EMPLOYMENT TRIBUNALS

BETWEEN

CLAIMANT	**AND**	**RESPONDENT**
Mr O. Groves-Lock		**M & D Care Operations Limited**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at Swansea
by Cloud Video Platform
on Tuesday, the 28th October 2025; and
Wednesday, the 29th October 2025

Employment Judge: **Mr D. Harris (sitting alone)**

Representation:

For the Claimant: **In-person**

For the Respondent: **Miss Sarah Brewis (Counsel)**

JUDGMENT

1. The Claimant's whistleblowing claim is dismissed.

REASONS

The Background

1. By his Claim Form presented to the Tribunal on the 9th February 2025, the Claimant brought a whistleblowing claim against the Respondent, his former employer. He sets out in his Claim Form that he was employed by the Respondent as a Positive Behaviour Support Practitioner from the 18th January 2024 to the 29th November 2024 at a residential home for adults with learning difficulties and autism. The home in question is known as Tegfan and it is located in Ammanford.

2. The Claimant provided the following background details in his Claim Form of his whistleblowing claim:

    2.1 The Claimant gave notice of his resignation to the Respondent, having secured other employment, and on the 10th October 2024 he was informed by a manager, Kirsty Atkins, that his last day of work would be the 29th November 2024.

    2.2 On the 18th October 2024, Kirsty Atkins' managerial role was taken over by Vanya Davies.

    2.3 The Claimant raised concerns with Vanya Davies that she was not complying with the provisions of the Mental Capacity Act 2005. She disagreed and dismissed his concerns.

2.4 On the 22nd October 2024 the Claimant escalated his concerns to Jake Clarke (a safeguarding lead).

2.5 On the 29th October 2024 the Claimant received an email from the HR department informing him that his date of leaving would be the 13th November 2024.

2.6 On the 5th November 2024 the Claimant made a complaint to the Respondent's Director of Operations that he was being treated unfavourably as a result of whistleblowing.

2.7 On the 6th November 2024 the Claimant was called to a meeting to discuss alleged concerns around his conduct. He was informed at the meeting that the Respondent had lost trust in his ability to perform his role and was asked to leave the premises with immediate effect.

2.8 On the 27th November 2024 the Claimant raised a formal grievance, which he states was not properly dealt with by the Respondent.

3. The Claimant indicates on his Claim Form that the remedy that he is seeking is compensation and a recommendation.

4. In its Response to the claim, the Respondent sets out the following chronology of events:

4.1 The Claimant resigned on the 2nd October 2024 and requested that his notice period of 3 months be reduced to allow him to start his new job. It was agreed that the Claimant's last day of work would be the 13th November 2024.

4.2 On the 11th October 2024 the Claimant requested that his last day of work be put back to the 29th November 2024 because his new job was not due to start until the 1st December 2024. The request was granted.

4.3 There was a breakdown in communication between management and the HR department regarding the date of the Claimant's last day of work. HR continued to work on the basis that the Claimant's last day of work would be the 13th November 2024 and not the new date of the 29th November 2024.

4.4 The Claimant queried the date of his last day of work and was informed that it would be the 29th November 2024 as had been agreed with him.

4.5 During this period, the Claimant raised a grievance regarding a resident in Tegfan, concerns that his notice period had been reduced, issues relating to his personal belongings at work and concerns that he was being victimized as a result of whistleblowing.

4.6 The grievance was investigated and the outcome was made known on the 24th December 2024. A number of the Claimant's grievances were upheld.

5. In respect of the whistleblowing claim, the Respondent's case in its Response was that the Claimant had not made any qualifying disclosures and it was further denied that the Claimant had suffered any detriment.

6. On the 28th April 2025, in advance of a Preliminary Hearing on the 14th May 2025, the Claimant provided further and better particulars of his whistleblowing claim. He stated that the qualifying disclosures took place on the 18th October 2024 and the 22nd October 2024 when he reported that the Respondent was not complying with its legal duties under the Mental Capacity Act 2005 in respect of a resident in Tegfan. He stated that he had suffered the following detriment:

6.1 His leaving date had been brought forward from the 29th November 2024 to the 13th November 2024.

6.2 He was called to a meeting with minimal notice on the 6th November 2024 to discuss groundless concerns about his behaviour.

6.3 He was forced to leave Tegfan immediately after the meeting.

6.4 He was not given permission to collect his personal belongings after the meeting.

6.5 He was placed on garden leave until his last day of work.

The Issues

7. There was a Preliminary Hearing on the 14th May 2025 before Employment Judge Sharp. The following issues were identified at the hearing:

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

7.1.1 What did the Claimant say or write? When? To whom? The Claimant says he made disclosures on these occasions:

7.1.1.1 18 October 2024 to Vanya Davies via "Blink" (a messaging service) asserting that the Respondent was breaching the Mental Capacity Act 2005 by failing to carry out a capacity assessment or hold a best interests meeting in respect of a service user.

7.1.1.2 22 October 2024 to Jake Clarke via WhatsApp repeating the same disclosure as made to Vanya Davies.

7.1.2 Did he disclose information?

7.1.3 Did he believe the disclosure of information was made in the public interest?

7.1.4 Was that belief reasonable?

7.1.5 Did he believe it tended to show that:

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

7.1.6 Was that belief reasonable?

7.2 If the Claimant made a qualifying disclosure, it was a protected disclosure because it was made to the Claimant's employer.

7.4 Did the Respondent do the following things:

7.4.1 Tracy Morgan of HR on 28 October 2024 (and in subsequent email exchanges) told the Claimant his leaving date was 13 November 2024 (the date originally proposed by the Claimant). For the avoidance of doubt, the Claimant left on the final date agreed of 29 November 2024.

7.4.2 On 6th November 2024, the Claimant was invited to a meeting later that day entitled "meeting to discuss concerns raised around your conduct". At the meeting, he received a letter from the organization citing that they had lost trust in his ability to perform his role, that he had made derogatory comments about the business and broken GDPR. The Claimant says that the invitation to the meeting, the meeting itself and the letter happened or were materially influenced by his whistleblowing.

7.4.2 At the meeting of 6 November 2024, the Claimant was denied the opportunity to collect his belongings by Jade Clark and Tracy Morgan.

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

7.6 If so, was it done on the ground that he made a protected disclosure?

7.7 What financial losses has the detrimental treatment caused the Claimant?

7.8 Has the Claimant taken reasonable steps to replace his lost earnings, for example by looking for another job?

7.9 If not, for what period of loss should the Claimant be compensated?

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

7.11 Is it just and equitable to award the Claimant other compensation?

7.12 Did the ACAS Code of Practice on Disciplinary and Greivance Procedures apply?

7.13 Did the Respondent or the Claimant unreasonably fail to comply with it?

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

7.15 Did the Claimant cause or contribute to the detrimental treatment by his own actions and if so, would it be just and equitable to reduce the Claimant's compensation? By what proportion?

