EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8001071/2025

Held in Glasgow on 14-17 October 2025
Deliberations on 24 and 27 October 2025

Employment Judge D Hoey

Mr M Sami	**Claimant** **In Person**
Denny Enterprises Int'l Ltd	**Respondent** **Represented by:** **Mr A Mowat -** **Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

1. In terms of section 43B of the Employment Rights Act 1996, the claimant had not established that he had made any protected and qualifying disclosure.
2. Further and in any event, the claimant had not sustained any detriment on the grounds of any such disclosure.
3. The claimant's dismissal was not solely or principally because the claimant had made any such disclosure.
4. The claim is ill founded and the claim is dismissed.

REASONS

1. The claimant brought complaints of automatic unfair dismissal and detriment by reason of whistleblowing. The claimant represented himself. The respondent was represented by a solicitor.

2. The Hearing began by a reminder of the overriding objective and the need for both parties to work together to assist the Tribunal in ensuring that everything that was done was fair and just with due regard to cost and proportionality. A discussion took place as to how evidence was taken and the importance of ensuring relevant questions were put to each witness to ensure both parties cases were fairly put to each other's witnesses and that relevant evidence was led. The parties were reminded that the Tribunal would only consider evidence that had been agreed or that was led before it.

3. The claimant was articulate and intelligent and understood Tribunal procedure and the substantive issues to be determined.

Case management

4. The parties had worked together to focus the issues in this case, there having been a previous case management preliminary hearing that had assisted in identifying the legal issues to be determined. They key issues were whether a protected and qualifying disclosure had been made and if so whether the claimant had sustained detriments as a result and had been dismissed because of the disclosures. The parties agreed upon the issues. The parties were also able to agree timing for witnesses and the parties worked together to assist the Tribunal in achieving the overriding objective, in dealing with matters justly and fairly taking account of the issues, cost and proportionality.

Evidence

5. The parties had produced a joint bundle of 223 pages to which other documents were added bringing the bundle to 297 pages. The Tribunal heard evidence from the claimant, Mr Saleem (who was the managing director and made the decision to dismiss and the other material decisions), Mr Akram (the claimant's line manager) and Mr Mehmood (a colleague of the claimant's).

6. The parties were given the first day to finalise the list of issues on which they had been working but which was incomplete by the start of the first day. The parties were also given time to complete the statement of agreed facts and to allow the claimant to work on a written witness statement which was taken as his evidence in chief. The remaining witnesses gave oral evidence and each witness was asked relevant questions.

Facts

7. The Tribunal is able to make the following findings of fact which it has done from the evidence submitted to it, both orally and in writing. The Tribunal only makes findings that are strictly necessary to determine the issues before it (and not in relation to all disputes that arose nor in relation to all the evidence led before the Tribunal). The Tribunal only records facts it found as necessary to determine the issues in this case.

8. There were a number of material facts in dispute in this case. The conflict was resolved by considering the entire evidence and making a decision as to what was more likely than not to be the case with regard to what was written and said at the time (when viewed in context) in relation to each fact. The parties had agreed some of the key facts which was of assistance to the Tribunal.

Background

9. The respondent is an online retail business which operates from a warehouse and office premises in Ayrshire. The respondent employs around 58 people with around 38 office staff (8 of whom were located near the claimant). There were around 18 warehouse staff. The respondent sold products through a number of different online channels.

10. The claimant commenced employment with the respondent on 26th June 2023. He commenced his employment as a warehouse assistant. The claimant had persuaded the respondent to work on a new sales route (by selling via Amazon). The claimant's job title was changed to graphic designer within a short period following his role commencing. The claimant was initially employed on a student visa and was then employed on a skilled worker visa. He worked in an open plan office with around 8 staff at his work location.

Issues with claimant's performance

11. The respondent was unhappy with the claimant's performance for several months prior to April 2025. Over that period the claimant had a number of meetings with Mr Saleem and Mr Akram where said concerns were raised. The claimant had been adamant that the area of the business which he was building would become profitable. He persuaded Mr Saleem on a number of occasions to give him time to show that profit would result.

12. The claimant was issued with warnings in relation to his performance on 5 February 2025 and 3 April 2025. These warnings made it clear that the respondent was unhappy with how the claimant had been performing and the lack of profit in the area of the business. The respondent was concerned that there was a lack of profit and that the claimant had made a number of poor decisions which had results in costs to the business arising in this area.

Pay rises

13. Each year all staff are awarded a pay rise which was also awarded to the claimant. In addition the claimant had persuaded Mr Saleem to give him a further pay rise. The claimant had explained that profits were likely to arise and Mr Saleem was persuaded to give the claimant a further pay rise. Mr Saleem believed that sales had increased but he had not checked the position in detail. It was only when a detailed analysis was carried out that Mr Saleem realised the increase in sales was not matched with profit given the additional costs that had been incurred in relation to those products.

Events on Sunday 27 April 2025

14. On Sunday 27 April 2025 a number of staff, including the claimant and Mr Saleem, were at work. Mr Saleem had seen that the claimant was not working

on the respondent's business as he had been working on his personal activities (which he had seen when passing the claimant's desk from what was on the screen). The claimant was challenged by Mr Saleem for working on personal business when he should have been working on the respondent's business. The claimant was chastised for so doing and told to focus on the respondent's activities. The claimant had made no reference to any issue as to product labelling during this interaction.

Review of claimant's role and costs being incurred

15. At this time Mr Saleem had been considering whether or not to continue to engage the claimant. He was not satisfied that the claimant had created a sustainable business. He was concerned with the costs that the claimant had incurred as a result of decisions made with regard to certain products. He had given the claimant a number of opportunities to improve his performance. The claimant had been told of the concerns the respondent had as to his performance. While the claimant genuinely believed the area would be (and perhaps was) profitable, he had not persuaded Mr Saleem as to the position.

16. Mr Saleem concluded that he could no longer continue to employ the claimant. He had decided that there was insufficient profit in that area of business and that the claimant had been given enough time to prove otherwise.

Events on Monday 28 April 2025

17. On Monday 28 April 2025 Mr Saleem spoke with the company solicitor over the telephone and confirmed he wished to dismiss the claimant. He advised the solicitor as to the claimant's service and rationale for his decision. At 12.57 the solicitor sent the respondent draft wording for a dismissal letter by email saying: "I note you need to terminate the employment of Mr Sami and that he commenced employment on 26 June 2023. I note that you no longer require someone to carry out the role he is employed to carry out. You should meet with him and explain you no longer require someone to carry out the role he was employed to carry out. Explain that as a result you have decided to terminate his employment. His employment will terminate that day. He will receive one week's pay in lieu of notice and a payment of any accrued holiday pay owed. You can issue a letter using the wording below." The solicitor provided wording which the respondent used verbatim.

18. Mr Saleem asked the claimant's manager, Mr Akram, to place the text from the solicitor into company note paper as he intended to meet with the claimant at the end of the working day and confirm his dismissal. Mr Akram did so.

19. On Monday 28 April 2025 the claimant was asked to attend a meeting with Mr Saleem at the end of the working day. The claimant had printed off a number

of reports for the meeting. He wished to show Mr Saleem that there was a sustainable business in the area for which he had been employed.

20. The claimant met with Mr Saleem in the respondent's meeting room. The meeting ran from 4.05pm to 5.44pm. Reports prepared by the claimant were discussed at the meeting. The claimant sought to persuade the respondent that his employment should not be terminated as he believed that there was profit within the area and a sustainable business. Mr Saleem was not persuaded and told the claimant that he had decided to end his employment that day. Mr Saleem had given the claimant a number of opportunities and the claimant to persuade him to give him the opportunity. Mr Saleem considered what the claimant said but explained he had a letter which confirmed the claimant's employment was ending that day. While the claimant decided not to take the letter, he had been told that his employment was ending that day and his protestations to change Mr Saleem's mind had not been successful.

21. Mr Saleem had the letter that the solicitor had prepared in an envelope that Mr Akram had finalised which Mr Saleem had signed. Mr Saleem told the claimant he was being dismissed and the letter was confirmation of this. The claimant said he would not accept the letter. The letter said: "I refer to our meeting on 28 April 2025. Unfortunately we no longer require to employ someone to carry out the role you were employed to do. As a result I have decided to terminate your employment. Your employment will therefore terminate on 28 April 2025. You will receive one week's pay in lieu of notice and payment of any accrued holiday pay. I will send your final pay slip and P45 separately. I wish you all the best for the future".

