



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Syed

Respondent: (1) Surrey County Council
(2) The Governing Body of Beauclerc Infant and Nursery School

Heard at: Reading Employment Tribunal

On: 9, 10 and 11 June 2025
26 June 2025 (in chambers)

Before: Employment Judge Annand
Mrs Omer
Mr Kapur

Representation

Claimant: In person, with the assistance of her sister
Respondent: Mr Doughty (Counsel)

RESERVED JUDGMENT

1. The complaint of unfair dismissal for making protected disclosures is not well-founded and is dismissed.
2. The complaint of being subjected to detriments for making protected disclosures is not well-founded and is dismissed
3. The complaint of unauthorised deductions from wages is dismissed on withdrawal.

REASONS

Introduction

1. The Claimant was employed as a nursery nurse at Beauclerc Infant and Nursery School from 28 March 2023 to 10 November 2023, when she was informed by the Second Respondent that she had been dismissed. The

Claimant was told she was being dismissed because she had failed her probationary period. The Claimant's case is that she was dismissed, and subjected to other detriments, because she had raised two protected disclosures on 21 September 2023 and 22 September 2023 regarding the dismissal of the children from the nursery on 20 September 2023. The Respondent's case was that the Claimant was not dismissed because of disclosures she had made but because during the short period of time she had worked in the primary school, her relationship with two teachers had deteriorated to the point that they were no longer willing to work with her.

2. The final hearing took place in person at Reading Employment Tribunal on 9, 10 and 11 June 2025. It was listed for four days, but the parties were informed on the first morning that the listing for the hearing had been shortened to three days due to a lack of judges who were able to hear the case for four days. In the time available, we were able to hear evidence from the Claimant and her sister, and from two witnesses for the Respondent, the Headteacher of the Primary School, Ms Mulhall, and the Deputy Headteacher and reception class teacher, Ms Chapman. We were able to hear the parties' submissions. On the final day, we reserved our judgment. The Tribunal was able to start deliberating but were required to meet again on 26 June 2025 to conclude our deliberations.

Procedural background

3. On 10 November 2023, the Claimant was informed by the Second Respondent that she was being dismissed. On 15 November 2023, she contacted Acas for early conciliation purposes. The Respondent was named as "Surrey County Council, Beauclerc County Infant School". The early conciliation certificate was issued on the same day.
4. On 16 November 2023, the Claimant submitted her Claim Form. She issued her claim against "Surrey County Council, Beauclerc Infant and Nursey School". In addition to referring to whistleblowing claims, she applied for interim relief. An interim relief hearing was listed for 31 January 2024. The hearing was held by Employment Judge Anstis. The interim relief hearing was postponed because included in the bundle for the hearing was a letter from the First Respondent purportedly dismissing the Claimant with effect from 26 January 2024. In the letter, she was advised she would be paid until 2 February 2024. In essence, although the Claimant was informed of her dismissal by the primary school on 10 November 2023, under the School Staffing Regulations 2009, it is the Council (the First Respondent) who is responsible for the termination of the Claimant's contract of employment. This had been overlooked in November 2023, and that is why the Claimant was then sent a further dismissal letter in January 2024. The interim relief hearing was relisted for 21 February 2024.
5. In the meantime, the Claimant submitted a further claim against the First and Second Respondent, on the basis that her dismissal had only taken effect on 26 January 2024. For the second claim, she contacted Acas for early conciliation purposes on 1 February 2024, and the certificate was issued on the same day. The Claimant also lodged her second Claim Form on 1 February 2024. She pursued the same type of complaints as set out in

her first claim – a claim for interim relief, automatic unfair dismissal on grounds of having made protected disclosures, and a complaint of being subjected to detriments on grounds of having made protected disclosures.

6. At the hearing on 21 February 2024, the Claimant's claims were consolidated, and the Governing Body of Beauclerc Infant and Nursery School (the Second Respondent) were added as a Respondent in the first claim.
7. The Claimant's application for interim relief was heard on 21 February 2024 and was not successful. The reasons why it was not successful are not relevant in terms of the decision that the Tribunal needed to make at the final hearing. The tests to be applied are different, and the decision regarding interim relief is made by a judge who has not had the benefit of having heard all the evidence. We therefore did not take the conclusions into account when reaching our decision. However, the procedural history of the Claimant's claims is relevant because of a point the Respondents seek to make about when the Claimant added some additional details to her claim.
8. The Claimant requested written reasons for the refusal to grant her interim relief. The reasons were sent to the parties on 15 April 2024. The Claimant appealed to the Employment Appeal Tribunal.
9. On 26 June 2024, Employment Judge George held a Case Management Preliminary Hearing. The final hearing was listed for 9-12 June 2025. The Claimant was permitted to amend her claim by consent. However, the Respondent made it plain that the alterations to the pleaded case between the original ET1 attachment (which were essentially identical as between claim 1 and claim 2) and the amended ET1 attachment was something they wished to explore in cross-examination. It was recorded in the Case Management Order that the Respondents would argue that the Claimant had embellished her original account of the conversations on 21 and 22 September 2023 to say that details were included which were not included until her safeguarding report in December 2023, which she submitted after she had been told her employment was terminated. The Respondents said they would argue that the change had been made by the Claimant in response to Judge Anstis' reasons for concluding that she did not have a "pretty good chance" of succeeding with her claim of automatic unfair dismissal when rejecting her interim relief application, which included the judge expressing doubts about whether the Claimant would succeed in establishing that she had made a protected disclosure.
10. It was clarified at the Case Management Preliminary Hearing that the Claimant's claim for unauthorised deduction from wages related to her wages from 18 November 2023 to 26 January 2024, when she was dismissed by the First Respondent. The Claimant had received a payment from the First Respondent, but she was unsure if she had been paid what she was owed because she had not been provided with a breakdown which explained the payment.
11. Employment Judge George set out a List of Issues in her Case

Management Order, which is set out below.

12. On 30 October 2024, the Claimant attended a preliminary hearing in the Employment Appeal Tribunal to assess if she had arguable grounds for an appeal regarding the Tribunal's decision to refuse her application for interim relief. The Employment Appeal Tribunal decided that an appeal was not reasonably arguable.

Applications at the start of the final hearing

13. At the start of the hearing, the parties raised a number of preliminary matters. Firstly, the Claimant raised that the Respondent's bundle was not an agreed bundle. She also asked the Tribunal to refuse to allow the Respondents' witness statements to be admitted in evidence. She noted that she had sent her witness statement to the Respondents in accordance with the Orders made by Employment Judge George, but the Respondent had not sent their witness statements to the Claimant on the same day. The Claimant said that when she was sent the Respondent's statements some weeks later, the Respondent's witnesses had referred in their statements to what she had written in her statement.
14. The Respondents' position was that when the Claimant had sent her witness statement, she had attached some handwritten notes which had not previously been disclosed. As a result, the Respondents' solicitor did not send their witness statements to the Claimant on the same day. Instead, the Respondent's solicitor sent the handwritten notes to the Respondents' witnesses to comment on in their witness statements. The Respondents said their solicitor had not sent the witnesses the Claimant's witness statement, only the additional notes. Once the Respondents' solicitor had added the Respondents' witnesses' comments regarding the handwritten notes to their witness statements, the witness statements had been sent to the Claimant.
15. The Claimant agreed that the first time she had provided the handwritten documents to the Respondent was when she sent her witness statement. However, when this issue first arose, the Respondent's solicitor had indicated he would provide the statements by 2 May 2025, but there was a further delay, and the Claimant did not receive them until 12 May 2025.
16. The Claimant also applied to be allowed to rely on a witness statement produced by her sister, which was sent to the Respondents at the end of May 2025. The Claimant explained that as she was unrepresented, she had not realised that her sister could be a witness until shortly before the hearing.
17. The disagreements about the documents in the bundle were not substantial and the parties were in the end able to agree what could be put before the Tribunal.
18. The Tribunal refused the Claimant's application that the Respondents should not be allowed to rely on their witness statements and allowed the Claimant's application that she be permitted to rely on her sister's witness

statement. Oral reasons were given at the hearing for those decisions, and they are set out below.

19. In respect of the Claimant's application that the Respondents should not be permitted to rely on their witness statements, the Tribunal accepted that the Respondents had provided their witness statements later than the date ordered by Employment Judge George in her Case Management Order, and after the Claimant had provided her witness statement to the Respondents. While mutual exchange on the same date is preferable, we accepted that the reason for the delay was that the Claimant provided with her witness statement a copy of additional handwritten notes which the Respondents had not seen prior to that date. The Tribunal could see from a cursory review of the Respondents' witness statements that the witnesses had commented on those additional documents in their witness statements, but not on the Claimant's witness statement.
20. The Tribunal found that it must have been frustrating for the Claimant to have been told that she would be provided with the Respondents' witness statements on 2 May 2025, and for there then to have been a further delay to 12 May 2025. We do not underestimate the stress involved in preparing for a final hearing, and particularly the additional stress placed on those without a legal representative to help them navigate the process. However, we considered it would be disproportionate and unfair to refuse to allow the Respondents to rely on those witness statements.
21. We accepted the Respondents' lawyers' assurances that the Claimant's witness statement itself was not passed to the witnesses, and it was just the additional documents. I explained for the Claimant's benefit that there are professional obligations on lawyers which mean that they must not misled courts and Tribunals. Therefore, as the Respondents' solicitor and barrister had confirmed that it was only the documents that were provided to the witnesses, and not the Claimant's witness statement itself, we accepted that reassurance. We did not find that the Claimant's case was prejudiced by the delay, as she still had plenty of time to prepare for the final hearing once she had received the Respondents' statements. In light of the additional disclosure provided with the Claimant's witness statement, we found that the Respondent had a reasonable explanation for the fact that their witness statements were provided at a later date. For these reasons, the application was refused.
22. In respect of the Claimant's application to allow her sister to give evidence, the Tribunal decided to allow the Claimant's application. The Respondents' objection was primarily that the witness statement was not provided at the relevant time. However, we accepted that the Claimant's explanation that she did not know that a relative could be a witness until she discovered this when doing some research. We did not consider the Respondent had been prejudiced by the delay in being provided with the witness statement as it was provided in May 2025, and so they had sufficient time to consider it before the final hearing. The Tribunal also considered the Respondent's objection that the Claimant's sister was not a first-hand witness to the events or the meetings which took place in the school. That was a point that we agreed we would take into account when considering how much weight, if

any, to place on the evidence. However, we were of the view that it would be fair to hear the evidence and then allow the parties to make submissions on how relevant the evidence was, and what weight we should place on it, at the end of the hearing. For these reasons, the Claimant's application for permission to rely on her sister's witness statement was allowed.

