



EMPLOYMENT TRIBUNALS

Claimant: Elizabeth Lawrence

Respondent: Achieve Together Limited

HELD at Leeds ON: 3rd, 4th, 5th, 7th, 10th, 11th and 12th November 2025

BEFORE: Employment Judge Lancaster

REPRESENTATION:

Claimant: In person

Respondent: Mr J Ratledge, Counsel

JUDGMENT having been sent to the parties on 12 November and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the Tribunal find provide the following:

REASONS

1. These written reasons, requested by the largely successful respondent, are taken substantially from the transcript of the oral decision which was delivered immediately upon the conclusion of the case. It is not in the circumstances proportionate to elaborate further.
2. I have decided that the only claim that succeeds is that of unauthorised deduction from wages. Necessarily therefore all other claims are dismissed.

The successful deduction from wages claim

3. This was originally pleaded primarily as a breach of contract claim. That however is misconceived. The claim form was presented on 13 August when the claimant was still employed and the Tribunal has no jurisdiction to hear a breach of contract complaint during the currency of employment.
4. However it was also pleaded on the alternative as an unauthorised deduction from wages under Part I of the Employment Rights Act 1996 and that is perfectly

permissible. That is that on any occasion the amount paid as wages which are defined in section 27 of the Act as “any emolument referable to (his) employment whether payable under (his) contract or otherwise” and which under section 13 (3) is, less than the total amount properly paid.

5. The essence of this complaint is that for the first six months of her sickness absence which started on 12 March 2024, the claimant was only in receipt of Statutory Sick Pay whereas she says that the amount properly payable under her contract was full pay for that period. That is because she says that that was the term of the contract with J.S Care, and if that was a term of that contract it would necessarily pass upon the transfer to the respondent.
6. It is for the claimant on the balance of probabilities therefore to prove that she was paid less than was properly due to her under the series of deductions for the whole of that six months.
7. There are a number of contra indications to suggest that that is not the case and I have considered those carefully. Firstly of course the claimant has been unable to produce any documentary support of that contention, either a copy of her written contract with J.S when she first started employment with them or a written statement of particulars. And it is also not the normal arrangement under the J.S employee handbook, which provides only for the payment of Statutory Sick Pay. Also I note that when the claimant first raised a grievance on 12 March, immediately after going off sick, she asked for a copy of the sickness policy from the respondent which suggest some uncertainty as to what the position was. When she expanded her grievance on 12 May she appeared to expressly accept that having been off sick she was necessarily placed at a financial disadvantage; but of course if she had been entitled to full contractual company sick pay there would have been no loss during that period. It is only on 29 May. that is some two and a half months after she went off sick, that for the first time she raised the argument that she was contractually entitled to be paid full pay for six months within any rolling 12 month period.
8. Nonetheless I have heard the claimant give evidence and say that that was indeed the agreement she had with J.S. And the respondents of course are not in a position to advance any positive argument against that. Quite properly within the response they put the claimant to proof: they say this is not admitted because they too have no documentary evidence to show what the contractual position was before the TUPE transfer. They have the information provided by the transferor, that says nothing about sick pay but they have no documentations passed on to them to put on their files.
9. I accept in this instance the claimant’s evidence that having been a successful self-employed practitioner for some time, she agreed to enter into employment with J.S and it is entirely plausible therefore that she was able to negotiate some advantageous terms. She is not suggesting any further advantageous terms in respect of favourable employment (such as for enhance enhanced holiday entitlement), but she says clearly that it was agreed she would be entitled to full pay for six months in the event that she became ill. This would afford a measure of security that she will have lacked as a self-employed person, and it is likely to have been a consideration, an incentive, in making the change. On balance I am prepared to accept that in that negotiation, the assertion by J.S that they would in those circumstances, as the claimant put it to me” look after

her”, does give rise to a contractual entitlement rather than merely an aspiration or discretionary payment.