22. At the end of the meeting Mr Saleem went to speak with Mr Akram. As the business day normally finished at 4pm, and it had been a stressful day, both Mr Saleem and Mr Akram were tired and wished to go home. Mr Saleem told Mr Akram to email the claimant the following day to ensure all passwords and property were returned given his employment had been terminated.

Events on Tuesday 29 April 2025

23. The claimant decided to return to the respondent's premises the next day. Mr Mehmood was a colleague of the claimant and saw the claimant in the street on the way to work and gave the claimant a lift to the office. They arrived around 7am which was the normal start time. While in the company of Mr Mehmood, the claimant told Mr Mehmood that the claimant had had a meeting with Mr Saleem the previous day, that Mr Saleem had tried to give him a termination letter and that he had refused to take it. The claimant told Mr Mehmood that he "had a plan to destroy the company". No further information was given and no further discussion took place.

24. Mr Saleem saw the claimant at his desk believing the claimant was collecting his belongings and saying goodbye to his colleagues. As the meeting on the preceding evening had concluded after hours, the claimant had not been able to empty his desk and say goodbye to colleagues.

First disclosure

25. When at his desk at 9.10am the claimant sent Mr Saleem and Mr Akram the following email headed "Formal refusal to alter chemical expiry dates": "I am writing to formally confirm my refusal to alter or backdate the expiry dates of any chemical products, including pool starter kits as requested on 27 April 2025 around 11am. As you are aware tampering with expiry dates may violate the Consumer Protection Act 1987 (misleading product information), Control of Substanaces Hazardous to Health Regulations 2002 and General Product Safety Regulations 2005. I take health safety and legal compliance seriously and cannot participate in any activity that risks consumer safety or breaches regulations. I hope we can resolve this matter in line with company policy and the law. Please treat this email as my official position on the matter. I am happy to discuss alternative solutions that comply with legal requirements. You have tried to threaten on Sunday 29 April 2025 around 1105am when I refused to alter the expiration dates and on Monday 28 April 2025 around 405pm again. Please consider this my formal refusal to (sic) any kind of illegal activity in this case altering the expiration date of chemicals".

26. This was the first occasion on which the claimant had raised concerns about the altering of labels with the respondent.

Claimant calls police

27. After the claimant sent the email, he called the police. He wanted to create unrest within the respondent's business. This was part of the claimant's plan to damage the respondent's business.

Claimant alleges labelling illegal which the respondent disputes

28. The claimant then went into the respondent's warehouse and told the staff to stop working as there was illegal activity and the police had been called. He then went back to the office carrying the chemical product he had located and took pictures of it.

29. The respondent was aware that there was an issue with regard to the cleaning product in question. This had arisen in 2023 when an issue had arisen with a customer. The manufacturer of the materials in question had contacted sellers, including the respondent. In March 2023 the manufacturers' compliance manager advised in writing that: "We have been made aware some of our labels have been incorrectly labelled with an expiry date referring

to the date of manufacture. We would like to reassure you that our items do not expire after 2 years of manufacture and that we recommend products are used within 12 months of opening." Similarly by letter sent in May 2024 a letter had been sent noting that old labels referred to the produce expiring 2 years from the date of manufacture. The letter confirmed the products are stable functional and safe for intended use more than 30 months after the date of manufacture and that "the items do not require an expiry date". It was recommended that the products were used within 12 months of opening. The letter stated that there was a helpline on the products and products need not be recalled or withdrawn from sale.

30. As a consequence of this, Mr Saleem had decided to place a sticker onto the packaging that said "Warning once opened use within 12 months" He also decided that while no expiry was needed, customers would prefer to have some end date and so he added in small text at the end of the label "Expiry 18/11/2032". That was chosen because Mr Saleem believed customers preferred there to be some expiry date on products. The manufacturer had told Mr Saleem that the product did not expire, the only recommendation being that the material be used within 12 months of being opened. There was no issue in what Mr Saleem had decided to do in this regard. The sticker was placed over the product which had stated "Expiry date 2 years from date of manufacture". Mr Saleem was satisfied this was consistent with the manufacturers' instructions and was safe for customers.

Mr Saleem takes action in response to being told about the claimant

31. Mr Saleem received a call from his warehouse manager noting that the claimant had gone into the warehouse and told staff there was illegal activity going on, that the police were called and the place would be shut down. Mr Saleem advised that there was nothing to worry about and business was to continue. Mr Saleem was satisfied his approach in dealing with the issue was entirely lawful and supported by the manufacturer.

Respondent secures confirmation of position from manufacturer

32. This was the first time the issue as to labelling had been raised by the claimant, despite the matter having been in place for over a year. The claimant had not raised this matter prior to this date. Given the claimant had now raised the issue and had done so in the manner he had, Mr Saleem asked Mr Akram to obtain the relevant letters which explained the position. Mr Akram telephoned the manufacturer and at 11.19am the manufacturer sent an email: "Please find attached two documents which may help with your staff issue this morning. We have confirmation and internal documentation with our local authority at trading standards."

33. The claimant was asked by Mr Saleem to leave the respondent's premises. He refused to do so. The claimant was escorted out of the respondent's premises by security staff.

Police leave with no action taken

34. The police attended the respondent's premises after the claimant had left and arranged that day to interview each of the respondent's staff who were present at the time the claimant alleged he had been assaulted. The claimant alleged he called the police because he believed there would be retaliatory action when he raised the labelling issue which he said was borne out by Mr Saleem assaulting him but there was no evidence to support the claimant's allegation and no action was taken. In fact no assault had taken place and there was no evidence of any wrongdoing. The claimant had been told by the police that the CCTV footage of 29 April 2025 was "missing". While some areas of the business are covered by CCTV (which included entrances and exits) CCTV does not cover the claimant's workstation (which was where the assault was said to have taken place).

Email with first disclosure read

35. Mr Saleem and Mr Akram read the claimant's email after the claimant had left which was around noon which was when business returned to normal.

Second disclosure made

36. In the afternoon of 29 April 2025 the claimant completed an HSE online form: "I am writing to formally report the alteration or to backdate the expiry date of chemical products as requested by Mr Saleem on 27 April 2025 Sunday around 11am. As I'm aware that tampering with expiry dates may violate the Consumer Protection Act 1987, Control of Substances Hazardous to Health Regulations 2002 and General Product Safety Regulations 2025. I take health safety and legal compliance seriously and cannot participate in any activity that risks consumer safety or breaches regulations. I told him that we can resolve this matter in line with company policy and the law. He has since tried to threaten me on Sunday 29 April 2025 around 1105am when I refused to alter the expiration dates of chemicals. And the second time Monday 28 April 2025 around 405pm. Today 29 April 2025 around 942am I was assaulted and I have already made a report with the police. This is a control of substances hazardous to health and retaliation; I am writing to formally report 1 Forced falsification of pool chemical expiry dates 2 physical assault/threats when refusing 3 Retaliation under whistleblowing laws. I kindly request immediate inspection as today they have already altered the CCTV of the assault before the police arrived on the scene. Please consider this urgent."

Claimant's dismissal confirmed

37. Once business had returned to normal at around 4.50pm Mr Akram sent an email headed “Return of company property and final steps” to the claimant as he had been directed to do by Mr Saleem the preceding evening: “Further to your meeting yesterday 28 April with Mr Saleem regarding the termination of your employment with us, we kindly request you return all company belongings including the password for the computer that was issued to you. This will allow us to complete the final steps related to your employment and ensure your final salary is processed without delay. Please confirm once all items have been returned. This is also to inform you that we have notified the Home Office regarding the termination of your employment. We strongly advise you take the necessary steps to either leave the UK within the time permitted by the Home Office or transfer to another licensed employer to maintain your legal immigration status. Please ensure you act promptly in accordance with the Home Office’s requirements. If you have any questions please contact me”. The claimant provided the information requested and the sums due to the claimant were paid to him.

