One (Jersey) Limited

COURT
IN THE JERSEY EMPLOYMENT AND
DISCRIMINATION TRIBUNAL

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IN THE JERSEY EMPLOYMENT AND DISCRIMINATION TRIBUNAL

IN THE MATTER OF: MICHELLE BRUCE
 CLAIMANT
 AND
 CHAPTER ONE (JERSEY) LIMITED
 RESPONDENT
 TRIBUNAL JUDGMENT
 Reference: [2025]
 TRE 81
 Before: Advocate C. E. Whelan, Deputy Chairman

Hearing Date: 20
 and 21 January 2026

Appearance: For the Claimant: Mr
 Aidan De Ste Croix
 For the Respondent: Advocate
 Huw Thomas

JUDGMENT

The claims for unfair dismissal and unlawful dismissal (notice pay) both fail.

REASONS

Introduction

1. The claimant (“Miss Bruce”) brings claims for unfair dismissal and notice pay. She satisfies length of service and time limit requirements where applicable. 2. The respondent (“the company”) provides professional training by way of business. It defends both claims. 3. Miss Bruce served as the company’s Head of Customer Services from January 2020 until April

2025, when she was summarily dismissed. 4. In support of her claim for unfair dismissal Miss Bruce says that: · She was not guilty of any misconduct; she was manipulated out of the business further to a decision which one or more seniors within the company had already taken to get rid of her. · The company withheld, fabricated, or misrepresented evidence. · The company was responsible for procedural failures during the process leading to her dismissal. 5. Her claim for notice pay arises at common law as a consequence of the company's alleged breach of her contract of employment. 6. In overview, the company's case is that Miss Bruce: · Was bound both by a contractual duty of confidentiality and an implied duty of fidelity both of which she breached. · Was guilty of serious insubordination. · Was dishonest in her response to the company's investigation of her conduct. 7. Moreover, the company subsequently discovered that Miss Bruce had covertly recorded meetings which took place as part of the investigative/disciplinary process, thus placing herself in breach of an express company directive forbidding such recording, of which she had been reminded immediately preceding her covert recording activity. Narrative

8. Those are some of the principal landmarks which emerge from the following narrative.
9. The company entered commercial discussions with a lady called Miss M in late 2024. She was based in the Isle of Man, and the company was investigating the possibility of extending its business into that jurisdiction. The company assigned Miss Bruce to support Miss M during this exploratory phase. When negotiations collapsed, Miss Bruce was expressly instructed on 21 January 2025 to finish work in progress, but thereafter to cease all work for Miss M and not to provide any further information without director approval.
10. Despite this, the company put forward expert forensic evidence, from a specialist business based outside Jersey, showing that by every appearance on 25 January 2025 Miss Bruce accessed restricted areas of the company's systems while she was on an encrypted call with Miss M and while Miss M was online. When questioned during the investigation into her actions, Miss Bruce admitted sending a screenshot to Miss M but claimed that it was in the public domain, so did not breach her duty of confidentiality. She did not disclose the full extent of the actions which the expert forensics revealed to have been taken on that occasion, and which had the strongest tendency to show that it was her who had taken them. This evidence was taken from her laptop computer.
11. The company put forward further evidence from the independent outside firm with the same strong tendency to show that on 16 February 2025 Miss Bruce accessed Miss M's booking platform using Miss M's personal login. The company says that this again provides evidence that Miss Bruce was assisting a competitor in breach of the company's instructions, and in breach of her duty of fidelity.
12. The company suspended Miss Bruce on 17 February 2025 and brought in independent operatives, namely an independent HR adviser ('Ms. Bizouarn') and the digital forensic experts already mentioned. An investigation meeting took place on 21 February 2025, during which Miss Bruce's explanation conflicted with evidence derived, as described, from the

forensic examination of the company's systems. A disciplinary hearing was held in March 2025 and although she presented a prepared statement Miss Bruce declined to answer questions. She says that she did not trust the company to produce fair and accurate minutes.