10. In those circumstances I accept that the claimant on that oral evidence before me has on the balance of probabilities, and notwithstanding those contrary indications, established that that was the term of her contract. That means that she is entitled to be paid the old excess above her Statutory Sick Pay for that six month period.

The unsuccessful claims

11. I turn now to the remainder of the complaints and there is an agreed list of issues and that is the framework which both parties and I have been working to throughout this case and will form the basis of this oral decision.

Preliminary issue – the evidence of Ms Plant

12. Before I come to that there is one matter which I need to address which has arisen in the evidence, and that is in relation to the claimant's witness Courtney Plant. Ms Plant has not been able to attend to give evidence and I, absent any indication to the contrary, must accept that there are good reasons for that. But what it means is that, in any event, the weight I will be able to attach to her witness statement in the absence of her being present to be cross-questioned and challenged upon that is very little. In actual fact having looked at all the evidence in this case, I am perfectly satisfied that Ms Plant was interviewed at the grievance appeal stage by Victoria Attenborough on 5 November 2024 and that I attach therefore no weight whatsoever to Ms Plant's assertions at this stage that that interview did not in fact happen. The reasons for coming to that conclusion are these.
13. When Mrs Attenborough prepared her appeal outcome letter she expressly referred to having spoken to Courtney Plant though she referred to her erroneously as Courtney Peters. The reason for that misnaming is that the attached document to her outcome, which was the summary of that interview prepared by Ms Rosie Foster in HR, had used that incorrect name. That document was also dated 4 November, but I am satisfied that that too is a mistake. So in the outcome Mrs Attenborough expressly stated that she had interviewed the person we now know properly to be Courtney Plant. She attached Ms Foster's summary of that interview and she referred to it in her findings. If that had not happened at all it would easily have been refuted and it also necessarily implies that Mrs Attenborough was deliberately fabricating the fact that she carried out that further investigation. Also the fact that there are those two errors as to name and date in my view points to the accuracy of this record. It would be a somewhat extraordinary double bluff to fabricate a document and then purport to give it a veneer of authenticity by incorporating deliberate mistakes. If the intention had been to produce a document allegedly from Ms Plant the obvious way of doing that would be to produce a document with her name. But for whatever reason Ms Plant has subsequently, as I see on papers from February onwards, asserted that that interview did not in fact happen. Therefore the respondents have also in addition to Ms Foster's written summary now produced a transcript of the Teams meeting. That document correctly identifies Ms Plant and gives the date in fact as 5 November. If that was a fabricated document it would mean that the respondents had deliberately reconstructed a purported exchange between Mrs Attenborough and Ms Plant

and prepared that written document in the format that you would expect from a transcript from a video recording, complete with the errors of mishearing and homophones for correct words. Alternatively somebody would have had to create a script for either Mrs Attenborough, or somebody pretending to be her, and somebody pretending to be Ms Plant to have read out on the Teams meeting, then prepare the transcript and then somehow altered the meta data to purport to show that it was 5 November. Again that I found to be frankly a somewhat preposterous suggestion in the circumstances. Also the fact that a date differs from that originally recorded by Mrs Attenborough again points to authenticity. If this were a fabricated attempt to lend apparent support for that record, there is no obvious reason why the date should not have been made to tally. But also there is of course a body of contemporaneous evidence now produced as supplemental to Ms Ridger's further statement which again would have to have been fabricated. That is the sending of the invitation to join the meeting, the apparent acceptance, the correspondence immediately after 5 November referring to having met the day before, the correspondence about sending further documents from Ms Plant to Mrs Attenborough, which appear to certainly have been obtained by Ms Plant from another employee and then passed on as screenshots. Also the documentary evidence indicates that Ms Plant was indeed at work that week and did not ever send the purported self-certifying fit note to say she was absent.

