EMPLOYMENT TRIBUNALS

Claimant: Mr M Hassan

Respondent: London Central Transport Services Limited
t/a Go Ahead London

Heard at: Croydon via CVP **On:** 14 October 2025 to 17 October 2025

Before: Employment Judge Wright

REPRESENTATION:

Claimant: Mr J Neckles – Libertas Trade Union
Respondent: Mr C Ludlow – counsel

JUDGMENT having been sent to the parties on and written reasons having been requested by the claimant in writing on the 17 October 2025 in accordance with Rule 60(4) of the Employment Tribunals Rules of Procedure 2024, the following reasons are provided:

REASONS

1. The claimant presented a claim on the 6 October 2024. His period of employment was 7 December 2015 to 30 April 2024. The was employed as a Bus Driver. He engaged in Acas early conciliation between 27 July 2024 to 7 September 2024, with the result that any event before the 28 April 2024 is potentially out of time.

2. At a case management hearing on the 18 June 2025 his claims were clarified as: unfair dismissal; automatic unfair dismissal (whistleblowing); detriment as a result of whistleblowing; and notice pay/breach of contract.

3. The Tribunal heard evidence from the claimant. Shortly before he was due to give evidence, Mr Neckles asked for a short adjournment, following which he

withdrew his evidence. For the respondent it heard from: Mr Carl Trainor (Operations Manager at the relevant time); Mr Colin Smart (Data Protection Adviser); Ms Debbie Lambshead (Head of HR); Mr Graham Johnson (General Manager who dismissed the claimant); and Mr Bradley Faithfull (Operational Quality Compliance and Appeals Manager and chair of the appeal panel).

4. The Tribunal had an electronic bundle of 500-pages and a comparator bundle of 32-pages. The bundle was not satisfactory in that it contained corrupted text, duplication and unnecessary redactions.

5. The issues to be determined had been agreed at the preliminary hearing on the18 June 2025. They were slightly amended following the preliminary hearing on the 28 July 2025. It was confirmed the hearing would determine liability and remedy. The issues are:

The Complaints

83. The claimant is making the following complaints:

84.1 Unfair dismissal - section 94 Employment Rights Act 1996 ('ERA')

84.2 Whistleblowing dismissal (automatic unfair dismissal)– section 103A ERA)

84.3 Whistleblowing detriment - section 47B ERA

84.4 Wrongful Dismissal -Notice Pay

The Issues

64 The issues the Tribunal will decide are set out below.

1. Unfair dismissal

1.1 What was the reason or principal reason for dismissal? The respondent says the reason was conduct. The Tribunal will need to decide whether the respondent genuinely believed the claimant had committed misconduct.

On the 28 July 2025 the respondent was granted permission to amend its response to include some other substantial reason as a justification for the dismissal.

1.2 If the reason was misconduct, did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:

1.2.1 there were reasonable grounds for that belief;

1.2.2 at the time the belief was formed the respondent had carried out a reasonable investigation;

1.2.3 the respondent otherwise acted in a procedurally fair manner;

1.2.4 dismissal was within the range of reasonable responses.

1.3 The claimant says there was insufficient reason for dismissal and the reason the respondent gave for the dismissal was contrived.

1.4 The claimant says the dismissal was unfair because one person performed a dual role in both the disciplinary and grievance processes.

1.5 The claimant also states he was treated unfairly compared to 'comparators'. He relies on inconsistent treatment between himself and 3 other employees (who he refers to as his comparators).

1.6 The claimant states his grievance complaint commenced the disciplinary process, and he never received the outcome of that and nor did her receive the right to appeal.

1.7 Did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case.

Automatic Unfair Dismissal

1.8 Was the reason or principal reason for dismissal that the claimant made a protected disclosure(s)?

If so, the claimant will be regarded as unfairly dismissed.

2. Remedy for unfair dismissal

2.1 Does the claimant wish to be reinstated to their previous employment?

2.2 Does the claimant wish to be re-engaged to comparable employment or other suitable employment?

2.3 Should the Tribunal order reinstatement? The Tribunal will consider in particular whether reinstatement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.

2.4 Should the Tribunal order re-engagement? The Tribunal will consider in particular whether re-engagement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.

2.5 What should the terms of the re-engagement order be?

2.6 If there is a compensatory award, how much should it be? The Tribunal will decide:

2.6.1 What financial losses has the dismissal caused the claimant?

2.6.2 Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?

2.6.3 If not, for what period of loss should the claimant be compensated?

2.6.4 Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?

2.6.5 If so, should the claimant's compensation be reduced? By how much?

2.6.6 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?

2.6.7 Did the respondent or the claimant unreasonably fail to comply with it and how?

2.6.8 If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?

2.6.9 If the claimant was unfairly dismissed, did they cause or contribute to dismissal by blameworthy conduct?

2.6.10 If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?

2.6.11 Does the statutory cap of fifty-two weeks' pay apply?

2.7 What basic award is payable to the claimant, if any?

2.8 Would it be just and equitable to reduce the basic award because of any conduct of the claimant before the dismissal? If so, to what extent?

3. Wrongful dismissal / Notice pay

3.1 What was the claimant's notice period?

The claimant states his notice period is 8 weeks.