Respondent scales back the business in which the claimant worked

38. Following the claimant’s dismissal, Mr Saleem decided that he would scale back the activity that was carried out in the area in which the claimant had bene engaged. Whilst he had initially considered ceasing sales in that area in its entirety, given the channel had ben established, he decided that the work the claimant had done could be carried out by existing staff given the number of items being sold was scaled back. Noone was engaged to replace the claimant and there were no vacancies in the respondent’s business.

Home Office advised as per legal requirement

39. Mr Saleem was the designated individual within the respondent’s business who required to communicate with the Home Office. He was required by law to intimate any change in the claimant’s employment status. The sole reason why Mr Saleem advised the Home Office of the claimant’s change in employment status when he did was because he was required to do so by law. There was no other reason why the Home Office was advised and that was the first opportunity Mr Saleem had to communicate the information. In the afternoon of 29 April 2025 the respondent reported to the Home Office that the claimant’s employment had been terminated.

No wrongdoing found

40. The Health and Safety Executive advised the claimant that the matter would be investigated by the local trading standards team who got in touch with the respondent. The respondent provided the information they had been given by

the respondent, including the manufacturer letters and the labels they applied to the products, which satisfied the trading standards officer of the position.

41. The claimant was unhappy with the response but he was advised that while the application of a an expiry date in the future was not a necessity it did not affect the safety or stability of the product. The claimant was told that the respondent had done nothing wrong. The claimant complained against this outcome and that was ongoing.

Home Office confirm position

42. On 17 September 2025 the claimant was advised by the Home Office that his permission to stay as a skilled worker had been cancelled so that it ended on 16 November 2025.

Tribunal papers

43. On 1 May 2025 the claimant presented an ET1 seeking interim relief in relation to whistleblowing. He asserted he had made disclosures in the public interest and sustained detriments as a result, namely threats, destruction of CCTV footage of an assault and unlawful dismissal (with no prior warning, appeal or notice). He said there was ongoing retaliation by way of falsely notifying the Home Office his termination to trigger visa cancellation.

44. The respondent instructed a solicitor who urgently prepared a response which was presented on 15 May 2025. The respondent said the claimant had been warned about his performance in February and March 2024 and that the claimant had been advised that the respondent may not continue operating in the areas the claimant had been engaged. The claim was disputed.

45. On 14 May 2025 a further claim form was presented by the claimant referring to automatic unfair dismissal and whistleblowing detriments.

46. At an interim relief hearing on 16 May 2025 the Judge noted the respondent's case was that the claimant was verbally dismissed at a meeting on 28 April 2025 (paragraph 7 of the judgment). Interim relief was refused.

47. On 31 May 2025 the claimant asked the respondent for copies of the warning letters (with meta data and signed employee acknowledgements), the termination letter (with meta data and proof of delivery), CCTV footage of the 28 April 2025 (1605-1745) alleged termination meeting, 29 April 2025 (0700-1000) (which would be proof the claimant was working post alleged termination) and 27 April 2025 (1100-1200) as context for threats made about chemical falsification and other documents, including the solicitor email and manufacturer letters.

48. On 12 June 2025 a response form was lodged referring to the correct dates of the warning letters (namely February and April 2025). The earlier dates had been included in error as a result of the urgency of the matter in light of the interim relief application.

49. On 17 June 2025 the respondent's solicitor replied to the claimant's communication of 31 May 2025 seeking information and noted that only paper files of the warning letters were retained. A digital copy of the dismissal letter was retained and was provided. The manufacturer letters were provided together with the email showing they were sent on the day they were requested from the manufacturer.

50. In relation to the CCTV the respondent's solicitor said: "In terms of the request for CCTV footage we will produce the footage of the termination meeting on a voluntary basis and do so by 20 June 2025. I note the claimant seeks footage for 27 and 29 April. The site covers a substantial area. We request further specification as to which parts of the premises the claimant requests footage in respect of 27 and 29 April."

51. On 20 June 2025 the solicitor sent the claimant the digital termination letter, the manufacturer email and attachments and a link to the CCTV footage from the termination date. This had been requested when the solicitor had been first instructed in order to verify the position as to dismissal. The solicitor ended the email saying: "I am investigating the position in relation to your request for further CCTV footage and will revert to you on that separately".

52. On 8 July 2025 the solicitor sent an email to the claimant saying: "I indicated I would get back to you in relation to your request for the CCTV footage. I am advised that there is no CCTV footage covering your workstation. I am advised that there are cameras covering the building entry points and the warehouse but the footage for the dates in question has already been overwritten. The only CCTV that was saved at the relevant time was for the meeting of 28 April 2025. You have been provided a copy of this."

Issues with Productions

53. In the Productions the respondent had produced the claimant's contract of employment which bore to be signed on 5 February 2024. That document had the claimant's address as an address he had moved into on 1 August 2024.

54. The respondent had also produced a P45 which bore a date 16 September 2025. That contrasted with a P45 the claimant had produced which was identical except the date (the claimant's copy having a date of 20 May 2025). The P45 was issued by the respondent's external accountant which was likely to have updated the claimant's details when it was printed.

55. The respondent had also included pay slips in the productions for the period 14 July 2023 to 16 May 2025. The pay slips for the period from 19 April 2024 onwards contained the claimant's new address (which had only become his address in August 2024). These were printed by the respondent's external accountant and were likely to have been automatically generated with the claimant's details being inserted by the computer as at the date of printing.

Observations on the evidence

56. The Tribunal considered the evidence carefully and in context of all the evidence before this Tribunal, both in writing and that presented orally.

57. **The claimant** was clear during the Hearing that he believed the treatment he had experienced was related to the disclosures he made. Much reliance during the Hearing related to his belief that material had been changed from the original, principally his contract of employment (which included his latest address), payslips and his P45.His reliance on this material was in support of his position that he believed the respondent was not trustworthy and their explanation for the treatment ought not to be preferred over the claimant's belief that his disclosures had influenced or caused the treatment. While the claimant believed that to be the case, he eventually accepted that his belief was based upon an inference. The claimant had alleged that Mr Saleem had assaulted him and that he had not been dismissed on 28 April 2025. This was not credible based upon an assessment of what Mr Saleem said in contrast to the claimant in light of the context.

58. **Mr Saleem** was clear and candid in his approach. He explained the steps he had taken to work with the claimant and to support him. He accepted he had given the claimant 2 pay rises at a time when in fact the claimant was not performing in a way that the respondent would have liked. One pay rise was given to all staff and the other had stemmed from the claimant approaching Mr Saleem to encourage him to pay the claimant more, with a focus on the increasing sales. It was only when Mr Saleem considered the more increased cost of sales that he realised the increased sales had not been met with increased profit. Mr Saleem was measured and careful in his response to the questions asked by the claimant.

59. **Mr Akram** was clear and consistent in his evidence. His position aligned with what Mr Saleem said.

60. **Mr Mehmood** had no reason (and the claimant could provide no reason) for not telling the truth. His evidence was clear and cogent.

61. With regard to the factual disputes, the first issue that the claimant raised was an issue with regard to his **job title.** In the agreed statement of facts the claimant had been described as having been graphic designer but the

claimant noted the respondent had recorded that he had initially been a warehouse assistant. The respondent's agent noted that this had not been an issue that the respondent had concerned itself about and had included graphic designer in the agreed statement to move matters on, this not being a material issue. I accepted Mr Saleem's evidence that the claimant had begun his employment as a warehouse assistant but showed potential such as to persuade Mr Saleem to change the claimant's role to that agreed by the parties to be graphic designer. I did not consider there to be anything untoward in this regard and found Mr Saleem's explanation to entirely credible and that there were no material inconsistences between what was pled and the evidence.