13. Miss Bruce was summarily dismissed on 3 April 2025 on three counts of gross misconduct, namely the sharing of confidential information, serious insubordination, and dishonesty during the process which led to her dismissal. An independent appeal upheld the decision.
14. Ms. Bizouarn was the independent HR specialist commissioned to lead the investigative/disciplinary stages. Another independent HR specialist, Ms. Le Barz, was commissioned to conduct the appeal.
15. It later emerged that Miss Bruce had covertly recorded a disciplinary meeting despite a specific prohibition in the staff handbook and an explicit reminder on the occasion in question. The company says that had this been known at the time this action alone would have justified summary dismissal. Confidentiality
16. I have examined first the assertion that Miss Bruce had strict confidentiality obligations and was prohibited from working for third parties without permission; and that in breach of those obligations, she accessed the employer's confidential information and used it to assist Miss M as described in the earlier narrative.
17. The company characterises this action as breach of the obligation of confidentiality set out in the contractually binding company handbook, as breach of the implied term of an obligation of fidelity, and as serious insubordination.
18. I have noted that in response, Miss Bruce has said that: i) all she sent to Miss M were website screenshots; they were public website pages so that she cannot properly be accused of sharing confidential data or intellectual property. ii) she did so on the instruction of Ms. Dimond, her line manager so that no question of insubordination arises on that count. iii) such assistance as she gave Miss M could not properly be described as "work", and it was neither harmful nor prohibited.
19. To provide context to her assertion of fabricated charges, Miss Bruce gives evidence of internal conflict between principals of the company, secret negotiations with Miss M conducted by Miss Bruce's line manager, Natalie Dimond, inconsistencies between the way she was treated and the way other staff members were treated in cases of default on unrelated occasions, and the low-level of wages and resource given to her in comparison with others in the company.
20. She points also to the fact that her replacement had already been hired in November 2024, and therefore at a time before her own supposed defaults had arisen.
21. In response, the company points to the continuing nexus between Miss Bruce and Miss M since the departure of Miss Bruce from the company.

22. In particular, the company points to the fact that Miss M's Isle of Man company has been working in Jersey in collaboration with the local company where Miss Bruce now works as Client Services Manager. The company speaks of the damaging effects which that has had on its business.
23. Additionally, the company provides evidence that following an analysis of over 60 comparator tuition providers, it was found that only one website bore any resemblance to that of the company, namely that of the company created by Miss M. to whom Miss Bruce, says the company, provided the company's brand guidelines, website materials, and bespoke internal documentation and intellectual property. Miss Bruce's Positions
24. I have considered everything put forward by Miss Bruce but have found her position to be mercurial. At the investigative interview she said that she had sent only a public domain screenshot from the company's data to Miss M in the Isle of Man. I note the company's position that the screenshot was in the hidden part of the site, so not in the public domain but more to the point I note the independent forensic report that the flow of data from the company to Miss M was not limited to the screenshot but included the company's policies, procedures and pro forma privacy notice.
25. In this connection, I note further that Miss M's Isle of Man business website showed some verbatim text identical to that which formed part of the data flowing from Miss Bruce's laptop to Miss M in the Isle of Man.
26. At the investigative interview, having given the single screenshot explanation, Miss M was shown the contradictory evidence retrieved from her laptop by the experts as just described. At that point she admitted doing work for Miss M, as alleged by the company, and asked to resign. She was told by Ms Bizouarn, the independent HR adviser, not to act in haste.
27. I have described Miss Bruce's position as mercurial. She has since gone on variously to say that she was instructed to do the work for Miss M by Natalie Dimond, her line manager. She has produced no evidence which I can accept as probative of that assertion. Ms Dimond was questioned and re-questioned on the point by Ms Bizouarn, the independent HR specialist, and denied having given such an instruction. She had instructed Miss Bruce to complete the work in hand and thereafter to stop helping Miss M. No contrary instruction was operative at the time of the prohibition and therefore at the time of Miss Bruce's infractions. That information was available and taken into consideration at the disciplinary hearing.
28. Asked why she had not given that explanation earlier, she gave evidence in the tribunal firstly that she had been traumatised by being suspended and added that she had felt loyal to Ms. Dimond and did not want to cause her trouble.