The respondent's position is that he was summarily dismissed and therefore the notice period /notice pay becomes irrelevant.

3.2 Was the claimant paid for that notice period?

3.3 If not, was the claimant guilty of gross misconduct/ did the claimant do something so serious that the respondent was entitled to dismiss without notice?

4. Protected disclosure

4.1 Did the claimant make one or more qualifying disclosures as defined in section 43B of the Employment Rights Act 1996? The Tribunal will decide:

4.1.1 What did the claimant say or write? When? To whom? The claimant says they made disclosures on these occasions:

4.1.1.1 by email dated 20 February 2024 which the claimant sent to the respondent's HR department (raising a formal complaint about Kyle Simmons) disclosed a breach of GDPR data; specifically, about the respondent's GDPR compliance being 'neglected'

4.1.1.2 by email dated 7 March 2024 to the respondent's HR department regarding Kyle Simmons disseminating an email publicly humiliating Claude Parchment including all users including bus drivers (Mr Hassan confirmed the date of this disclosure in the hearing)

4.1.1.3 by email dated 21 February 2024 the claimant responded to Peter Russell (General Manager) saying Kyle Simmons sending an email to all SW drivers and another 12 emails addresses was a GDPR compliance concern.

4.1.2 Did they disclose information?

4.1.3 Did they believe the disclosure of information was made in the public interest?

4.1.4 Was that belief reasonable?

4.1.5 Did they believe it tended to show that:

4.1.5.1 a person had failed, was failing or was likely to fail to comply with any legal obligation.

4.1.5.2 information tending to show any of these things had been, was being or was likely to be deliberately concealed.

4.1.6 Was that belief reasonable?

4.2 If the claimant made a qualifying disclosure, was it a protected disclosure because it was made to the claimant's employer (or the responsible/prescribed person under sections 43C, 43D, 43E, 43F, 43G, or 43H of the Employment Rights Act 1996)

If so, it was a protected disclosure.

5. Detriment (Employment Rights Act 1996 section 47B)

5.1 Did the respondent do the following things:

5.1.1.1 Grievance Officer Carl Trainor subjecting the claimant to a disciplinary process after his Grievance Complaint was not upheld

5.1.1.2 Carl Trainor whilst in the position as the appointed Grievance Investigation Officer and concluding the same, levied his own personal allegations against the claimant which he referred, and rubber stamped for disciplinary Hearing resulting in the claimant's Summary Dismissal; ***(I[1] did not understand this allegation in the way it has been worded by the claimant and the claimant's representative therefore clarified during the hearing what is meant by this allegation is that Carl Trainor was the appointed grievance officer. Having dealt with the grievance and having decided the grievance was not upheld Mr Trainor then made a complaint about the claimant that his grievance complaints were malicious and false and then Carl Trainer investigated his own complaint about the claimant and referred the matter for a disciplinary).***

5.1.1.3 Carl Trainor whilst acting in the position of the respondent's Grievance Investigation Officer failed to formally notify and grant the claimant his contractual right of appeal against his grievance investigation outcome.

5.1.1.4 Failure of the respondent's Disciplinary Officer Mr Graham Johnson to grant the claimant a fair disciplinary process between the 26 April 2024 and 30 April 2024;

5.1.1.5 Failure of the respondent's Appeal Officers' Mr Bradley Faithfull and Kastriot Gashi to grant the claimant a fair disciplinary appeal process between the 23 May 2024 and 3 July 2024.

5.1.1.6 The upholding of the claimant's Summary Dismissal by the Respondent's Appeal Officers Mr Bradley Faithfull and Kastriot Gashi on the 3 July 2024.

5.2 By doing so, did it subject the claimant to detriment?

5.3 If so, was it done on the ground that they made a protected disclosure(s)

6. Remedy for Protected Disclosure Detriment

[1] That is EJ Wilson at the preliminary hearing on the 18 June 2025.

6.1 What financial losses has the detrimental treatment caused the claimant?

6.2 Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?

6.3 If not, for what period of loss should the claimant be compensated?

6.4 What injury to feelings has the detrimental treatment caused the claimant and how much compensation should be awarded for that?

6.5 Has the detrimental treatment caused the claimant personal injury and how much compensation should be awarded for that?

6.6 Is it just and equitable to award the claimant other compensation?

6.7 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?

6.8 Did the respondent or the claimant unreasonably fail to comply with it?

6.9 If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?

6.10 Did the claimant cause or contribute to the detrimental treatment by their own actions and if so would it be just and equitable to reduce the claimant's compensation? By what proportion?

6.11 Was the protected disclosure made in good faith?

6.12 If not, is it just and equitable to reduce the claimant's compensation?

By what proportion, up to 25%?

6. Also raised at the outset of the hearing was the fact that any detriment complained of before the 28 April 2024 was potentially out of time.

7. Mr Neckles gave the dates in relation to allegations 5.1.1.1, 5.1.1.2 and 5.1.1.3 as 11 April 2024.

8. On the second day, Mr Neckles made a written application for the Judge to recuse herself due to bias. Mr Neckles said:

> '1.1 The Claimant's Employment Tribunal claim commenced before Employment Tribunal Judge **HHJ Katherine Wright**.
>
> 1.2 On the 15th October 2025 at 06:00hrs, it has come to light through independent disclosure, that ET Judge **HHJ Kathrine Wright** in her previous practice as a Barrister, acted on behalf of the **Go-Ahead Group Plc;**

specifically, its subsidiary **London Central Bus Company Ltd** in **Case No 3201806/2015** between 2016 and 2017.

