



EMPLOYMENT TRIBUNALS

Claimant: Anna Mkhitaryan

Respondents: (1) University College London
(2) Kaskia Haremza
(3) Mark Hopwood
(4) Michael Brown

Heard at: London Central (by video)

On: 27 June 2025

Before: Employment Judge E Burns

Representation

For the Claimant: Represented herself
For the Respondents: Anna Greenley, Counsel

WRITTEN REASONS

INTRODUCTION

1. The Claimant presented a claim form to the tribunal on 17 April 2025 bringing various claims against the above respondents. The claim form included an application for interim relief under section 128 of the Employment Rights Act 1996.
2. The Claimant's application for interim relief derived from her claim that her dismissal on 11 April 2025 was automatically unfair pursuant to section 103A of the Employment Rights Act 1996.
3. It was not in dispute that the Claimant was an employee of University College London (hereinafter referred to as R1) and that she had been dismissed. It was also not in dispute that her application for interim relief had been presented in time.
4. In summary, the Claimant said she had made two protected disclosures and that these were the principle reason for her dismissal . The first purported disclosure was said to have been made on 30 May 2024 by email to the

Second Respondent, Ms Haremza. Ms Haremza was the Claimant's line manager on this date. The second purported disclosure was said to have been made on 16 July 2024, also by email. It was sent to R1's Vice President (Operations).

5. R1, against whom this application was made, denied that the Claimant's purported disclosures constituted qualifying protected disclosures under section 43B of the Employment Rights Act 1996. It said that the principle reason for the Claimant's dismissal was that she had failed to demonstrate that her performance and conduct met its requirements during her extended probationary period.
6. I did not hear any evidence at the hearing. I made my decision based on the written documentation available at the hearing and the oral submissions made.
7. Both parties had prepared helpful written skeleton arguments. The Claimant's ran to 10 pages and R1's ran to 14 pages. R1 had also prepared a bundle of authorities. Each side had prepared their own bundle containing the pleadings and relevant documentary evidence. The Claimant's bundle ran to 882 pages. R1's bundle ran to 178 pages. In these written reasons, I refer to key documents from those bundles by page numbers in round brackets, distinguishing between them with a C or R. The Claimant had also prepared a written witness statement for herself. Her bundle also contained a written witness statement prepared by her trade union representative. R1 had prepared written witness statements for Mark Hopwood and Michael Brown.
8. The bundles contained the emails upon which the Claimant relied as protected disclosures.
9. Having read the relevant documents and heard submissions, I found against the Claimant. I delivered an oral judgment with reasons. The Claimant subsequently applied for written reasons.

THE LAW

Interim Relief

10. Section 128 of the Employment Rights Act 1996 enables an employee to apply for interim relief where the employee presents a complaint that she has been unfairly dismissed and the reason (or if more than one, the principal reason) is that she made a protected disclosure pursuant to section 103A of the Employment Rights Act 1996.
11. Section 103A says: "An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure."
12. The statutory provisions dealing with what constitutes a protected disclosure and to whom they have to be made to qualify for protection are found in

sections 43A – 43L of the Employment Rights Act 1996. I have set out the relevant legal tests below.

13. An application for interim relief must be submitted within 7 days of the date of termination of employment (section 128(2) Employment Rights Act 1996).
14. When dealing with an application for interim relief, the key question is found at section 129(1)(a) of the Employment Rights Act 1996. I must consider whether it appears that it is likely that the tribunal will, on final determination of this claim, find that the principal reason the Claimant was dismissed was because she made a protected disclosure.
15. “*Likely*” in this context means that there is a “*pretty good chance of success*” at the final hearing (*Taplin v C Shippam Ltd* [1978] ICR 1086, EAT). A pretty good chance is more than simply on the balance of probabilities and requires a significantly higher likelihood (*Ministry of Justice v Sarfraz* [2011] IRLR 562, EAT).
16. This test applies to all elements of the claim, including for example, whether the claimant is an employee and of whom (*Simply Smile Manor House Ltd and ors v Ter-Berg* [2020] ICR 570, EAT).

Protected disclosures

17. According to section 43A of the Employment Rights Act 1996 (ERA), a “protected disclosure” means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H ERA.
18. Section 43B(1) ERA says a “qualifying disclosure” means 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—
 - (a) that a criminal offence has been committed, is being committed or is likely to be committed,
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
 - (d) that the health or safety of any individual has been, is being or is likely to be endangered,
 - (e) that the environment has been, is being or is likely to be damaged, or
 - (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

Disclosure of Information – the Sufficiency Test

19. There must be a disclosure of information. In *Cavendish Munro Professional Risks Management Ltd v Geduld* [2010] IRLR 38, the EAT held that to be protected a disclosure must involve the disclosure of information that shows

a matter set out in section 43B(1) of the Employment Rights Act 1996, and not simply voice a concern or raise an allegation.