23. Finally, throughout the hearing, the Respondents' counsel sought some clarification from the First Respondent regarding the payment made to the Claimant for her wages for the period between when she was notified of her dismissal by the Second Respondent and when she was later notified of her dismissal by the First Respondent. In the course of the hearing, the Claimant accepted the payment appeared to be accurate and confirmed that she was content for her claim for unauthorised deduction from wages to be dismissed on withdrawal.

Findings of fact

24. In 2012, Chennestone Primary School and Beauclerc Infant and Nursery School became federated under one governing body. Ms Mulhall is the Headteacher for both schools.
25. The Claimant started working for the Second Respondent on 28 March 2023. She was employed as a nursery nurse in Beauclerc Infant and Nursery School. The Claimant was employed to work in the nursery with the nursery teacher, Ms Wade, and another nursery nurse, Ms Weir.
26. On her second day, Ms Wade sent an email to Ms Chapman, who is the Deputy Headteacher and the Early Years Foundation Stage Lead, as well as a reception class teacher. Ms Wade also cced the Headteacher, Ms Mulhall, into the email. The email noted the Claimant would be attending an appointment the following day but asked if she could be contacted and asked to start reading up on some development matters. She noted, "I wanted her to start today but she took over 2 hours to complete the safeguarding training so did not have time, and I still need her to read the inclusion folder and get to know the needs of the children. She asked to have Friday morning out, which I am happy to give her some time but obviously if she is out of class, she then hasn't got the time to meet some of the trickier children before the new starters come." (p209)
27. The Claimant did not see this email at the time, but she saw it when it was provided to her as a part of the Respondents' disclosure. The Claimant argued that this email was evidence that Ms Wade took an immediate dislike to her. She felt that it was unfair for Ms Wade to insinuate she had taken too long to complete the safeguarding training, particularly as this was the Claimant's first role in 16 years, having taken a break from work to raise her children. The Tribunal could see why the Claimant on reading the email may have felt she was being mildly criticised for taking over two hours to complete the safeguarding training. However, we did not find it was evidence of Ms Wade taking an immediate dislike to her. The email, when read in full, simply suggests that Ms Wade was keen for the Claimant to have completed all the essential reading and training as soon as possible so that she could start to get to know the children.

28. The Claimant had started working for the Respondent four days before the Easter holidays, which lasted from 31 March 2023 to 16 April 2023. The Claimant returned on 17 April 2023.
29. In her witness statement, the Claimant set out that on 12 May 2023, she left work in tears. She wrote that Ms Weir had noticed she was upset and had reassured her. Ms Weir also mentioned she had been out of the workplace for some time and that she had a difficult first year but that the situation had improved for her.
30. On 25 May 2023, Ms Wade emailed Ms Chapman and asked to try to get some time together to meet with the Claimant over the next two days. She noted, "I really want the air sorted to start the new term fresh". (p212).
31. Ms Chapman's evidence was Ms Wade and Ms Weir had previously raised some issues with her about the Claimant. The Tribunal accepted Ms Chapman's evidence about this because the manner in which the email was written by Ms Wade suggested Ms Chapman already knew that some issues had arisen between the Claimant and Ms Wade.
32. Ms Chapman's evidence was that Ms Wade and Ms Weir had been raising concerns with Ms Chapman about the Claimant's attitude. They had complained that the Claimant had made comments about the nursery's planning, she had not been following the nursery's routine, and she had been questioning Ms Wade's teaching practise. They also said the Claimant was refusing to be outside in the sun and so would only stand in the shade in the playground.
33. In her witness statement, Ms Chapman gave an example of when the Claimant had been asked to assist the children in painting bees. The task had been to get the children to paint the colours in a repeating pattern. Ms Chapman said the task had not been carried out as specified. Ms Chapman said the Claimant had come to her and explained the children had done some patterns, but she did not believe the children should be required to paint in a pattern and felt they should be allowed to explore the paint as they wished.
34. The Claimant agreed that some issues had arisen in her relationship with Ms Wade. Her evidence to the Tribunal was that Ms Wade was not inclusive and that she had a barrier up.
35. Ms Chapman also gave evidence that the Claimant was coming to her and raising issues about Ms Wade and Ms Weir. Ms Chapman reported that the Claimant had said this was not the first time that Ms Wade and Ms Weir had "treated a member of nursery staff this way". Ms Chapman's evidence was that on hearing this complaint, she spoke to Sophie Holford, who had previously worked in the nursery, but had subsequently moved to the other primary school, Chennestone Primary School. Ms Holford confirmed to Ms Chapman that she had not had issues in the nursery. She had moved from the nursery when the number of children had decreased, and she was then redeployed to Chennestone Primary School.

36. Ms Chapman said she approached the Claimant and proposed a meeting to discuss the issues that had arisen in the nursery team. Initially the Claimant had been reluctant to have the meeting before half term, but it was explained to her the other team members wanted to have the discussion before half term so they could start the following half term afresh. Ms Chapman's evidence was the Claimant reluctantly agreed but made it clear that she was unhappy about this.
37. On 26 May 2023, Ms Chapman met with Ms Wade, the Claimant, and Ms Weir. The Tribunal accepted Ms Chapman's evidence that Ms Wade and Ms Weir had raised the issues set out above with Ms Chapman prior to Ms Wade's email of 25 May 2023 because (with the exception of the point about the Claimant not wanting to go in the sun), the notes of the mediation meeting show these same matters were discussed at the meeting.
38. Ms Chapman gave evidence that during the mediation meeting each of the members of the team raised their issues and concerns, and she took notes (p214). In the handwritten notes, she recorded that the Claimant had said she felt unhappy because she did not feel the nursery was being well managed. She raised that she felt the planning sheet was displayed too low in the classroom and should be moved so as to be higher up the wall.
39. In the handwritten notes, Ms Chapman recorded Ms Weir said she felt uncomfortable because the Claimant spoke to her, but not to Ms Wade, and raised that in respect of the bee painting activity, the Claimant had not done what had been asked of her and as a result Ms Wade had been required to do it again. In the handwritten notes, Ms Chapman recorded that Ms Wade was crying, and that Ms Chapman had reminded the Claimant to be kind and noted they were professionals and that she needed to talk to the whole team and not leave people out. Ms Chapman noted the Claimant agreed to read the development folder and that they all agreed to start the new term afresh.
40. The Claimant's evidence to the Tribunal was that no significant issues were raised in the mediation meeting, but she raised that her communication with Ms Wade had been difficult, and that Ms Wade had not engaged with her. The Claimant said the only matters raised with her were small issues such as not washing out paint pots or relating to a cutting task.
41. The Tribunal accepted that the handwritten notes made by Ms Chapman were contemporaneous notes made during the meeting and were an accurate reflection of what was said. Although the notes were not provided to the Claimant, with a view to them being agreed, the Tribunal still accepted they were an accurate record of what was discussed at the meeting. The notes contained details of other matters and were not just a note of what was said in the discussion.
42. The Tribunal found that by the time of the mediation, the relationship between the Claimant and Ms Wade was already under significant strain. Ms Chapman's handwritten notes referred to Ms Wade crying in the mediation. The Claimant said in her evidence that she could not recall this.

The Tribunal accepted Ms Wade was crying in the meeting, because this was recorded in Ms Chapman's notes, and also because the strength of Ms Wade's feelings about the difficulties that had arisen are clear from the email she sent later on 26 June 2023, which is referred to below.

43. The extent to which their relationship was already under significant strain was also demonstrated by the fact that the Claimant had taken three pages of handwritten notes, which recorded various incidents where she felt she had been spoken to inappropriately by Ms Wade or felt undermined by her in some way (p465-467). Ms Chapman had recorded in the meeting notes that the Claimant had told her colleagues that she was taking notes on everything. The Tribunal found that this indicated a significant level of distrust already, even though the Claimant had only been employed for two months by this point. The Tribunal also found it would have been of considerable concern to the Claimant's colleagues to be told that she was making notes about their interactions. This was bound to be detrimental to their working relationship.
44. The Claimant had pre-booked holiday, which she had informed the Second Respondent about before she was employed, and her last working day that term was 16 June 2023. On 19 June 2023, the Claimant went to Canada and did not return before the school summer holidays started.
45. On 26 June 2023, Ms Wade sent an email to Ms Mulhall (p217). Ms Wade stated that she was waiting to hear about the staffing arrangements for September and she was starting to get worried. She stated that Ms Wade and Ms Weir had both really struggled working with the Claimant and it had really had an effect on their wellbeing and mental health. She noted that since the Claimant had been away, she had started to enjoy coming into work again. She noted the numbers in the nursery were not so high as to require two nursery nurses the following year and suggested that the Claimant could be moved to a reception class.
46. Ms Mulhall's evidence was that once she received Ms Wade's email, she spoke with Ms Wade in detail about her concerns and relayed them to the Senior Leadership Team (SLT). She said the SLT were concerned about the dynamics in the nursery class. They decided to move the Claimant as the number of children in the nursery for the following year meant they did not need two nursery nurses. This decision was made partly due to the concerns raised by Ms Wade, but also so the Claimant could start afresh. The Claimant was not involved in the decision to move her. Ms Wade was advised of this at the beginning of July 2023, but the Claimant was not informed until she returned in September 2023 to start the new school year.
47. On 1 September 2023, the Claimant returned to work. Ms Chapman spoke to the Claimant to inform her that she was moving to the reception class where she would work with Ms Chapman, as the reception class teacher and Ms Ghulamhan, the teaching assistant for the reception class.
48. Ms Chapman said that when the Claimant was told she was being moved to reception, she was not happy and said she would not move. Ms Chapman's evidence was that she explained it was common for staff to be

redeployed as the numbers changed. She said the Claimant became very agitated and said she was being “bullied”. Ms Chapman said at that point she stopped the conversation as she felt uncomfortable having the conversation without a witness. She suggested they have a meeting later that day with Ms Mulhall and the School Business Manager, Mr Watkins.