14. So the totality of that evidence in my view points conclusively to the fact that Ms Plant was indeed interviewed on 5 November, and that the transcript of that video communication is accurate. I note that the summary of Ms Foster corresponds very closely to that actual word for word transcript. It also in my view means quite clearly that I should accept as accurate the record of the earlier interview with Ms Plant carried out by Mr Davis at the initial grievance investigation stage. That is because within that transcript there is reference back to that earlier interview and Ms Plant in her answers to Mrs Attenborough corroborates what she had said. So again, her allegations at this later stage that she did not say was in fact recorded having been said to Mr Davis, are a contention to which I attach no weight .
15. I must then deal with how this impacts upon these proceedings and primarily it means that the respondent is perfectly entitled to take at face value what is recorded having been said by Ms Plant at both stages of the grievance procedure and to rely upon that in coming to their conclusions, and there is nothing whatsoever untoward in their taking that approach. It is not in any way unfair.
16. The claimant of course still on the basis of the statement she now has from Ms Plant denied that this interview took place. She has maintained her position that this is a fabrication and necessarily therefore she is by implication accusing, particularly Mrs Attenborough, of deliberate participation in a wholly fraudulent activity. And obviously that is a serious matter. But on balance I come to the view that this only assists me to a very limited extent in assessing the rest of the evidence in this case. What it means is that I have clear evidence that unfortunately Ms Lawrence in this instance is incapable of stepping back and viewing the totality of the evidence on this point from a proper perspective and impartiality. And that is why she has maintained what objectively I find to be a wholly unreasonable stance on this piece of evidence. But that lack of overall

perspective and impartiality is not uncommon in a case where somebody presenting their claim can become so emotionally involved in the process and so convinced of the strength of their own case. So, I do not consider that I can go further to say that this is on the part of Ms Lawrence a deliberate attempt to deceive the Tribunal. I of course do not know why Ms Plant has made the statement she has. I could suggest reasons but it would be mere speculation. I do not, on what I have in front of me, feel able to attribute that clearly incorrect account of Ms Plant's statement to any improper conduct on the part of the claimant. so I do not do so.

Detriment and constructive dismissal – the issues

17. Turning now to the actual matters within the list of issues. There are two heads of claim. Firstly the claimant alleges that she was subjected to detriments on the grounds that she made protected qualifying disclosures, and there is no doubt that she did make such disclosures. That is accepted. And further she also brings a claim of constructive unfair dismissal. That was added by amendment to her claim.
18. As I have said she presented her claim on 13 August. It was not in fact served by the Tribunal unfortunately until 13 December and in interim on 3 December the claimant had resigned with immediate effect. She then sought leave to amend her claim to add a complaint of constructive dismissal alleging that the reason for that resignation were four specified fundamental breach of contracts on the part of the respondent. That application was not objected to. The respondents properly took the view that she could have presented a fresh claim which would be in time and necessary would have had to have been joined to these proceedings. And so on 6 January Employment Judge Miller gave consent for the amendment of the claim. and that is including the document identifying those four specific alleged breaches.
19. When the matter came in front of Employment Judge Maidment for a preliminary hearing on case management on 24th February 2025, he properly identified that the claimant was alleging that at least part of the fundamental breach relied upon had been occasioned because she had made protected disclosures. and if that were right it would also give rise to a claim of automatically unfair dismissal. That is that the reason why the respondent committed a fundamental breach, if proven, was that the claimant had made a protected qualifying disclosure and that was a material factor in the reason why she resigned.
20. There are two matters which are common both to the detriments claim and the unfair dismissal claim and those both relate to the conducting by the respondents of the grievances raised by Ms Lawrence. Those are an alleged failure to resolve the claimant's grievance of 12 March 2024 in a timely manner, and that the decision reached in the claimant's grievance and grievance appeal were unfair.