1.3 That subsidiary is part of the same **corporate group** as the present Respondent, **London General Transport Services Ltd t/a Go-Ahead London**, both being owned by **Go-Ahead Group Plc** and sharing senior HR, legal and compliance management.

1.4 The Judge **did not disclose** this prior professional connection at the commencement of the Claimant's Full Merits Hearing on the 14th October 2025 as is her lawful duty to so do.'

9. The application was taken at face value. It was explained to Mr Neckles that Employment Judge Wright, was not HHJ Katherine Wright and it was a case of mistaken identity on his part. The hearing continued and the claimant continued to give his evidence. He had been under a restriction overnight. In view of the fact the claimant was under a restriction, Mr Neckles would not have been able to take instructions from him. It is therefore assumed the application was made of Mr Neckles' own volition, without instructions from the claimant.

10. Later that day however, the application was scrutinised more closely. There is no Circuit Judge called HHJ Katherine Wright. There are two female Circuit Judges, they however do not have a first name that is any permutation of Katherine. They were appointed in 2009 and 2014. They therefore cannot have acted for the London Central Bus Company Ltd in 2016 and 2017.

11. Furthermore, there is no record of the case number quoted on either the Employment Tribunal decision website or on the Tribunal's internal database. There are three London Central cases with the same case number but they are not 2015 cases. There are two 2009 cases with the respondent as London Central Bus Co in London Central and nine in London South. None of which have the case number quoted.

12. Similarly, on the Tribunal decision website there are three judgments with the same case number, but none are a 2015 case or against London Central Bus Co.

13. This was raised with the parties at the conclusion of the evidence and submissions. Mr Neckles then said he withdrew the application. He was not able to do so as he had been made and determined, when the Tribunal took the view that it was a case of mistaken identity. That was before it because clear the application was on any view, misleading.

14. At the conclusion of the oral judgment, the respondent was asked for its view. Its position was it remained neutral, however, having conducted its own research, it came to the same conclusion as the Tribunal.

15. On the third day of the hearing by an email copied to the respondent at 8.50am, Mr Neckles made an application for one of the alleged disclosures to be substituted. That application reached the Judge at 9.58am. In any event, Mr Ludlow had taken instructions and was able to agree to the amendment. In those circumstances, it was granted. The second alleged disclosure (4.1.1.2) was substituted as to refer to an email from the claimant to Mr Smart on the 29 February 2024 (page 407).

16. Both sides declined the opportunity to make oral submissions and they provided written submissions. Mr Ludlow provided a particularly helpful summary of the law. A 2pm deadline had been provided. Mr Neckles applied for an extension of time until 4pm; and that was granted.

The Law

17. The claimant pleads that he has made a protected disclosure under s.43B of the Employment Rights Act 1996 (ERA) and he was automatically unfairly dismissed per s.103A ERA.

> 43B Disclosures qualifying for protection.
>
> (1) In this Part 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.
>
> 103A Protected disclosure
>
> 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.

18. An employee also has protection against being subjected to a detriment as a result of making a protected disclosure, per s.47B ERA:

(1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.

19. In Kilraine v London Borough of Wandsworth [2018] ICR 1850 the Court of Appeal said that the word 'information' in S.43B(1) ERA has to be read with the qualifying phrase 'tends to show'; the worker must reasonably believe that the information 'tends to show' that one of the relevant failures has occurred, is occurring or is likely to occur. Accordingly, for a statement or disclosure to be a qualifying disclosure, it must have sufficient factual content to be capable of tending to show one of the matters listed in S.43B(1)(a)–(f) ERA.

20. An example was given of a hospital worker informing their employer that sharps had been left lying around on a hospital ward. If instead the worker had brought their manager to the ward and pointed to the abandoned sharps and then said 'you are not complying with health and safety requirements', the oral statement would derive force from the context in which it was made and would constitute a qualifying disclosure. The statement would clearly have been made with reference to the factual matters being indicated by the worker at the time.

21. Simpson v Cantor Fitzgerald Europe 2020 EWCA Civ 1601 stated at paragraph 51:

> 'We now know from the judgment of Sales LJ in Kilraine that it is erroneous to gloss section 43B(1) of the 1996 Act to create a rigid dichotomy between "information" on the one hand and "allegations" on the other. In order for a communication to be a qualifying disclosure it has to have "sufficient factual content and specificity such as is capable of tending to show one of the matters listed in subsection (1)". Whether it does is a matter for the ET's evaluative judgment.'

The judgment went onto cite paragraphs 30 to 35 from that Judgment.

22. Section 43B(1) ERA requires that, in order for any disclosure to qualify for protection, the person making it must have a 'reasonable belief' that the disclosure 'is made in the public interest'. That amendment was made to avoid the use of the protected disclosure provisions in private employment disputes that do not engage the public interest.

23. In Chesterton Global Ltd (t/a Chestertons) and anor v Nurmohamed (Public Concern at Work intervening) 2018 ICR 731, CA, a disclosure regarding internal accounts was held to be in the public interest.