20. The Court of Appeal has subsequently cautioned tribunals against treating the categories of "information" and "allegation" as mutually exclusive in the case of *Kilraine v London Borough of Wandsworth* [2018] EWCA Civ 1436. At paragraphs 30 -31, Sales LJ says:

"I agree with the fundamental point that the concept of "information" as used in section 43B(1) is capable of covering statements which might also be characterised as allegations.Section 43B(1) should not be glossed to introduce into it a rigid dichotomy between "information" on the one hand and "allegations" on the other.

On the other hand, although sometimes a statement which can be characterised as an allegation will also constitute "information" and amount to a qualifying disclosure within section 43B(1), not every statement involving an allegation will do so. Whether a particular allegation amounts to a qualifying disclosure under section 43B(1) will depend on whether it falls within the language used in that provision."

21. He goes on to say at paragraph 35:

"In order for a statement or disclosure to be a qualifying disclosure according to this language, it has to have a sufficient factual content and specificity such as is capable of tending to show one of the matters listed in subsection [43B](1)."

22. Whether a disclosure meets the sufficiency test should be considered in all the circumstances and take into account the context. It is important that we take into account what was said as a whole, rather than take a fragmented view of individual communications (*Norbrook Laboratories (GB) Ltd v Shaw* 2014 ICR 540, EAT). Whether two communications are to be read together is a question of fact for the tribunal (*Simpson v Cantor Fitzgerald Europe* [2021] ICR 695).

23. A disclosure may contain new information, in the sense that it involves telling a person something of which they were previously unaware, or it can involve drawing a person's attention to a matter of which they are already aware (section 43L(3), ERA 1996).

Genuine and Reasonable Beliefs

24. The requirement for reasonable belief requires the tribunal to identify first what the claimant genuinely believed and then to consider whether it was objectively reasonable for the Claimant to hold that belief. We must consider this question in light of the particular circumstances including the Claimant's level of knowledge (*Korashi v Abertawe Bro Morgannwg University Local Health Board* [2012] IRLR 4, EAT).

25. The test to be applied is whether a claimant reasonably believed (a) whether the information he disclosed showed a relevant failure had occurred, was occurring or was likely to occur and (b) whether his or her disclosure was made in the public interest.
26. A claimant does not need to demonstrate that the relevant failure actually occurred, was occurring or was likely to occur or that the disclosure was in the public interest. The focus is on the claimant's beliefs. That said, the factual reality is not entirely irrelevant. It can be taken into account when considering the objective reasonableness of a claimant's belief (*Darnton v University of Surrey* 2003 [ICR] 615, EAT; *Babula v Waltham Forest College* [2007] ICR 1026, CA).
27. The assessment should be made of the claimant's beliefs at the time of making the disclosure and not with the benefit of hindsight (*Jesudason v Alder Hey Children's NHS trust* [2020] ICR 1226).

Public Interest Test

28. The leading case dealing with when the public interest test is met is *Chesterton Global Ltd & Anor v Nurmohamed & Anor* [2017] EWCA Civ 979. The Court of Appeal confirmed that where a disclosure relates to a breach of a Claimant's own contract of employment, or some other matter under where the interest in question is personal in character, there may nevertheless be features of the case that make it reasonable to regard the disclosure as being in the public interest as well as in the personal interest of the worker. Each case will depend on its own facts and context.
29. Factors that may be helpful to consider include:
 - (a) The numbers of people whose interests may be impacted by the disclosure;
 - (b) The nature and extent of the interests involved and the impact
 - (c) The nature of the wrongdoing disclosed
 - (d) The identity of the alleged wrongdoer

Dismissal for making a protected disclosure

30. The test in a dismissal case is whether the protected disclosure was the principal reason for the employer's decision to dismiss the claimant. The burden of proof is on the claimant. This requires the tribunal to consider what is in the mind of the person who made the decision to dismiss.
31. Because what is in the mind of the decision maker is key, it is usually necessary for a successful claimant to establish that the decision maker had knowledge of a claimant's protected disclosure.
32. There is an exception to this that arises in very limited circumstances. The exception arises where there is evidence that a dismissing manager, without

knowledge of any protected disclosure, has been manipulated and misled into dismissing the employee for a different reason by someone more senior than they are in the hierarchy of the employer. If the reason for the manipulation is the claimant's protected disclosure, this can be held to be the reason for dismissal (*Royal Mail Group v Jhuti* [2019] UKSC 55).