49. Ms Chapman’s evidence was that when they met later that day, with Ms Mulhall and Mr Watkins, Ms Mulhall explained the rationale behind the redeployment. The Claimant said she was not willing to move and pointed out that she had not yet received a copy of her contract. Mr Watkins said he would print off a copy that day. The Claimant spoke about the issues with Ms Wade but said she felt they were resolved and said they should move Ms Weir instead. Ms Chapman said the Claimant became very assertive in her tone. Ms Chapman said that Ms Mulhall reminded the Claimant that it was her decision, and the SLT’s decision, where staff would be deployed. The Claimant again made it clear she was not happy to move, and it was suggested she take some time to consider the position.
50. The Claimant’s account was that she expressed that she had not encountered staff being moved around in this way before, but she accepted it was standard practice. She said there was no confrontation or bullying, but she did ask the SLT if the move could be reconsidered and enquired if another member of staff could be moved. She said this was only expressed as a query and not in a negative manner. She said she accepted that it was the SLT’s decision and not hers, and that the SLT said they would consider her request over the weekend. She said she asked for, and was given, a copy of her contract. She said they reconvened on Monday 4 September 2023, and she explained she would prefer to stay in the nursery but that if she was needed in reception she would move.
51. The Tribunal accepted Ms Chapman’s evidence about how the discussions had gone on 1 September 2023. The Tribunal concluded that the Claimant was unhappy about the decision to move her, and she let it be known that she was unhappy about it. The evidence presented to the Tribunal showed that the Claimant was someone who was forthright and assertive. She would speak up if she felt something could be improved or was not to her satisfaction, and therefore the Tribunal thought it was likely she would make it plain she was unhappy about being moved. However, ultimately, she accepted the move and started working in reception from September 2023.
52. On 4 September 2023, the Claimant verbally requested access to CPOMS, which was a system for recording safeguarding concerns, which she should have had access to earlier. On 5 September 2023, the Claimant sent an email regarding being included in the CPOMS update (p231).
53. The Claimant was notified in September 2023 that she would be needed for jury service between 25 September 2023 and 2 October 2023. She took steps to inform the Respondent.
54. On 20 September 2023, the Claimant was working in the reception class with Ms Ghulamhan and Ms Chapman. In the afternoon, Ms Chapman left

the classroom for her PPA time (Planning, Preparation and Assessment time).

55. The Claimant's evidence was that on that day, Ms Ghulamhan needed to leave by 3pm. She was particularly concerned about leaving on time because it was raining heavily and she wanted to collect her daughter. At 2.55pm, Ms Ghulamhan went to the PPA room to speak to Ms Chapman and remind her that she needed to leave by 3pm. The Claimant says that Ms Ghulamhan was told by Ms Chapman she would return in 5 minutes, but she did not. She said Ms Ghulamhan then went again to the PPA room and saw Ms Chapman but did not feel comfortable disturbing her again.
56. Ms Chapman's evidence was that she told Ms Ghulamhan that she would be back for the dismissal of the children at 3.10pm. She said she left the PPA room at 3.05pm and then was called into an urgent safeguarding meeting with Ms Mulhall about a pupil in her class. Ms Mulhall was on the phone to the pupil's social worker and there was a discussion about whether the pupil could safely be released to the parents at dismissal that day. A decision was made by the social worker, and Ms Chapman returned to the classroom. Ms Chapman accepted she was a few minutes late and that as a result, some of the parents were already waiting in the rain. Ms Chapman says Ms Ghulamhan left when she returned.
57. The Claimant found the events of the children's dismissal that day very stressful. The Claimant's evidence was that Ms Chapman returned in a rush, opened the gates, and rushed through the dismissal of the children. The Claimant noted in her witness statement, "I found myself overwhelmed". She said she struggled to manage the children who had yet to be dismissed, and those re-entering the classroom after dismissal. When the Claimant was asked later, in the appeal meeting, about why she found it difficult, she was recorded as saying (p431):

"As soon as Mrs Chapman came in close to 3:15, she went straight to the gate and she just started calling out names, while the children are going out. I'm standing in the middle, she's calling the names, one after the other – random, 5 or 6 names at a time going, children beginning to go out. But then while the children are going out, we've got re-entering the classroom, there's confusion there because it's the same place where they enter and leave from. They're coming in for various things. Amongst all of that there's a child who's crying, he's upset, so I'm having to deal with him. It just became very chaotic, there were children going in and coming out from the same door, they want to go to the lunch hall or cloakroom. Dealing with all of that, I felt I needed to discuss it, it was a concern in my mind and that's why I approached Mrs Chapman."
58. Ms Chapman's evidence was that it was a normal dismissal of the children, and all the children were safely handed over to their parents. She said one child became upset once he had been handed over to his parent because he realised he had forgotten his drawing and wanted to return to collect it.
59. On 21 September 2023, the Claimant spoke to Ms Chapman in the staff room about the events of the day before. The Claimant's evidence was that

she approached Ms Chapman, asked if she could say something, and proceeded to try to tell her about her concerns about the dismissal of the children the day before. She noted in her witness statement:

“Next morning, I saw K in the staff room and asked her if I could say something. K is my line manager and I thought it would be best to tell her about yesterday’s dismissal of children and my concern. I told K how frantic dispatch had been and raised concern about safety. As soon as I said this, K’s immediate response was to raise her voice at me. She was very accusatory and blamed B and I for not having the children ready on time. This was not the case as the children were ready and there were only a handful of book bags remaining. However, this was not the issue. K’s tone was bullish and I was taken aback, as she became louder and more animated as N walked to the staff room. Each time I tried to interject to explain, she told me at least three times, “Excuse me, I’m talking!”. K would not let me respond. She finished her own conversation saying, “I’m not going to hear any more about it!” K had not given me the chance to explain my safeguarding concern.”

60. Ms Chapman’s evidence was that on 21 September 2023 she entered the staff room and greeted the Claimant, but the Claimant did not respond. She said she made tea and carried on talking, but she was aware the Claimant was not herself as she was not responding, made several huffing noises, and got up to leave the staff room. In her witness statement, Ms Chapman said that she asked the Claimant if something was wrong and the Claimant responded that she had felt very stressed at dismissal the previous day because she had been left on her own with the children. Ms Chapman said she was confused because she recalled that when she had returned Ms Ghulamhan was still present. She could recall that Ms Ghulamhan had hugged her and hugged the Claimant before she left. The Claimant repeated she had been left alone, and Ms Chapman responded repeating that she had not been left alone. Ms Chapman said they both kept repeating the same points and in the end, they were speaking over each other, and voices were raised. Mr Watkins entered the staff room. She said she thought they should stop the conversation, and the Claimant left the room.
61. Ms Mulhall’s evidence was that later that day, Mr Watkins told her that the Claimant and Ms Chapman had a disagreement in the morning in the staff room. He said they had both raised their voices. Her evidence was that when Ms Chapman arrived that afternoon at Chennestone School to attend a Governor’s meeting, she had told Ms Mulhall that the Claimant had accused her of leaving her alone at the end of the day in the reception classroom. She said that Ms Chapman had denied this and then they had both kept repeating their positions, getting louder. Ms Mulhall said that Ms Chapman had told her that she had been with the Claimant, and she had called the children by name as normal, and the only difference had been that it had been raining. She said that Ms Chapman was upset and said to Ms Mulhall that no one had ever spoken to her like that before or questioned her in that manner. Ms Mulhall said she would facilitate a meeting between the two the following day to deal with the issue.

62. On 22 September 2023, a meeting was held by Ms Mulhall with the Claimant and Ms Chapman. Ms Mulhall took notes (p242-244).
63. The Claimant's version of what happened in the meeting is that Ms Mulhall started the meeting by praising Ms Chapman and highlighting her achievements and competence in the role. The Claimant said she then provided a detailed explanation of her safeguarding concern, but this was not addressed seriously. The Claimant's safeguarding concern, as she explained to the Tribunal, was that because Ms Chapman had returned late, the dismissal had been rushed, and she was worried that a child might go missing in the confusion. She was aware of a pupil who had previously been found outside the classroom on two occasions. The Claimant agreed that she had not been left alone for the dismissal of the children. The Claimant said in her witness statement that the discussion about her safeguarding concern had been left out of Ms Mulhall's notes. She said the conversation then shifted to the Claimant's need to improve her communication with Ms Chapman, even though no issues had been raised previously regarding her communication with Ms Chapman.
64. The Claimant provided the Tribunal with some handwritten notes which she described in her witness statement as having been "taken at the time" although her evidence to the Tribunal in person was that they were written at around the time (p233-238). In her handwritten notes, she recorded that she had been asking for an apology from Ms Chapman for shouting at her. She noted Ms Chapman refused to apologise. She also noted that Ms Chapman had explained that she had understood the Claimant had been complaining about being left alone, and she had explained that was not the case.
65. Ms Mulhall's version of what happened in the meeting was that the Claimant was asked to explain what had prompted the discussion the day before and she had reiterated that she was left alone. Ms Chapman then refuted that suggestion again. The Claimant then said that Ms Chapman had shouted at her in the staff room and said she had never been shouted at before. Ms Chapman had responded saying that the Claimant had been making the same point over and over again, that she had been left alone, and Ms Chapman said she knew that was not true and that as the Claimant would not let her explain this, she had raised her voice in frustration.
66. Ms Mulhall said the Claimant requested an apology which Ms Chapman gave for raising her voice and for the way this made the Claimant feel but not for being left alone. Ms Chapman said she would not apologise to the Claimant for being left alone because she was not left alone.
67. Ms Mulhall said in her witness statement that the Claimant's conduct during the meeting was "incredibly unprofessional". She described that the Claimant openly criticised Ms Chapman's practise in a manner that was not only unprofessional but also disparaging. She made comments about the lack of structure in Ms Chapman's approach and unfavourably compared her to another practitioner in a demeaning way. Ms Mulhall wrote that despite her intervention to clarify that Ms Chapman was a well-respected practitioner within the team, the Claimant escalated the situation in the

meeting by sarcastically praising her for her many “accolades” even after Ms Mulhall had asked the Claimant to be polite, and she later referred to the “many feathers in her cap” in a mocking manner.