29. Miss Bruce gave evidence that she had been betrayed by Ms. Dimond, who without Miss Bruce's knowledge, was planning to go into business with Miss M. It benefited Ms Dimond for that new enterprise to have the use of the company's proprietary data. Therefore, she had accordingly authorised Miss Bruce to send the materials and then denied having done so.
30. Miss Bruce put in evidence an email sent by Miss M to Mr Aidan De Ste Croix, Miss Bruce's representative, after material events, saying that Ms. Dimond had told Miss M to contact Miss Bruce for some company text to avoid duplication when the Ms. Dimond/Miss M venture was being constructed. There was evidence that there arose a difference between Ms. Dimond and Miss M and their joint venture did not proceed, giving rise to speculation that it was now in Miss M's interest to support Miss Bruce.
31. However that may be, there was expert evidence that Miss Bruce's log-in was used on 16 February 2025 to log on to the Miss M website, review settings and to fix links. Miss Bruce has a good level of IT skills as shown in her CV. She said that the log-in was not unique to her and that she had not done the work just described. No question of permission arose in this instance.
32. Part of Miss Bruce's position was that she had done a '2 second job' for Miss M, and that could not properly be defined as 'work' so as to put her in breach of the prohibition against performing work for Miss M.
33. She advanced the difficult argument that as she was not employed as an IT person, giving IT help to a competitor did not amount to doing work for them – or alternatively she did not think of it as such.
34. At another point Miss Bruce said that she had forgotten undertaking some activity for Miss M. Findings of fact
35. Having considered all of the evidence placed before me, including most particularly the forensic evidence, my conclusion on this part of the case is that the company believed, and had reasonable grounds to believe, that Miss Bruce had accessed confidential information in the way alleged and had shared it with Miss M, thus supporting Miss M in her business. I also conclude that the company's beliefs as just described arose after it had carried out as much investigation into the matter as was reasonable in the circumstances. The investigation was as earlier described and included the commissioning of outside expert reports.
36. The company also based the summary dismissal on the assertion that Miss Bruce had been dishonest in her responses to the company's investigation into her conduct. It points to the process which took place following Miss Bruce's suspension on 17 February 2025. As already noted, an investigation meeting took place on the 21 February 2025 attended by Miss Bruce, the independent HR professional (Ms. Bizouarn), and Mr Trigg, a director of the company. At that meeting Miss Bruce gave her account and was then shown contradictory evidence

from the company's devices. On being confronted, she admitted that she had provided information/support to Miss M despite earlier instructions not to do so and said that she wanted to resign but later retracted that indication.

37. I am satisfied that the company believed and had reasonable grounds to believe, that Miss Bruce gave dishonest answers at the 21 February 2025 investigation meeting. Disciplinary hearing
38. The investigative materials were provided to Miss Bruce, and a disciplinary hearing was held with Ms. Bizouarn and Mr. Trigg on 19 March 2025. Miss Bruce attended and declined to answer questions. The hearing was adjourned so that additional materials put in by Miss Bruce could be considered. It reconvened on 27 March 2025 and after a review of all the evidence, Ms. Bizouarn decided that summary dismissal was appropriate given i) the sharing of proprietary/confidential information with a third party; ii) serious insubordination; and iii) dishonesty during the process which took place after the discovery of Miss Bruce's defaults. Allegations by Miss Bruce
39. Miss Bruce raises counter allegations of dishonesty, which she links to her proposition that the company acted throughout in furtherance of an underhand plot to get rid of her. She says that the company misrepresented Mr Trigg's role as an independent director when in fact he was the ultimate beneficial owner of the company. She says further that the company manipulated investigation outcomes and altered minutes of meetings.
40. I do not find questions of Mr Trigg's status to have bearing, or the other matters raised to be supported by the evidence, or to have bearing on the dishonest answers which Miss Bruce admitted to having given at the investigation meeting. I can identify nothing unfair or unreasonable in these areas.
41. At the hearing in the tribunal, Miss Bruce raised various complaints about the accuracy of minutes and the quality and timing of some of the documents which had been provided to her. I was unable to find anything of substance in the complaints or anything showing her to have received unfair or unreasonable treatment. In particular she was shown legible copies of all material documents at all material times. Covert recording
42. Following Miss Bruce's dismissal, it became clear that she had covertly recorded a meeting during the disciplinary process. The company points to this as further gross misconduct given the standing order of the company against this, and the reminders given to Miss Bruce about it at the outset of each meeting. I rely on the foundational case of *Boston Deep Sea Fishing and Ice Co v Ansell* (1888) 39 Ch D 339 for the proposition that the company is entitled to defend the wrongful dismissal claim by relying on serious misconduct discovered only after the dismissal.
43. In the tribunal, Miss Bruce accepted that she had disobeyed the company by covert recording. She gave the reason that she did not trust the company to produce an accurate record of the meeting. Additional matters 44. Miss Bruce asserts that she was denied

