Case No: 6048746/2025

EMPLOYMENT TRIBUNALS

Claimant: Mr F Ghimici

Respondent: Ryde House Homes Ltd

Heard at: **Bristol (by video – CVP)** **On:** **19 January 2026**

Before: **Employment Judge Livesey**

Representation
Claimant: In person
Respondent: Mrs Carson, Head of Operations

JUDGMENT

The Claimant's application for interim relief under s. 128 of the Employment Rights Act 1996 is dismissed.

REASONS

1. By a claim form dated 31 December 2025, the Claimant brought complaints of detriment and dismissal on the grounds of public interest disclosure under ss. 47B and 103A. In respect of the latter, he resigned his position and was therefore claiming constructive dismissal.

2. An earlier Claim Form was submitted on 19 December relating to the same matter (No. 6047337/2025), but it was rejected as the Claimant had not supplied an early conciliation certificate number. Whilst he had sought interim relief in the Form itself (Box 2.3), he withdrew that application on 25 December.

Legal framework

3. The Claimant's application for interim relief was founded upon s. 128 (1)(a) of the Employment Rights Act 1996. He bore the burden of proof in respect of the application. Section 129 (1)(a)(i) was relevant;

> "*This section applies where, on hearing an employee's application for interim relief, it appears to the tribunal that it is likely that on determining the complaint to which the application relates the tribunal will find-*

(a) that the reason (or if more than one the principal reason) for the dismissal is one of those specified in-

(i) section…. 103A"

4. '*Likely'*, according to the court in *Taplin-v-C Shippham Ltd* [1978] ICR 1068, meant *'a pretty good chance'* (that test having been more recently confirmed in *Dandpat-v-University of Bath* UKEAT/0408/09 and *London City Airport-v-Chacko* [2013] IRLR 610). The test required a *"significantly higher degree of likelihood"* than the balance of probabilities (Underhill J in *Ministry of Justice-v-Sarfraz* [2011] IRLR 562 and *Wollenberg-v-Global Gaming and another* UKEAT/0053/18/DA).

5. The test required the Tribunal to be satisfied that the Claimant was 'likely' to succeed on each necessary aspect of the claim (*His Highness Shake Bin Sadr al Qasimi-v-Robinson* UKEAT/0281/17 at paragraph 11), albeit that HHJ Eady QC, as she then was, stated that the approach was necessarily going to have been 'broad-brush' and was "*very much an impressionistic one*";

> "*The application falls to be considered on a summary basis. The employment judge must do the best he can with such material as the parties are able to deploy by way of documents and argument in support of their respective cases. The employment judge is then required to make as good an assessment as he is promptly able of whether the claimant is likely to succeed in a claim for unfair dismissal based on one of the relevant grounds. The relevant statutory test is not whether the claimant is likely to succeed in his or her complaint to the Employment Tribunal but whether 'it appears likely to the tribunal' in this case the employment judge 'that it is likely'. To put it in my own words, what this requires is an expeditious summary assessment by the first instance employment judge as to how the matter looks to him on the material that he has. The statutory regime that places emphasis on how the matter appears in the swiftly convened summary hearing at first instance which must of necessity involve a far less detailed scrutiny of the respective cases of each of the parties and their evidence than will be ultimately undertaken at the full hearing of the claim.*" (*Chacko* above)

6. Under s. 128 (1)(a)(i) of the Act, such an application could only have been pursued if the Claimant was bringing a complaint of automatically unfair dismissal under one of the prescribed sections. The jurisdiction which he invoked in his claim was that under s. 103A; he was alleging that the reason or, if more than one, the principal reason for the detriments that amounted to fundamental breaches of his contract which entitled him to resign had been caused by the fact that he had made a protected disclosure, otherwise known as a public interest disclosure under Part IVA ('whistleblowing').

7. In order for such an application to succeed, the tribunal had to determine whether it "*appeared likely*" that the claim of unfair dismissal would ultimately succeed. That test required it to carry out an 'expeditious summary assessment' of the case (*London City Airport Ltd-v-Chacko*

[2013] IRLR 610, EAT) and, as in this case, that was often only based upon an analysis of the Claim Form and the hearing of further oral submissions. The rules expressly excluded the hearing of evidence, unless it directed otherwise (rule 94).