7.16 Was the protected disclosure made in good faith?

7.17 If not, is it just and equitable to reduce the Claimant's compensation? By what proportion, up to 25%?

<u>The evaluation of the evidence heard and read at the final hearing</u>

8. Prior to the final hearing, the parties had agreed a 178-page hearing bundle containing the documents relevant to the issues that had been identified at the Preliminary Hearing on the 14th May 2025.

9. Oral evidence was heard at the final hearing from the following witnesses:

For the Claimant
9.1 the Claimant.

For the Respondent
9.2 Jade Clarke (Deputy to the Responsible Individual/Safeguarding Lead);
9.3 Tracey Morgan (Head of HR).

10. When questioned by Miss Brewis, the Claimant confirmed that he was no longer contending that he had made a qualifying disclosure to Vanya Davies on the 18th October 2024. It remains his case, however, that he made qualifying disclosures on the 22nd October 2024 in the form of an email to Jade Clarke and a WhatsApp message to Jade Clarke against a background of having raised a concern about a resident at Tegfan to Vanya Davies on the 7th October 2024 via an internal communications app called "Blink". He does not contend that the concern that he raised with Vanya Davies on the 7th October 2024 amounted, itself, to a qualifying disclosure.

11. Prior to raising his concerns about a particular resident with Vanya Davies on the 7th October 2024 and Jade Clarke on the 22nd October 2024, the Claimant had tendered his resignation. He did so by way of a letter dated the 2nd October 2024 that he sent to Kirsty Atkins. He stated as follows in his letter of resignation:

> **I am writing to you as confirmation that I would like to resign from my position as a PBS Practitioner to explore opportunities outside of M & D Care. Whilst I greatly appreciate the opportunity that M & D Care have provided me, after discussing my current situation with a member of senior management team, I have ultimately accepted a position elsewhere that is closer to home and at a salary that cannot be matched. There are currently no senior management opportunities within M&D Care which would be appropriate, and I have therefore accepted a position in a residential care company where I will be responsible for the coordination and implementation of PBS across the organization as a mid-senior level role.**
> **I wanted to take the time to express my wholehearted gratitude for the support you have given me over the last 9 months. You have**

> **created the opportunities I've needed to bounce back from a very difficult role previously, and to rebuild my confidence again. I couldn't have done this without your support, and I'll always be grateful for your patience, compassion and guidance. I truly couldn't have asked for a better manager to work with.**
> **I am aware that my notice period is 3 months, however upon consulting with Jade Clarke, it was determined that there may be leeway in this timescale. If the opportunity arises, I would like to be considered for a reduction in my notice period, and would be grateful for consideration of a 1 month notice at the company's discretion …..**

12. It is clear from his letter of resignation that the Claimant was seeking to reach agreement with the Respondent that his last day of work would be 1 month from the date of the resignation later, which would have been on or about the 2nd November 2024.

13. In the days that followed the submission of the letter of resignation, agreement was reached between the Claimant and the Respondent that his last day of work would be the 13th November 2024. The Claimant subsequently wished that date to be pushed back to the 29th November 2024 and that was agreed by Kirsty Atkins.

14. On the 7th October 2024, the Claimant sent the following message to Vanya Davies on an internal communications app:

> **Hiya Vanya, I know I'm on leave but just peeking through by emails is it OK if we catch up about X before too many changes are made in relation to a) the incident reporting and b) the limitation on communal access and energy drinks? In relation to incident reporting, I'd be concerned that if we're not recording racial aggression firstly I wouldn't get a picture of what the staff team are struggling with, whether the problem is getting worse or how burned out the team are. And secondly, I'm worried that as his aggression starts to reduce, we'll start recording the lower level incidents and we'll then never capture an objective reduction in incidents to feed back to the care team. If we don't record the racial aggression as an incident, I'm worried this will become normalised. In relation to limiting energy drinks, the staff team are really struggling with current levels of aggression and I'm concerned that incidents in the community would escalate significantly if this was to be implemented. I'm also concerned that because the staff team are struggling at the moment,**

> **they won't be able to cope with the spike in behaviours that will follow this right now. We need a case formulation desperately but haven't had one allocated to him yet.**

15. Vanya Davies' reply to the Claimant, on the same day, was as follows:

> **Wel look at this … X's behaviours appear much worse than what he was at ty h, the energy drinks and 2 litre of coke will no doubt have an effect on medication and his incontinence .. racial aggression can we recorded using other processes, X has always been racially aggressive. That wont ever change so we do need to distinguish what is X's normal personality and presentation traits to what is beyond the "normal behaviour" for X. I doubt the racial slurs will never decrease or stop as he cant help himself.**
> **The coke and energy drinks is a new thing this wasnt a thing in ty h, the most he would have was 1 shandy a week, i understand the concerns re the staff and behaviours and wether they will cope its not something ill be looking at straight away but its on my radar ., he has had boundary relapses asking for prn too is the norm as well even though he dosnt need it or know what its actually … I know case formulations are difficult to book in, they always have in specialist**

16. Having raised those concerns with Vanya Davies on the 7th October 2024, which he believes were not taken seriously by Ms Davies, the Claimant sent the following email to Jade Clarke about his concerns on the 22nd October 2024:

> **Hi Jade,**
> **I know that we're going to chat later about [X][1] but I just wanted to write it in an email so that I can articulate it in the way that I want to, as I'm aware that I might not structure this as well during a conversation.**
> **When I started working with X a few months ago, the staff team were very burned out and were really struggling to make sense of his behaviours of concern. The response from staff was often that "he knows that he's doing" and the underlying assumption was that punitive approaches should therefore be taken to manage his behaviour. I have undertaken some work with shift leads and PBS to change the narrative, and they are now modelling a much more proactive, upbeat and positive interaction style with X which was working incredibly well. I recognized that we had been caught in a**

[1] A resident at Tegfan.

vicious cycle where staff would place a demand on X and activate his very sensitive experience of shame, he would respond in an aggressive way, and that would make staff perpetually more upset with him, resulting in increased experiences of shame, and so on. Charlene stated that she was considering leaving the company due to the level of verbal aggression that she was experiencing from X and once we had the discussions around X's experience of shame, where this came from and why it's so sensitive, and what we need to do to repair the relationship with him, her relationship with X improved significantly.