24. Simpson confirmed at paragraphs 19 and 20:

> 'The words "in the public interest" in s 43B(1) were introduced by amendment with effect from June 2013. In Chesterton Global Ltd v Nurmohamed [2017] IRLR 837, this court, in the leading judgment of Underhill LJ, made it clear that the question for the tribunal was whether the worker believed, at the time

> he was making it, that the disclosure was in the public interest; whether, if so, that belief was reasonable; and laid down that, while the worker must have a genuine and reasonable belief that a disclosure is in the public interest, this does not have to be his or her predominant motivation in making it.
>
> As to what amounts to a "disclosure of information", this has been the subject of some controversy since the decision of the EAT in Cavendish Munro Professional Risks Management Ltd v Geduld [2010] ICR 325 in which it appeared that a strict distinction was drawn between the provision of information on the one hand and the making of an allegation on the other, with only the provision of information being capable of amounting to a protected disclosure. This court, in Kilraine v Wandsworth London Borough Council [2018] ICR 1850, confirmed that there is no such rigid distinction.'

25. Simpson also quoted Norbrook Laboratories (GB) Ltd v Shaw UKEAT/0150/13/RN at paragraph 40 under the heading 'aggregation':

> '… an earlier communication can be read together with a later one as "embedded in it", rendering the later communication a protected disclosure, even if taken on their own they would not fall within section 43B(1)(d). … Accordingly, two communications can, taken together, amount to a protected disclosure. Whether they do is a question of fact.'

26. Simpson went onto say at paragraph 43:

> 'The employment judge in Norbrook considered that the three emails taken together were capable of amounting to a protected disclosure of information as to the danger of territory managers driving in the snow, even though the third email was sent to a different department from the first two; and that finding was upheld on appeal by Slade J. Plainly these decisions were correct. The three communications, two on the same day and one a week later, were all on the same subject and the second and third disclosed information which the claimant reasonably believed tended to show a risk to health and safety.'

27. In respect of public interest, Simpson said at paragraph 60:

> '… in Chesterton Global Ltd v Nurmohamed [2017] IRLR 837…. Underhill LJ, giving the leading judgment, made four points about the nature of the exercise required by section 43B(1). Firstly, the tribunal has to ask (a) whether the worker believed at the time that he was making it that the disclosure was in the public interest and (b) whether, if so that belief was reasonable. Secondly, the tribunal must recognise that there may be more than one reasonable view as to whether a particular disclosure was in the public interest.'

The judgment went onto quote paragraphs 29, 30 and 37 from the Judgment.

28. In Panayiotou v Chief Constable of Hampshire Police 2014 ICR D23 the EAT upheld a decision that the reason for dismissal and detriments was not the fact that Mr Panayiotou made protected disclosures; but the manner in which he pursued his complaints. It was held that it was the combination of his long-

term absence from work and the way in which he pursued his various complaints which led to his dismissal and his claims under s.47B and s.103A failed. This authority demonstrates the need for there to be a causal link between the alleged protected disclosure and the dismissal.

29. A respondent may defend the claim on the basis that the claimant was not subjected to a detriment because he made a disclosure but because of some form of misconduct that was committed in the course of making the disclosure, such as a breach of confidentiality or the making of manifestly unfounded allegations (Bolton School v Evans 2007 ICR 641 CA).

30. In respect of unfair dismissal s.94(1) ERA provides that an employee has the right not be unfairly dismissed.

31. S.98 ERA provides:

> (1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—
>
> (a) the reason (or, if more than one, the principal reason) for the dismissal, and
>
> (b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.
>
> (2) A reason falls within this subsection if it-
>
> …
>
> (b) relates to the conduct of the employee, …
>
> (4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—
>
> (a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and
>
> (b) shall be determined in accordance with equity and the substantial merits of the case…

32. Enforcement of the right is by way of complaint to the Tribunal under s.111. The claimant must show that they were dismissed by the respondent under s.95, but in this case the respondent admits that it dismissed the claimant (within section 95(1)(a) of the 1996 Act) on 30 April 2024.

33. S.98 of the ERA deals with the fairness of dismissals. There are two stages within s.98. Firstly, the respondent must show that it had a potentially fair reason for the dismissal within s.98(2). Secondly, if the respondent shows

that it had a potentially fair reason for the dismissal, the Tribunal must consider, without there being any burden of proof on either party, whether the respondent acted fairly or unfairly in dismissing for that reason.

34. In this case it is not in dispute that the respondent dismissed the claimant because it believed he was guilty of misconduct. Conduct is a potentially fair reason for dismissal under s.98(2). The respondent has satisfied the requirements of s.98(2).

35. S.98(4) then deals with fairness generally and provides that the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and shall be determined in accordance with equity and the substantial merits of the case.