33. In *Nicol and World Travel and Tourism Council* [2024] ICR 859, the EAT considered the degree of knowledge a dismissing decision-maker needs to have of the content of a protected disclosure in order for a tribunal to find that the disclosure was the principal reason for the decision to dismiss.
34. The case concerned a scenario where the decision-maker was someone different to the person to whom the claimant had made his protected disclosures. That person had shared some of the information disclosed to them with the decision-maker but not all of it. At first instance, the employment tribunal held that the decision maker was not aware of what had been disclosed in sufficient detail such that it led to her decision to dismiss. Sheldon J, held that this was a permissible approach for the employment tribunal. He said in paragraph 82 of his judgment that before employers are fixed with liability for dismissing a whistleblower, *"they ought to know at least something about the substance of what has been [raised]; that is, they ought to have some knowledge of what the employee is complaining or expressing concerns about."*

FACTUAL BACKGROUND

35. An interim relief hearing requires a summary assessment of the material before the tribunal. The evidence is therefore untested in the usual ways. In light of this, it is important to note that that none of the following should be treated as findings of fact that bind any other tribunal.
36. The Claimant commenced employment with R1 on 10 October 2022 as a Band 8 Head of Research Support and Development (Innovation). According to her job description (C 409) her role sat within the Pre-Award team in the new Research and Innovation Services Directorate created to provide high quality support to researchers at the Respondent. Her role involved ensuring that the Respondent's research grant applications to external research funders were developed in line with the Respondent's and the external funder's requirements, assessing successful applications and setting up awards in the Respondent's financial systems.
37. The Claimant's employment was subject to a 9 month probationary period. The Claimant took maternity leave between 20 March 2023 to 29 May 2024. As this overlapped with her probationary period it was extended accordingly. On her return from maternity leave, her probationary period was due to end in mid October 2024.
38. Prior to the Claimant's maternity leave, she raised a grievance against her line manager. This evolved into an employment tribunal claim. The claim did not proceed to a final hearing. It is not necessary for me to set out any detail about the claim or why it did not proceed.

39. While the Claimant was on maternity leave her line manager left and was replaced by Ms Haremza, Assistant Director for Research Support and Development. The Claimant and Ms Haremza had not worked together previously as Ms Haremza was new to the Respondent.
40. The Claimant says that when she returned from maternity leave, she was struck by a change in the way her team was classifying sponsored research income. She says that she discovered, as a result of reading team meetings minutes, that such classifications were being done based on internal simplified rules rather than in accordance with the national reporting framework known as the Higher Education Statistics Agency (HESA) framework. The Claimant said her suspicions were confirmed when she checked with the person who had been covering for her maternity leave. She told her she was not familiar with the HESA framework leading the Claimant to believe that it was not being used.
41. The Claimant explained to me that she was concerned about this because it would potentially result in R1 providing inaccurate information in the Annual Financial Return it is required to make to the Office for Students (OfS), R1's regulator. Her concern arose from the fact that public funding provided to universities is influenced by the information contained in the Annual Financial Return and that therefore if the information is incorrect this, in her opinion, is tantamount to fraud.
42. On 30 May 2024, on the Claimant's second day back in the office after maternity leave, the Claimant forwarded her line manager a generic alert email she had received from the OfS. The alert email mentioned that new guidance had been issued with regard to the information required in the Annual Financial Return. The Claimant forwarded the email to Ms Haremza with her own lengthy email. The Claimant relies on the content of her email as a protected disclosure.
43. The Claimant's email began as follows:
- "Thank you for the warm welcome back to work yesterday, much appreciated especially given that you were on annual leave but still took the time and effort to get online!*
- I am writing this email as a springboard for a discussion in our 1:1 on Friday. The single most valuable thing that my role can achieve with financial rewards for UCL that would be multiple times the cost of my salary in addition to reputational and other rewards for the university is getting sponsored research right. This is an area of responsibility shared by all Band 8 managers and their teams. I would like to work with you to fix the problem for the long-term."*
44. The Claimant then provided an example *"to highlight the damage that mechanistic application of rules targeted at academics with borderline projects can do to the volume and value of research activity at UCL."*

The example cited concerned a classification made by her maternity cover. According to the Claimant, her maternity cover had incorrectly classified a proposal seeking funding for equipment for biosciences research using the Respondent's simplified framework as income when it should have been correctly classified as capital funding.