62. The next dispute related to the **existence of warnings.** The claimant was adamant that he had never been told that his performance was lacking and that he had never received the warnings now presented by the respondent. His evidence contrasted starkly the position advanced by Mr Saleem and Mr Akram. Having carefully considered the position I concluded that it was more likely than not that Mr Saleem's and Mr Akram's evidence was to be preferred. It was clear that the respondent was unhappy with how the claimant had carried out his role given the losses that were being incurred. The claimant had tried to persuade the respondent (and may well have believed that he had persuaded the respondent) that profit was possible. Mr Saleem had been persuaded to give the claimant a pay rise on that basis. However, it was only when Mr Saleem considered the matter in detail that the rise in sales was not met with a rise in profit given the associated costs (and wasted costs). The fact the clamant had gone to the meeting on 28 April 2025 armed with reports ostensibly showing (according to the claimant) profitability underlined the fact that the claimant knew the respondent was concerned about profit in that area of the business. It was entirely credible that the claimant had been told of the concerns and that he had been given a number of opportunities to prove the position. Mr Saleem spent time listening to what the claimant had to say on 28 April but was not satisfied and decided to proceed with the dismissal.

63. I considered that the fact the claimant had been given two **pay rises** and his employment had continued supported the respondent's position. The claimant had been given the benefit of the doubt and time to match the increase in sales with profitability. I did not find that the actions of the respondent, as the claimant alleged, suggested that the respondent was not truthful. I concluded that the claimant had been advised on a number of occasions of the concerns the respondent had as to profitability about which the claimant knew.

64. The next issue that arose was **when the respondent first learned of the claimant's concern** about the chemicals and labelling. The claimant argued he had raised this on 27 April 2025. Mr Saleem was clear in having chastised

the claimant for not working on the respondent's activities on that day and no other issue arose. I did not consider the claimant's position to be credible. Had the claimant raised issues as to labelling the product, it was more likely than not that he would have raised the matter formally or at least in writing. If the claimant was as concerned as he maintained it is not likely that he would simply have had a heated discussion with Mr Saleem and do nothing further that day or night. Mr Saleem's position was entirely credible in that the first time the issue arose was when he learned from his warehouse manager that the claimant had gone there and told staff there was illegal activity. That was why at that stage (and not before) Mr Saleem had instructed Mr Akram to get copies of the relevant paperwork from the manufacturer. Had the claimant raised the issue on 27 April 2025 Mr Saleem would likely have sought the information on that date.

65. I did not consider it likely that Mr Saleem would have treated the claimant adversely because, as the claimant alleged, he had raised the issue. While the claimant genuinely believed there were real issues over what the respondent did, the claimant did not have the information Mr Saleem had. Mr Saleem was satisfied from the information he had from the manufacturer that he had done nothing wrong. Mr Saleem's belief in that regard was not challenged by the claimant. There is no reason why Mr Saleem would have been in any way concerned by the claimant raising this. It is not credible Mr Saleem would have acted as the claimant alleged on the facts.

66. The next issue related to the **claimant's dismissal**. I considered that the fact Mr Saleem had spoken to his solicitor on 28 April 2025 was consistent with his position that this was when he had concluded the claimant's role was no longer sustainable. I found no reason to dispute his evidence in this regard. At the time he had done so he had not known of the claimant's position in relation to the labelling. He had spoken to his solicitor to draft the dismissal letter and planned meeting the claimant to confirm the position. I did consider not the position the claimant advanced to be more likely than not to have occurred. It was more likely than not that Mr Saleem contacted his solicitor for the reasons he stated, namely because of concerns as to profitability and the respondent's perception as to the claimant's poor performance and decision to reduce work in that area of the business.

67. I did not consider it likely that the reason Mr Saleem had decided to dismiss the claimant was because the claimant had raised the issue as to the labels. Mr Saleem was satisfied the relabelling was entirely lawful. Mr Saleem's decision was more likely than not to have related to the fact that the claimant had not improved his performance to Mr Saleem's satisfaction. The claimant did not like what Mr Saleem had concluded and genuinely believed that there was profit to be made but Mr Saleem was not persuaded. It was Mr Saleem's

decision and while he listened at length to what the claimant had said, he concluded that his decision to dismiss the claimant stood and he communicated this to the claimant.

68. The fact the claimant had gone to the meeting with reports and had sought to justify his belief as to profitability suggested this had occurred before and the claimant knew the respondent was concerned as to profitability. It was more likely than not that the respondent's concerns had been known to the claimant and that he was required, again, to justify the position. Mr Saleem had gone to his solicitor to ensure due process was followed, which was entirely separate from concerns the claimant had as to the labelling issue.

69. The fact the dismissal meeting lasted so long was consistent with Mr Saleem's position that he had listened to the claimant. He chose not simply to issue the dismissal letter but instead give the claimant a further opportunity. The claimant made no attempt that day to set out in writing any concerns he had with regard to the labelling position, which is likely what he would have done had he raised the issue.

70. It is also unlikely that the claimant or Mr Saleem would have remained in the meeting for the duration had there been any **threats or wrongdoing by Mr Saleem** as the claimant alleged. Mr Saleem believed he had done nothing wrong. Had the claimant raised his concerns at the meeting there was no basis for Mr Saleem to be concerned or to treat the claimant adversely. Had the claimant raised the issue, it is likely Mr Saleem would have done then what he did the following day (when in fact the claimant first raised the issue) – since he would have then located the evidence that showed there was no issue in his approach.

71. I was satisfied that the respondent did not learn of the claimant's concerns with regard to the labelling until he raised it verbally on 29 April 2025 and then in his email and HSE communication. Mr Saleme and Mr Akram's evidence in this regard was clear and I accepted it.

72. I then considered **why the claimant attended work on 29 April 2025**. The claimant noted this is consistent with his position, namely that he had not been dismissed. It is, however, equally consistent with Mr Saleem and Mr Akram's position that they believed the claimant attended work to clear his desk and say goodbye to his colleagues. As the dismissal meeting had concluded after business hours, the claimant had not had the chance to do so. Mr Saleem was candid and clear in accepting he had seen the claimant attend the office that day. Given there was no acrimony, there was no reason for Mr Saleem to take any action when he saw the claimant at the workplace.

73. I accepted Mr Akram's evidence that given the lateness of the hour and the timing, no steps had been taken to remove the claimant's access to the respondent's IT system. The email Mr Akram sent was not sent before 29 April given the issues that arose that day. Mr Akram required to deal with the police and staff interviews and was only able to send the email later.

74. I accepted Mr Saleem's and Mr Akram's evidence that the first they learned of the claimant's concern with regard to labelling was on 29 April 2025. This was the first occasion on which the claimant had raised concerns about the altering of labels. Had the issue been raised sooner, the claimant would have understood why the respondent were doing what they did and that there was nothing wrong with their approach. There was no basis for the respondent to be considered with what the claimant believed to be wrong. The respondent had no reason to fear any repercussions by the claimant raising the issue. Had the claimant been threatened by Mr Saleem it is likely he would have raised the issue immediately and not waited until sending his email. It is more likely than not that no adverse treatment occurred because of what the claimant believed given the respondent's explanation for their approach.

75. I note that it was part of the claimant' case that he did not know what the respondent's explanation for approach to the labelling was. He believed that there was (and is) a serious issue. However, the fact the claimant did not know of the respondent's explanation (and that they had no concern with their approach) suggests that the claimant had not raised the matter with the respondent prior to 29 April 2025. Had the claimant raised the issue with the respondent sooner, when he said he did, he would have been told of the explanation and that there was no issue. It was more likely than not that the respondent would have provided the manufacturer letters upon the claimant raising the issue. That was done on 29 April 2025. The only reason Mr Saleem would have asked Mr Akram to obtain the manufacturer letters was to evidence the matter that had just been raised. The issue the claimant had was therefore first raised on 29 April 2025.

76. The claimant believed the issue he had raised was serious and that he could cause the respondent damage but he did not have the explanation. He would have been given that information had he raised the matter sooner. It was more likely than not that the claimant had decided following his being told that he was dismissed to raise the issue on 29 April 2025 as part of a plan to damage the respondent, in response to the fact he had been dismissed.

77. I considered that the **claimant had not been threatened or assaulted or in any way treated adversely because of the claimant raising the concern he had**. I concluded this because there was no reason for the claimant to be placing labels upon the products in question (and so refusing to do so was of no consequence). The claimant was not engaged to work in the warehouse.

His role was to work in the office. There were 18 staff employed to work in the warehouse whose job was to deal with the stock and label products. The issue as to labelling the products in the way it did had gone on for over a year during which time staff had relabelled the products as instructed. No issue had arisen. Given no issue had arisen and given the respondent had information that showed it did nothing wrong.it was not more likely than not that the claimant would have been treated adversely when he raised the issue.

