

Lister – press summary

27 March 2024

Claimant: Mr K Lister

Respondent: New College Swindon

Important note for press and public: this summary forms no part of the Employment Tribunal's decision. It is provided so as to assist the press and the public to understand what the Employment Tribunal decided.

The Claimant was employed by the Respondent, a further education college in Swindon, as a teacher of maths and associated subjects. He holds gender critical beliefs, including the belief that sex is binary and immutable and should not be confused with gender identity. The Respondent accepted that that belief was a protected philosophical belief under the Equality Act.

In September 2021, one of the students taught by the Claimant, asked him to change his manner of address so that a male name and pronoun were used. In February 2022, the College received a complaint from another student; she alleged that the Claimant had continually failed to use the preferred name and pronoun for her friend. She alleged that the student had been upset by the Claimant's conduct in a number of respects; that he had gesticulated in class to avoid using any name, that he had encouraged entry into an all-female maths competition and that he had made repeated negative comments about gender reassignment.

The student complaint was investigated and upheld. A disciplinary investigation was launched, it being alleged, amongst other things, that the Claimant had failed to follow the Respondent's Gender Reassignment Policy which gave guidance in such situations and directed staff to adhere to students' requests. Following a disciplinary hearing in August 2022, the Claimant was dismissed as a result of the manner in which he had treated the student in question. Whilst other matters had formed part of the initial investigation, including comments that the Claimant had made during staff training and some of his social media posts, they were not ultimately upheld.

The Claimant was referred to the Local Authority Designated Officer ('LADO') and, subsequently, the Disclosure and Barring Service ('DBS'). He has since been barred from participating in regulated activities with children.

The Claimant's case before the Tribunal was that he had been treated unfavourably because of his beliefs and/or the way that he had manifested them. In particular, he alleged that his dismissal had been for that reason and/or because he had attempted to protect the student from what he considered to have been the serious and imminent risk presented by the use of cross-sex hormones.

The Tribunal did not find any evidence that ought to have led the Claimant to the view that the student had been exposed to such a risk. To the extent that he had been investigated and dismissed for the manner in which he had manifested his beliefs, the Tribunal considered that the student's own rights and freedoms had been violated. The Respondent's Gender Reassignment Policy sought to protect those in the student's position from suffering harassment and discrimination under the Equality Act, but it had not been adhered to. The Claimant had manifested his beliefs in an objectionable manner

which ought to have been prohibited to ensure the protection of others. The Respondent's decision to dismiss had not fallen outside a range of decisions open to a reasonable employer in the circumstances, particularly since the Claimant indicated that he was not prepared to modify his conduct going forward.

The Claimant's complaints of direct discrimination and unfair dismissal failed, as too did an associated complaint of indirect discrimination.