36. In misconduct dismissals, there is well-established guidance for Tribunals on fairness within s.98(4) in the decisions in Burchell 1978 IRLR 379 and Post Office v Foley 2000 IRLR 827. The Tribunal must decide whether the respondent had a genuine belief in the claimant's guilt. Then the Tribunal must decide whether the respondent held such genuine belief on reasonable grounds and after carrying out a reasonable investigation. In all aspects of the case, including the investigation, the grounds for belief, the penalty imposed, and the procedure followed, in deciding whether the respondent acted reasonably or unreasonably within s.98(4), the Tribunal must decide whether the respondent acted within the band or range of reasonable responses open to a respondent in the circumstances. It is immaterial how the Tribunal would have handled the events or what decision it would have made, and the Tribunal must not substitute its view for that of the reasonable employer (Iceland Frozen Foods Limited v Jones 1982 IRLR 439, Sainsbury's Supermarkets Limited v Hitt 2003 IRLR 23, and London Ambulance Service NHS Trust v Small 2009 IRLR 563).

37. A claimant who is dismissed with no notice or inadequate notice in circumstances which do not entitle the employer to dismiss summarily, will amount to a wrongful dismissal. The claimant will be entitled to claim damages in respect of contractual notice.

38. A respondent is entitled to terminate a contract without notice in circumstances where the claimant has committed an act of gross misconduct. It is for the respondent to prove on the balance of probabilities whether the claimant has committed gross misconduct. Whether a claimant has committed gross misconduct entitling the respondent to terminate without notice is a question of fact for the Tribunal in each case.

Findings of fact

Did the claimant receive the email of the 19 February 2024?

39. This is not an issue as per the list of issues as such. It does however feed into the remaining issues.

40. At 15.26 on the 19 February 2024, KS an Assistant Operations Manager sent an email. The claimant said he and all other southwest drivers received the email (page 126). Or in the alternative, he and some other drivers received the email (page 143). He took a screen shot of the email (page 125).

41. The claimant said he had shown the email on his phone to Mr Russell (General Manager of Stockwell & Putney Garages at the time). He then deleted the email and the App from his phone as he did not want the App on his phone. This was contrasted with the claimant saying in the hearing that he saved the screen shot to his camera roll on his phone.

42. In the disciplinary meeting on the 30 April 2024, Mr Russell said the claimant had shown him 'the email' on his phone on a dark screen, as if it were set to night mode. Mr Russell said the claimant did not 'open' anything and the email was already on screen. Mr Russell asked the claimant where he got the email and he would not say and left (page 166). The Tribunal finds that on balance, the claimant showed Mr Russell the screen shot of the email (page 112).

43. In the background, a Service Controller (TL) who had legitimately received the email from KS had taken a screen shot of it and had forwarded it to a WhatsApp group. She was on leave and did not understand the context for KS's email, hence her forwarding it on.

44. The Tribunal finds this is how the screen shot of the email came into existence and it was not the claimant who took a screen shot of the original email.

45. The claimant said that he was not on TL's WhatsApp group. It is clear however, that other drivers were and that the screen shot was circulating in the garage. The Tribunal finds that on balance, that was how the other drivers Mr Chesney and Mr Barton claimed to have seen it, that they saw the screen shot, not the original email and they were not recipients of the original email.

46. When Mr Trainor attempted to investigate this, based upon the claimant's assertion other drivers had received the email, neither wanted to get involved. On the 27 February 2024 Mr Chesney said he had received the email and Mr Trainor found he described it (page 140). Mr Chesney allowed Mr Trainor to look at his phone, however Mr Trainor could not find the email, even in the deleted items.

47. Mr Barton said he had heard other drivers talking about the email from KS, but that it had disappeared. He said Mr Chesney had also received the email (page 135).

48. Mr Trainor spoke to Mr Bulhan in due course on the 26 April 2024 (page 162). He also declined to get involved and said he had not received the email. The reason Mr Trainor did not contact Mr Bulhan until this point was that the

claimant did not name him until the meeting on the 26 April 2024 (page 142 and 152).

49. The claimant relied upon the fact that he had deleted the email and the App. He said that he had looked in his deleted folder and the email had 'disappeared'. It is not accepted this happened.

50. Had the claimant received the email, the most simple and straightforward thing for him to do, was to forward that email onto HR or to Mr Trainor to demonstrate he had received it. His explanations are not accepted and the Tribunal finds that he did not receive the email into his inbox.

51. The claimant has criticised the respondent for not, on his case, instructing an external independent expert to explain what had happened. In fact, Mr Trainor involved Mr Smart and he involved the respondent's IT department. It was open to the claimant to instruct his own expert if he wished to do so.

52. There was no explanation for how, if it happened, the email 'disappeared'. One explanation could be, in view of the fact neither Mr Chesney nor Mr Barton wished to get involved in the matter; they said it had disappeared. Perhaps to explain that they had deleted not the original email, but the screen shot. It may have been that the were concerned this could cause trouble for them. The Tribunal finds that it is more likely than not that this is why they claimed the email had disappeared and did not want to get involved in the matter. Another explanation could be that TL deleted the WhatsApp message and so it 'disappeared' from WhatsApp app.

53. The Tribunal also finds that terminology was used loosely and that drivers referred to the 'email' when they meant the screen shot of it. It would not be immediately obvious that they were looking at a screen shot if they were just shown what appeared at page 112. It would be more obvious if the screen shot of the email was embedded into a WhatsApp message, however, they were still more likely than not to still refer to it as an 'email'.

54. The Tribunal finds on the balance of probabilities that the email was not sent to the claimant. That he obtained a screen shot of it from TL (possibly indirectly) and he forwarded that screen shot to HR. He misled the respondent in this aspect of his complaint, continued to do so and maintained that misrepresentation to the Tribunal.