78. I also note the fact that the claimant called the **police**. He had done this after he had sent the email to the respondent (and before he alleged he had been assaulted). I considered that this was part of the plan the claimant had to damage the respondent. After calling the police the claimant went to the warehouse and told the staff he had done so and that the police would be shut down. I do not consider it likely that the clamant had been assaulted or that the respondent had done anything wrong. Instead I concluded that the claimant wished to create serious issues for the respondent and this was a plan he had finalised following learning that he had not persuaded the respondent to retain him, having been told he was being dismissed. I accepted Mr Saleem's evidence that he had told the claimant on 28 April 2025 that his employment ended that day. It was the dismissal which led to the claimant's subsequent actions (rather than the claimant's communication of information that led to the dismissal).

79. The next issue arising was that with regard to the **CCTV.** The claimant relied upon this heavily in support of his position that the respondent was not credible nor reliable. However, I did not accept the claimant's criticisms of the respondent. Having assessed the evidence I concluded that Mr Saleem and Mr Akram were both more likely than not to have been correct in their evidence that there is no CCTV as to the claimant's work station. While there was a delay in advising the claimant as to the position, the correspondence as between the claimant and the respondent's agent indicates that the respondent was seeking to cooperate with the claimant but sought detail as to what specifically was sought by the claimant. The respondent had ensured it retained evidence as to the meeting room where the dismissal meeting took place. That was what the respondent's agent had asked of the respondent immediately. The other CCTV had not been secured as it was not clear what was sought and by the time this had filtered back to the respondent, the material no longer existed.

80. The respondent had responded to the request of the claimant for the CCTV. I did not accept the claimant's argument that the "selective availability of footage and timing and specificity of evidence loss indicates evidence destruction". I considered this argument carefully given the delays in confirming the position. The response given by Mr Akram was credible. The

date stamp on the evidence provided was the date the information was downloaded. I did not accept the claimant's argument that there was "a deliberate strategy to present a false narrative to the Tribunal". I accepted the respondent's explanation that the date stamp on the material provided was the date the material had been procured for the claimant. I did not consider it likely that material had been deliberately deleted given the evidence.

81. I considered the claimant's arguments with regard to the **claimant's contract of employment** which bore to be signed on 5 February 2024. That document had the claimant's address as an address he had moved into on 1 August 2024. The claimant gave no reason why the respondent would manufacture this. It was more likely, as Mr Saleem said, that there was a legitimate reason for this to have occurred. For example, it was possible the contract had to be reissued upon his request to show his employment status or for other reasons following his move or showing his new address. The claimant was not able to explain what the sinister motive was for issuing a manufactured contract. Doing so would have had no bearing on the issues in this case. It was more likely than not that there was a legitimate reason to do so.

82. I considered the claimant's argument there was a "systematic and deliberate pattern of evidence fabrication" whereby the respondent was "engaged in a concerted effort to create a false paper trail to support their version of events". I did not accept that. Altering the address and dates on a contract of employment and other Productions did not support the respondent's position in this case at all. The respondent was not relying upon those documents. There was no reason asserted by the claimant as to why the details in those productions would be changed by the respondent. The explanation given by the respondent was credible and I accepted it.

83. I accepted Mr Saleem's evidence that the only reason the P45 had a different date from the one provided and the only reason the pay slips had different addresses was because these were printed by the respondent's external accountant whose system was likely to have updated the claimant's details when it was printed. I found the respondent's explanation to be compelling and do not accept the claimant's criticism.

The law

Protected disclosures

84. Section 43A of the Employment Rights Act 1996 states: "In this Act 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." 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:

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, or is likely to be deliberately concealed."

85. Section 43A states a protected disclosure is one which is made in accordance with any of sections 43C to 43H. Section 43C states that: 'A qualifying disclosure is made in accordance with this section if the worker makes the disclosure – (a) to his employer, or (b) where the worker reasonably believes that the relevant failure relates solely or mainly to – (i) the conduct of a person other than his employer, or (ii) any other matter for which a person other than his employer has legal responsibility, to that other person...."

86. In **Williams v Michelle Brown** UKEAT/0044/19, HHJ Auerbach summarised the position: "It is worth restating, that this definition breaks down into a number of elements. First, there must be a disclosure of information. Secondly, the worker must believe that the disclosure is made in the public interest. Thirdly, if the worker does hold such a belief, it must be reasonably held. Fourthly, the worker must believe that the disclosure tends to show one or more of the matters listed in sub-paragraphs (a) to (f). Fifthly, if the worker does hold such a belief, it must be reasonably held. Unless all five conditions are satisfied there will not be a qualifying disclosure.'

87. In **Kilraine v London Borough of Wandsworth** [2018] EWCA Civ 1436 at paragraphs 35 and 36 the Court of Appeal set out guidance on whether a particular statement should be regarded as a qualifying disclosure: "35. The question in each case in relation to section 43B(1) (as it stood prior to amendment in 2013) is whether a particular statement or disclosure is a 'disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the matters set out in subparagraphs (a) to (f).' Grammatically, the word 'information' has to be read

with the qualifying phrase 'which tends to show [etc]' (as, for example, in the present case, information which tends to show 'that a person has failed or is likely to fail to comply with any legal obligation to which he is subject'). 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 (1)."

88. Whether an identified statement or disclosure in any particular case does meet that standard will be a matter for evaluative judgment by a tribunal in light of all the facts of the case. It is a question which is likely to be closely aligned with the other requirement set out in section 43B(1), namely that the worker making the disclosure should have the reasonable belief that the information he discloses does tend to show one of the listed matters. As explained by Underhill J in **Chesterton Global** at [8], this has both a subjective and an objective element. If the worker subjectively believes that the information he discloses does tend to show one of the listed matters, and the statement or disclosure he makes has a sufficient factual content and specificity such that it is capable of tending to show that listed matter, it is likely that his belief will be a reasonable belief.

89. In **Simpson v Cantor Fitzgerald Europe** [2020] ICR 236 the Employment Appeal Tribunal confirmed these principles, stating: '43...As the Court of Appeal in **Kilraine** made abundantly clear, in order for a statement or disclosure to be a qualifying disclosure, it has to have sufficient factual content and specificity such as is capable of tending to show breach of a legal obligation.

90. The Tribunal is bound to consider the content of the disclosure to see if it meets the threshold level of sufficiency in terms of factual content and specificity before it could conclude that the belief was a reasonable one. That is another way of stating that the belief must be based on reasonable grounds. It is not enough merely for the employee to rely upon an assertion of his subjective belief that the information tends to show a breach.'

91. Even if the disclosure is of information showing the relevant breach, the worker must hold a reasonable belief that the disclosure is made in the public interest, which is not defined but was considered in **Chesterton Global v Nurmohamed** 2017 IRLR 837. Underhill LJ in the Court of Appeal held that the question of whether a disclosure is in the public interest depends on the character of the interest served by that disclosure. It should serve a wider interest than the private or personal interest of the worker making the disclosure, taking into account all of the circumstances of the particular case. Underhill LJ confirmed it is not enough for there just to be more than one person's interest at stake and it is not simply a question of whether the issue 'extends beyond the workplace'. A multi-factorial approach may be useful

when undertaking the assessment and relevant factors may include the number in the group whose interests the disclosure served (the larger the number, the more likely the disclosure is to be in the public interest), the nature of the interests affected (the more important they are, the more likely the disclosure is to be in the public interest), the extent to which those interests are affected by the wrongdoing (the more serious the effect, the more likely the disclosure is to be in the public interest), the nature of the wrongdoing disclosed (the disclosure of deliberate wrongdoing is more likely to be in the public interest than the disclosure of inadvertent wrongdoing) or the identity of the alleged wrongdoer (the larger and more prominent the alleged wrongdoer, the more likely the disclosure is to be in the public interest).

92. Describing whether something in the private interest of the employee was also in the public interest as being 'all a question of scale' (as the tribunal had done), was not a fair reflection of the discussion in **Chesterton** and each of the factors should be considered.