68. Ms Mulhall said that during the meeting the Claimant raised her voice and pointed at Ms Mulhall. Ms Mulhall said that she had to remind the Claimant not to do so. Ms Mulhall expressed in her witness statement that she felt this had compromised the professionalism expected in the workplace.
69. Ms Mulhall said that the Claimant expressed difficulty finding time to read emails or engage with Ms Chapman. Ms Mulhall proposed they meet before the school day commenced because the Claimant arrived early each day and sat in the staff room. The Claimant declined this offer even though Ms Mulhall had offered for her to be paid for the additional time.
70. Ms Mulhall reported that during the meeting the Claimant had said that she did not want Ms Chapman knowing her business and she had refused to talk to Ms Chapman. Towards the end of the meeting, the Claimant reiterated that she did not want to continue communicating with Ms Chapman and insisted that she would only engage with the other Deputy Head. Ms Mulhall said she made it clear that this stance did not foster positive working relationships and she stressed the importance of collaboration for the benefit of the children and the professional environment. Ms Mulhall said that despite these reminders the Claimant seemed dismissive of the feedback. Ms Mulhall said the meeting ended with her reiterating to the Claimant and that it was necessary for her to work on her relationship with Ms Chapman and establish a collaborative team environment. She said that further meetings would be arranged to discuss this, and the Claimant left the room, leaving Ms Chapman visibly upset.
71. Ms Chapman’s account of the meeting was that when the Claimant entered the room and sat down, she then turned her body and face so that she was not facing Ms Chapman. Ms Chapman says she stayed professional and passive, but she was shocked at how the Claimant spoke to her and to Ms Mulhall. She was shocked about the things the Claimant said about the reception class and her practise. She said the Claimant spoke again about the notes that she was keeping about everyone, which she said helped her remember what had been done or said to her. Ms Chapman described this as being very unsettling, and she felt conscious all the time of what she was doing or saying.
72. Ms Chapman said that the Claimant made comments about the amount of time that she was out of the classroom and how the Claimant and the other teaching assistant were always on their own. Ms Chapman wrote in her witness statement that this was untrue. Ms Chapman described in her witness statement that after the meeting, she was distressed and upset. The Claimant left to go home, and as she was aware the Claimant would be starting jury service the following Monday, she made sure to say goodbye and good luck with the jury service, but the Claimant completely ignored her and walked out the door. Ms Mulhall also wrote in her witness statement that the Claimant had ignored Ms Chapman saying goodbye to her.

73. Ms Mulhall's handwritten notes from the meeting record that the Claimant was welcomed into the room, but she did not look at or greet Ms Chapman. Ms Mulhall then explained that she wanted to get to the bottom of the discussion that had taken place on the 21 September. The Claimant was asked to say what had happened. The notes record that the Claimant stated she had been left alone in the room, and Ms Chapman stated that she was not. The Claimant is recorded as saying that no one had ever spoken to her before like that. The Claimant was adamant that she was left alone, and Ms Chapman then again confirmed that the Claimant was not left alone in the classroom.
74. In the notes, it was recorded that the Claimant said that Ms Chapman was late and Ms Ghulamhan needed to pick up her daughter. Ms Mulhall referred to the major safeguarding issue which Ms Chapman had been dealing with that day. The Claimant is recorded as saying she had never been shouted at before, and she wanted an apology because Ms Chapman would not let her get a word in. Ms Chapman is recorded as saying that she was trying to stop the Claimant who kept saying that she had been left alone. It is noted that Ms Chapman apologised for the way it made the Claimant feel but not for the words, because the Claimant was not left alone.
75. The notes also recorded that the Claimant raised her voice and pointed at Ms Mulhall and she was asked to stop. The Claimant is recorded as saying that she felt Ms Chapman left the classroom frequently, and she criticised Ms Chapman's practise. She was recorded as pointing out there was no structure to any of the lessons and that at the start of the day the children were running around. Ms Chapman explained that the children were settling in and becoming aware of the resources and were purposefully left to choose. The Claimant was recorded as commenting that she preferred the way the other teacher structured her lessons in the reception class. The notes recorded that it was pointed out that this was rude towards Ms Chapman. Ms Chapman reiterated that the children were developing independence. The notes states that Ms Mulhall referred to Ms Chapman's credentials and successes and noted that the Claimant had responded by referring to her "accolades". Ms Mulhall pointed out to the Claimant that this was rude, and the Claimant apologised. There was then a discussion about whether there could be a meeting at the start of each day, which the Claimant would be paid for, but the Claimant declined. The notes then go on to record a discussion about the Claimant's jury service.
76. In the Claimant's witness statement, she refuted the accuracy of Ms Mulhall's handwritten notes. She denied that she had said that she was left alone with the children. She accepted that she had requested an apology from her line manager but disputed that she had turned her back on Ms Chapman during the meeting. She denied that she had raised her voice in the meeting or pointed at Ms Mulhall. The Claimant says that the meeting minutes inaccurately stated that she questioned Ms Chapman's practise. She noted that she had observed that a group of boys had been disruptive each morning and suggested that this may have been due to a lack of table activities. She described this as a "neutral observation". She says that once Ms Chapman explained her reasoning, she accepted the response and

acknowledged her approach. In her oral evidence to the tribunal, the Claimant accepted that she had made a sarcastic comment about Ms Chapman's "many accolades" and said she had apologised for this.

77. The Tribunal found that the events of 21 and 22 September 2023 occurred broadly as described by the Respondents' witnesses.
78. The Tribunal found that when the Claimant spoke to Ms Chapman in the staff room on 21 September 2023, she complained of being left alone. Ms Chapman refuted that suggestion, and the matter escalated, with both the Claimant and Ms Chapman raising their voices, because they had each continued to assert their own position. The Tribunal considered it was likely that the Claimant was trying to express a wider frustration about feeling she had too much to manage alone at the dismissal on 20 September 2023, such that she had felt overwhelmed. (She was later recorded in minutes taken at a meeting on 28 September 2023 as having said, "I *felt* alone dealing with children whilst Kelly was with the parents" – emphasis added (p271)). However, regardless of whether that had been what she had intended to convey, the Tribunal found that what she said was that she had been left alone. The Tribunal did not find that the Claimant raised any concerns about the safety of the children on this occasion, nor did she raise any concerns that a child could have gone missing. This appears to be acknowledged by the Claimant because she referred in numerous documents, which she set out in her witness statement, to trying to raise a safeguarding concern but being prevented from doing so.
79. The Tribunal also found that in the meeting on 22 September 2023, the Claimant again reiterated that she had been left alone, and again this was refuted by Ms Chapman. The Tribunal accepted the Claimant had said she was left alone, on both 21 September and 22 September 2023, because it was referred to on three occasions in Ms Mulhall's handwritten notes of the meeting on 22 September 2023. The handwritten notes are consistent with Ms Mulhall's evidence about what occurred in the meeting on 22 September 2023, and with what Ms Chapman said the Claimant had been complaining about on 21 September 2023.
80. We accepted that Ms Mulhall's notes were contemporaneous notes and accurately reflected the outline of the conversation in the meeting. The Tribunal accepted that the Claimant had not been provided with a copy of the notes at the time, but the Tribunal found it was likely that the notes were an accurate reflection of what was said. The Tribunal considered it was implausible that the Respondents' witnesses had contrived to come up with a different account, in which the Claimant had raised a different safeguarding concern to the one she claimed she had raised.
81. The parties were agreed that if the Claimant had been left alone at dismissal that would have been a safeguarding concern because when the external door/gate was open, which occurred when the children arrived and when they were dismissed, it was necessary to have two members of staff present.

82. As set out above, the Claimant says her safeguarding concern was not about being left alone at dismissal but was that in the chaotic manner in which the children had been dismissed that day, a child could have gone missing. She referred to one particular child (Child B) who had on two previous occasions, left the classroom, although not the school grounds. Both Ms Mulhall and Ms Chapman denied that the Claimant had raised this concern in the meeting on 22 September. The Respondent says the latter point, the point about Child B, was a detail added by the Claimant later in the process, once it became apparent to her that her alleged protected disclosures did not contain enough detail to be a protected disclosure. It was also disputed that the previous situations with Child B had been of concern. He is a curious child, but it was an open plan setting in which the children were able to flow between rooms, and he had not gone missing or left the school premises.
83. The Tribunal did not find that the Claimant raised any concerns in the meeting about the children's safety or any concerns that a child could have gone missing. The Tribunal did not find that the Claimant had made any reference to Child B. We accepted the Respondent's witness statement evidence that none of these concerns were referred to. The Tribunal found that if the Claimant had raised a safety concern, about the potential for a child to have gone missing, with Ms Mulhall on 22 September 2023 that concern would have been recorded in her notes. We did not find it plausible that as Headteacher she would have deliberately left out a safety concern raised by a member of staff, but instead intentionally recorded a separate safety concern (i.e. that the Claimant had been left alone) which was not really reported.
84. The Tribunal did not conclude that the notes provided by the Claimant were contemporaneous notes made either on the day of the meeting or shortly thereafter (p233-238). They appear to be an account that was written at some later date, although the Tribunal was unable to conclude when. As a result, we did not find they were a reliable account of what was said on either 21 or 22 September 2023.
85. The Tribunal also accepted that Ms Mulhall and Ms Chapman found the Claimant to be rude in the meeting. We found the Claimant had strong opinions about how things should be done in the classroom and when she conveyed her thoughts about how Ms Chapman ran the reception class, Ms Chapman reasonably believed she was being criticised.
86. From Monday 25 September 2023 to 27 September 2023, the Claimant was on jury service. The Claimant called Ms Mulhall in the afternoon of 27 September 2023 to say she had not been selected for a trial and so could return to work the following day. Ms Mulhall requested that they have a meeting the following morning.
87. The Tribunal found that after the meeting on 22 September 2023, Ms Mulhall was considering terminating the Claimant's contract whilst the Claimant was still in her probationary period.

88. Ms Mulhall explained in her witness statement that prior to the meeting, other members of staff had raised concerns about the Claimant with human resources. After the meeting on 22 September 2023, Ms Mulhall asked those members of staff to put their concerns in writing.
89. On 27 and 28 September 2023, three members of staff, Ms Mulberry, Ms Wade and Ms Weir, sent Ms Mulhall an email setting out their concerns about the Claimant (p246, p248, p251). It is clear from the emails that those who sent feedback knew that Ms Mulhall was meeting with the Claimant on 28 September 2023.
90. In her email, Ms Mulberry complained about three incidents. The first related to time when she felt the Claimant had been misleading by telling Ms Chapman that Ms Mulberry had decided what items to throw out, rather than the Claimant. The second related to a time when Ms Mulberry was re-organising the library and the Claimant had told her where she should be putting the books and then had requested Ms Mulberry cover for her in the class, while the Claimant sorted out the library. Ms Mulberry said she politely declined. Ms Mulberry said she felt uncomfortable being told what to do by the Claimant, when she was already following instructions that she had been given by management. The third occasion related to when the Claimant asked Ms Mulberry about her previous experience, qualifications and current role. Ms Mulberry said the nature of the conversations had left her feeling uncomfortable.
91. In Ms Wade's email, she set out a long list of complaints about the Claimant, including that the Claimant had brought a very negative atmosphere to the team. She said the Claimant had complained that Ms Wade's class lacked structure and set out that she felt the Claimant had undermined her and her planning. She noted that when the Claimant had not got her way, she would then complain to Ms Weir. She also noted that if the Claimant did not get her way, she would then ignore Ms Wade, and it made it awkward and difficult to give her instructions.
92. In Ms Weir's email, she set out that she had been offended by a comment made by the Claimant about one of the parent's weight and said the Claimant had insulted her intelligence. She said the Claimant would sarcastically tell her how things worked as if Ms Weir would not know.
93. In her witness statement, the Claimant said the three emails referred to above contained unverified allegations and subjective opinions, and said these emails were only solicited after she raised her whistleblowing complaint. The Tribunal accepts the timing of the emails could legitimately cause the Claimant to be suspicious. However, the email from Ms Wade is in keeping with the email she had written in June, some months before the Claimant had raised any concerns about the events of 20 September 2023. Further, the Tribunal did not find that the other members of staff had fabricated concerns. We accepted they were genuinely held concerns about their interactions with the Claimant. The concerns raised by the members of staff were broadly similar to concerns reported by Ms Chapman, Ms Wade, and Ms Mulhall, which was that whether it was intended or not, the Claimant could come across as quite rude, had firm opinions about how the

classes should be run which she freely shared despite having only been employed for a few months, and she would react badly when she was given feedback she did not agree with.