The first disclosure (4.1.1.1)

55. The claimant's email of 20 February 2024 sent to the respondent's HR team was said to be the first disclosure (page 123). This email read

> 'I wish to lodge a formal complaint concerning [KS]. Go Ahead's GDPR compliance has been neglected in this regard. He shouldn't be here to publicly shame CP for his actions, and someone in a position of authority should not be permitted to act in such a manner.'

56. The Tribunal finds that on balance; this is not a disclosure of information.

57. It is accepted that at some point, (it is not clear when) the claimant forwarded the screen shot of KS's email to HR.

The second disclosure (not in chronological order) (4.1.1.2)

58. This alleged disclosure is not an email of 7 March 2024 to the HR Team. It was substituted by agreement on the 16 October 2025 and it is now an email from the claimant to Mr Smart on the 29 February 2024 (page 407).

59. The claimant has not specified which part of the email he relies upon as a protected disclosure. The first part of the email refers to a previous data breach, which is irrelevant for this claim; other than it puts into context the respondent's concern over this 2024 allegation.

60. In the third paragraph of the email, the claimant refers to the email sent by KS and said that it was a data breach, as KS has publicly humiliated CP by sending an email to him (the claimant) and other drivers. He then complained about the email from Mr Russell telling him (the claimant) not to forward the email on and querying how it came to be in the claimant's possession. The claimant went onto question whether his own data had been compromised during what he called the 'breach'.

61. The claimant said the 'data breach' was publicly humiliating CP. It is not clear what legal obligation he had in mind when making this comment. In respect of his own information, this is at best a probe rather than an allegation.

62. As a stand alone email, the Tribunal finds this does not amount to a disclosure of information, as it does not tend to show any legal wrongdoing.

The third disclosure (4.1.1.3)

63. This is an email dated 21 February 2024 to Mr Russell stating the email KS sent was a GDPR compliance concern (page 126).

64. As a stand alone email, this is not a disclosure of information. It responds to Mr Russell's email but he does not provide any information as to how the there has been any breach of GDPR. Or, how this tends to show any such state of affairs.

65. The Tribunal finds that the three emails which the claimant relied upon in addition to him forwarding to HR and in turn Mr Trainor being aware of the screen shot, did amount to a composite/cumulative or aggregate disclosure of information to the claimant's employer. Which was in essence that KS's email had been copied to drivers and that was a data breach in respect of CP. The claimant's emails and forwarding the screen shot, taken together did amount to a protected disclosure.

Was that information made in the public interest and was that belief reasonable?

66. The Tribunal finds that the claimant's sole motivation was to cause trouble for KS. KS had on the 18 October 2023 referred the claimant to Mr Russell for disciplinary action (page 103). That resulted in Mr Russell issuing a disciplinary sanction of a final written warning and six month special probation on all aspects of work (page 107).

67. It may well have been a by-product of the claimant's referral that he drew the respondent's attention to a potential data breach (even if he was wrong on that); however, his motivation was to cause trouble for KS. Had the claimant's main issue been the alleged data breach, he would have focused on that and not on KS's role in sending the email. If there had been a data breach as per the claimant's version of events, it would have been obvious who was liable for it. Without the claimant needing to name KS.

68. It is clearly not in the public interest to make trouble for a colleague. Furthermore, the Tribunal found the claimant did not receive the email. Therefore the whole premise of his allegation was without foundation. The claimant could have legitimately complained about TL forwarding the screen shot of the original email to the WhatsApp group which was then disseminated to a wider group of drivers. The Tribunal has found this is how the screen shot came to be in the claimant's possession. The claimant did not complain about receiving the screen shot. The reason he did not do that, the Tribunal finds, is that his motivation was to make trouble for KS. If he complained about TL forwarding the screen shot, then the responsibility for forward the original email would be hers and not KS's.

Was the claimant's belief reasonable?

69. Even if the claimant had not been motivated by making trouble for KS and had had as his main motivation a data breach; his belief was not reasonable. His complaint was about the fact KS had sent the email to his work email address and to 'all SW Drivers' (page 126). The Tribunal has found as a fact the claimant did not receive the email, he knew he had not received it and so he cannot have had a reasonable belief that KS sent the email to him and to other drivers.

70. The claimant has not therefore made a qualifying disclosure.

Detriments

71. If, for some reason the claimant is found to have made a protected disclosure, the Tribunal has considered the detriments claimed.

72. The first is that Mr Trainor subjected him to a disciplinary process after his grievance complaint was not upheld (5.1.1.1).

73. Much was made of this issue. What happened the Tribunal finds is that Mr Trainor was tasked with investigating what he understood to be a data breach on the 26 February 2024 by Mr Russell (page 126). Mr Russell informed the

claimant of this and instructed him not to forward the email which had come into his (the claimant's possession) to anyone else. The claimant responded with what he said was his third disclosure (4.1.1.3) (page 126).

74. Mr Trainor met with the claimant on the 26 February 2024 and discussed the situation (page 143). At this time, Mr Trainor's understanding was that the claimant had been sent an email by KS and he was concerned there had been a data breach. Mr Trainor had already spoken to five randomly selected drivers to ask if they had received the email; none of them had. Subsequently, he spoke to the two drivers named by the claimant.

