

Redundancy: competitive interview processes

In this case, the Respondent's appeal was unsuccessful. In the first instance, the decision that it unfairly dismissed various claimants following the closure of the school where they worked. The Claimants were unsuccessful in applying for substantially similar positions at a new school that opened at the same site. Read more here.

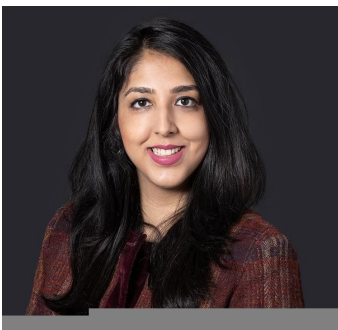
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Unsurprisingly, in Gwynedd Council v Barrett, the Respondent's appeal was unsuccessful. The Respondent appealed the first instance decision that it unfairly dismissed various claimants following the closure of the school where they worked. The Claimants were unsuccessful in applying for substantially similar positions at a new school that opened at the same site. The Employment Tribunal found the process unfair, considering that there was no consultation over the proposals by the appeal, no appeal against dismissal and the manner in which they were required to "apply for their own jobs".

The Respondent's appeal was dismissed by the EAT. The EAT held that whether or not the Respondent acted fairly in applying that process in the circumstances of this case was to be judged by an application of s.98(4) of the Employment Rights Act 1996, and that is what the Tribunal did. In doing so, it did not err in its understanding of the relationship between the Respondent and the Governing Bodies of the schools as set out in the relevant regulations.

In its reasoning, the EAT contrasted a "forward looking" selection process where alternative employment is considered, typically by competitive interview, for a newly created post and a process of consultation and selection. In this case, the Claimants were not asked to be interviewed for newly created posts, but rather for substantially similar positions. The exercise was not so much 'forward looking' but closer to a selection process from within a pool, with the Claimants applying for their own job back with no consultation or appeal.

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