The conduct of the grievance process

21. So, I shall deal with those two common elements of all complaints firstly. And firstly the question of the time taken to resolve the claimant's grievance. She went off sick following an incident on 11 March and the following day 12 March raised a grievance essentially about the conduct of her regional manager Kayleigh Foster on the 11th. The correspondence after that date quite clearly

shows that there was a consensus between the claimant and particularly Ms Ridger from the respondent's HR department that that matter would not however be pursued immediately. That position was reached primarily at the instance of the claimant who asserted that she was too unwell to participate: her doctor had signed her off sick and that has been corroborated by her medical evidence subsequently as to continuing incapacity. She also therefore expressed the view that in those circumstances she did not consider that any referral to occupational health would assist, because they would not advise that she should participate in this process so long as her doctor was properly saying that she was unfit to attend work and she herself did not wish to engage in the juncture.

22. So the respondents cannot be criticised for not processing that original grievance immediately they were in no position to do so. Ms Ridger on 4 April again raised a possibility of the claimant nonetheless being referred to occupational health but the claimant did not seem to respond to that, and it was the respondent who then on 29 April, again being proactive, raised in perfectly proper form the suggestion that the claimant may be able now to participate in some sickness management process to identify the issues and that she may wish nonetheless to be referred to occupational health at this point. And they questioned whether it was possible, with or without such referral to OH, to now pursue her grievance. By this stage the claimant had already instructed solicitors and they responded on her behalf on 30 April. The stance taken then was to reassert the position the claimant was not at that point prepared to progress the matter. It was stated by her solicitor that they, on her instructions, would notify the respondent if as and when the claimant felt it necessary to take these matters further. And had it been left there, there would have been an indefinite delay in processing these matters, and because of the claimant's continued ill health it may never have progressed. But it was the respondents who then again were proactive and came back to the solicitors and from that point onwards it was possible to move forward. The claimant was on 1 May then referred to occupational health and on 12 May she submitted a much expanded grievance and that was then allocated to Mr Davis, who has given evidence before me, to deal with.
23. He started that process pending confirmation from occupational health as to how it could be dealt with. He therefore on 16 May prepared a composite document looking at the grievances of 12 March and 12 May which he believes summarised the issues that had been brought up by the claimant and with which he would then have to deal. I have seen that document and I consider it to be a perfectly proper and accurate summary of the matters with a view to moving forward. And indeed, when that was sent to the claimant's solicitor they too raised no objection to that summary on the part of Mr Davis. However the claimant herself must for reasons which I am afraid I do not fully understand was unhappy with that attempt and so she prepared her own further list of issues by 29 May. That is a much more discursive document than Mr Davis' attempt to identify the issues. It is more in the form of a narrative. Some matters relate to factual matters, some do not and there were 39 paragraphs. Those were then the 39 matters with which Mr Davis ultimately sought to deal adding a 40th which was in relation to alleged delay.

24. So the very earliest that Mr Davis could have begun to address the claimant's grievance in any meaningful sense would have been 29 May. But I accept that the respondent did not receive that document until 2 July. I accept the evidence I have heard that that was because of an IT issue. That is unfortunate but it is not the culpable responsibility of the respondent: ultimately, how they operate their IT systems must be a matter for them to answer to, but in this instance I am quite satisfied that there was no deliberate intent to delay matters. And indeed Mr Davis was again pro-active on 22 June having, as far as he was aware, not received the anticipated further list of issues that the claimant's solicitors had said was coming, he wrote back to the solicitors and asked for an update. So that was some three weeks or so later which is not an unreasonable time for the claimant to have provided her further grievance. And as I have said the matter was then able to be addressed, the problem was identified and the final claimant's list of issues was received on 2 July.
25. There were still some further documents to be provided by the claimant. She referenced them in her grievance but not provided them: they were principally relating to concerns about other homes run by this respondent. So there was a further delay in obtaining all the evidence that she wished to have taken into account. Mr Davis then embarked on a comprehensive inquiry, both interviewing a significant number of potential witnesses and seeking to make contact with witnesses who had since left the respondent but receiving no reply from them. They were the claimant's witness Claire Rodgers, her former colleague and manager at one of the homes Montagu House where she worked, and also a former more senior manager Claire Sheridan who was identified as having been involved in matters raised in the grievance. But neither of those people responded to the inquiry.
26. Mr Davis then on 1 August, so that is just under a month after actually being able to start work properly upon this matter, updated the claimant's solicitor on his progress and indicated that there would then be a slight delay because he was due a one weeks' holiday in August. That is not unreasonable. This whole process had been pushed back to the time when one would expect summer holidays to be taken. He was keeping the claimant through her solicitors fully informed in the matter. They on her behalf purportedly raise an objection to that further delay but I do not consider that to be a reasonable complaint in all the circumstances. Mr Davis did then finally provide the outcome on 16 August following his return from holiday which was the date he had said he would. That was then followed up with a further document from Mr Davis just a week later. His initial outcome letter had simply gone through what he identified as the 40 points, dealing with them under composite headings and declaring whether or not he held each of those complaints, if they are properly described as complaints, should be upheld or not. On 23 August he provided a further letter picking up on those already stated outcomes and suggesting a possible way forward because he had upheld four specific complaints particularly in relation to the absence of a proper structure of line management and supervision for the claimant and the possibility of undertaking further risk assessments because of the stressful nature of the work she carried out as psychological support providing therapeutic treatments for people in extremely difficult circumstances.