representation during the investigation. The company points out that as to the investigation meeting, the terms of employment, as expressed in the contractually binding handbook, provide that no representation is permitted. In any event Miss Bruce did not ask for representation. As to the disciplinary meeting she had the right to be accompanied by a work colleague or union representative. In fact, she appeared alone, did not answer questions and read out a prepared statement. 45. Miss Bruce provided some observations from a local person about the company's expert computer report. In the hearing she did not appear greatly to rely on these observations or to describe the credentials of their maker. I was unable to derive anything from them which detracted from the authority and reliability of the computer analysis relied upon by the company. In any case, these observations had not formed part of the process of investigation and dismissal. 46. Miss Bruce spoke of the low-level of wages and resource given to her in comparison with others in the company. I was unable to see how this assertion could bear on any question which arose in the present matter. 47. I did not understand Miss Bruce to pursue the assertion that her successor had been appointed in suspiciously early course and anyway would have accepted the company's pleading which explained how someone had been brought in to cover during the suspension of Miss Bruce, and had proved suitable for the permanent appointment later. 48. Equally when Miss Bruce spoke of the company's demand for her personal computer password, and of delays and other issues with the joint hearing bundle for use in the tribunal, I was unable to see a viable link to any of the fundamental questions upon which the outcome of this case depends. Comparison with other staff misconduct. 49. Miss Bruce complains that she has been held to account for her conduct while other employees have behaved badly and not been held to account in the same way. She gave examples of the misconduct of others. I accepted the evidence of Mr. Trigg that the matters to which Miss Bruce adverted had never been brought to his attention. It is difficult to see how a person can address matters unknown to him. 50. Nevertheless, I reminded myself of the observations of the tribunal in *Noel Harrison v CT Plus Limited* [2023] TRE 142, and its attention to *Hadjioannou v Coral Casinos Ltd* [1981] IRLR 352. 51. The company, too, referred me to *Hadjioannou* and to this key passage from that judgment set out in *MBNA Limited v Jones* UKEAT/0120/15/MC: "25. ... Tribunals would be wise to scrutinize arguments based upon disparity with particular care. ... there will not be many cases in which the evidence supports the proposition that there are other cases which are truly similar, or sufficiently similar, to afford an adequate basis for the argument. The danger of the argument is that a Tribunal may be led away from a proper consideration of the issues raised by s.57(3) of the Act of 1978. The emphasis in that section is upon the particular circumstances of the individual employee's case. ..." 52. Accordingly, my focus has been on the Jersey equivalent statutory provisions. I have found nothing to draw me away from that focus - no sufficient similarity between matters internal to the company raised by Miss Bruce, and her own apparent conduct in providing help to an outside competitor. The law The statutory provisions

53. Article 61 of the Employment (Jersey) Law, 2003 at subparagraph (1) gives the employee the right not to be unfairly dismissed by his or her employer. The substance of that right is defined in article 64 of the law which in its relevant provisions provides as follows: Fairness 64 General (1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it shall be 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 paragraph (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 shall fall within this paragraph if it –

- (b) relates to the conduct of the employee;