75. As a result of this meeting Mr Trainor contacted Mr Smart and asked him investigate KS's email account. That took place and resulted in Mr Smart's conclusion that (page 127);

> the claimant did not receive the original email and it likely he had been sent or taken a screen shot of it;
>
> KS had sent the email to the correct email broadcast; and
>
> the claimant had taken it upon himself to involved himself in a fellow colleague's matter.

76. Mr Smart also sent an audit report and email exchanges.

77. The Tribunal finds Mr Smart's conclusion that the claimant had taken or been sent a screen shot of the original email, was based upon the screen shot of the original email which the claimant forwarded to HR (page 114). Unlike the original email, this document was white font on a black background. It was in complete contrast to the original email (page 111). Furthermore, as Mr Smart pointed out, the screen shot had the word 'Yesterday' in the top right hand corner, which indicated it was a screen shot taken the day after the email was sent (his witness statement paragraph 13).

78. The Tribunal finds Mr Smart's third point and his conclusion went beyond his remit, which was to investigate how the claimant had received the original email. It also finds however; this had no material bearing on the process.

79. As a result of Mr Smart's conclusions that the claimant had not received the original email, Mr Trainor considered the allegation had been made against KS in bad faith.

80. Pausing there, it is agreed by all at the respondent that Mr Trainor should have confirmed the position in writing in respect of the grievance he had originally started to investigate as per the policy (page 71). It is the claimant's case that as the outcome was not given to him in writing, he was unable to exercise his right of appeal. The omission of giving the claimant the outcome in writing did not necessary prevent him exercising his right of appeal. He could have appealed on the basis that there was no outcome from Mr Trainor and as his grievance had not been either upheld or rejected, he wished to

appeal against the omission. Mr Francis Neckles of the PTSC Union was copied into correspondence from the 21 February 2024 to at least 7 March 2024.

81. Mr Trainor did not formally notify the claimant of his right of appeal (this is not a contractual right, the Tribunal accepts the respondent's polices and procedures are non-contractual) (issue 5.1.1.3). Not informing the claimant of his right of appeal was not as a result of any disclosure. It was oversight on Mr Trainor's part and by him deciding the original grievance had not been raised in good faith. Mr Faithfull acknowledged this oversight in his letter of the 3 July 2024 (page 285).

82. In any event, the claimant knew his grievance had been rejected as Mr Trainor then investigated the circumstances under the disciplinary procedure.

83. Mr Trainor then took the view that the claimant's allegation had been raised in bad faith to cause trouble for KS. The grievance policy provides for this (page 72):

> 'Bad faith complaints
>
> All grievances are treated seriously and are investigated on the understanding that the complaint has been raised in good faith. If it becomes clear that the employee concerned has raised a complaint in bad faith and/or knows it to be untrue, the company reserves the right to conduct a disciplinary investigation against that employee.'

84. Mr Trainor then proceeded (with the agreement of HR) to conduct a disciplinary investigation. He relied upon the respondent's disciplinary policy to allow this (page 74):

> '2. An investigation will take place prior to any case being the subject of a Garage Disciplinary Enquiry (GDE). Following an initial enquiry, the same manager (providing they have the appropriate authority) may conduct the disciplinary hearing where they were the investigating official. The investigating manager may also refer the matter to a full GDE where appropriate.'

85. From a purist point of view and notwithstanding what the policy sets out, it would have been preferable for Mr Trainor to hand over the investigation to another manager to take it forward. That however did not happen and that is not fatal to the respondent's position. Mr Trainor did not decide any outcome or sanction for the claimant.

86. Mr Trainor did subject the claimant to a disciplinary process after the grievance complaint was not upheld (issue 5.1.1.1). The question is whether the actions Mr Trainor took were materially (in the sense of more than trivially) influenced by the disclosure (if it were not tainted by a lack of reasonable belief in the public interest).

87. The Tribunal finds there was an intervening act. The conclusion was reached that the claimant did not receive the original email in the first place. That was the reason Mr Trainor decided to proceed with the disciplinary process.

88. The same rationale applies to the second detriment (5.1.1.2), based upon the conclusion the claimant had not received the original email and that his complaint was made in bad faith.

89. The claimant alleges Mr Johnson did not grant him a fair disciplinary process between the 26 April 2024 and 30 April 2024 (the date of the two disciplinary meetings). The meetings were conducted properly and the claimant was accompanied by Mr Neckles both meetings. The process was fair. A such there was no detriment to the claimant.

90. Similarly, Mr Faithfull did not fail to grant the claimant a fair appeal hearing between the 23 May 2024 and 3 July 2024 (issue 5.1.1.5). The claimant exercised his right of appeal on the 30 April 2024 (page 190). The outcome was dated 30 April 2024 (page 194).

91. There was nothing unfair about the process and again, the claimant was accompanied by Mr Neckles to both hearings (page 264 and 277).

92. The process was fair and there was no detriment to the claimant.

93. The final detriment (5.1.1.6) claimed was upholding the decision to summarily dismiss the claimant by Mr Faithfull on the 3 July 2024 (page 283). Of course, upholding a decision to summarily dismiss the claimant is detrimental to him. The question is whether this is a result of any protected disclosure he made?