27. The claimant's solicitors objected to that., asserting that it was unethical for Mr Davis to have provided that further recommendation letter following his conclusion of the grievance, and also saying that it was believed that it may have been prompted by the intimation of an appeal on 21 August. I do not accept there is anything wrong in Mr Davis dealing with the matter in this two-stage process and seeking within a very short timeframe to move forward to actually resolve the issues and seek to get the claimant back into the workplace. And he was of course the manager with overall responsibility for this area of work so it ultimately lay within his remit to try and implement changes within the working arrangements to facilitate the claimant returning.
28. The claimant did appeal. I do not have the actual document but there is reference to her solicitors having intimated the basic grounds of appeal as of 21 August, They were then granted an extension of time beyond the normal seven working days within the policy to present a fuller appeal and that was then done on 9 September. By this stage it had clearly been communicated to the claimant's solicitors that it would be Victoria Attenborough who was then known as Victoria Hodgson, who would be responsible for conducting the appeal process and therefore the further grounds of appeal on the 9th were addressed specifically for Mrs Attenborough's attention.
29. When the solicitors sent that letter on the claimant's behalf on 9 September to Ms Ridger in HR they did expressly ask for acknowledgement of receipt. There is no documentation to indicate that they received that, but as I have said I do not have all the communications between Ms Ridger and HR and the solicitors around this time. On balance it seems most likely that Ms Ridger did in fact acknowledge receipt of that grounds of appeal and when nine days later on 18 September Mrs Attenborough then made contact with the solicitors she was not in fact only acknowledging receipt, what she was doing was establishing a line of communication with the solicitors who already knew that she had been allocated to deal with the appeal. She was introducing herself to the solicitor, Ms Alti, for the purposes of any further communication and Ms Alti does not raise any matter about that. She thanks Mrs Attenborough for the communication and certainly does not say words to the effect of "but I have not had a receipt from Louise Ridger to say you've even got this". So, I say on balance I am quite satisfied that there would have been a formal acknowledgement, that Mrs Attenborough then did commence work on the process and she was not belatedly acknowledging receipt of the appeal itself but establishing communications with a solicitor for the future process.
30. It was an extensively documented appeal. The appeal document ran to 15 pages. The claimant also produced other documents, principally her annotated comments on the interview statements with witnesses conducted by Mr Davis and that was a further 34 pages. Mrs Attenborough also requested further information on 26 September and there was a delay providing that until 7 October. She provided updates on her progress to the solicitor indicating quite reasonably the volume of work she had to do, and she of course re-interviewed relevant witnesses and sought to make contact with other witnesses who had left the company, which by this time also included Kayleigh Foster. She provided those regular updates on 21 October indicating that she hoped to be ready by 8 November, on 8 November saying that was not possible and putting it forward to the 22nd, and then on 22nd giving the final date of 27 November

when she did produce her appeal outcome. So within that total timeframe I do not consider that there is anything unreasonable in the time taken by the respondent to deal with this matter.