94. On 28 September 2023, Ms Mulhall met with the Claimant. Also present was Mr Watkins. Mr Watkins took notes (p271-272).
95. In Mr Watkins' notes it was recorded that Ms Mulhall told the Claimant that she had been made aware of several times when the Claimant had been quite judgmental towards her colleagues. The Claimant asked for examples. Ms Mulhall gave the example of when the Claimant had said she did not like Ms Chapman's classroom practise and had said she preferred what another teacher did in the class. It was recorded in the notes that Ms Mulhall told the Claimant that she came across as assertive and confident. The Claimant is recorded as saying that she was shocked by the interaction she had with Ms Chapman the week before and that she had felt alone dealing with the children whilst Ms Chapman was with the parents. She is recorded as saying, "It was not a safeguarding issue" (p271).
96. The minutes record that the Claimant was told that she had come across as judgmental in the previous meeting, and that her colleagues had recorded that they felt uncomfortable being questioned about their qualifications. The Claimant was recorded as responding by saying that she had just been interested in how long people had been doing their jobs. The Claimant was told there had been reports of her telling others to do certain things in the classroom and she was told it was not for her to direct her colleagues. Ms Mulhall raised that there had been issues in the nursery and when the Claimant asked why that was relevant, Ms Mulhall is recorded as saying that it looked like a pattern of behaviour. She noted the Claimant's practise with children was not in doubt but her interactions and comments to colleagues could come across badly and as judgmental.
97. Ms Mulhall is recorded as saying to the Claimant that they could not have two members of staff ignoring each other, and that they should meet again in a week. The Claimant is recorded as responding that when Ms Chapman shouted at her it was the first time anyone had raised their voice to her. Ms Mulhall advised the Claimant that she was still in her 26 week probation period and that it could be extended or terminated. The Claimant was reminded to work with Ms Chapman and is recorded as responding that she still felt she was owed an apology for the fact that Ms Chapman had raised her voice at her. The Claimant indicated that she understood the issues that had been raised, thanked Ms Mulhall for raising them, and agreed that everyone needed to be respectful.
98. In her witness statement, the Claimant said it was at this meeting that her probationary period was referred to for the first time. She was told that she was confident and assertive and that because other members of staff were not, they felt she was judgmental at times. She said she was told of general criticisms, but nothing concrete. She was asked to improve her communications with Ms Chapman. She said the safeguarding issue was discussed again, but this was not documented in the minutes. Although in

her statement she also said the safeguarding issue was referred to as a discussion, but the minutes failed to reflect its seriousness.

99. On 19 October 2023, a member of staff emailed Mr Watkins to say she had witnessed the Claimant come into her classroom and purposefully said goodbye to herself and another colleague, but she had blanked Ms Wade (p278).
100. On 30 October 2023, the Claimant met with Ms Mulhall again. Mr Watkins was also present. Ms Mulhall explained in her witness statement that she had called the meeting when she had attended Ms Chapman's classroom and seen the Claimant sitting at a distance from Ms Chapman. When she asked Ms Chapman why, Ms Chapman had replied that the Claimant would always distance herself and would not engage with her.
101. The Claimant's account of the meeting was that Ms Mulhall had asked her how the last few weeks had been, and the Claimant had replied fine, except that Ms Chapman did not engage with her. The Claimant said she had tried to communicate with Ms Chapman and gave two examples of when she had offered her congratulations and given her a hug. She said that Ms Chapman preferred to communicate with Ms Ghulamhan, rather than the Claimant. Ms Mulhall's account of the meeting was that the Claimant was reminded of the need to communicate with Ms Chapman and the need to work collaboratively with everyone.
102. On 3 November 2023, Ms Chapman sent an email to Ms Mulhall, and the other members of the Senior Leadership Team. She set out a long list of concerns about working with the Claimant. In the email she wrote, "Can I please be given an idea of the time frame of how much longer I am expected to continue working in the conditions I have explained in the attached document and what is the plan moving forward so I know what I need to mentally prepare myself for" (p262).
103. In the attachment, Ms Chapman set out a lengthy critique of the Claimant's behaviour from when she first arrived, which included her time at the nursery, the complaints she had made that she had been left alone on 20 September 2023, and the criticisms made of Ms Chapman in the meeting of 22 September 2023. In the attachment, she set out that since the Claimant had returned from jury service, their relationship had been extremely strained. Ms Chapman said the Claimant would not engage in conversations with Ms Chapman. She said if the Claimant wanted clarification she would go to the other member of staff in the reception class. She wrote that the Claimant would only greet Ms Chapman if someone else was in the room and she would make a point of ignoring Ms Chapman by speaking to a child when she was relaying important information. She referred to her concern that the Claimant may fabricate safeguarding issues or change the narrative and this could be devastating for Ms Chapman's career. She referred to attending work on a Monday full of dread and being uncertain how long the stress of the situation could go on for.
104. Ms Chapman wrote in her witness statement that when she had written the email on 3 November 2023, she had been experiencing anxiety when

driving to school, which was not something that she had experienced before. She described her concern that the Claimant had said she was taking notes about Ms Chapman and her practise, and she felt constantly that she was being judged.

105. Ms Chapman also set out in her witness statement that they had asked the Claimant to start work 10 minutes earlier two days a week. Her contractual start time was 8.40am and she was asked to start at 8.30am because that was the time that the reception class arrived and two members of staff were needed for safeguarding purposes. They had sufficient cover on Mondays, Tuesdays, and Wednesdays, but on Thursdays and Fridays, the teaching assistant did not start until 9.30am. It was noted the Claimant arrived at school each day between 8.15am and 8.20am and then sat in the staff room until 8.40am. The Claimant refused to start 10 minutes earlier on a Thursday and Friday, which mean that they had to take another member of staff from a different classroom to cover that 10-minute period. When the Claimant was asked why she was refusing to start 10 minutes earlier, Ms Chapman said the Claimant responded that she did not have to tell her a reason.
106. Ms Mulhall's evidence to the Tribunal was that after she received Ms Chapman's email of 3 November 2023, she decided to terminate the Claimant's employment. She discussed this with human resources, Mr Watkins and Mr Ridgeway. Ms Mulhall asked Mr Ridgeway and Mr Watkins to meet with the Claimant that day to inform her of the decision to terminate her employment due to her failed probationary period.
107. On 10 November 2023, Mr Ridgeway and Mr Watkins met with the Claimant. Mr Ridgeway informed the Claimant of the decision, and Mr Watkins took notes. The minutes of the meeting record the Claimant was surprised, said that she got on with everyone, said it was a one-sided issue, she felt it was abrupt, said she had altercation with Ms Chapman, and that was the only thing that had happened. The Claimant was advised of her right of appeal and indicated she would appeal. She is recorded as saying she felt she had improved things.
108. On the same day, the Claimant was sent a letter setting out in writing that she was to be dismissed due to the fact that her probationary period had been unsuccessful. No further details were given as to the reasons why (p266).
109. On 16 November 2023, the Claimant submitted an appeal to the Chair of Governors, Mrs Eggleton. In her appeal letter, the Claimant set out what she had said to Ms Chapman on 21 September and what she had said on 22 September 2023. She referred to the dismissal of the children being chaotic and overwhelmed but did not say she had referred to concerns about the children's safety or concerns about the possibility of a child going missing. She sent a follow up email on 4 December 2023, when she had not received a response.
110. On the same day, the Claimant submitted her claim to the Employment Tribunal. in her Claim Form, with regards to the events of 21 and 22 September 2023, she noted:

“10. On 21st September I approached Kelly Chapman (Deputy Head/Reception Teacher) to express concerns over an incident that occurred during home-time the day before. She did not allow me to speak but instead raised her voice and informed me that she did not wish to discuss it. I was not given the opportunity to reply and left the staff room shaken.

11. Later that day I was called in by Hayley Mulhall (Head Teacher) who asked me to relate what had happened. This took me by surprise as Kelly Chapman’s reaction had led me to believe that she did not wish to discuss this at all but clearly, she had since approached the head teacher. I explained that during home-time on 20th September, it became very chaotic as Kelly Chapman did not return to the classroom until close to 3.15pm by which time the majority of parents had already arrived for pick-up. She should have been back by 3pm at the latest as the TA had reminded her at 2.55pm that she had to leave by then to pick up her child. Kelly Chapman opened the gates and rushed through dispatching the children and I found myself overwhelmed trying to manage both the children who had yet to be dispatched and the children who were coming back in after dispatch because they had forgotten various items. One child in particular was in tears and needed my immediate attention.

...

13. I made it clear to Hayley Mulhall that my intention when approaching Kelly Chapman on the morning of 21st September was not to flag this as a safeguarding issue but simply to express my concerns so that we could work together to avoid any future risk of it becoming a safeguarding issue. I left feeling the safeguarding concern I had raised had not been taken seriously”

111. On 5 December 2023, the Admin Officer, Ms Leigh sent an email to Ms Mulhall regarding a time in September 2023, when she felt the Claimant had lied about her and it had made her look unprofessional.
112. On the same day, the Claimant was sent a letter inviting her to an appeal hearing.
113. On 8 December 2023, the Claimant wrote an email to Ms McNamara, the School’s Designated Safeguarding Lead. She wrote that she was writing to express her deep concern about a lack of seriousness in addressing a safeguarding concern by Ms Mulhall. She said the concern had been raised first with Ms Chapman on 21 September 2023, when Ms Chapman had not allowed the Claimant to explain her concern. She wrote that on 22 September 2023, when it was raised with Ms Mulhall, it was not taken seriously. She asked that the matter be addressed and noted the safeguarding concern was set out in the attachment.
114. In the attachment, the Claimant noted that she tried to raise her safeguarding concern with Ms Chapman, and noted, “I believed this was critical as since the start of the new term, a non-English speaking child had

gone unnoticed out of the classroom on at least two separate occasions.” While this was the safeguarding concern set out in the attachment, the Claimant did not say in the document that she had said to either Ms Chapman or Ms Mulhall that she was concerned about the safety of the children or about a child going missing. She noted that the safeguarding concern she had tried to raise with Ms Mulhall was not taken seriously.