8. That test had to be applied to all elements of the claim and, of course, in a public interest disclosure case, there were many facets to that test (*Simply Smile Manor House Ltd and others-v-Ter-Berg* [2020] ICR 270, EAT). which were set out in the stepped approach recommended in the case of *Williams-v-Michelle Brown* UKEAT/0044/19/00;

   i. First, a tribunal would have to assess whether there had been disclosures of '*information*' or facts, which was not necessarily the same thing as a simple or bare allegation (see the cases of *Geduld-v-Cavendish-Munro* [2010] ICR 325 in light of the caution urged by the Court of Appeal in *Kilraine-v-Wandsworth BC* [2018] EWCA Civ 1346). An allegation could contain '*information*'. They were not mutually exclusive terms, but words that were too general and devoid of factual content capable of tending to show one of the factors listed in section 43B (1) would not generally be found to have amounted to '*information*' under the section. The question was whether the words used had sufficient factual content and specificity to have tended to one or more of the matters contained within s. 43B (1)(a)-(f) (see, further, *Simpson-v-Cantor Fitzgerald* UKEAT/0016/18);

   ii. Next, the tribunal would have to consider whether the disclosure indicated which obligation was in the Claimant's mind when the disclosure was made such that the Respondent was given a broad indication of what was in issue (*Western Union-v-Anastasiou* UKEAT/0135/13/LA). A whistleblower did not have to have had the precise legal basis of the wrongdoing asserted in his/her mind before they were protected (*Twist DX-v-Armes* UKEAT/0030/20/JOJ);

   iii. The Tribunal would also have to consider whether the Claimant had a reasonable belief that the information that he had disclosed had tended to show that the matters within s. 43B (1)(a) to (f) had been or were likely to have been covered at the time that any disclosure was made. To that extent, the objective reasonableness of the Claimant's belief at the time had to be assessed at the time that she held it (*Babula-v-Waltham Forest College* [2007] IRLR 3412, *Korashi-v-Abertawe University Local Health Board* [2012] IRLR 4 and *Simpson*, above). To that extent, it was a mixed objective and subjective test. 'Likely', in the context of its use in the sub-section, implied a higher threshold than the existence of a mere possibility or risk. The test was not met simply because a risk *could* have materialised (as in *Kraus-v-Penna* [2004] IRLR 260 EAT). Further, the belief in that context had to have been a *belief* about the information, not a doubt or an uncertainty (see *Kraus* above);

   iv. 'Breach of a legal obligation' under s. 43B (1)(b) was a broad category and has been held to include tortious and/or statutory duties such as defamation (*Ibrahim-v-HCA* UKEAT/0105/18);

v. Next, the tribunal would have to consider whether the disclosures had been '*in the public interest*.' In other words, whether the Claimant had held a reasonable belief that the disclosures had been made for that purpose. As to the assessment of that belief, I had to consider the objective reasonableness of the Claimant's belief at the time that he possessed it (see *Babula* and *Korashi* above). That test required me to consider his personal circumstances and ask myself the question; was it reasonable for him to have believed that the disclosures were made in the public interest when they were made? It was therefore a mixed objective and subjective test.

The '*public interest*' was not defined as a concept within the Act, but the case of *Chesterton-v-Normohamed* [2017] IRLR 837 was of assistance. In it, Supperstone J decided that the public interest may have been limited to a small group of 100 or so employees (in that case, about 100 senior managers were potentially affected by the employer's massaging of performance figures in relation to bonus). The Court of Appeal confirmed the decision and determined that it was the character of the information disclosed which was key, not the number of people apparently affected by the information disclosed. There was no absolute rule. Further, there was no need for the 'public interest' to have been the sole or predominant motive for the disclosure.

As to the need to tie the concept to the reasonable belief of the worker;

"*The question for consideration under section 43B (1) of the 1996 Act is not whether the disclosure per se is in the public interest but whether the worker making the disclosure has a reasonable belief that the disclosure is made in the public interest*" (per Supperstone J in the EAT, paragraph 28);

vi. Next, the Claimant would have to show that the disclosures had been made to the right class of recipient. Here, he alleged that they had been made to the 'employer' within the meaning of section 43C (1)(a);

vii. Then, there was the issue of causation; was the disclosure the reason, or principal reason, for his dismissal? This was not a case in which a tribunal would consider and apply the test in *Kuzel-v-Roche* [2008] IRLR 530, paragraphs 56-60, since the Claimant had resigned. Instead, he would need to demonstrate that (i) there had been fundamental breaches of his contract (ii) which had been caused by his disclosures and (iii) which had caused him to resign.