I've completed a formulation based on X's previous model and incorporating aspects of psychological theory such as DDP – this is integrated into his new PBS Plan and agreed with his parents. I recognized that in order to make a distinct change in X's presentation, we need to fundamentally change the way that staff are making sense of his behaviours and responding to him, and make a shift towards compassionate understanding as opposed to punitive approaches and labelling.

I recognize that Vanya has a lot of experience working with X in Ty Hiraeth, however I am very concerned that she is drawn to respond to X in a way that falls in line with that of his parents, which is one of punitive measures that activate and perpetuate a strong sense of shame. I've attached the routine that Vanya acquired from Rob, which outlines an incredibly restrictive regime built around limiting access to food choices and denying access to communal areas for 20 minutes after a behaviour of concern has occurred (which, as far as I can identify, is an arbitrary period of time). Vanya stated that we are to immediately stop X purchasing energy drinks and soft drinks from the local shop, on the basis that this exacerbates his behaviours of concern (something that I am not convinced we have sufficient data to conclude). I expressed to Vanya that the staff team are still really struggling with X's aggression and a number of individuals are refusing to work with him, and requested that instead we conduct a case formulation to help the staff [… illegible …] the likelihood of an aggressive response before we introduce any strict measures, in order to mitigate against a spike in incidents; she stated that this spike will occur regardless (a claim that is not supported by research, as the way we place demands is shown to impact the likelihood of behaviours of concern) and that we are to go ahead. I stated that if we are not careful, there will be a significant escalation in incidents in the community which will result in staff refusing to take him out, and subsequent placement breakdown, however this was not recognized. I maintain the perspective that whilst we are implementing such a restrictive regime without compassionate understanding of X's behaviours of concern, we will continue to run the risk of breakdown in his relationships with staff and, subsequently, his placement.

Extending beyond an ethical issue and into a legal one, I have not yet located the capacity assessment or best interests documentation

around healthy eating, and as such, am not sure that restricting access to energy drinks and soft drinks is legal.
I have already observed an incident dated 18th October in which X was informed that he could not go out in the car because he had not cleaned his room. As a result of this, he engaged in significant aggression towards staff and attempted to target a member of the community. I firmly believe that it is against the framework of PBS to deny someone access to meaningful activity based on the fact that they have not cleaned their room, and that we are running the risk of building arbitrary, harmful restrictions into X's day without the legal or ethical basis from which to do so.
I cannot stress enough the fact that these interventions are tenuous from a behavioural perspective, and against ethical and legal guidelines around restrictive practices and institutionalization. I'm really sorry I've had to come to you with this concern, however I hope that it is reassuring that I will always raise concerns if I feel the need to do so.
I've copied in Chris Ellis from a supervision perspective, and Chris Carmichael from a restrictive practices perspective, as I feel this issue extends into both of their fields and they need to be aware of this situation as part of their respective roles. I will absolutely be on board with the new routines if their advice is that this is in accordance with ethical and legal guidelines on the implementation of PBS, and hopefully I can gain this reassurance if I'm not correct in my current understanding of the situation.

17. On the same day, the 22nd October 2024, the Claimant sent the following WhatsApp messages to Jade Clarke:

Claimant:	**Hi Jade, please can I give you a call today in relation to a concern?**
JC:	**Yes no problem who's it in relation too?**
Claimant:	**Thank you, it's in relation to the current approach with X – I've tried to discuss with Vanya and don't feel I've been heard, and am worried about the way he'll respond to what we're currently putting in place. I'm in Granville so can discuss any time.**
JC:	**He's responded very well last few days and mum and dad are supportive of the change, will give you a ring later on.**

18. As a result of the Claimant's email to Jade Clarke on the 22nd October 2024, Ms Clarke took a number of steps. She arranged a meeting with the care team, which included the Claimant, and which was chaired by a person who worked outside of the service in question. She also made a multi-agency referral on the 1st November 2024. A copy of her referral report was to be found at pages 125 to 133 in the hearing bundle. She stated as follows:

> **I wanted to make you aware of a concern that has been raised from one of our PBS level 5 practitioners in relation to some changes to a … care plan. X is an individual residing in Tegfan receiving 1:1 care and support throughout the day and a shared night, he is subject to a DOLS and is deemed not to have capacity in relation to his care and support needs. X requires a structured routine, and he needs staff to be consistent in their approach as he will try to push boundaries. If he doesn't have consistency and boundaries this results in his neglecting his personal care and maintaining the cleanliness of his area, he also makes unwise choices in relation to his consumption of caffeinated drinks which have a detrimental effect on his physical health. We have had to do some work with the team in relation to maintaining consistency and boundaries as we noticed a decline in X maintaining his personal hygiene/keeping on top of his cleanliness of his area. We have introduced a structured morning routine which X adheres to which includes staff prompting and guiding him through his personal care, area support in the mornings.**
>
> **X has a physical health concern relating to nocturnal incontinence, which again emphasizes the importance of X maintaining and keeping on top of his personal hygiene area support.**
>
> **He has recently had a GP appointment on the 1st November 2024 due to his urine smelling strongly despite drinking large amounts of fluids. GP explained that urology referral cannot be completed as first line action, neither can medication review however, as a first action X should dismiss caffeine from his diet as this stimulates his bladder. GP expressed that decaffeinated drinks are okay to drink but should not replace water consumption. The team have been creative with X and if he requires items from the shop they avoid going to shops where X would be tempted to purchase caffeinated drinks. If X needs to purchase toiletries, they support him to go to the local pharmacy, if he requires cellotape as he likes to purchase this on a regular basis for his model making he is supported to attend the stationary shop. X has not attempted to push boundaries in relation to this and is proactive with creating shopping lists before leaving Tegfan in order for staff to be able to plan where to take him to avoid caffeinated drinks. A meeting took place with X's family, both are supportive of the boundaries, consistency required from staff. They were disappointed that X has been purchasing energy drinks however are happy with the plan in place to reduce this moving forwards. They have also reinforced the importance of X reducing his caffeine consumption as this doesn't only impact his physical health**

however also impacts his behaviour resulting in an increase in behavioural incidents.
We have had a meeting internally with our restrictive practice lead and clinical lead both agreed with his care plan and supportive of the need to have a structured routine where staff were boundaried and consistent in their approach. They did not feel that this was punitive in any way or too restrictive, it was deemed appropriate to manage the risks posed to X.
Emails have been sent to the care team requesting a best interest meeting on the 16th, 18th & 21st October 2024. We haven't yet had a response from the care team in relation to a best interest meeting.
We have seen significant improvements in X's personal hygiene, cleanliness of his area, his urine doesn't appear to be smelling as strong. We have seen the positives in relation to the staff being consistent and following his morning routine.
I wanted to share this with you to see if it would be possible to have a professional's meeting with external agencies due to the nature of the concern raised to ensure that everyone is satisfied with the care and support X is receiving.