45. She went on to say:

"It is regrettable to artificially downsize the research volume attracted and delivered by UCL – this affects its ranking and financial rewards associated with being a leading research intensive university on a national and global scale. Through my work on borderline cases before going on maternity leave, I managed to restore sponsored research status to projects thus bringing in additional QR funding to UCL worth of more than £300k (for the 5.5 month period). Our team supports submission of about 5000 applications per year so getting things right from the beginning would save UCL huge amount of staff time and salary. When under pressure (for example for HEBCI, HESA/OfS, ODA assistance), UCL gets Band 8 or higher grade staff to comb through WT records to make corrections. They do not catch everything, sometimes consciously as it is a risk to challenge Pre-Award decisions.

My role is not that of an income classification specialist and I never dealt with this area until I rejoined UCL in October 2022. The role is focused on innovation, a UCL specific category. I have developed some specialist knowledge in income classification by engaging with the university's regulator (OfS), the detail of the Frascati Manual and the Russell Group Pre-Award Network. It would be great if this knowledge could serve the team and UCL. Most of the team do not see this as an area of shared responsibility. This is fine but puts the institution at risk of relying too much on individual effort. Please let's have a discussion on what would be the best solution for the team and UCL" (R 78 – 79)

46. The Claimant says that following the email and a team meeting at which she tried to discuss the issue further, Ms Haremza began to show "unmistaken hostility" towards her. She says that Ms Haremza refused to accept the concern she was raising was valid and subjected to her a series of detriments.
47. This led to the Claimant raising the issue as a formal protected disclosure under the Respondent's policy dealing with protected interest disclosures. She sent a short report outlining her concerns by email to the Vice President (Operations) on 16 July 2024 (R 93). In the cover email the Claimant said:

"The attached public interest disclosure summarises my genuine concern that UCL's statutory reporting is compromised. I am concerned that UCL's internal framework is interpreted to take precedence over HESA/Office for Students (UCL's regulator) rules and that researchers are sent links to UCL pages on Sponsored Research and Innovation and asked to confirm project classification with no consistent mechanism of correcting misclassifications.

The disclosure is of great public interest to thousands of academics and researchers at UCL who might be needlessly lumbered with delivering an administrative function and not to UCL's benefit in terms of claiming its full research volume."

48. The Claimant said in the introduction to her report that the adoption of the internal simplified framework *"dilutes the rigour of UCL's approach to research income classification and compromises UCL's fulfilment of requirements by its regulator. Moving away from UCL's traditional approach increases the risks of inaccurate statutory reporting, under-representing UCL's research volume and distracting from delivering cutting edge research."*(R93)
49. She added that she was also concerned that a proposal to delegate responsibility for income classification to researchers which would further compound the issue as well as involve them in unnecessary administration. She said, *"by additionally proposing to delegate classification of projects to researchers by asking them to answer questions about the internal framework's qualifying criteria, UCL runs the risk of mis- and under-representing its research volume and distracting researchers from focusing on their research objectives. Researchers cannot be expected to be experts of OfS/ HESA rules and have the same high level of research accounting expertise as the norm is in the Russell Group Pre-Award Teams."* (R94)
50. She explained her report that the proposed approach was not considered to be best practice and concluded saying:

"Final conclusion and call for action: UCL stands to benefit from restoring its long-standing approach to research income classification. The authority and responsibility for classification of projects in scope for UCL Research & Innovation Service (RIS) must rest solely in the Pre-Award Team. Income classified as 'sponsored research' counts towards UCL's research volume and is returned in the REF exercise. It is therefore an important measure of UCL's research environment." (R95)
51. The concerns raised in the Claimant's report were investigated in by Beth Beasant, Executive Director, Faculty Operations on behalf of the VP Operations. She produced a report of her investigation (R102 – 106).
52. In the introduction to her report, Ms Beasant noted that the Claimant's report raised two concerns: the concern about the use of simplified criteria for classification and the concern about the proposal to delegate classification to researchers. She decided that as the Claimant was suggesting this could result in potentially mis or underrepresenting its research volumes it was appropriate to investigate the concerns under the Respondent's Public Interest Disclosure Policy. She considered the disclosure could be categorised as one concerned with financial malpractice, impropriety or fraud or a failure to comply with a legal obligation. She did not investigate the concern about researchers having to spend time on administration as saying this fell outside the scope of the policy.