93. In **Dobbie v Fenton** 2021 IRLR 679 the Employment Appeal Tribunal made clear that the public interest test can be made out even if the disclosure is made in circumstances which suggest that the purpose of making it was primarily private in nature. The claimant was a consultant solicitor who emailed his firm to set out his concerns that a particular client had been overcharged. His primary motivation in doing so was to avoid the client losing out on recovering part of his costs from the other side in the litigation when they were assessed by the court after the case. The Tribunal found this made the disclosure private and not in the public interest. The Employment Appeal Tribunal overturned the decision. The Tribunal failed to focus on the nature of the information in the disclosure. There was a potential breach of regulatory requirements that could result in disciplinary proceedings which would be expected to raise matters of public interest because the regulations are there to protect the public.

94. The Tribunal did not analyse whether the public interest was affected by the identity of the alleged wrongdoer. The fact that the respondent was a firm of solicitors meant that, in the public interest, it was subject to high requirements of honesty and integrity. The matter should be look at in the round.

95. It is necessary to carry out a two-stage test: first, whether the worker believed, at the time that they were making it, that the disclosure was in the public interest, and, if so, whether that belief was reasonable. The public interest test can be satisfied even if the basis of the public interest disclosure is wrong and/or there was no public interest in the disclosure being made, provided that the worker's belief that the disclosure was made in the public interest was objectively reasonable.

96. The authorities in this area have noted that the worker's motive is not irrelevant. Thus if the disclosure was made for purely personal reasons that may make it less likely that it was reasonably believed to be in the public interest. In **Parsons v Airplus International** 2017 All ER (D) 177, the claimant had made disclosures about compliance issues solely in her own self-interest (to cover herself) and, while a disclosure made in self-interest could potentially also be made in the public interest, as a matter of fact, the claimant in this case had not reasonably believed that she was making the disclosures in the public interest

97. A Tribunal should bear in mind that an employee's predominant motive in making a disclosure is not necessarily the same thing as their belief. For example, in **Ibrahim,** the Court of Appeal held that, although the employee's motive in making a disclosure was said to be to clear their name and re-establish their reputation, that did not deal with whether or not they believed that the disclosure was in the public interest.

Detriment

98. Section 47B Employment Rights Act 1996 states that 'A worker has the right not to be subjected to any detriment by any act, or deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.'

99. In **Shamoon v Chief Constable of the Royal Ulster Constabulary** [2003] IRLR 285 confirms that a worker suffers a detriment if a reasonable worker would or might take the view that they have been disadvantaged in the circumstances in which they had to work. An 'unjustified sense of grievance' is not enough.

100. Whether a detriment is 'on the ground' that a worker has made a protected disclosure involves consideration of the mental processes (conscious or unconscious) of the employer acting as it did. It is not sufficient for the Tribunal to simply find that 'but for' the disclosure, the employer's act or omission would not have taken place, or that the detriment is related to the disclosure. Rather, the protected disclosure must materially influence (in the sense of it being more than a trivial influence) the employer's treatment of the whistleblower (**NHS Manchester v Fecitt** [2012] IRLR 64).

101. Helpful guidance on the approach to be taken by a Tribunal when considering claims of this nature is provided in the decision of **Blackbay Ventures Ltd (t/a Chemistree) v Gahir** [2014] IRLR 416.

102. For a complaint of detriment, the protected disclosure must be a material (i.e. more than minor or trivial) influence on the employer's treatment of the

whistleblower. The actor (or their manipulator) must have knowledge of the protected disclosure (**Royal Mail Group Ltd v Jhuti** [2020] 20 ICR 731).

103. The reason for the detrimental treatment may be the means or manner of disclosure rather than the act of disclosure itself but such a distinction must be scrutinised carefully. This has been considered in a number of cases including **Shinwari v Vue Entertainment** UKEAT/0394/14, **Panayiotou v Kernaghan** 2014 IRLR 500 and **Parsons v Airplus** EAT/111/17. It is not unlawful if the reason for the treatment was the way in which the employee made the disclosure but a Tribunal should consider the evidence carefully in assessing whether the treatment was influenced by a disclosure.

104. Under Section 48(2) it is for the employer to show the reason for the detrimental treatment. The claimant must first prove on the balance of probabilities that there was a protected disclosure, a detriment and basis upon which it could be inferred that the protected disclosure was a reason for the treatment. Accordingly, the employee must provide sufficient evidence for a basis to suggest the disclosure could be a reason for the treatment (**International Petroleum Ltd v Osipov & Ors** UKEAT/0058/17/DA). The burden then shifts to the employer to show the reason for the detrimental treatment. In the absence of a satisfactory explanation from the employer which discharges that burden, Tribunals may, but are not required to, draw an adverse inference.

105. The test is whether the disclosure materially influences the treatment, in the sense of being more than a trivial influence of the treatment. In **Fecitt v Manchester** 2012 ICR 372 Lord Justice Elias said liability arises if the protected disclosure if “a material factor in the employer’s decision to subject the claimant to a detrimental act”. The test was recently noted in **Dr Moghaddam v University of Oxford** 2024 EAT 156 (see paragraph 23).

106. The decision maker ought to have the same knowledge of what the claimant is concerned about for the employer to be liable (**Nicol v World** 2024 EAT 42 and **William v Lewisham** 2024 EAT 58).

Automatic unfair dismissal

107. In terms of section 103A of the Employment Rights Act 1996, if the sole or principal reason for a dismissal is that the claimant had made a protected and qualifying disclosure, the dismissal is automatically unfair. That differs from detriment cases (where the test is whether the treatment was materially influenced (in a more than trivial way) by a disclosure).

108. Although the claimant does not have the burden of establishing that the reason (or principal reason) for dismissal was her making protected

disclosures, she must produce some evidence to support her case (**Kuzel v Roche Products Ltd** [2008] ICR 799).

109. In **El-Megrisi v Azad University (IR)** In Oxford UKEAT/0448/08/MAA, Underhill J (P) held: “But in a case where a claimant has made multiple disclosures section 103A does not require the contributions of each of them to the reason for the dismissal to be considered separately and in isolation. Where the Tribunal finds that they operated cumulatively, the question must be whether that cumulative impact was the principal reason for the dismissal”.

110. The claimant is not, therefore, required to identify a direct causal link between particular disclosures and her dismissal - it will be sufficient if he can show that cumulatively, any disclosures (individually or cumulatively) he made were the sole or principal reason for his dismissal.

111. The reason for the dismissal is “a set of facts known to the employer, or it may be beliefs held by him, which cause him to dismiss the employee” (**Abernethy v Mott, Hay and Anderson** [1974] ICR 323). The focus must be on the knowledge, or state of mind, of the person who actually took the decision to dismiss, as observed by the Supreme Court in **Royal Mail Group Ltd v Jhuti** [2019] UKSC 55, at paragraph 60 and **Beatt v Croydon Health Services NHS Trust** [2017] IRLR 748.

Submissions

112. The respondent had provided written submissions in advance which the claimant had the opportunity to consider. Both parties were able to spend time going through each of the issues and discussing their respective positions.

Discussion and decision

113. The Tribunal approached each issue individually in light of the evidence and applicable law. The Tribunal now deals with each of the issues in turn.

Disclosures and the public interest

114. The respondent accepted that the claimant sent the email to the employer on 29 April 2025 and contacted the HSE on 29 April 2025 and that on both occasions the claimant disclosed information. The first issue to determine is whether the claimant believed the disclosure was in the public interest.

115. The respondent submitted that the claimant did not believe the disclosures were made in the public interest as the disclosures were solely self serving. It was argued that at the latest the claimant knew of the approach the respondent took (on his own case) on 28 April 2025. He did not raise the matter with the respondent then. Had he done so the respondent would have explained that there was no issue. The respondent believed the claimant had

manufactured this issue in an attempt to damage the respondent and secure a remedy that would not otherwise be available. The claimant argued it was obvious that there was a public interest element to his disclosure.