115. Ms McNamara subsequently undertook an investigation. She interviewed Ms Chapman, Ms Ghulamhan, and Ms Mulhall separately on 12 December 2023. Both Ms Chapman and Ms Mulhall reiterated that the Claimant had complained about being left alone on 20 September 2023, and both said this was not the case because Ms Ghulamhan had not left until Ms Chapman had returned.
116. On 16 December 2023, Ms McNamara emailed the Claimant to say that further to her email of 8 December 2023, she had investigated the concern the Claimant had raised and acted accordingly (p313).
117. On 22 December 2023, the Claimant was sent a letter regarding the appeal hearing and a number of documents related to her dismissal (p316) including a document titled ‘HT response’, which set out Ms Mulhall’s response to the appeal. It was noted by Ms Mulhall that the decision was taken to end the Claimant’s employment because she had not demonstrated a positive attitude, the values, and behaviors required to develop and sustain effective relationships within the school community. Ms Mulhall referred to a pattern of behaviour displayed by the Claimant. Another document provided to the Claimant was from Ms McNamara and related to the investigation she had undertaken. She noted in the document: “In summary, it would appear that the issue at hand primarily revolves around [the Claimant’s] handling of the situation, rather than constituting a safeguarding concern with immediate danger to the children.”
118. On 26 January 2024, as set out above, the Claimant was sent a letter from the First Respondent notifying her of her dismissal.
119. On 5 February 2024, the Claimant attended an appeal hearing which was held by the Chair of Governors and two additional Governors. The Claimant was accompanied by a Trade Union representative.
120. On 12 February 2024, the Claimant was sent a letter regarding her appeal. She was informed that the panel concluded that there were procedural irregularities in the process of the dismissal, but the panel had not found they gave rise to sufficient grounds of overturn the original decision.
121. On 21 February 2024, the Claimant’s application for interim relief was heard and was not successful.
122. On 26 March 2024, the Claimant applied to amend her Claim Form. Paragraphs 10 and 11 had been amended to the following:

“10. On 21st September I approached Kelly Chapman (Deputy Head/Reception Teacher) to express concerns over an incident that

occurred during home-time the day before. She did not allow me to speak fully explain my safeguarding concern but instead raised her voice and informed me that she did not wish to discuss it. I was not given the opportunity to reply and left the staff room shaken.

11. ~~Later that day~~ On 22 September I was called in by Hayley Mulhall (Head Teacher) who asked me to relate what had happened. It was in this meeting I realised that Kelly Chapman, although having told me she did not want to hear any more about the concern I had raised with her on the previous day, had since spoken with Hayley Mulhall. ~~This took me by surprise as Kelly Chapman's reaction had led me to believe that she did not wish to discuss this at all but clearly, she had since approached the head teacher.~~ I explained that during home-time on 20th September, it became very chaotic as Kelly Chapman did not return to the classroom until close to 3.15pm by which time the majority of parents had already arrived for pick-up. She should have been back by 3pm at the latest as the TA had reminded her at 2.55pm that she had to leave by then to pick up her child. Kelly Chapman opened the gates and rushed through dispatching the children and I found myself overwhelmed trying to manage both the children who had yet to be dispatched and the children who were coming back in after dispatch because they had forgotten various items (the children's entrance/dispatch is through a single doorway). One child in particular was in tears and needed my immediate attention. I believe that Kelly Chapman's late return to the classroom and consequent 'rushing' through to dispatch the children had the potential to become a safeguarding issue and, hence, on the morning of 21/9/23, I had tried to raise this as a safeguarding concern with Kelly Chapman who had not allowed me to fully explain my safeguarding concern to her. I stated I believed this was critical as since the start of the new term a non-English speaking child had gone unnoticed out of the classroom on at least two separate occasions. I told Hayley Mulhall that I had approached Kelly Chapman in the staff room that morning with a view to sharing my concern with her and working together to eliminate any potential safeguarding issue from ever happening. However, when I had tried to speak with Kelly Chapman I had been taken aback by her response. She did not listen or allow me to explain, instead she shouted me down. I said I had felt increasingly uncomfortable as the staff room door was wide open, as was the door of the classroom opposite, where I could see both the children and adults. Kelly Chapman had finished her one-sided tirade by stating she would not hear anything more about it. On at least three occasions (as if dealing with a child) she had shouted, "Excuse me, I'm talking!" Feeling shaken, I had left the staff room."

The Issues to be determined

123. A List of Issues was set out in Employment Judge George's Case Management Order. It is set out below (but without reference to the unauthorised deduction from wages claim):

Protected disclosure ('whistle blowing')

1. Did the Claimant make one or more qualifying disclosures as defined in section 43B of the Employment Rights Act 1996? The Tribunal will decide:
2. What did the Claimant say or write? When? To whom? The Claimant says she made disclosures on these occasions:
 - 1) On 21st September 2023 the Claimant orally expressed a safeguarding concern over home time to Kelly Chapman as set out in para.10 of the Amended Claim Details.
 - 2) On 22nd September the Claimant orally made a communication expressing a safeguarding concern to Hayley Mulhall and Kelly Chapman about the events of 20th September as set out in para.11 of the Amended Claim Details.
3. Were the disclosures of 'information'?
4. Did she believe the disclosure of information was made in the public interest?
5. Was that belief reasonable?
6. Did she believe it tended to show that a person had failed, was failing or was likely to fail to comply with any legal obligation, namely their compliance with safeguarding. The respondent is content that when the claimant describes the legal obligation as "safeguarding" that sufficiently describes a recognised legal obligation without it being necessary to state the precise legislation under which those obligations are found.
7. Was that belief reasonable?
8. If the Claimant made a qualifying disclosure, was a protected disclosure because it was made to her employer? The Respondent accepts that disclosures made to Kelly Chapman and Hayley Mulhall would have been made to the 'employer' within the meaning of s. 43C.

Detriment (Employment Rights Act 1996 section 47B)

9. Did the Respondent do the following things:
 - 1) On 21st September Kelly Chapman shouted at the Claimant and did not listen to her.
 - 2) On 22nd September 2023 Hayley Mulhall was dismissive and a belittling in response to the Claimant's concerns.
 - 3) On 28th September 2023 Hayley Mulhall informed the Claimant for the first time about her being on probation.
 - 4) On 28th September 2023 Hayley Mulhall put pressure on the Claimant and intimidated her without giving any details of incidents that justified her behaviour towards the Claimant.
 - 5) On 30th October 2023 Hayley Mulhall omitted to give any reason and continued to intimidate and pressurise the Claimant.

10. By doing so, did it subject the Claimant to detriment?

11. If so, was it done on the ground that she had made the protected disclosure set out above?

Dismissal (Employment Rights Act s. 103A)

12. Was the making of any proven protected disclosure the reason or principal reason for the Claimant's dismissal?

13. The Claimant did not have at least two years' continuous employment and the burden is therefore on her to show jurisdiction and therefore to prove that the reason or, if more than one, the principal reason for the dismissal was the protected disclosure.

The relevant law

124. The Employment Rights Act 1996 (ERA) sets out the circumstances in which a worker who makes a protected disclosure is protected from detrimental treatment and/or dismissal. Part IVA of the ERA defines the meaning and scope of 'protected disclosures'. Section 47B ERA confers a right on workers not to be subjected to any detriment on the ground that they have made a protected disclosure. Section 103A ERA stipulates that an employee will be regarded as having been unfairly dismissed if the principal reason for his or her dismissal is that he or she made a protected disclosure.

Protected disclosure

125. In order for a disclosure to be covered by the Employment Rights Act, it has to constitute a 'protected disclosure'. This means that it must satisfy three conditions 1) it must be a 'disclosure of information', 2) it must be a 'qualifying' disclosure - one that, in the reasonable belief of the worker making it, is made in the public interest and tends to show that one or more of six 'relevant failures' has occurred or is likely to occur, and 3) it must be made in accordance with one of six specified methods of disclosure.

Disclosure of information

126. Section 43B ERA defines a qualifying disclosure as 'any disclosure of information' relating to one of the specified categories of relevant failure. The statute provides that a disclosure of information can occur even where the person receiving the information is already aware of it.

127. In *Cavendish Munro Professional Risks Management Ltd v Geduld* [2010] ICR 325, the EAT said the ordinary meaning of giving 'information' is 'conveying facts'. In that case, the solicitor's letter had not conveyed any facts. It simply expressed dissatisfaction with the employee's treatment. For that reason, it did not amount to a disclosure of information and could not be a protected disclosure. The EAT commented that if a hospital employee were to say 'the wards have not been cleaned for the past two weeks' or

‘yesterday, sharps were left lying around’, that would convey information. In contrast, an employee who stated ‘you are not complying with health and safety requirements’ would merely be making an allegation.

128. In *Kilraine v London Borough of Wandsworth* [2018] ICR 1850, CA, the Court of Appeal held that ‘information’ is capable of covering statements which might also be characterised as allegations. Thus, ‘information’ and ‘allegation’ are not mutually exclusive categories of communication. The key point from *Cavendish Munro Professional Risks Management Ltd v Geduld* is that a statement which is general and devoid of specific factual content cannot be said to be a disclosure of information tending to show a relevant failure. The Court of Appeal adapted the example given in *Cavendish Munro* of a hospital worker informing his or her employer that sharps had been left lying around on a hospital ward. The Court explained that if instead the worker had brought his or her manager to the ward and pointed to the abandoned sharps and then said ‘you are not complying with health and safety requirements’, the oral statement would derive force from the context in which it was made and would constitute a qualifying disclosure.
129. The communication of an expression of opinion can potentially constitute a disclosure of information. In *McDermott v Sellafeld Ltd and ors* [2023] EAT 60, the claimant brought whistleblowing claims against the respondents relying, among other things, on her expression of her opinion that the respondent was taking the wrong approach in dealing with allegations of sexual harassment. The claimant was asked to conduct focus group interviews with members of a team with a view to flushing out any evidence that might support the allegations. However, the claimant responded that, instead of this approach, there should be a formal investigation. An employment tribunal concluded, among other things, that the claimant’s expression of her opinion was not a disclosure of information. On appeal, the EAT was satisfied that the tribunal had not made the principled error of assuming that, just because the claimant’s communication conveyed an expression of opinion, it could not also have communicated information sufficient to fulfil the concept of a qualifying disclosure. Rather, the tribunal had concluded that it was ‘no more than’ an expression of opinion as well as not even being ‘an allegation such that in an appropriate context it might nonetheless qualify for protection’. However, the EAT went on to hold that the tribunal had been particularly influenced by matters that were more pertinent to the question of whether the claimant reasonably believed that the information communicated tended to show a relevant wrongdoing. The tribunal needed as a starting point to engage with the claimant’s case as to the nature of the information embedded in what she had said, in order to assess whether that was the sort of content that she could potentially regard as tending to show relevant wrongdoing, and, if so, whether she in fact so regarded it, and, if so, reasonably so regarded it. Further, the tribunal needed to judge whether the claimant was disclosing information at the point when she made the disclosure. The EAT concluded that the tribunal had erred in its consideration of whether this disclosure was a disclosure of information.

