



EMPLOYMENT TRIBUNALS

Claimant: Mr J Micklewright
Respondent: M Group Service Ltd
Heard at: Midlands West Employment Tribunal
On: 25 November 2025
Before: Employment Judge Noons

Representation

Claimant: in person
Respondent: Mr Davis – in house lawyer

JUDGMENT having been sent to the parties on 26 November 2025 and oral reasons having been given to the parties at the hearing on 25 November 2025 the claimant has requested written reasons in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

1. The hearing was to deal with the claimant's application for interim relief. This was submitted via e-mail on the 16th of September 2025 and through the online portal on the 18th of September 2025. The claimant's employment was terminated on the 16th of September 2025 and the claim has therefore been brought within the relevant time limit. The claimant makes an application for interim relief under section 128 of the employment rights act 1996 on the basis that he says the principal reason for his dismissal was that he had made qualifying protect disclosures under section 103A ERA 1996.
2. I did not hear any evidence in relation to this application as I did not determine that it was necessary to do so. However, I was referred to documents contained within two separate bundles that the claimant had prepared. The first bundle ran to 156 pages and the second bundle ran to 28 pages. I also had regard to the respondent's grounds of resistance submitted on 19 November 2025.
3. I had regard to section 129 of the Employment Rights Act 1996 that makes it clear I have to determine whether it is likely that on determining the complaint to which the application relates the tribunal will find that the reason or if there is more than one reason the principle reason for the dismissal is one specified in section 103A.

4. What this means is that when considering the likelihood of the claimant succeeding at Tribunal the correct test to be applied is whether he has a pretty good chance of success at the full hearing.
5. I have had regard to the case of *Taplin V C Shippam limited* 1978 ICR 1068 EAT. It is clear that the test is a significantly higher degree of likelihood than were I simply required to determine at this preliminary stage whether it was more likely than not that the claim would succeed.
6. I am mindful that the “likely to succeed” test must be applied to all disputed elements of the claim and not simply to the question of whether the reason for dismissal is a protected disclosure. I had regard to *Ministry of Justice V Sarfraz* 2011 IRLR 562 where Underhill J noted that interim relief could only be awarded in that case if it was likely that the tribunal at the final hearing would find 5 things:
 - 1 that the claimant had made a disclosure to his employer;
 - 2 that he believed the disclosure tended to show one or more of the things itemised at section 43B(1)(a) to (f);
 - 3 that the belief was reasonable;
 - 4 that the disclosure was made in good faith; And
 - 5 that the disclosure was the principal reason for his dismissal.
7. On that basis the first thing I have considered is whether it is likely at the final hearing that the tribunal will find that the claimant made a protected disclosure to his employer. The claimant relies upon 17 acts which he says were protected disclosures, these are set out at pages 2 and 3 of the second bundle. The claimant has produced documents in that bundle that he says shows that these disclosures were protected disclosures.
8. Having looked at the documents provided in relation to the alleged protected disclosures 8 to 17 I find that it is unlikely, based solely on those documents, that the tribunal at final hearing would find that 8 to 17 were protected disclosures. On their face the documents relating to 8 to 17 do not meet the legal requirements to be a disclosure. For the most part at their very highest they appear to be usual day to day commercial queries. There is nothing in these documents from which I could say that the claimant was likely to succeed at the final hearing in showing they were disclosures.
9. Given that finding I do not have to go on to consider the further 4 steps of the test in *Sarfraz* for numbers 8 to 17. However, if I did there is suggestion from the respondent that any disclosures were made in bad faith for personal gain. The letter of dismissal and appeal outcome letters are very clear in setting out reasons for dismissal which were not in any way related to a disclosure. The test I have to satisfy is whether this complaint in relation to this disclosure based on the information I have before me today is likely to succeed at final hearing and I find it is not.
10. This leaves purported disclosures 1-7 which were all made in the claimant’s grievance of the 18th of June 2025.