53. Ms Beasant's conclusion was that she could not "*support the claim that the UCL's statutory obligations in terms of reporting research income were being compromised.*" (R106) She gave reasons for reaching this conclusion.
54. In the meantime, on 2 August 2024, the Claimant raised a grievance about Ms Haremza saying she had victimised her because she had made a protected disclosure. R1 appointed an external investigator to investigate the Claimant's concerns. The terms of the investigation were agreed with the Claimant.
55. The Claimant's line manager was also changed to Mr Hopwood, pending the outcome of the investigation. Mr Hopwood managed a different team in the Research and Innovation directorate. He was told that it had been agreed with the Claimant that she would be assigned a line manager outside of her direct team to review her performance for the remainder of her probationary period, but says he was not given specific details why this was the case.
56. There is a factual dispute between the parties as to why this happened. R1 says this was a supportive measure taken to ensure that the Claimant had a line manager in whom she had not lost trust to manage and support her through the remaining part of her probationary period. The Claimant says this was done deliberately so that R1 could later argue that her new line manager was not aware of her protected disclosure and was thereby intended to "break the chain of causation".
57. There is also a factual dispute between the parties as to whether a decision made at this time to pause the Claimant's probationary period pending the outcome of the investigation at this point. R1 says such a decision was made and was clearly communicate to the Claimant at the time. The Claimant says that R1 only decided this later, after the time when she should have been confirmed in post.
58. The outcome of the grievance investigation, which was provided to the Claimant on 23 January 2025 by Ms Glen, Director of Research and Innovation, who was Ms Haremza's line manager. The outcome, contained in the investigators report (R114 – 125) was that there was no case to answer by Ms Haremza. The Claimant's line management was not changed back to her at this point, but remained with Mr Hopwood.
59. On 23 January 2025, the Claimant submitted a further grievance, this time about Ms Glen. This grievance was not progressed by R1. It told the Claimant that this was because it was essentially making the same allegations that had already been investigated.
60. On 20 February 2025, Mr Hopwood conducted a probationary review of the Claimant. The Claimant had been invited to attend a meeting with him for this purpose, but did not attend. The Respondents say the Claimant chose voluntarily not to attend, but the Claimant says she was too unwell to attend.

61. Mr Hopwood concluded that the Claimant's performance and conduct were not meeting the required standards of R1. He recommended that she should not pass her probation and be dismissed. He prepared a detailed report explaining why he had reached this view with supporting evidence.
62. R1 says that Mr Hopwood had limited knowledge of the Claimant's purported protected disclosures at the time he prepared his report and made this recommendation. His evidence is that he had not seen any of the relevant documentation at this time. He says in his witness statement that in 121s with the Claimant she told him that she had made a protected disclosure to do with income classification. However rather than engage with the detail of this, he sought to move their conversations on to other topics. The Claimant told me it was correct that she had not shared the relevant documents with Mr Hopwood, but she considered that he was fully aware of the substance of her disclosure because of their conversations.
63. Under R1's probationary policy, the next step was for the Claimant's case to go to a probationary hearing. This took place on 6 March 2025. Mr Brown, a senior manager with no previous knowledge of the matter was given responsibility for deciding if the Claimant should fail her probation and be dismissed.
64. Prior to the hearing, the Claimant told Mr Brown that she had made a protected disclosure and raised a grievance against Ms Haremza. She provided him with the relevant correspondence. He read all of the documents provided to him by the Claimant as well as the two investigation reports before making his final decision.
65. At the hearing, Mr Hopwood explained why he had reached the decision that the Claimant should fail probation and be dismissed. The Claimant, accompanied by her trade union representative was also given an opportunity to explain why she should not be dismissed. The focus of his submissions was on the fact that by this time the Claimant had more than two years' service. He considered that dealing with the matter under the probation policy was procedurally incorrect.
66. Both the Claimant and her trade union representative acknowledged that there were issues with the Claimant's performance and conduct, but argued these were not serious enough to amount to gross misconduct and that she should only be dismissed if they were. In addition the Claimant said that the explanation for concerns around her conduct her high levels of stress and this should have been taken into account.
67. Following the hearing, Mr Brown decided that the Claimant should be dismissed with a payment in lieu of notice due to failing to meet the required standards during the probationary period. He set out in his witness statement why he considered the Claimant should fail her probation. The reasons were:
 - Inability to manage workload effectively
 - Failure to achieve her objectives

- Lack of teamwork
- Poor communication style and interactions with the team her line managers
- Unprofessional and challenging behaviour exhibited by the Claimant

ANALYSIS AND CONCLUSIONS

68. In order for me to be in a position to grant the Claimant's application for interim relief I needed to be satisfied that there was a pretty good chance that the tribunal making the final determination of this claim would conclude both that:

- at least one of the two purported disclosures that the Claimant had made was a qualifying protected disclosure under the Employment Rights Act 1996; and
- the principal reason for her dismissal was the relevant disclosure(s) and not a different reason.