- (4) Where the employer has fulfilled the requirements of paragraph (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) shall – (a) depend 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) be determined in accordance with equity and the substantial merits of the case. The Effect of the Statutory Provisions 54. The catalogue of unfair dismissal cases in the tribunal shows entire consistency in the interpretation of these provisions.
55. *Perestrelo v Diamond Cleaning* [2019] TRE 224, is helpfully characteristic and compact: “40. The law in relation to unfair dismissal is well established. Article 61 of the Employment (Jersey) Law 2003 (“theLaw”) states that an employee shall have the right not to be unfairly dismissed.
41. Article 64 of the Law states that the employer is required to show a fair reason for the dismissal and specifies a number of potentially fair reasons for dismissal, one of which is the employee’s conduct.
42. The Tribunal is required to determine the real reason for the dismissal and will not automatically accept the reason provided by an employer. In order to show the reason for dismissal, an employer only needs to demonstrate to the Tribunal that it had a genuine belief in the employee’s misconduct. That belief does not have to be correct.
43. Where the employee’s conduct is the reason for dismissal, the Tribunal is guided by the legal test established in the English case of *British Home Stores Limited v Burchell* [1980] 1CR
303. The employer has to show that: (a) he believed the employee was guilty of the conduct; (b) he had in his mind reasonable grounds upon which to sustain that belief, and (c) at the stage at which he formed the belief on those grounds, he had carried out as much investigation into the matter as was reasonable in the circumstances.

44. The Tribunal must decide whether the dismissal was fair or not by considering whether in all the circumstances (which include the size and administrative resources of the business) the employer acted reasonably in dismissing the Claimant. The Tribunal must make its decision in accordance with the principles of equity (fairness) and the substantial merits of the case". This will include the fairness of the procedures used for the investigation and disciplinary hearing and appeal. Gross misconduct; range of reasonable responses
56. As to gross misconduct, it is to be emphasised that the employer decides what it believes amounted to gross misconduct — but the tribunal decides whether that belief, and the dismissal based on it, was reasonable. A decision to dismiss may be reasonable even where another employer, or the tribunal itself, might have taken the view that a lesser sanction was sufficient; and it follows from the statutory language that in such a case the tribunal must find a dismissal to have been fair. This is generally referred to as "the range of reasonable responses". If the circumstances of the case are such that a reasonable employer might dismiss, the dismissal will be fair even though not all employers would take that view. It is not for the tribunal to substitute its own view. A decision on whether the employer acted reasonably is a question of fact for the tribunal to decide (*Iceland frozen foods Ltd v Jones* 1983 ICR 17.)
57. Put broadly, there are two stages in the process of determining whether or not a dismissal was fair. The first is that which has just been described - the decision taken. The second stage is no less important and requires consideration of the means by which the decision was reached, that is to say the adoption of proper procedures so that there is a full investigation, a proper hearing, and a right to appeal as the minimum requirements.
58. As described above, I have concluded that Miss Bruce was dismissed for the reasons put forward by the company and not for some other reason. Her misconduct was all that was in mind when the decision to dismiss was taken.
59. I find it to be clear that the company believed that Miss Bruce had transgressed and was guilty of the conduct alleged against her.
60. I find it to be equally clear that the company had in mind the evidence of transgressions so far described and that these were reasonable grounds on which to sustain its belief of Miss Bruce's guilt. 61. I have concluded that it was reasonable for the company to regard the findings of misconduct, viewed individually or in aggregate, as amounting to gross misconduct. The older cases remain reliable on the definition of gross misconduct - *Wilson v Racher* [1974] ICR 428, CA per Edmund Davies LJ at page 432 (citing *Harman LJ in Pepper v Webb* [1969] 1 WLR 514 at 517) refer, and I have had particular recourse to the disobedience case of *Laws v London Chronicle (indicator Newspapers) Ltd* [1959] 1 WLR 698 at page 710 where Evershed MR said: "the disobedience must at least have the quality that it is 'wilful': it does (in other words) connote a deliberate flouting of the essential contractual conditions." 62. Miss Bruce was in no doubt about what prohibitions applied to her in the matter of support for Miss M and in the matter of covert recording, yet she went ahead in accordance

with her own agenda. I accept the evidence of the company about the gravity of the effect which this had actually and potentially on its business. Recourse to scripture is unnecessary for the proposition that no one can serve two masters, because their demands are likely to conflict, forcing divided loyalty. The company was entitled to regard Miss Bruce as having betrayed the allegiance which she owed it, by helping a commercial competitor; it was entitled to regard that betrayal as amounting to gross misconduct in the way described by the authorities just cited. 63. It is on the basis of willful breach of contract that I would have found Miss Bruce's action of covert recording, alone, in the circumstances of this case to have amounted to gross misconduct. Process