116. I considered very carefully the claimant's evidence in relation to this. I looked at what the claimant said at the time and the contemporaneous records. I have concluded that it was more likely than not that the respondent's position is correct. I have concluded that at the time the claimant made the disclosure he did not make it in the public interest. He did not believe the disclosure was in the public interest. His only interest was to seek to create a remedy that would not otherwise have been available. I reached that conclusion recognising that it is entirely possible to make a disclosure which is self serving while believing it is (and it is made) in the public interest. That was not the case in relation to both disclosures from the evidence which showed the sole purpose in making the disclosure was to create a complaint that was not otherwise available (with the claimant not believing at the time it was made in the public interest).

117. That position is consistent with what the claimant told Mr Mehmood following his dismissal on his way to the respondent's premises the following day and when the claimant made the disclosure. I concluded that on the balance of probabilities it was more likely than not that the claimant had decided to use the issue as to relabelling (which the respondent had done for a number of years with no issue) to create an employment claim (and thereby secure his employment and visa position). It was not made in the public interest.

118. I was satisfied that the claimant did not believe that there was any public interest in his approach as the sole purpose in him raising the issue was to manufacture a claim that he would not otherwise have. This was the position in relation to both disclosures. While there was an obvious public interest in the issues the claimant had raised, these formed no part of the claimant's belief when he raised them: he did not make it in the public interest.

119. In reaching my decision I considered the authorities carefully. I recognised a worker's motive is not irrelevant and a disclosure made purely for personal reasons may make it less likely that it was reasonably believed to be (and therefore made) in the public interest but not necessarily so. This case had similarities to **Parsons** *supra***.** The claimant made the disclosure solely for his own benefit and did not believe there was a public interest despite what he said (such that it was made in the public interest). An employee's predominant motive in making a disclosure is not necessarily the same thing as their belief. I was satisfied from the evidence that the disclosure made by the claimant was solely and exclusively made as part of his plan and *solely* for his own private interest. I did not accept the claimant's assertion on the facts that (in addition) he believed the disclosure was in the public interest.

120. In light of my conclusion in relation to this issue the claim is ill founded. This is because the claimant had not established that he had made a protected disclosure, which is a necessary requirement for his detriment and dismissal complaint. For completeness, however, I have decided to set out my reasoning in relation to the remaining elements of the claim had it been necessary to consider those issues.

Was that belief reasonable?

121. As I was satisfied the claimant did not believe that there was any public interest element in his disclosure and that the sole purpose of his disclosure was his own self interest, this issue does not arise.

Relevant failures and reasonable belief

122. The information disclosed by the claimant in his email and disclosure to the HSE tended to show that there was a danger to health and safety and that there had been a breach of a legal obligation. The respondent argued that the belief that there was a breach of health and safety was not reasonable. This was because it was said “there was no danger to health and safety in altering the labels. The respondent was acting reasonably and appropriately in altering the labels as there was an error in the original labels”. It was further submitted that if the claimant genuinely believed there had been such a failure, he would have raised the matter as soon as it had become available and the evidence of Mr Saleem and Mr Akram was clear that the claimant had not done so. The claimant argued that he had raised the matter. His evidence was that he raised it when he had a discussion with Mr Saleem on 27 April 2025, the day before his formal disclosure.

123. Had it been necessary to do so, I would have concluded that the claimant did reasonably believe the information he disclosed did tend to show a breach of health and safety and legal obligation. The claimant did not know what the respondent knew as to the manufacturers’ explanation. The claimant believed the respondent was changing the expiry date on a chemical with no explanation. On that basis it would have been reasonable for the claimant to have believed there was a danger to health and safety and breach of a legal obligation (even if in fact no such breach existed).

Detriment

124. I took each disclosure in turn dealing with the first question, namely whether the alleged detriment took place and then the second question, namely whether any of the two disclosures (had they been established as protected and qualifying disclosures) had a material influence on the alleged detriment.

125. In relation to the first detriment, the **assault**, I am satisfied that on the balance of probabilities no such assault took place. I preferred the evidence of Mr Saleem to that of the claimant. I carefully considered each of the claimant's submissions and took these into account. However, I was not persuaded that on the balance of probabilities the claimant had been assaulted by Mr Saleem as alleged by the claimant.

126. Mr Saleem denied that there had been any assault. The claimant argued that he had raised the issue of the chemicals and his Mr Saleem had tried to grab his phone and pushed him. There was no evidence other than the claimant's evidence to support that. Mr Saleem was clear and measured in his approach and I considered the evidence he gave to be more likely than not to be what occurred in preference to that given by the claimant when viewed in context.

127. There was no other evidence to support the claimant's position. The altercation was said to have occurred in an area where other staff were present. Noone saw what the claimant said happened. It is more likely than not that the claimant would have raised his voice or the assault would have been brought in some way to the attention of others at the time. The fact no one had seen anything and the police were unable to find any evidence supported what Mr Saleem said.

128. I was satisfied that the assault had not taken place. The claimant had not therefore established the first detriment had occurred.

129. I took account of the claimant's arguments that his position has been consistent throughout this process. He has maintained his position that he had been assaulted. It is was accepted by the claimant that he had called the police before he said he was assaulted. I did not consider the claimant's explanation, namely that he feared retaliation to be compelling or credible. The claimant's explanation supported the respondent's argument that this had been part of the claimant's plan to secure his job back.

130. I also took into account the claimant's argument that he was consistently seeking the CCTV and he maintained this position. His argument was that he would not have sought the CCTV if he had not been correct in his assertion that he had been assaulted. However, there was no CCTV of the area in question. The claimant had been told by the police that the footage had gone missing. The claimant knew there was no footage of the incident. While he continued to ask for the footage there was none. He had been told it had gone missing and yet continued to ask for it. In reality there was no footage and so continuing to insist on production of the footage did not support the assertion that he had been assaulted.

131. I did not accept the claimant's assertion that the respondent had generally been dishonest in their approach to this case such that I should not accept their evidence. I did not find the respondent's evidence to be lacking in credibility or reliability. I found Mr Saleem to be credible and clear. He was measured in relation to his evidence. On occasion I found the claimant to seek to asserts facts which were in reality beliefs. In other words on occasion the claimant would assert something had in fact occurred when at best the claimant had inferred something. For example the claimant asserted CCTV had been deleted but in fact there was no CCTV to delete. Similarly the claimant alleged the Home Office had changed his visa position because of errors made by the respondent when in fact it was more likely the visa situation had changed because of his dismissal.

132. In assessing credibility I took account of the issues with the Productions that the claimant raised and I assessed the claimant's arguments in light of the evidence. I did not consider however, these issues to have any material bearing on the assessment of whether or not the assault had occurred. I did not consider Mr Saleem to be untruthful in his evidence that the assault had not occurred. As no assault had occurred, it was not necessary to consider whether any disclosure had an influence upon that detriment.

133. The second detriment was the **deliberate deletion of CCTV**. The claimant argued there was CCTV of his workstation which showed the assault and this had been deleted. That was based on his belief, there being no evidence on which to base that belief. I was satisfied the respondent's evidence was to be preferred. There was no evidence of the CCTV in question. There was no CCTV of the claimant's work station. I was satisfied the respondent did not deliberately delete it. Mr Saleem's and Mr Akram's evidence was credible and I accepted it. This detriment had not been established.

134. The final detriment relied upon was the fact that Mr Saleem **reported the claimant's change in employment situation to the Home Office**. The claimant alleged this was because of the disclosures because the respondent had delayed one day in reporting the matter. The claimant said that had the respondent reported the matter to the Home Office on the day they said they had dismissed him (the day before it was actually reported) he would have taken no issue with this. I did not consider that to be a credible submission.

135. I was satisfied that Mr Saleem's evidence on this issue was more likely than not to be the case. I found that the only reason Mr Saleem notified the Home Office of the claimant's dismissal when he did was because Mr Saleem had a legal obligation to do so and he did so at a time that was convenient to him. It was ironic that the claimant was arguing it would not have been detrimental to have told the Home Office of the position a day sooner (since that would

have resulted in the detrimental treatment relied upon, the change to his visa status, having occurred sooner).

136. I am satisfied that the disclosures the claimant relied upon had no influence whatsoever upon the decision Mr Saleem took to advise the Home Office when he did, the sole reason being that Mr Saleem believed there was a legal requirement to do so. Mr Saleem advised the Home Office when he was ready to do (the day following the dismissal). The dismissal meeting had concluded following the end of the business day and given what had occurred, it was not surprising it took a day to report the matter to the Home Office. I was satisfied that even if the claimant had made a protected and qualifying disclosure, neither disclosure had any influence upon the decision to report the issue to the Home Office. This complaint had not been established.