Did the Claimant make any qualifying protected disclosures?

69. I first considered the two disclosures the Claimant was relying on.

70. I decided that it was unlikely that the tribunal at the final hearing would find first purported disclosure met the requirements of a qualifying protected disclosure. This was because, in my judgment, the 30 May 2024 email did not meet the sufficiency of information test such that it contained information that showed R1 was at risk of breaching a legal obligation.

71. I note that when making her submission the Claimant had accepted that the email was vague and that she had not been explicit about her concerns. She told me that she considered her line manager would however, have been able to read between the lines and understand the implicit messaging.

72. I disagreed. The email was sent on the Claimant's second day back at work and reads very much as a discussion document about an area of work where she thinks she is able to add value to R1. Although the email contains information about a misclassification of income, the Claimant does not say anything about this impacting on any legal obligation. Instead the Claimant positions her concern as being about R1 failing to capitalise fully on opportunities available to it.

73. The Claimant's second purported disclosure was much more explicit and understood by R1 as raising a concern about financial impropriety and a potential breach of a legal obligation.

74. I decided that there was a greater chance that the tribunal would find that the Claimant's second purported disclosure was a qualifying disclosure, although I was not convinced of this. The test for interim relief is that there must be a pretty good chance of success. I was aware that I did not need to be absolutely sure, but the threshold is nevertheless quite high. I felt I

needed more evidence to reach a reliable conclusion on this point. I was able to avoid having to do so because my conclusion on the reason for dismissal was straightforward.

75. The reason for my hesitation was because R1 argued that the Claimant would fail to persuade the tribunal at the final hearing that she had a reasonable belief that R1 was at risk of breaching a legal obligation. R1 argued this in light of the conclusions reached in its investigation. It said that the Claimant ought to have known that her concerns were misplaced. I felt that I could not assess this even summarily without having an opportunity to explore the evidence in more detail.

What was the reason for dismissal?

76. I next considered whether the tribunal at the final hearing would make a finding that the principal reason for the Claimant's dismissal was because of her protected disclosure and not, as contended by the Respondent, because her performance and conduct led it to decide she should fail her probation.
77. I decided, based on the information available to me, that the tribunal at the final hearing was more likely to find in favour of the Respondent on this point and that therefore the test for interim relief was not met. I explained to the Claimant that this did not necessarily mean she would lose her automatic unfair dismissal claim at the final hearing or that she would lose the other claims. I emphasised that I was only making a provisional assessment for the purposes of the interim relief application.
78. There were several reasons for my decision.
79. I considered that the tribunal at the final hearing would find that Mr Brown was an independent manager whose decision simply implemented the recommendation by Mr Hopwood and that therefore, although Mr Brown had full knowledge of the Claimant's purported disclosures and the investigation, by the time of the dismissal this did not influence his decision.
80. I also considered that the tribunal at the final hearing would be likely to find that the performance and conduct concerns highlighted by Mr Hopwood were genuine and supported by evidence. There was evidence that the Claimant and her trade union representative had both acknowledged the concerns, but argued that they were not serious enough to justify dismissal.
81. I also considered that there was little evidence that Mr Hopwood was influenced in his decision making by his knowledge that the Claimant had made a protected disclosure.
82. R1 also argued convincingly that had the reason for it dismissing the Claimant been her purported disclosure in July 2023, it would not have waited until April 2024 to dismiss her, particularly as by this time she had gained two years' service and the right to bring a claim for ordinary unfair dismissal. The Claimant's counter argument was that this was a deliberate tactic by R1 and that the Respondents conspired against her to create

circumstances where it appeared that she was being dismissed for one reason when the real reason was always her disclosures. I considered that the tribunal at the final hearing would prefer R1's version of events.

Employment Judge E Burns
6 October 2025

Sent to the parties on:

15 October 2025

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For the Tribunals Office