64. In considering the question of reasonableness, it has not been sufficient to conclude, as I have, that the respondent had a reasonable basis to believe that the claimant committed the misconduct in question; I have had also to consider whether or not the respondent carried out a reasonable process prior to making its decision.
65. I go on therefore to consider the processes adopted by the company in this case, and in doing so it is germane to consider too the burden of proof.
66. The company bears the burden of proving on the balance of probabilities that Miss Bruce was dismissed for the reason which the company relies on. The well-known excerpt from *Abernethy v Mott Hay & Anderson* [1974] ICR 323, makes clear that: "The reason for the dismissal of an employee is a set of facts known to the employer or it may be of beliefs held by him which cause [it] to dismiss the employee." If the respondent fails to persuade the tribunal that it had a genuine belief that the claimant committed the misconduct and that it genuinely dismissed for that reason, then the dismissal will be unfair.
67. Provided the respondent does persuade the tribunal that the claimant was dismissed for the conduct relied on, as in this case, and that it genuinely believed that the claimant was guilty of the misconduct, then the dismissal is potentially fair. That means that it is then necessary to consider the general reasonableness of that dismissal and in addition to the findings already made, I therefore turn to the question of process, namely whether the process adopted by the company before taking the decision to dismiss was reasonable or not.
68. In turning to that question, I remind myself of three things: firstly that processes were in place to the extent of a disciplinary investigation, hearing and appeal all of which appear *prima facie* to have been carefully performed and documented; secondly, that the band of reasonable responses test applies not only to the decision to dismiss, but also to the procedure by which that decision was reached. (*Sainsbury Supermarkets Ltd v Hitt* [2003] IRLR 23 CA); *Metroline v Taylor* [2025] EAT 4); thirdly, the question of procedural fairness must be considered together with the reasons for dismissal so that a single entity is being considered in the round when answering whether or not the employer acted reasonably in finding the relevant reason as a sufficient reason to dismiss (*Taylor v OCS Group Ltd* [2006] EWCA Civ.702; *Dowling v Concentric Analytics Limited* [2021] TRE107).

69. I turn therefore to the objections of the claimant which are said by her to amount to procedural impropriety. I have disregarded those matters dealt with earlier under the heading 'Additional Matters' for the reasons given there.
70. A matter which troubled me on receipt of the papers was the involvement of Mr. Trigg at both the investigative interview and the disciplinary interview. I gave prior notice to the parties that I wished to be addressed on the point and referred them to the tribunal case of *Castanheira v Empire Catering* [2020] TRE 049 on the point and asked whether it can be distinguished, if so how, if not what consequences should follow.
71. At the hearing in the tribunal, enough was done to ease my concerns. Counsel for the company directed me to Article 2B (3) of the Employment (Jersey) Law 2003 which materially for present purposes is in these terms: "2B
- (3) If it appears to the court or the Tribunal that any provision in the approved code of practice is relevant to any question arising in the proceedings, the court or the Tribunal shall take that provision into account in determining the question."
72. I was next referred to the relevant code of practice which in its material part reads thus: 'Wherever possible the hearing should not be conducted by the same person who conducted the investigation. Where the size of the employer means that this is not practicable then the employer needs to be especially careful to maintain an open mind'.
73. Turning to the evidence which I received and bearing in mind the code of practice, I reached these conclusions: Mr. Trigg's presence at the investigative meeting was unexceptionable. He had knowledge of the business and of the matter in hand which was not reasonably available to the independent adviser and which was indispensable; the size of the firm and the conflicts inherent in the account being presented meant that no more than four members of staff were available and, as tutors, they were not suitable to conduct the necessary disciplinary process; the control exercised by adept outside HR advisers of good standing was a highly effective safeguard; Mr Trigg said nothing at the disciplinary hearing and was present only to assist with any questions of computer technology and to deal with any late materials introduced by Miss Bruce. Neither need arose; Ms. Bizouarn was emphatic when taken on that she would be looking for evidence of innocence as assiduously as for evidence of guilt; that she made good on that assertion by, among other things, interviewing Ms Dimond twice, a lady now no longer with the company, and obtaining her statement as part of the investigation, and filling any gaps which she recognized in her own understanding of events; that the appeal was conducted by another independent HR specialist, Ms. Le Barz, with whose process Miss Bruce takes no exception, and whose process was capable of mending earlier defects had there been any, as it is the overall process, including the appeal stage, which has to be evaluated (*Taylor v OCS Group Ltd* [2006] EWCA Civ 702); that these circumstances were so far removed from the egregious errors presented in *Castanhiera* as to render that case irrelevant to the facts of the instant case.