19. The unchallenged evidence from Jade Clarke was that the referral did not meet the threshold for action to be taken but Natalie Woods, the specialist support manager, took steps to arrange a best interests meeting with the team and the Claimant was copied into those attempts to arrange that meeting. Vanya Davies also met with the resident's parents who confirmed that they were happy with the Respondent's care package.

20. On the 28th October 2024, Tracey Morgan wrote to the Claimant and stated that his last day of work would be the 13th November 2024. That took the Claimant by surprise because Kirsty Atkins had agreed to push the last day of work back to the 29th November 2024. The Claimant accordingly sent an email to Tracey Morgan querying the date of his last day of work and also sent an email to Jade Clarke about the matter. Tracey Morgan initially maintained that the agreed last day of work was the 13th November 2024 and Jade Clarke, on the 29th October 2024, contributed to the debate by sending a private email to Tracey Morgan saying that in her opinion the date of the last day of work should remain the 13th November 2024 because the Claimant is "*being resistant to any change and staff don't feel supported by him*".

21. In the course of the exchange of correspondence regarding the date of the Claimant's last day of work, Jade Clarke received a call from one of the Claimant's colleagues, Chloe Tipples, expressing concerns about the Claimant's conduct. Miss Tipples subsequently put her concerns in a written statement dated the 31st October 2024, which was to be found at page 124 in the hearing bundle. Miss Tipples stated that during a car journey with the Claimant on the 30th October 2024, the Claimant complained about the way in which the Respondent was dealing with the date of his last day of work, stating that it was in response to him raising a safeguarding issue over the use of restrictive practices with a named resident at Tegfan, and also stated that the Respondent was engaged in an agenda against him and another PBS Practitioner, Laura Darcy, who had been moved from Tegfan.

22. Jade Clarke took the view, in light of the concerns raised by Chloe Tipples, that the Claimant was being disruptive in the workplace and not supportive of the Respondent's goals and plans. Jade Clarke was also concerned that the Claimant was discussing private and confidential matters with third parties.

23. In light of her concerns about the Claimant, Jade Clarke summoned the Claimant for a meeting on the 6th November 2024. The minutes of the meeting were to be found at pages 134 to 140 of the bundle. Jade Clarke chaired the meeting and Tracey Morgan attended as a note taker. The Claimant attended the meeting on his own.

24. At the start of the meeting Jade Clarke stated that its purpose was to discuss concerns that the Claimant had raised over the last few weeks regarding restrictive practices and the discussions that the Claimant had had about those concerns with others. Jade Clarke did not name Ms Tipples as the source of her information that the Claimant had been complaining about the Respondent to a third party. There was then, it would appear from the minutes, a discussion regarding the resident, about whom the Claimant had raised concerns, in which both sides defended their respective positions regarding the implementation of restrictive practices. The

Claimant stated that there had been no capacity assessment undertaken in respect of the resident and that it was therefore not appropriate to be scheduling a best interests meeting. Jade Clarke's position was that the resident did not have capacity in respect of his care and support, which was why he had been placed in Tegfan and that a deprivation of liberty order (a "DOLS") had been made. It was put to the Claimant that there had been a breakdown in trust between him and the Respondent, which the Claimant denied. It was put to the Claimant that the breakdown of trust arose because of the Claimant's assertions that his concerns were not being taken seriously by Vanya Davies and other managers. Jade Clarke did not accept that there were valid criticisms to be made by the Claimant of Vanya Davies' response to the concerns about the particular resident that the Claimant had raised.

25. During the meeting, Jade Clarke informed the Claimant that a decision had been made to place him on garden leave until his last day of work, which the Respondent now accepted was the 29th November 2024, and that he would be provided with a letter, which had already been prepared, which explained the reasons why the decision had been taken to place him on garden leave. In response to a question from the Claimant as to whether the garden leave constituted disciplinary action, Jade Clarke stated that that was not the case.

26. The meeting ended with the Claimant being asked to hand over his laptop and his ID badge and leave the building. The Claimant said that this was very upsetting for him because he had not wanted to leave the Respondent's employment like that and he did not understand why he was being placed on garden leave.

27. The letter that the Claimant was given after the meeting, which was signed by Tracey Morgan, stated as follows:

> **I am writing to inform you that, effective immediately, you will be placed on garden leave for the remainder of your notice period, which ends on 29th November 2024. You are also required to take your outstanding annual leave during this period as per clause 11.7 of**

your contract of employment from 26th-29th November 2024. This decision follows recent incidents involving you making derogatory comments about the business and reports that you have been discussing M&D matters with your external supervisor (who is not employed by M&D Care) and therefore constitutes a potential serious breach of GDPR regulations. This has impacted our trust and confidence in your ability to fulfil your role.
While we have considered disciplinary action, we have decided against it to ensure that your new employment opportunity is not adversely affected by a disciplinary warning on your file.
During your garden leave, you are not required to attend the workplace or perform any work duties. However, you will continue to receive your normal salary and benefits up to the end of your notice period, which is 29th November 2024.
…
Finally, we would like to take this opportunity to thank you for raising the recent potential safeguarding concern, which we have actioned accordingly.

28. Following the meeting the Claimant was required to leave the building immediately and was not permitted to collect his personal belongings from his desk. In respect of the personal belongings there followed a protracted exchange of correspondence with Tracey Morgan, which came to an end when the personal belongings were sent to the Claimant on the 13th March 2025.

29. On the 27th November 2024, the Claimant, some two days before his last day of work with the Respondent, raised a grievance regarding Vanya Davies and Jade Clarke in respect of their treatment of him following his whistleblowing. The Claimant reported that as a result of his whistleblowing the date of his last day of work had been brought forward, he had been summoned to a meeting on the 6th November 2024 to face groundless allegations that had not been properly investigated, that he had then been placed on garden leave for no good reason and, finally, had been deprived of personal belongings that had been left at work when he was forced to leave on the 6th November 2024.

30. The grievance was investigated by Anthony Craggs, a grievance officer, and his report was to be found at pages 166 to 171 in the hearing bundle. Mr Craggs findings can be summarised as follows:

30.1 the Claimant's complaint that restrictive practices had been imposed on a resident in breach of duties under the Mental Capacity Act 2005 was dismissed;

30.2 the Claimant's complaint that his notice period had been reduced was partially upheld on the basis that there had been a breakdown in communication between management and HR, which resulted in HR not being informed of the agreement that the Claimant's last day of work would be the 29th November 2024 and HR's mistaken belief that the last day of work would be the 13th November 2024;

30.3 the Claimant's complaint that he had been prevented from picking up his personal belongings was partially upheld on the basis that communication with the Claimant about the collection of the belongings could have been more effective;

30.4 the Claimant's complaint that he had been victimised in retaliation to his whistleblowing was dismissed.