Consideration and argument

9. The parties made oral submissions and references were made to a bundle of documents which had been agreed between them and which was produced by the Respondent. Pages have been referred to in square brackets below.

10. The Claimant had been employed as a Support Worker between September 2023 to 25 December 2025. In his Grounds of Claim, he said this about his disclosure;

"*..my most recent protected disclosure on 19 November 2025, I*

raised safeguarding and life-safety risks to management involving two vulnerable residents, including an immediate risk of arson and resident self-harm, and associated safeguarding failures."

11. He claimed that, the very next day, he was removed from his normal workplace and directed to work elsewhere (location '118'), a place which he had raised previous concerns about because it had been 'detrimental to his wellbeing'. He had previously indicated his dislike for doing night shifts at the location [13]. Then on 25 November, 6 shifts were removed from his rota over the Christmas period.

12. He was informed that no investigation into his concerns about the residents was to have taken place. On 27 November, he was informed that his change of workplace was to have been permanent and he therefore resigned that day [49]. He did not then give a reason.

13. After his resignation, there was a further, unrelated incident; he had held concerns about a different resident's imminent move of location and he chose to contact their parents directly to express those concerns, a step which resulted in disciplinary action having been taken against him during his notice period. He was issued with a warning.

14. Having heard the Respondent's submissions, the following conclusions were reached;

    a. The disclosure;

       The Claimant alleged that his disclosure during the night shift of 18/19 November was a disclosure of information which amounted to a public interest disclosure about health and safety.

       The typed 'Slack' record (an internal recording system) described an momentary interaction between two residents during which one had become 'furious' about the other's use of his bowl [19]. There was no suggestion of violence or even threatened violence.

       The Claimant alleged that another report had been made on the Respondent's 'Nourish' system in more explicit terms. The only report produced at the hearing [29-30] revealed nothing sinister at all and the Behaviour Recording Chart ('BRC') entry [30] was not actually completed by the Claimant. The Respondent pointed out that the bundle had been agreed and that the Claimant had never before asserted that there were missing, relevant 'Nourish' records.

       Whilst the Respondent appeared to have accepted that a safeguarding issue was properly raised by the Claimant on 18/19 November following the incident with the two residents [7] and that it *may* have constituted whistleblowing [10], whether it did or not was, of course, ultimately a matter for the Tribunal. On the face of the documents, it did not appear likely. As the Respondent had suggested in written submissions; "*the underlying incident concerned an isolated domestic dispute between two residents and does not, on the evidence, disclose a wider systemic safeguarding failing. Further, the Claimant did not contemporaneously record it*

as a safeguarding issue requiring escalation."

b. The detriments;

In submissions, the Claimant relied upon 4 fundamental breaches of his contract which he said had been caused by his disclosure and which had caused him to resign;

(i) His permanent relocation to location 118;
The Respondent had a contractual entitlement to alter the Claimant's work base/location [15]. It was difficult to see how such a change could therefore have amounted to a breach of his contract;

(ii) The Respondent's refusal/failure to suspend him;
This was not an allegation even raised in his Claim Form or Grounds;

(iii) The fact that 6 shifts over Christmas were deleted;
The Respondent's explanation here was that shifts often became 'unpublished' for a while (in the sense that they could not have been viewed by employees) if changes were needed to the rota but, once the changes had been made and the shifts had been finalised, they were re-'published'. The Claimant's shifts were notionally lost (in the sense that he could not view them) for 29 minutes only on 25 November, which he accepted. It was difficult to envisage how that might have been claimed as a fundamental breach of his contract;

(iv) The fact that the Respondent had been unwilling to investigate his concerns;
Assuming that the Claimant was right, it was, again, difficult to imagine that a concern in relation to the events of 18/19 November would have led to an investigation. Yet further, it was difficult to understand why such an alleged failure was said to have amounted to a fundamental breach of the Claimant's contract.

15. There was another issue on causation; the Claimant accepted that, before he resigned, he had been informed that one of the residents involved in the 18/19 November incident had raised a complaint against him. That was the day of his resignation and the link between the two events was compelling.

16. For all of those reasons, it was not considered likely that the Claimant's complaint of automatically unfair constructive dismissal would succeed and his application for interim relief was therefore dismissed.

Employment Judge Livesey

Date 19 January 2026

JUDGMENT SENT TO THE PARTIES ON
12 February 2026

Notes

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https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/
written record of the decision.