74. It is noticeable that for a business of this size the company went to great lengths to establish a fair process. It engaged independent experts, who performed their work scrupulously. Ms Bizouarn approached a number of other professionals to assist at the disciplinary hearing. Her decision to move ahead with the hearing despite their unavailability and in order to prevent delay in the case of a person under suspension is fairly to be regarded as unexceptionable. Unlawful Dismissal
75. There are different tests applicable to determine whether an employee has been unfairly dismissed or wrongfully dismissed. This point was determined in *Voisin v Soares* [2014] JRC 004. “77. The jurisdiction of the tribunal to entertain such a claim for unlawful dismissal is quite separate from its jurisdiction to entertain claims for unfair dismissal. The former is brought under Article 86 of the Employment Law, which provides at Article 86(1) and (3) that proceedings may be brought before the Tribunal in respect of an individual employment dispute which involves a claim in respect of which a court in Jersey would under the law for the time being in force have jurisdiction (subject to certain exceptions). 78. The two jurisdictions are thus quite separate and require different approaches. Claims under Article 86 require the Tribunal to make findings of fact and to make decisions on the contractual claim, as made clear by the English Court of Appeal in *Boardman v Nugent Care Society and Another* [2013] ICR 927 where it was held: - “... in considering a claim of wrongful dismissal, the employment tribunal was not confined to a reviewing role, and it was not only appropriate, but necessary, for the tribunal to make its own findings of fact as to whether the claimant had breached her contract in such a way as to justify summary dismissal.” 76. On considering the whole of the evidence and submissions presented by both parties and described above, I find on the civil standard that Miss Bruce was guilty of the transgressions alleged by the company and that the breaches of contract to which those transgressions gave rise were such as to justify her summary dismissal, so that the claim for unlawful dismissal fails. Summary 77. I sat for two days and heard oral evidence from Miss Bruce on her own behalf and from Mr Jonathan Trigg, Ms. Kerrie-Ann Bizouarn and Ms. Nathalie Le Barz on behalf of the company. I was referred to and read documents in a joint bundle of documents, running to some 1,300 pages. Having done so, I made the findings which I have set out. I mention the details of evidence where I have thought it useful to do so, and the absence of other detail or mention of points raised does not mean that I have ignored them. I have taken into account everything that has been put before me. 78. I was assisted by the measured and courteous way in which Mr. De. Ste. Croix presented Miss Bruce’s case and by the usual constructive and helpful presentation of Advocate Thomas. 79. For the reasons set out in the body of this judgment, I find that as regards statutory unfair dismissal, the company has satisfied each of the Burchell metrics, that it reasonably found Miss Bruce’s actions to amount to gross misconduct, and also that dismissal was comfortably within the range of reasonable responses open to a reasonable employer.

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80. Had I found procedural error in the case, I should have turned at once to consider both Polkey and Art.77F of the Employment (Jersey) Law, 2003, with a view to reducing compensation to zero. The facts which I have found are such that Miss Bruce is fairly to be regarded as the author of her own misfortune.
81. As regards unlawful dismissal, I find that the claim falls away as it was Miss Bruce who broke the contract of employment. Advocate C.E. Whelan, Deputy Chair Sent to the parties on 29 January 2026
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