The Law

31. Part IVA of the Employment Rights Act 1996 sets out the following statutory scheme in respect of "Protected Disclosures":

> **43A Meaning of "protected disclosure"**
> **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.**
>
> **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) …**
> **(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) …

43C Disclosure to employer or other responsible person

(1) A qualifying disclosure is made in accordance with this section if the worker makes the disclosure …-

(a) to his employer, or

(b) …

…

47B Protected disclosures

(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.

…

48 Complaints to employment tribunal

(1) …

(1XA) …

(1YA) …

(1ZA) …

(1A) A worker may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47B.

…

(2) On a complaint under subsection … (1A) … it is for the employer to show the ground on which any act, or deliberate failure to act, was done.

49 Remedies

(1) Where an employment tribunal finds a complaint under section … 48(1A) … well-founded, the tribunal-

(a) shall make a declaration to that effect, and

(b) may make an award of compensation to be paid by the employer to the complainant in respect of the act or failure to act to which the complaint relates.

…

(2) … the amount of the compensation awarded shall be such as the tribunal considers just and equitable in all the circumstances having regard to-

(a) the infringement to which the complaint relates, and

(b) any loss which is attributable to the act, or failure to act, which infringed the complainant's right.

(3) The loss shall be taken to include-

(a) any expenses reasonably incurred by the complainant in consequence of the act, or failure to act, to which the complaint relates, and

> **(b) loss of any benefit which he might reasonably be expected to have had but for that act or failure to act.**
>
> **(4) In ascertaining the loss the tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of England and Wales or (as the case may be) Scotland.**
>
> **(5) Where the tribunal finds that the act, or failure to act, to which the complaint relates was to any extent caused or contributed to by action of the complainant, it shall reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.**
>
> **…**
>
> **(6A) Where-**
>
> **(a) the complaint is made under section 48(1A), and**
>
> **(b) it appears to the tribunal that the protected disclosure was not made in good faith,**
>
> **the tribunal may, if it considers it just and equitable in all the circumstances to do so, reduce any award it makes to the worker by no more than 25%.**

32. In order to find that that a disclosure is a "qualifying disclosure", the Tribunal must be satisfied that the disclosure in question conveys factual information which, in the reasonable belief of the person making the disclosure, tends to show one or more of the listed forms of wrong doing or relevant failure. Unless this aspect of the definition of "qualifying disclosure" is met, there is no need for the Tribunal to go on to consider the separate element of whether the public interest requirement is satisfied (see *Nicol v. World Travel and Tourism Council and others* [2024] ICR 893, EAT).

33. In relation to the question whether the disclosure was made in the public interest, it was held in the case of *Chesterton Global Ltd (trading as Chestertons) and another v. Nurmohamed (Public Concern at Work intervening)* [2018] ICR 731, CA that the following factors may be relevant: firstly, the numbers of the group whose interests the disclosure served, secondly, the nature of the interests affected and the extent to which they are affected by the wrongdoing disclosed, thirdly, the nature of the wrongdoing disclosed and, fourthly, the identity of the alleged wrongdoer. For a disclosure to be in the public interest, it must serve the interests of persons outside the workplace.

34. In his conclusions on the correct approach to the question of what amounts to a disclosure that in the reasonable belief of the worker making it is "made in the public interest", Underhill LJ, in the case of *Chestertons*, said as follows from para. 36 onwards:

> **36. The statutory criterion of what is "in the public interest" does not lend itself to absolute rules, still less when the decisive question is not what is in fact in the public interest but what could reasonably be believed to be. I am not prepared to rule out the possibility that the disclosure of a breach of a worker's contract of the *Parkins v Sodexho* kind may nevertheless be in the public interest, or reasonably be so regarded, if a sufficiently large number of other employees share the same interest. I would certainly expect employment tribunals to be cautious about reaching such a conclusion, because the broad intent behind the amendment of section 43B(1) is that *workers making disclosures in the context of private workplace disputes should not attract the enhanced statutory protection accorded to whistleblowers* - even, as I have held, where more than one worker is involved. But I am not prepared to say never. In practice, however, the question may not often arise in that stark form. The larger the number of persons whose interests are engaged by a breach of the contract of employment, the more likely it is that there will be other features of the situation which will engage the public interest.**
>
> **37 Against that background, in my view the correct approach is as follows. In a whistleblower case where the disclosure relates to a breach of the worker's own contract of employment (or some other matter under section 43B(1) where the interest in question is personal in character), there may nevertheless be features of the case that make it reasonable to regard disclosure as being in the public interest as well as in the personal interest of the worker. Mr Reade's example of doctors, hours is particularly obvious, but there may be many other kinds of case where it may reasonably be thought that such a disclosure was in the public interest. The question is one to be answered by the tribunal on a consideration of all the circumstances of the particular case, but Mr Laddie's fourfold classification of relevant factors which I have reproduced at para 34 above may be a useful tool. As he says, the number of employees whose interests the matter disclosed affects may be relevant, but that is subject to the strong note of caution which I have sounded in the previous paragraph."**

35. The Court of Appeal's decision in *Chestertons* was considered by HHJ James Taylor in the case of *Dobbie v. Paula Felton (trading as Feltons Solicitors)* [2021] UKEAT 0130 20 1102 and the following observations were made about the public interest component of a whistleblowing claim:

> **28. There are a few general observations I consider it worth adding:**
>
> **(1) a matter that is of "public interest" is not necessarily the same as one that interests the public. As members of the public we are interested in many things, such as music or sport; information about which often raises no issue of public interest.**
>
> **(2) while "the public" will generally be interested in disclosures that are made in the "public interest", that does not necessarily follow. There may be subjects that most people would rather not know about, that are, nonetheless, matters of public interest.**
>
> **(3) a disclosure could be made in the public interest although the public will never know that the disclosure was made. Most disclosures are made initially to the employer, as the statute encourages. Hopefully, they will be acted on. So, for example, were a nurse to disclose a failure in the proper administration of drugs to a patient, and that disclosure is immediately acted on, with the consequence that he does not feel the need to take the matter any further, that would not prevent the disclosure from having been made in the public interest - the proper care of patients is a matter of obvious public interest.**
>
> **(4) a disclosure could be made in the public interest even if it is about a specific incident without any likelihood of repetition. If the nurse in the example above disclosed a one off error in administration of a drug to a specific patient, the fact that the mistake was unlikely to recur would not necessarily stop the disclosure being made in the public interest because proper patient care will generally be a matter of public interest.**
>
> **(5) while it is correct that as Underhill LJ held there is "not much value in trying to provide any general gloss on the phrase "in the public interest" - noting that "Parliament has chosen not to define it, and the intention must have been to leave it to employment tribunals to apply it as a matter of educated impression" - that does not mean that it is not to be determined by a principled analysis. This requires consideration of what it is about the particular**

information disclosed that does, or does not, make the disclosing of it, in the reasonable belief of the worker so doing, "in the public interest". The factors suggested by Mr Laddie in Chesterton may often be of assistance. While it certainly will not be an error of law not to refer to those factors specifically, where they have been referred to it will be easier to ascertain how the analysis was conducted. It will always be important that written reasons set out what factors were of importance in the analysis; which may include factors that were not suggested by Mr Laddie in Chesterton. As Underhill LJ held "The question is one to be answered by the tribunal on a consideration of all the circumstances of the particular case". It follows that if no account is taken of factors that are relevant; or relevant factors are ignored, there may be an error of law

(6) **for the disclosure to be a qualifying disclosure it must in the reasonable belief of the employee making the disclosure tend to show one or more of the types of "wrongdoing" set out in section 43B (a)-(f) ERA. Parliament must have considered that disclosures about these types of "wrongdoing" will often be about matters of public interest. The importance of understanding the legislative history of the introduction of the requirement for the worker to hold a reasonable belief that the disclosure is "made in the public interest" is that it explains that the purpose was to exclude only those disclosures about "wrong doing" in circumstance such as where the making of the disclosure serves "the private or personal interest of the worker making the disclosure" as opposed to those that "serve a wider interest"**

(7) **while the specific legislative intent was to exclude disclosures made that serve the private or personal interest of the worker making the disclosure, that is not the only possible example of disclosures that do not serve a wider interest, and so are not "made in the public interest". There might be a disclosure about a matter that is only of private or personal interest to the person to whom the disclosure is made and does not raise anything of "public interest".**

(8) **while motivation is not the issue; so that a disclosure that is made with no wish to serve the public can still be a qualifying disclosure; the person making the disclosure must hold the reasonable belief that the disclosure is "made" in the public interest. If the aim of making the disclosure is to damage the public interest, it is hard to see how it could be protected.**

> **Were a worker to disclose information to his employer, that demonstrates that it is discharging waste that is damaging the environment, with the aim of assisting in a coverup, or to recommend ways in which more waste could be discharged without being found out; while the disclosure would otherwise be a qualifying disclosure, it is hard to see how the disclosure could be "made" in the public interest. The fact that a disclosure can be made in "bad faith" does not alter this analysis. A worker might make public the fact that the employer is discharging waste because he dislikes the MD, and so is acting in bad faith, but nonetheless hold the reasonable belief that making the disclosure is in the public interest because the discharge of waste is likely to be halted. Generally, workers blow the whistle to draw attention to wrongdoing. That is often an important component of why in making the disclosure they are acting in the public interest.**
>
> **…**
>
> **45. The Tribunal required that there be a group that is likely to be protected for there to be a reasonable belief that a disclosure is made in the public interest. I do not consider there is such a requirement as a matter of law. The more people that are likely to be affected, the more likely there will be a matter of public interest. But, as in the example I gave above, as the scheme of the act is for disclosures to be made to the employer first, the public may never get to know about the disclosure, and so there may be no protection for a section of the public. A disclosure of information relevant only to one person could nonetheless be a matter of public interest, such as in the case of a one off error in treatment of a patient, I suggested above. Even if only Client A might have received some protection, that does not mean that a disclosure could not, in the reasonable belief of the Claimant, be made in the public interest, because the disclosure could advance the general public interest in solicitors' clients not being overcharged, and solicitors complying with their regulatory requirements, albeit on this occasion that the only person that might be affected was Client A.**

36. In respect of the term "legal obligation" which appears in section 43B(1)(b) of the Employment Rights Act 1996 it has been held that breach of guidance or best practice, or something that is considered

merely morally wrong, does not amount to a breach of a legal obligation (see *Eiger Securities LLP v. Korshunova* [2017] ICR 561, EAT). Save in obvious cases, if a breach of a legal obligation is asserted, the source of the obligation should be identified and be capable of verification by reference for example to statute or regulation (see *Blackbay Ventures Ltd (trading as Chemistree) v. Gahir* [2014] ICR 747, EAT).

37. The term "detriment" is not defined in the Employment Rights Act 1996 and tribunals have therefore looked to the meaning of detriment established by discrimination law. In *Shannon v. Chief Constable of the Royal Ulster Constabulary* [2003] IRLR 285, it was held 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. In the *Chemistree* case, the EAT overturned a tribunal's finding that the employer had subjected the worker to a detriment by failing to address a number of complaints she had raised which showed that the employer was failing to comply with statutory requirements for the control of medication. She argued that, as the responsible pharmacist at the employer's premises, she had suffered the stress of having to continue in her role despite having raised these concerns. However, the EAT noted that the employer had responded promptly and in detail to her concerns, and there was only a very short period of time after raising the issues in which she could have suffered any stress, since her employment ended a few days later.

38. The meaning of "subjected to" in section 47B(1) of the Employment Right Act 1996 is not defined in the whistleblowing provisions. In *Abertawe Bro Morgannwg University Health Board v. Ferguson* UKEAT/0044/13, the EAT considered the meaning of the words "subjected to". It held that they had the same force and meaning as causation but that the word "caused" had not been used in the statute because the words "subjected to" better expressed how both an "act" and a "deliberate failure to act" could result in detriment. An act, by its very nature, could "cause" a detriment but a deliberate failure to act, could not necessarily be said to have the same effect. The EAT held that the words "deliberate failure to act" presupposed

a duty, power or ability to take action. The meaning of "power" in this context conveyed being legally entitled to do something and choosing not to do it, rather than having a formal power (such as a power that only arises under statute). A failure by the employer to meet an expectation that it would act in a certain way would not be sufficient to amount to a failure to act for these purposes.

39. As to the burden of proof in a whistleblowing claim, it is for the worker to prove, on the balance of probability, that he or she made a protected disclosure and that they suffered a detriment. The employer then has the burden of proving the reason for the treatment. If the employer does not prove an admissible reason for the treatment, the tribunal is entitled (but not obliged) to infer that the detriment was on the ground that the worker made a protected disclosure (see *Ibekwe v. Sussex Partnership NHS Foundation Trust* UKEAT/0072/14).