Unfair dismissal

137. The issue here was whether the sole or principal reason for the claimant's dismissal was the fact that the claimant made a protected disclosure.

138. It is relevant that dismissal was actively being considered prior to the disclosures having been made. The respondent sought legal advice about dismissing the claimant (for the reason they subsequently dismissed the claimant) prior to the point the respondent learned of the disclosure on which the claimant relies. That supports the respondent's position.

139. The claimant's position was that he had raised the labelling issue the day before his dismissal which led to the respondent to consider his dismissal such that by the time he had made his disclosures, they were the reason for the decision to dismiss. I did not find that an attractive argument on the facts. Having carefully considered the evidence before the Tribunal, I found that the respondent had established that any disclosures made by the claimant were in no sense whatsoever a reason for his dismissal. The sole or principal reason for his dismissal was not any disclosure made by the claimant. The respondent had decided it would no longer carry out business in the area in which the claimant had worked. Mr Saleem had concluded the claimant had not generated sufficient profit to persuade him to continue with the activity in question. Mr Saleem believed he had given the claimant sufficient opportunities to change the position but Mr Saleem was not satisfied the position had changed satisfactorily. That was the only reason the respondent decided to dismiss the claimant at the time.

140. I took careful account of the arguments relied upon by the claimant in assessing whether any disclosure was the sole or principal reason for the dismissal (assuming that a protected and qualifying disclosure had been established). The claimant argued he had raised the issues giving rise to his

disclosures on 27 April 2025. However, I preferred the evidence of Mr Saleem with regard to that discussion.

141. I considered the claimant was unhappy that Mr Saleem had chastised the claimant for working on his personal business rather than the respondent's business the day before his dismissal. I did not consider it likely that the claimant had raised any issue that day with regard to the labels. There would have been no reason for Mr Saleem to have been concerned even if the claimant had raised that issue, given the manufacturer's position and the amount of time the respondent had been labelling the chemicals without concern. The claimant had done nothing that day to note the fact he had raised the issues in comparison to what the claimant had done the following day in making it clear what he was raising. It was more likely than not that the claimant had not raised the issue of the products and his concerns on 27 April 2025. Rather, it was more likely than not that the claimant considered matters overnight and decided to rely on those issues subsequently in an attempt to create a complaint and damage the respondent, the claimant's plan to which he had referred in his discussions with Mr Mehmood.

142. I took account of the fact the dismissal letter makes no mention of previous warnings or performance. The dismissal letter is lifted from the draft letter the respondent's solicitor had prepared. As the claimant had less than 2 year's service there was no requirement to provide detail other than a short summary of the position which the letter does. The letter refers to the respondent no longer requiring someone to "carry out the role he was employed to do". That was consistent with Mr Saleem's evidence that he had initially decided the business would no longer proceed with the particular route of selling. The dismissal letter is consistent with Mr Saleem's decision at the time.

143. The absence of any reference to previous warnings did not mean the letter was contradictory or misleading. The letter did not suggest, for example, that there were no issues with the claimant's performance. The claimant's performance had in part led to Mr Saleem's decision not to continue with the role the claimant was engaged. The claimant had been given a number of opportunities to improve and make the area of business profitable. While the claimant believed the area was profitable, he had not satisfied Mr Saleem and it was his decision to make.

144. I did not consider the respondent had made up the warning letters in an attempt to mislead the Tribunal which was what the claimant was alleging. Formal warnings were not required given the claimant's length of service and given the stated reason for dismissal. Just because the claimant had said in his claim that there had been no warnings was not itself a reason to manufacture such warnings. I was satisfied on the balance of probabilities

from the evidence led that the warnings had been issued and I accepted Mr Saleem's and Mr Akram's account in this regard.

145. The claimant argued the email sent by Mr Akram on 29 April 2025 "exposes the falsity of the respondent's position". He argued the wording created a false record and was a "post hoc attempt to realign the dismissal with the respondent's fabricated time line". He argued that if he had been dismissed on 28 April 2025 the email would not be the first written confirmation of the position. That argument does not take account of the fact Mr Saleem had prepared a written dismissal letter which he discussed on 28 April which the claimant refused to accept. The claimant knew of Mr Saleem's decision and the fact the claimant did not take the letter at the meeting did not alter the fact that legally he had been dismissed. I did not accept the claimant's argument in relation to this issue and considered Mr Akram's evidence and the email of 29 April 2025 to be consistent with the respondent's position and what had occurred having assessed the evidence.

146. The claimant argued that he had been singled out because he had raised the labelling issue and that was why he was dismissed. Given the respondent had a legitimate explanation for their actions it is unlikely that the Mr Saleem would have acted as the claimant alleged. The respondent believed their approach was entirely lawful and that has been their consistent position. If the claimant had raised the issue, Mr Saleem would have advised the claimant as to the position. There is no reason why the respondent would have dismissed the claimant given the time over which the relabelling had been undertaken and the respondent's belief (as subsequently supported by external agencies) that the respondent had done nothing wrong.

147. I also considered the claimant's argument that the ET3 was inconsistent with the facts and as such the respondent was not being truthful in its position. I did not find that the respondent had been untruthful. The broad basis of their defence was as they had established in evidence. Their position was that the claimant had not raised the issue until 29 April (which I found to be the case). The evidence presented by the respondent was broadly consistent with their pleaded case. Any inconsistencies did not affect the fundamental basis of the respondent's case. Mr Saleem and Mr Akram gave their response in a measured and cogent way and I accepted their evidence which I considered more likely than not to be accurate.

148. The claimant made reference to the absence of reference to "verbal dismissal" as being an example of the false narrative he said was being presented. But this was not the first time this had been raised since it had been raised at the interim relief hearing and it was the respondent's position. The claimant knew the respondent's case was that he was dismissed at the meeting on 28 April (which was in evidence by Mr Saleem telling him this and confirming that the

letter, which the claimant refused to accept, confirmed the position). That was what the respondent offered to prove and did prove.

149. While there are some inconsistencies in the evidence presented with regard to the ET3 I did not consider these to be such as to justify a finding that the respondent was not truthful in their defence or evidence presented. I found Mr Saleem and Mr Akram to be credible in relation to their evidence which I accepted. I found Mr Saleem's explanation as to the reason for the claimant's dismissal to be preferred to that argued by the claimant.

150. I was also not satisfied that the claimant's argument that he had received 2 pay rises supported his assertion that there were no issues with his performance and that the respondent was therefore being untruthful and I should not accept their evidence. Mr Saleem explained the position as to wage rises. All staff received an increase and the claimant had persuaded Mr Saleem to give him another increase. Mr Saleem was giving the claimant the best opportunity to grow the area of the business, which was something the claimant was confident would happen. Mr Saleem gave the claimant the benefit of the doubt. When Mr Saleem looked into the detail and considered the actual position as he understood it, Mr Saleem was satisfied the area in question was no longer sustainable and he did not wish to develop it. That was consistent with the position advanced by the respondent.

151. The claimant correctly asserted that his position had been "straightforward" throughout this case. However, I accepted Mr Mehmood's evidence that the claimant had told him he had a "plan" and that he was going to damage the respondent. I considered that the claimant was seeking to use an issue he had discovered in relation to the labelling of the products to seek to ensure he got his job back. This was not an issue the claimant had raised before but was an issue the claimant believed would persuade the respondent to change its mind. I considered that it was more likely than not that the claimant would maintain his position in light of the information he had. His plan did not work.

152. I carefully considered the reasons given by Mr Saleem for dismissing the claimant together with the surrounding evidence. I accepted Mr Saleem's evidence and find that the claimant was dismissed because solely because of Mr Saleem's decision to change direction with regard to sales. At the point the claimant was dismissed Mr Saleem decided the claimant's role would no longer be required. Any disclosure the claimant made was entirely irrelevant and unconnected to that decision.

153. The claimant was not automatically unfairly dismissed.

Date sent to parties **04 November 2025**