11. Disclosure 1, "I am raising this formal grievance to document and escalate a sustained pattern of psychological mistreatment, procedural unfairness and exclusion. I believe these actions are directly linked to serious commercial queries I raised in good faith concerning financial irregularities on the Bramley project". The claimant says this goes to show breach of legal obligation, section 43B(1) and deliberate concealment, section 43B(1)(f) and information tending to show financial misconduct, section 43B(1)(d). Within the confines of the limited information that can be produced for an interim relief hearing and recognising no evidence was heard I do not find it likely that the Tribunal will find that this amounted to a qualifying protected disclosure to the respondent such that the claimant was dismissed because of it.
12. It is certainly arguable that the words used in the grievance do not even amount to a disclosure. Furthermore, I cannot say that even if this was the claimant's belief it is likely the tribunal would find that the belief was reasonable or that the disclosure tended to show one or more of the things itemised in S43B (1) (a)-(f). More fundamentally I cannot say that the disclosure was made in good faith or that the principle reason for dismissal was this disclosure. The reason for this is that the letter of dismissal and appeal outcome letters are very clear in setting out reasons for dismissal which were not in any way related to a disclosure.
13. Moreover there is suggestion from the respondent that any disclosures were made in bad faith for personal gain. To be clear I am not saying that they were and I make no finding in this regard. The test I have to satisfy is whether this complaint in relation to this disclosure based on the information I have before me today is likely to succeed at final hearing and I find it is not.
14. Going on to look at disclosures 2, 3, 4 and 5 these are all raised in the grievance letter and are headed "professional queries and financial irregularities" where the claimant says "in the course of fulfilling my duties, I raised several reasonable and necessary commercial queries with my line manager and other colleagues". He then goes on to set out what these queries were and these are the subject of alleged disclosures 2,3,4 and 5.
15. The fundamental problem with this language for the purpose of the issues I have to determine today, is that on the face of it these are queries and do not appear to be disclosures. Again to be clear I am not making a factual finding on this but rather within the confines of the test I have to determine in relation to the interim relief application I find that the claimant has not demonstrated that the tribunal at final hearing would be likely to find that points 2, 3,4 and 5 were disclosures. It is certainly arguable that the words used in the grievance do not even amount to a disclosure.
16. I also am not satisfied that even if these were a disclosure and this was the claimant's belief it is likely the tribunal would find that the belief was reasonable or that the disclosure tended to show one or more of the things itemised in S43B (1) (a)-(f) or more, fundamentally, that the disclosure was made in good faith or that the principle reason for dismissal was this disclosure.

17. The reason for this is that the letter of dismissal and appeal outcome letters are very clear in setting out reasons for dismissal which were not in any way related to a disclosure. Moreover, there is suggestion from the respondent that any disclosures were made in bad faith for personal gain. To be clear I am not saying that they were and I make no finding in this regard, however the test I have to satisfy is whether this complaint in relation to this disclosure based on the information I have before me today is likely to succeed at final hearing and I find it is not.
18. In relation to alleged disclosure 6 which again is raised in the grievance of 18 June 2025 regarding a deed of variation which amended the agreed commercial load. Even taking this at its highest and in favour of the claimant and finding that it likely a tribunal at final hearing would find that this amounted to a disclosure and that the claimant believed it tended to show breaches section 43B (1)(a), (b) and (f) I cannot say from the information before me that it is likely the tribunal will find that that belief was reasonable, not least because when looking at the language surrounding everything within the grievance the claimant himself says "I am not aware of any clear justification or documented rationale" so he's clearly recognising that there perhaps might be some just that he is not aware of it.
19. I also cannot say that it is likely the tribunal at final hearing would find that the disclosure was made in good faith, the timing of the grievance followed by a day later the claimant indicated he wished to negotiate a mutually agreed exit from the respondent at least gives rise to an argument that the disclosure was not made in good faith. For reasons already mentioned the respondent's position in any event is quite clear that the reasons for the claimant's dismissal were not related to any disclosures.
20. Disclosure 7 in the grievance letter is headed "Safeguarding Failure Ignored" The claimant says he was told by a colleague that he (the colleague) was suicidal due to bullying by a director and that he escalated this but the claimant's concern was dismissed and no safeguarding action was taken. The first point to say in relation to this is that on its face this appears to be imparting information rather than a disclosure. I therefore cannot say the Tribunal at final hearing is likely to find this is a disclosure. Moreover I cannot say it is likely that even if this was a disclosure the Tribunal would find the claimant's belief to be reasonable.
21. I also cannot say that it is likely the tribunal at final hearing would find that the disclosure was made in good faith, the timing of the grievance followed by a day later the claimant indicated he wished to negotiate a mutually agreed exit from the respondent at least gives rise to an argument that the disclosure was not made in good faith. For reasons already mentioned the respondent's position in any event is quite clear that the reasons for the claimant's dismissal were not related to any disclosures.
22. On that basis for all 17 alleged disclosures the claimant relies upon I cannot say that the high threshold has been met such that I can find in relation to any one of them that the Tribunal is likely to find that the principle reason for the claimant's dismissal was that he made a protected qualifying disclosure. He has not made out before me today either that the

Tribunal is likely to find he made a qualifying protected disclosure or that he was dismissed because of it.

Employment Judge Noons

22 December 2025