40. Whether detriment is "on the ground" that the worker has made a protected disclosure involves an analysis of the mental processes (conscious or unconscious) of the employer when it acted as it did. The point was reiterated by the EAT in *Chatterjee v. Newcastle Upon Tyne Hospitals NHS Trust* [2019] 9 WLUK 556. It is not sufficient to demonstrate that, "but for" the disclosure, the employer's act or omission would not have taken place. The test is similar to the "because of" test used in direct discrimination cases, except that there is no statutory requirement for a comparator. In *NHS Manchester v. Fecitt and others* [2012] IRLR 64, the Court of Appeal held that the test in detriment cases is whether "the protected disclosure materially influences (in the sense of being more than a trivial influence) the employer's treatment of the whistleblower". Therefore, where a worker has made a protected disclosure and their employer has subjected them to a detriment, to avoid liability, the employer must show that the protected disclosure did not "materially influence" their detrimental treatment in more than a trivial way.

Decision

41. The first question for the Tribunal to consider, having directed itself on the law as set out above, is whether the contents of the Claimant's email to Jade Clarke on the 22nd October 2024 constituted a "qualifying disclosure" within the meaning of section 43B(1)(b) of the Employment Rights Act 1996. On that question, the Claimant contends that in that email he disclosed information to his employer which, in his reasonable belief, was disclosed in the public interest and which tended to show that the Respondent had failed, or was failing, or was likely to fail to comply with legal obligations under the Mental Capacity Act 2005.

42. Pausing there, the Respondent has pointed out that the Claimant did not mention the email to Jade Clarke on the 22nd October 2024 at the preliminary hearing that took place on the 14th May 2024. In my judgment, nothing arises from that omission. It was plainly a product of the Claimant having to assist the Tribunal identify the issues in the case before disclosure had taken place. At the Preliminary Hearing, he believed that the disclosure to Jade Clarke had been made via WhatsApp but, following disclosure, it was clear that the disclosure was made in an email. I turn then to consider the contents of the email.

43. Looking carefully at the Claimant's email to Jade Clarke on the 22nd October 2024, the bulk of the email sets out the Claimant's views as to how the "behaviours of concern" of a particular resident should be responded to by the care team tasked with caring for him in Tegfan. The Claimant wished, as he saw it, for there to be a shift in approach away from punitive measures, such as limiting access to food choices and denying access to communal areas for short periods of time, and towards compassionate understanding of the causes of the resident's behaviour. The Claimant expressed concern with Vanya Davies' approach of stopping the resident from buying energy drinks and soft drinks and he expressed the view that what he described as punitive measures may result in an escalation of the resident's behaviours of concern.

44. Having set out those concerns about the resident in question, which amounted to the Claimant's opinion as to how the resident's challenging behaviours should be addressed and do not amount to a "qualifying disclosure" within the meaning of section 43B(1)(b) of the Employment Rights Act 1996, the Claimant said that he was not sure whether restricting the resident's access to energy drinks and soft drinks was legal. The reason why the Claimant was expressing uncertainty on that question was, he stated, because he had not yet located the resident's capacity assessment or best interests documentation. On the question whether there had been a capacity assessment or best interests meeting, the Tribunal was satisfied, on the basis of the evidence from Jade Clarke, including the contents of the multi-agency referral form that she completed on the 1st November 2024, that there had been a capacity assessment in respect of the resident and a best interests meeting. It seemed highly implausible that when Jade Clarke completed the multi-agency reform that she was in any way being dishonest when she stated that the resident in question was subject to a deprivation of liberty authorization which can only realistically have been made on the basis of an assessment that the resident lacked, or was deemed to lack, capacity. In his email to Jade Clarke on the 22nd October 2024 the Claimant stated that he had not yet located the capacity assessment or best interests documentation around healthy eating, which suggests to the Tribunal that the Claimant, as of the 22nd October 2024, was not of the view that those documents did not exist but had simply not yet found them and read them.

45. The Claimant went on to say in his email to Jade Clarke that he had witnessed an incident on the 18th October 2024 in which the resident in question had been told that he could not go out in the car because he had not cleaned his room. He stated that "we" are running the risk of placing harmful restrictions on the resident's liberty without any legal basis. He stated his belief that such restrictions on the resident's liberty are against legal guidelines.

46. In my judgment, the Claimant has not established that the contents of his email to Jade Clarke on the 22nd October 2024 constituted a "qualifying disclosure" within the meaning of section 43B(1)(b) of the Employment Rights Act 1996 for the following reasons. Firstly,

though the contents of the email disclosed factual information, the factual information did not tend to show that the Respondent had failed, or was failing, or was likely to fail to comply with a legal obligation to which the Respondent was subject. The Claimant raised the possibility that in its use of restrictive practices to moderate the behaviour of the resident in question the Respondent may be in breach of an unspecified law or guideline. There is no assertion by the Claimant that the Respondent has failed, is failing or is likely to fail to comply with a legal obligation to which it is subject in respect of how the resident is to be cared for at Tegfan. The Claimant's main concern appears to be that the restrictive practices may be counter-productive and may result in an escalation of the resident's challenging behaviours. Given that the Claimant, as an experienced PBS Practitioner, might be expected to be familiar with the provisions of the Mental Capacity Act 2005, it is striking that the Claimant, when raising his concerns with Jade Clarke, did not identify the legal obligation which, as part of his whistleblowing claim, he now asserts that the Respondent had failed, or was failing, or was likely to fail to comply with.

47. Secondly, the Claimant has not established, when sending the email to Jade Clarke on the 22nd October 2024, that he had a reasonable belief that the Respondent had failed, was failing or was likely to fail in its legal obligations owed to the resident in question. As the Claimant conceded in his email, he had not yet located the capacity assessment and best interest documentation that would confirm whether the restrictive practices imposed by Vanya Davies and the care team were legal. The evidence from Jade Clarke, which the Tribunal accepted, was that a capacity assessment had been conducted in 2023, as a result of which it was deemed that the resident did not have capacity, and a best interests meeting was held in the same year. The capacity assessment and the minutes or notes of the best interest meeting were not placed before the Tribunal. The Tribunal nevertheless accepted Jade Clarke's oral evidence, supported as it was by the contents of the multi-agency referral form completed on the 1st November 2024, that a capacity assessment had been completed in 2023, that a deprivation of liberty authorization was in place and that the best interests of the resident, that had been assessed in 2023, were in the process of being reviewed before the Claimant sent his email to the Respondent on the 22nd October 2024. In his email, the Claimant stated that he had