31. It is of course a consideration under the ACAS Code of Practice that grievances should be dealt with promptly but I say this is not an unreasonable failure to comply with that Code of Practice in all those circumstances. It is a fully documented history and I am afraid it is simply a misrepresentation to say the claimant raised a grievance on 12 March but it took a protracted eight and a half months to actually resolve that.
32. A number of the delays, particularly the early stages are because of the perfectly proper stance the claimant herself took that she was unable due to her health condition to engage with this process at that stage. As I say there is a further delay due to IT issues for which the respondents are not materially culpable.

The grievance outcome

33. The next common issue is whether the findings of that grievance and the appeal are in some way unfair. Firstly both Mr Davis and perhaps more particularly Mrs Attenborough, I am satisfied, produced comprehensive responses to the claimant's grievance. She does not like the outcome. She disagrees with some of their conclusions, but they clearly address the matter carefully and in detail. They did interview relevant people, sought to interview others, and considered a large volume of material provided to them by the claimant. In particular Mrs Attenborough's outcome amounts to 24 pages and deals with every single element of the claimant's complaint. The claimant thought that she could not follow it but that was because the original preamble to her appeal dealt with the reliability of witnesses and as I say it was substantiated by annotated comments on their statements. And that is, understandably therefore, what Mrs Attenborough firstly dealt with before moving quite clearly to the itemised headings within the appeal document and then addressing those.
34. So far as I can identify the claimant's principal complaints about unfairness is now that she is saying that Mr Davis should not have conducted the grievance inquiry because as the responsible area manager he was too closely involved and that somebody from outside should have re-assessed the matter.
35. When Mr Davis was identified as hearing the grievance in early May, as I have said he then produced what I considered to be a perfectly proper and careful summary of the issues and sent it on 16 May. When the solicitor at that point accepted that as a perfectly appropriate way of moving forward, she also asked a specific question of Mr Davis in relation to impartiality but that was limited to an inquiry as to whether he had been involved in any further investigations regarding these matters that meant he would not be impartial. There was no suggestion at that stage that by reason of his position within the respondent company he was not an appropriate person to deal with the matter. And it was not until the claimant answered specific questions from Mr Davis which from the documentation must have been after 1 August, therefore at the very end of his inquiries, that this issue was raised. The reason I say it was after August is because in that document the claimant refers to Mr Davis' email of that date, when he indicated there will be a delay particularly to take account of his booked holiday. It is only in that very late document the claimant raises any issues that

she says Mr Davis should not be investigating this matter, he is not impartial and she claims that her solicitor had already requested specifically that he be removed. But as I say that does not appear to be the case. There is only that one reference on 16 May which does not bear that interpretation.

36. It is clear from his subsequent evidence to the appeal process that Mr Davis was conscious of potential difficulties, but he was acting throughout having been instructed by HR, and he did not consider it was inappropriate for him in those circumstances to continue to deal with these matters. It is of course not at all uncommon that grievances or indeed disciplinary processes are conducted by managers within the area where the employee worked because they have ordinarily the general overview and the ability to understand matters. Of course in some circumstances it is appropriate to move entirely outside or even to engage external consultants, but there is nothing on the face of these matters to suggest that Mr Davis was unfair in his conduct of these proceedings.
37. Having dealt with those common matters, I turn to the specific list of issues in dealing firstly with the unfair dismissal complaint.