94. The claimant was dismissed as Mr Faithfull was satisfied that there was a legitimate business reasons for KS's email sent to those who received it. There was no data breach and the claimant's claim in respect of it was unfounded. Mr Faithfull upheld Mr Johnson's decision that the claimant had breached the respondent's trust by making a false grievance/complaint against a manager alleging a GDPR breach and that the evidence showed the email was not sent directly to the claimant and that he made an allegation in bad faith and knowing it to be untrue (page 146).

95. The decision to uphold the decision to dismiss was due to the fact the claimant had made an allegation against KS in bad faith. Mr Faithfull also took into account the claimant's disciplinary record and that he was on a final written warning.

Unfair dismissal

96. The claimant also claims his dismissal was unfair s.94 Employment Rights Act 1996.

97. What was the reason for the claimant's dismissal? The respondent says the reason was conduct or on the alternative, some other substantial reason; a breach of trust (issue 1.1 as amended).

98. The Tribunal finds the respondent acted reasonably. Taking into account its size and administrative resources, it had a reasonable ground for its belief that the claimant had manufactured the complaint against KS. That is demonstrated by Mr Trainor initially taking the complaint at face value and his concern that there had been a data breach by KS. Once he realised, upon investigation and reached the conclusion the claimant had not received the original email to his inbox, he then decided the grievance had been raised in bad faith. Then he further investigated and met with the claimant on the 11 April 2024 (page 228).

99. The Tribunal has found the process was fair overall.

100. In respect of the claimant's comparators, in determining the equity and substantial merits of the case, it is accepted, as per the respondent's submission those grievances were raised in good faith; not in bad faith. The treatment of those employees (noting the comparison is in relation to the outcome of their grievances and not in relation to dismissal) is irrelevant. The claimant has not pointed to any other employee who has raised a grievance in bad faith and has not been dismissed. All of the respondent's witnesses said this was the only occasion of bad faith they had come across and it was a unique situation.

Wrongful dismissal

101. The Tribunal has found the claimant did not receive the original email to his inbox. He continued to maintain that he had. He did so even when provided with evidence to the contrary from the respondent. He never took the simple step of providing the email he said he had received. Notwithstanding the outcome of the respondent's investigations, it was entitled to be sceptical when the claimant said he had received an email he could not produce. If the claimant was so outraged about the email and if he believed there had been a data breach, it would be reasonable to expect him to be able to evidence that by producing the original email.

102. Having found the claimant did not receive the original email, with the claimant continuing to say that he had, it was open for the respondent to find he had acted in bad faith. Both the grievance policy and the whistleblowing policy provide for complaints raised in bad faith to result in disciplinary action (page 72 and 96).

Time limits

103. Allegations 5.1.1.1, 5.1.1.2 and 5.1.1.3 were dated 11 April 2024 and as such are out of time. Any detriment relied upon which pre-dated 28 April 2024 is out of time.

104. The claimant did not advance any reason why it was not reasonably practicable for the complaints to be presented sooner.

Respondent's view

105. The respondent made much of the fact the allegations were factual, rather than opinion. That is understood to mean that the respondent was able to establish to its satisfaction that the claimant did not receive the original email to his inbox. Although the respondent did follow its own process, it should exercise caution if it is to treat its finding of fact as conclusive. It should keep an open mind and follow its polices.

Conclusions

106. The claimant did not make a qualifying protected disclosure. On the balance of probabilities, the Tribunal found he did not receive the email he said he did to his inbox. That created a false premise for his grievance. The grievance was therefore raised in bad faith and the respondent was entitled to treat it as such.

107. As the claimant did not make a qualifying protected disclosure, he was not subjected to detriment as a result of that.

108. In the alternative, not only are the first three allegations of detriment out of time. The first two are not detrimental (5.1.1.1 and 5.1.1.2). They are no more than an unjustified sense of grievance.

109. The third alleged detriment (5.1.1.3) is also not a detriment. It is also an unjustified sense of grievance. Notwithstanding there was no formal written outcome, the claimant knew his grievance had been rejected and he was not prevented from appealing that outcome.

110. There was a fair disciplinary and appeal process. Those claimed detriments are factually rejected (5.1.1.4 and 5.1.1.5).

111. Finally, the decision to dismiss is a detriment (5.1.1.6). The decision was however upheld as the claimant had made an allegation in bad faith. The decision to dismiss on that basis was upheld on appeal.

112. The reason the respondent took the actions which it did, was not due to the claimant's original complaint that there had been a data breach. The respondent once it had investigated, reached the conclusion the claimant had not told the truth about the email.

113. The claimant was not unfairly dismissed for making a protected disclosure. He was dismissed as he had beached the respondent's trust by raising an allegation in bad faith knowing it to be untrue.

114. The dismissal was fair. There was a reasonable ground for the belief that the claimant had not received the original email. The respondent had carried out a reasonable investigation. The procedure was overall fair and reasonable. The decision to dismiss was within the range of reasonable responses an employer in these circumstances in choosing to summarily dismiss.

115. Finally, the respondent has established that the claimant did act in bad faith. That undermined the trust and confidence between it and its employee. That conclusion justified summary dismissal without notice.

Approved by:

Employment Judge Wright

17 October 2025

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

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

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