not yet located the capacity assessment and best interest documentation relating to the resident. The Claimant now contends that he did not have access to the capacity assessment and the best interests documentation. The Tribunal accepted Jade Clarke's oral evidence, which seemed entirely plausible, that those documents were to be found in the relevant resident's notes but the Claimant maintained that he did not have access to them and therefore did not know their contents. That struck the Tribunal as odd. The Tribunal would have expected the Claimant to have familiarised himself with the resident's notes and the Tribunal has found that those notes contained the capacity assessment and the best interests documentation. Accordingly, the Tribunal was driven to the conclusion that the Claimant, at the very least, ought to have known of the existence of the capacity assessment and that there had been a best interests meeting in 2023. It further struck the Tribunal as odd that if the Claimant was genuinely unaware that there had been a capacity assessment and best interests meeting, why had he not raised those matters well before the 22nd October 2024. The Tribunal was satisfied that if he had raised those matters at an earlier stage, his attention would have been drawn by the Respondent to the capacity assessment and the best interests documentation. Against that background, the Claimant has not established that he had a reasonable belief that the Respondent had failed, was failing or was likely to fail in a legal obligation owed to the resident.

48. Thirdly, I am satisfied that the Claimant has not established that he disclosed the information contained in his email to Jade Clarke on the 22nd October 2024 in the public interest. Having regard to the approach to this issue set out in the case of *Chestertons* and considered in the case of *Feltons,* this is not a case in which the disclosure was made in the public interest. This was a case in which the Claimant had very different views from Vanya Davies on how the resident's challenging behaviours should be tackled. It is, of course, not for this Tribunal to say or comment upon whose approach was the right approach if there was a right approach. It was evident to the Tribunal, however, that the Claimant disagreed with Vanya Davies as to how the resident's challenging behaviours should be responded to and, in the judgment of the Tribunal, the Claimant, through his email to Jade Clarke on the 22nd October 2024, was seeking to add weight to his views as to the appropriate response to the resident's behaviour, with the objective of having those views

adopted by the Respondent, by adding, in his email to Jade Clarke, the vague assertion that it was possible that the Respondent, in its treatment of the resident, may be falling foul of some unspecified law or guideline.

49. Given the Tribunal's conclusion that the email that the Claimant sent to Jade Clarke on the 22nd October 2024 did not constitute a qualifying disclosure, the Claimant's whistleblowing claim must fail. If, however, the Tribunal is wrong in reaching that conclusion, the Tribunal went on to consider the Claimant's case as to whether he had suffered a detriment.

50. At the Preliminary Hearing on the 14th May 2025, the Claimant asserted that he had suffered the following detriments:

    50.1 agreement having been reached, following the Claimant's resignation on the 2nd October 2024, that his last day of work was to be the 29th November 2023, it was a detriment that the Respondent unilaterally brought that date forward to the 13th November 2024;

    50.2 it was a detriment to be summoned, out of the blue, to a meeting with management on the 6th November 2024 to discuss issues around his conduct and there was further detriment in the manner in which the meeting was conducted and the outcome of the meeting;

    50.3 there was detriment in the way that the Respondent dealt with the return of the Claimant's personal belongings that had been left at work following him being escorted from the premises after the meeting on the 6th November 2024.

51. The Tribunal was satisfied that it was arguable that each of the matters asserted by the Claimant to be a detriment were in fact a detriment that he had suffered. The Tribunal was equally satisfied, however, that the Respondent had established that the Claimant had

not been subjected to the detriments on the ground of the protected disclosure that he has asserted.

52. In respect of the change of date of the Claimant's last day of work, the Tribunal was satisfied that that simply occurred because of miscommunication between Kirsty Atkins, who had agreed that the last day could be pushed back to the 29th November 2024, and the HR department which believed that the last day was to be the 13th November 2024 (which had been originally agreed with the Claimant). The view that there had been miscommunication, as opposed to a deliberate decision on the part of the Respondent, to bring the date of the last day of work forward from the 29th November 2024 to the 13th November 2024, was supported by the fact that the Respondent, by the time of the meeting on the 6th November 2024, was accepting of the fact that the last day of work should be the 29th November 2024 which was the date that had been agreed between the Claimant and Kirsty Atkins.

53. Turning to consider the meeting that took place on the 6th November 2024 and its aftermath, the Tribunal was satisfied that the Respondent had shown that the meeting and the decision to place the Claimant on garden leave was because of the information that the Respondent had received at the end of October 2024 from Chloe Tipples that the Claimant was conducting himself, in respect of confidential information, in an inappropriate manner and was expressing hostility towards the Respondent. That was the reason why the Respondent arranged the meeting with the Claimant on the 6th November 2024, why the Claimant faced questions on the source of his suspected hostility to the Respondent, and why the Respondent placed the Claimant on garden leave until his last day of work on the 29th November 2024. The Tribunal was satisfied that the Respondent had shown that the meeting on the 6th November 2024 and the decision to place the Claimant on garden leave, which had plainly been made before the meeting, was unrelated to the protected disclosure that the Claimant has asserted in this case.

54. It is right to say that there was inordinate delay in the return of the Claimant's personal belongings to him after the events of the 6th November 2024 but the Tribunal was satisfied that the Respondent had shown that that was because of inefficient communication on the part of the Respondent regarding the return of the belongings, but not attributable to the protected disclosure asserted in the case, and the practical difficulties involved in arranging a time with the Claimant, that was convenient for both parties, for him to attend Tegfan to pick up his belongings. In the end, the belongings were posted to the Claimant. The Tribunal was satisfied that the delay in returning the belongings to the Claimant was not something that had occurred because of the protected disclosure that the Claimant has asserted in this case. The belongings should have been returned sooner than they were but the Respondent has shown that the delay in returning the items was not on the ground of the protected disclosure asserted in this case.

55. In conclusion, the Tribunal was satisfied that the Respondent had shown that it did not bear any animus towards the Claimant as a result of his email to Jade Clarke on the 22nd October 2024. The evidence showed that the concerns that the Claimant had raised in his email to Jade Clarke on the 22nd October 2024 were treated seriously by the Respondent and, quite appropriately, resulted in a multi-agency referral. The Claimant's contention that the Respondent bore him some ill will following his email to Jade Clarke on the 22nd October 2024 was simply not born out by the evidence in this case. For the reasons set out in this judgment, the claimant's claim of whistleblowing is dismissed.

Employment Judge David Harris

Dated: 13th December 2025

Judgment entered in Register
and copies sent to parties on

16 December 2025

Kacey O'Brien
for Secretary of the Tribunals