Unfair dismissal

38. There are four alleged elements that constitute a fundamental breach. Two of those I have already dealt with as they are common to the protected qualifying disclosure claim as well, : failure to resolve the claimant's grievance of 12 March in a timely manner, and that the decisions reached in that grievance and on appeal were unfair. Thirdly it is alleged that the respondent acted unreasonably in how it communicated with the claimant regarding an overpayment of wages of around £3,900. Fourthly, the respondent did not notify the claimant upon the expiry of her entitlement to Statutory Sick Pay. And those are alleged to breach of the implied term of trust and confidence. That is that an employer must not without reasonable and proper cause conduct itself in a manner calculated or likely to destroy or seriously undermine that relationship of mutual trust and confidence that ought to exist between employer and employee.
39. So the claimant has to establish that there has been such a fundamental breach and that that was the reason why she did then resign on 3 December. In relation to the possible automatically unfair dismissal claim she would have to show that if there was such a fundamental breach, the reason why the respondent did what it did was on the grounds that she had made a previous protected qualifying disclosure.
40. I have no doubt that the claimant genuinely considered that the relationship of trust and confidence had broken down. I am also clear that there are potentially very good reasons why she came to that view. I have not had to deal with it in great detail, but it is evident that the transition of the claimant's employment following the TUPE transfer was not at all well managed. It was unclear how the provision of psychological support, and particularly delivery of the therapy DBT which she had made her speciality, fitted into the new structure of a much larger organisation. Achieve had taken over the six homes run by J.S Care around the Pontefract area. As I understand it there had been an expansion from three to six homes during the short time the claimant had worked there. She was in a senior position, reflected by the level of her salary, not assigned to any particular one of those residential institutions but clearly with a wealth of past experience which could properly be drawn upon in terms of strategic

planning of staff training, staff qualifications and also to an extent -as is acknowledged in the 12 March grievance - even concern as to the physical environment. She understood the needs of those people with whom she dealt. She was therefore well placed to give advice as to how buildings should be constructed or adapted to meet those needs. So it is a somewhat ill defined role and it is quite clear from the history of the disclosures which are now accepted that the claimant sought to raise these concerns and the respondent's managers were unclear as to where she fell within their structures, or how the budget was to be allocated, or how she was to be managed. And also because of the nature of what the claimant did, one would ordinarily expect there to be a level of clinical supervision and support for her because of the stresses placed upon her in work, and that was not properly addressed. The respondent did not have within their organisation anyone able to provide that level of support and they did not, it seems, appreciate how they might more properly address with the claimant the need to ensure that they maintained that level of supervision and support.

41. So there were a number of matters which gave rise to concern and when she was given responsibilities in relation to the mobilisation, the opening of a new residential unit Montagu House and also subsequently the neighbouring Fryburgh, the claimant was unclear as to how that in fact fitted with her role. The claimant says, and I have no reason to doubt this, that she did have a written job description but I do not know what was specifically in that. However, any job description does necessarily evolve over time as a business changes. But there were clearly concerns and also concerns expressed by the claimant and her colleague Mrs Rogers who came in around July of 2023 shortly after the claimant became involved in Montagu House as the manager of that unit. Between them they sought to progress the mobilisation in what they deemed an appropriate manner.
42. There were clearly issues but although subjectively the claimant I am satisfied genuinely believed the trust and confidence had gone and there may be good reasons in the background as to why that happened, the test on the constructive unfair dismissal claim is whether objectively the respondents have conducted themselves in a manner likely to destroy that relationship. And as I have said on a number of occasions in the course of this Judgment, the actions specifically relied upon are those four that were identified in the amendment application including in Judge Maidment's case management order and replicated now in the agreed list of issues.
43. As at 12 March when the claimant last worked, there is also documentary evidence to suggest that even from that point trust and confidence had broken down. She says in her grievance of 12 March that she views this as if it were a constructive dismissal. In the 12 May and 29 May further grievances an express complaint is that trust and confidence has already broken down. I did therefore ask the claimant the question what did she believe might have been achieved by going through a grievance process and she accepted that she thought there was a "small chance" that it might have redressed the matters. But what that means in terms of redressing is unclear. It seems that the grievance and appeal process were a pre-cursor to the bringing of Tribunal proceedings and indeed the claimant had presented her first claim before she even received Mr Davis' outcome. In the appeal document to Mrs Attenborough

she refers expressly to Tribunal proceedings and the need for a Judge ultimately to make decisions. It does not seem to me that there was any realistic prospects of the claimant's concerns about her workplace ever being resolved after 12 March.