130. In *Norbrook Laboratories (GB) Ltd v Shaw* [2014] ICR 540, the EAT held that two or more communications taken together can amount to a qualifying disclosure even if, taken on their own, each communication would not.

Public interest

131. Section 43B(1) ERA requires that, in order for any disclosure to qualify for protection, the person making it must have a 'reasonable belief' that the disclosure 'is made in the public interest'. A tribunal is not tasked with asking itself the objective questions of what the public interest is, and whether a disclosure served it. This section requires the Tribunal to gauge what the worker considered to be in the public interest, whether the worker believed that the disclosure served that interest, and whether that belief was held reasonably.
132. The case of *Chesterton Global Ltd (t/a Chestertons) and anor v Nurmohamed (Public Concern at Work intervening)* [2018] ICR 731 concerned a number of disclosures about accounting practices at a private company. An employee alleged that the Mayfair office was misstating costs and liabilities, and that this negatively affected the earnings of over 100 senior managers, including himself. An employment tribunal found that he had a reasonable belief that the disclosures were made in the interests of all senior managers and concluded that this was a sufficient group of the public for the matter to engage the public interest. The EAT observed that the words 'in the public interest' were introduced to do no more than prevent a worker from relying on a breach of his or her own contract of employment where the breach is of a personal nature and there are no wider public interest implications. In the EAT's view, a relatively small group may be sufficient to satisfy the public interest test. This is a necessarily fact-sensitive question. The Court of Appeal dismissed the company's further appeal. In the Court's view, even where the disclosure relates to a breach of the worker's own contract of employment (or some other matter where the interest in question is personal in character) there may nevertheless be features of the case that make it reasonable to regard disclosure as being in the public interest, as well as in the personal interest of the worker. In this regard, the following factors might be relevant 1) the numbers in the group whose interests the disclosure served, 2) the nature of the interests affected and the extent to which they are affected by the wrongdoing disclosed, 3) the nature of the wrongdoing disclosed (was it deliberate wrongdoing?), and 4) the identity of the alleged wrongdoer.

Qualifying disclosures - six categories

133. A qualifying disclosure is defined in section 43B as 'any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following':
- that a criminal offence has been committed, is being committed or is likely to be committed — section 43B(1)(a)
 - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject — section 43B(1)(b)

- that a miscarriage of justice has occurred, is occurring or is likely to occur — section 43B(1)(c)
- that the health or safety of any individual has been, is being or is likely to be endangered — section 43B(1)(d)
- that the environment has been, is being or is likely to be damaged — section 43B(1)(e)
- that information tending to show any matter falling within any one of the above has been, is being or is likely to be deliberately concealed — section 43B(1)(f).

Section 43B(1)(b) - Legal obligations

134. A disclosure which, in the reasonable belief of the worker making it, is made in the public interest and tends to show that a breach of a legal obligation has occurred (or is occurring or is likely to occur) amounts to a qualifying disclosure. This covers not only those obligations set down in statute and secondary legislation but also any obligation imposed under the common law and contractual obligations.
135. A worker need not always be precise about what legal obligation he or she envisages is being breached or is likely to be breached for the purpose of a qualifying disclosure. Where it is obvious that some legal obligation is engaged then the disclosure can potentially qualify for protection without specifics as to the legal obligation envisaged (*Bolton School v Evans* [2006] IRLR 500, EAT).
136. In less obvious cases however the worker will have to at least identify the nature of the legal wrong that he or she believes to be at issue, as opposed to setting out a moral or ethical objection. In *Eiger Securities LLP v Korshunova* [2017] ICR 561 EAT, a financial instruments trader claimed that she made a qualifying disclosure when she challenged her line manager about his practice of logging in to her computer and instant messaging account and conducting trades with clients without informing them that they were dealing with him instead of her. A tribunal accepted that this tended to show a breach of a legal obligation, but the EAT overturned that decision. It accepted the company's argument that the tribunal did not find that the trader reasonably believed that there had been a breach of a legal obligation. The tribunal had found that the trader reasonably believed that her line manager was breaking some industry guidance or rules but did not specifically consider whether she reasonably believed that such guidance or rules involved legal obligations. While the tribunal had stated that the trader reasonably believed that there must be a legal obligation on the company's employees not to mislead clients about who was conducting the communication, it did not identify any such legal obligation. It could not be said that not informing a client of the identity of the person with whom he or she is dealing where that person is trading from another person's computer is plainly a breach of a legal obligation. The EAT clarified that the identification of the legal obligation would not have to be detailed or precise but would have to be more than a belief that certain actions are wrong. Actions may be considered to be wrong because they are immoral,

undesirable or in breach of guidance without being in breach of a legal obligation.

Method of disclosure

137. A qualifying disclosure that is made to the worker's employer will be a protected disclosure.

Detriment

138. Section 47B ERA provides that a worker has the right not to be subjected to any detriment by his or her employer on the ground that the worker made a protected disclosure. The term 'detriment' is not defined in the ERA, but its meaning has been considered in a number of cases. In *Ministry of Defence v Jeremiah* [1980] ICR 13, CA, Lord Justice Brightman stated that a detriment 'exists if a reasonable worker would or might take the view that [the action of the employer] was in all the circumstances to his detriment'. This description was adopted by the House of Lords in *Shamoon v Chief Constable of the Royal Ulster Constabulary* [2003] ICR 337, HL. It is not necessary for there to be physical or economic consequences to the employer's act or inaction for it to amount to a detriment. What matters is that, compared with other workers (hypothetical or real), the complainant is shown to have suffered a disadvantage of some kind.
139. In *Tiplady v City of Bradford Metropolitan District Council* [2020] ICR 965, CA, the Court of Appeal expressed the view that for a detriment to come within the scope of section 47B, it must be a detriment to which the worker has been subjected in the 'employment field'. A council employee's whistleblowing detriment claim could not, therefore, cover detriments she alleged to have encountered in her capacity as a user of the council's services.
140. The test for causation was set out by Elias LJ in *Fecitt and ors v NHS Manchester (Public Concern at Work intervening)* [2012] ICR 372, CA. The question for the Tribunal is whether the protected disclosure materially influenced (i.e. more than trivially) the employer's treatment of the whistleblower.
141. In any detriment claim under section 47B, it is for the employer to show the ground on which any act, or deliberate failure to act, was done (section 48(2) ERA). Once all the other necessary elements of a claim have been proved on the balance of probabilities by the claimant, namely that there was a protected disclosure, there was a detriment, and the respondent subjected the claimant to that detriment, then the burden will shift to the respondent to prove that the worker was not subjected to the detriment on the ground that he or she had made the protected disclosure.

Dismissal

142. Section 103A ERA renders the dismissal of an employee automatically unfair where the reason, or, if more than one reason, the principal reason, for his or her dismissal is that he or she made a protected disclosure.

Therefore, an employee will only succeed in a claim of unfair dismissal if the tribunal is satisfied, on the evidence, that the 'principal' reason is that the employee made a protected disclosure. The principal reason is the reason that operated on the employer's mind at the time of the dismissal (*Abernethy v Mott, Hay and Anderson* [1974] ICR 323, CA). If the fact that the employee made a protected disclosure was merely a subsidiary reason to the main reason for dismissal, then the employee's claim will not be made out.

143. Lord Justice Elias confirmed in *Fecitt and ors v NHS Manchester (Public Concern at Work intervening)*, that the causation test for unfair dismissal is stricter than that for unlawful detriment under section 47B. A claim for a detriment may be established where the protected disclosure is one of many reasons for the detriment, so long as the disclosure materially influences the decision-maker. Section 103A requires the disclosure to be the primary motivation for a dismissal.

The Tribunal's conclusions

Protected disclosures

144. The Tribunal found that the Claimant did not make the protected disclosures which she claimed to have made on either 21 September 2023 or 22 September 2023.
145. As set out above, the Tribunal found that on 21 September 2023, when the Claimant spoke to Ms Chapman in the staff room, she complained about being left alone. Ms Chapman refuted that suggestion, and the matter escalated, with both the Claimant and Ms Chapman raising their voices. As noted above, the Tribunal considered it was likely that the Claimant was trying to express a wider frustration about the fact she *felt* she had been left alone, and had felt overwhelmed, but found she said that she was left alone.
146. The Tribunal did not find that the Claimant had said anything about the safety of the children, nor did she raise any concerns that a child could have gone missing. She did not refer to Child B. Indeed, the Claimant set out in her Claim Form, "I made it clear to Hayley Mulhall that my intention when approaching Kelly Chapman on the morning of 21st September was not to flag this as a safeguarding issue...". The Tribunal found therefore that the Claimant did not make the disclosure of information which she alleged she had made regarding a concern that a child could have gone missing in the chaos. As the Tribunal did not find that the Claimant had made any of these comments, the Tribunal did not find that the Claimant disclosed information which she believed tended to show that a person had failed, was failing or was likely to fail to comply with any legal obligation. Nor did she disclose information that she reasonably believed was in the public interest. Instead, the Tribunal found that the Claimant was primarily expressing her dissatisfaction because she had found dismissal on 20 September 2023 to be stressful and overwhelming for her personally.
147. At no point prior to the Claimant's dismissal did she set out in writing that she was concerned about the safety of the children on 20 September 2023

or that she was concerned that a child may go missing. The Tribunal heard evidence about how the Claimant did not have access to CPOMS, the online system for reporting safeguarding concerns. That did not however explain why she did not put her concern in writing in an email to Ms Chapman, Ms Mulhall, or the Safeguarding Lead, Ms Mcnamara, as she did after she was dismissed.

148. Similarly, the Tribunal found that again on 22 September 2023, when the Claimant spoke to Ms Mulhall and Ms Chapman in the meeting, the Claimant complained a number of times about having been left alone. As set out above, the Tribunal accepted this was what the Claimant said because this is what is set out in the notes of the meeting taken by Ms Mulhall and is consistent with what Ms Mulhall said in her evidence had occurred in the meeting. As explained above, the Tribunal accepted the notes were an accurate reflection of what was discussed.
149. The Tribunal did not find that the Claimant said anything about the safety of the children or raise any concerns that a child could have gone missing. She did not refer to Child B. The Tribunal found therefore that the Claimant did not make the disclosure of information which she alleges she made.
150. As explained above, the Tribunal found that if the Claimant had raised a concern that a child could have gone missing, Ms Mulhall would have recorded this in her notes. The Tribunal found it implausible that Ms Mulhall and Ms Chapman had colluded, and produced inaccurate notes, which recorded the Claimant as raising a safeguarding concern, which she did not actually make (i.e. that she was left alone), and purposely left out a safeguarding concern which she did raise (i.e. that a child could have gone missing). The far more likely explanation is that the Claimant said she was left alone a number of times and that is why Ms Mulhall recorded it in the notes. Both Ms Chapman and Ms Mulhall gave evidence that this is what the Claimant said.
151. As the Tribunal did not find that the Claimant raised a concern about the fact a child could have gone missing, and did not refer to Child B, the Tribunal did not find that the Claimant disclosed information which she believed tended to show that a person had failed, was failing or was likely to fail to comply with any legal obligation. Nor did she disclose information that she reasonably believed was in the public interest. Instead, the Tribunal found that the Claimant's primary concern at the meeting on 22 September 2023 related to the fact Ms Chapman had raised her voice the day before, and she felt she was owed an apology from her.
152. The Tribunal did not analyse if the Claimant made a protected disclosure when she said she was left alone. The Claimant denied she said this on both 21 September and 22 September 2023. Even though the Tribunal found that she did say this, it was not her case that she made a protected disclosure on this basis. Her case was that she made a protected disclosure when she raised concerns that a child could have gone missing, and that she was particularly worried about this because Child B had previously left the classroom. However, as made clear above, the Tribunal did not conclude that she said this to either Ms Chapman or Ms Mulhall.

153. As the Tribunal did not find that the Claimant made a protected disclosure on either 21 September 2023 or 22 September 2023, both of the Claimant's claims fail. A claim of automatic unfair dismissal for making a protected disclosure and a claim of detriments on grounds of having made a protected disclosure, both require the Claimant to establish first of all that a protected disclosure was made, and she has not succeeded with that step. The Tribunal did however go on to reach conclusions about the reasons for the Claimant's dismissal and reached conclusions about her alleged detriments in any event.

The reason for the dismissal

154. The Tribunal did not find that Ms Mulhall dismissed the Claimant because of concerns the Claimant had raised to Ms Chapman or Ms Mulhall about the dismissal of the children on 20 September 2023. The Tribunal found that Ms Mulhall decided to dismiss the Claimant because in a short space of time, the Claimant's relationship with the nursery teacher, Ms Wade, had completely broken down, and shortly thereafter, her relationship with Ms Chapman had also completely broken down. Ms Mulhall had also witnessed the Claimant behave in the meeting of 22 September 2022 in a manner which she described as "incredibly unprofessional". Ms Mulhall had considerable concerns about the fact that the Claimant had criticised Ms Chapman's practise in the meeting.

155. The Tribunal accepted that Ms Mulhall made the decision to dismiss the Claimant after she received Ms Chapman's email of 3 November 2023 setting out her concerns and stating she did not know how much longer she could continue to work with the Claimant. This was similar to the email sent by Ms Wade on 25 June 2023 when she had asked that the Claimant be moved to a reception class.

156. Both teachers reported to Ms Mulhall that working with the Claimant had a negative impact on their mental health. They both made it plain they did not want to work with her for any longer. They both described her as being judgmental, and critical of their practises. They both described her as being difficult to communicate with, and from a certain point onwards refusing to communicate with them. The Tribunal accepted Ms Mulhall reasonably considered this to be a pattern of behaviour. Within a short space of time, a wide range of staff had made complaints about the Claimant's behaviour, and several members of staff reported the Claimant as ignoring Ms Wade and failing to communicate with Ms Chapman.

157. The Tribunal did find that the process of dismissing the Claimant was handled badly. The Claimant was not sent written invitations to meetings. She was not informed in writing that there were concerns about her attitude and the manner in which she communicated. Concerns were raised with the Claimant in person, but these concerns should have been set out in writing following the meetings. The Claimant should also have been informed in writing of the improvements that were required, and she should have been advised in writing that there was a risk that she may fail her probationary period if she did not improve.

158. The Tribunal accepted that the Claimant was surprised by the decision to dismiss her, even though she had been advised at two meetings that there were concerns about her behavior towards other members of staff and communication skills. However, the Tribunal did not find that the reason for the dismissal was because of any concerns she had about the safety of the dismissal on 20 September 2023.

Detriments

159. As noted above, as the Tribunal did not find the Claimant had made a protected disclosure, it necessarily follows that the Tribunal did not find that she was subjected to any of the detriments which she alleges she was subjected to because she made a protected disclosure. However, the Tribunal did reach conclusions about the alleged detriments, and these conclusions are set out below.

160. The Claimant alleges that she was subjected to a detriment on 21 September 2023 when Ms Chapman shouted at the Claimant and did not let her speak. The Tribunal found that Ms Chapman did raise her voice at the Claimant. The Tribunal also found that the Claimant raised her voice at Ms Chapman. However, the Tribunal found that the reason that Ms Chapman raised her voice was because Ms Chapman was disputing that what the Claimant was saying, that she had been left alone, was factually correct. The Claimant said she had been left alone and Ms Chapman was certain she had not been. The conversation therefore quickly became circular. The Tribunal did not find that Ms Chapman raised her voice for any reason other than because she disagreed with what the Claimant was saying and was frustrated that she appeared to be insisting she had been left alone and Ms Chapman knew that was incorrect.

161. The Claimant alleges that she was subjected to a detriment on 22 September 2023 when Ms Mulhall was dismissive and a belittling in response to the Claimant's concerns. The Tribunal did not find that this occurred. The Tribunal did not conclude that Ms Mulhall was dismissive or belittling. The Tribunal did not find that the Claimant raised any concerns about the safety of the children or a concern about a child going missing. The Tribunal found that the Claimant was primarily concerned with securing an apology from Ms Chapman. The Tribunal found that Ms Mulhall was supportive of Ms Chapman in the meeting, and did refer to her achievements, which the Claimant found frustrating, as demonstrated by her making a sarcastic comment about Ms Chapman's "accolades". However, the Tribunal did not find Ms Mulhall made these points to be dismissive of the Claimant or to belittle her, but she praised Ms Chapman in response to the Claimant raising her concerns about how Ms Chapman ran the reception class, and about how she felt things should be done differently.

162. The Claimant alleges that she was subjected to a detriment on 28 September 2023 when Ms Mulhall informed the Claimant for the first time about her being on probation. The Tribunal accepted that it was in this meeting that the Claimant was advised verbally for the first time that her

contract contained a probationary period and that she was still in that probationary period. However, the Tribunal found that the reason why Ms Mulhall raised this in the meeting was because Ms Mulhall was considering ending her employment. By this time, Ms Mulhall had attended the meeting with the Claimant on 22 September 2023. She described the Claimant's conduct in the meeting as being "incredibly unprofessional" and she noted in her notes that she had to remind the Claimant not to be rude, and had asked her not to point or shout at her. Also prior to the meeting of 28 September 2023, Ms Mulhall had received the emails from Ms Mulberry, Ms Weir and Ms Wade setting out their concerns about the Claimant. By referring to the Claimant's probationary period in the meeting of 28 September 2023, Ms Mulhall clearly wanted to convey to the Claimant that if she did not improve her communication that she may be dismissed. As set out above, the Tribunal found that the Respondent should have set out in writing a warning that she would fail her probation if her conduct did not improve, but the Tribunal did not find that Ms Mulhall's behaviour was motivated by any concerns raised by the Claimant about the dismissal of the children on 20 September 2023.

163. The Claimant alleges that she was subjected to a detriment on 28 September 2023 when Ms Mulhall put pressure on the Claimant and intimidated her without giving any details of incidents that justified her behaviour towards the Claimant. The Tribunal did not find that Ms Mulhall put pressure on the Claimant or intimidated her. The Tribunal did find that the Claimant was not given all of the details of the feedback that Ms Mulhall had received from the members of staff who had complained about the Claimant. Ms Mulhall explained that she wanted to protect the identity of those who had written emails because they were concerned about how the Claimant would react. However, the Tribunal found that the Claimant was given sufficient examples such that she could understand the nature of the feedback she was being given. For example, Ms Mulhall's notes recorded that the Claimant was given the example of when she had been critical of Ms Chapman's practise in the meeting of 22 September 2023. She was also told it was not for her to give directions to other members of staff, and she was told that other members of staff had been offended when she had questioned them about their qualifications and experience. The Tribunal found this was sufficient information for the Claimant to understand why Ms Mulhall was meeting with her and asking her to change her behaviour. The Tribunal considered that it was part of Ms Mulhall's role to alert staff to concerns that had been raised about their behavior, and the Tribunal did not find that Ms Mulhall put pressure on the Claimant or intimidated her.
164. The Claimant alleges that she was subjected to a detriment on 30 October 2023 when Ms Mulhall "omitted to give any reason and continued to intimidate and pressurise the Claimant". During the hearing, the Tribunal asked the Claimant to explain what she meant by this allegation. The Claimant explained that when she said "omitted to give her reason" she meant that Ms Mulhall had not given her a reason for failing to respond to her safeguarding concern, and "the pressure" related to the repeated instruction from Ms Mulhall that she must improve her communication. The Tribunal did not find the Claimant raised the safeguard concern that she now seeks to rely on, and so we did not find that Ms Mulhall failed to give

the Claimant a reason for not responding to it. Furthermore, the Tribunal found that the reason why Ms Mulhall repeatedly told the Claimant that she needed to improve her communication was because she wanted the Claimant to improve her communication. She had received a range of complaints from other members of staff about how they had been upset or offended by the Claimant and that is why she passed on the feedback to the Claimant that she needed to improve her communication.

165. The Tribunal did not find that the Claimant made a protected disclosure, and the Tribunal did not conclude that the Claimant was dismissed or subjected to detriments because of concerns raised about the dismissal on 20 September 2023. The Claimant's claims fail and are dismissed.

Approved by:

Employment Judge Annand

5 August 2025

JUDGMENT SENT TO THE PARTIES
ON 8 August 2025

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/