44. I have to look at those four specific allegations of fundamental breach. As I said the way the respondents dealt with the timing of the grievance and the appeal is not a fundamental breach of contract. It is in the circumstances, although it took a long time finally to resolve, in my view an indication that the respondent was seeking to address these matters fully, comprehensively. Also, though the claimant took exception to Mr Davis' letter he was then seeing a possible resolution by agreement when she was fit to return to work. Also I have evidence that Mrs Ridger was seeking to resurrect that process following the appeal, but of course it was pre-empted by the claimant having resigned very shortly after that outcome on 3 December. I have also indicated that the way the respondent reached their conclusions on the evidence they had assembled. even if the claimant disagrees with it. is not unfair so as to amount to a fundamental breach of contract.
45. The other two matters relied upon are of less significance. The claimant was only paid Statutory Sick Pay. It was not the respondent's practice through their payroll to formally notify an employee when that pay was due to run out. That would very often be common practice but if that is the practice of this respondent it is not a fundamental breach of contract. The contract allows for payment of either contractual occupational pay or Statutory Sick Pay over the prescribed period, and when that prescribed period has run its time that contractual entitlement comes to an end, and that is what happened here. It may not have been best practice, it may not be what many employees do but it is not on any view properly construed as a fundamental breach of contract that is going to the heart of a contractual relationship.
46. Statutory Sick Pay having expired the respondents then made a mistake on their payroll. They did not record the claimant as having still been absent but not entitled to pay and so in October they paid her what would have been her full salary. When that mistake was realised the respondent did write to her with a proposal as to how that might be repaid over instalments clearly on the understanding the claimant may then be able to return to work; but again that was their contractual right to reclaim that money and the claimant has now repaid it. I can see nothing in the tone of that letter that could possibly constitute a fundamental breach of contract indicating that by putting that proposal forward for proper repayment which was due the respondents again were seeking to show an intention not to be bound by the fundamental terms of the contract. Because the claimant has therefore not established any fundamental breach I do not have to go behind that and ask the further questions is the reason for that fundamental breach in fact that she had made a protected qualifying disclosure. So both the claims of ordinary unfair dismissal and automatically unfair dismissal are dismissed.

Protected qualifying disclosure detriment

47. In terms of the protected qualifying disclosures, as I have said a number of concerns are accepted as meeting the definition. But what that means in this case is that there has not been a detailed delving down in to what was actually said. It has been dealt with much more in a broad brush way saying these

matters do raise concerns. It is accepted that they fall within the definition but some of them are still somewhat imprecise. But the key question in this case is whether any of the alleged detriments were done on the ground that the claimant had made any of those admitted disclosures. And in this context, where there is an alleged detriment it is for the respondent to show the ground on which any act or deliberate failure to act was done. But that presupposes that there is identified a deliberate act or deliberate non-action on the part of the respondent.

48. So dealing with the alleged detriments the first is said to be labelling the claimant as being negative in respect of a reaction to be expected to manage unsafe and unrealistic mobilisation targets. The immediate difficulty to observe, as has been pointed out by Mr Rutledge, is that this does not obviously relate to an act or a failure to act but rather an attitude.
49. In the course of evidence there are two matters that are relied upon. One is that at some later mobilisation meetings where the claimant, and indeed her colleague Mrs Rogers, expressed their concerns about the way that mobilisation was moving forward, it is said that she experienced eye-rolling. That is an allegation that has only been made in the oral evidence in this case. It did not form the subject matter of any part of the grievance, it was not in the claimant's witness statement and I am not satisfied that she has established that that is an act on the part of the respondent which can reasonably be construed as subjecting her to a detriment, that is placing her at a disadvantage in the workplace.
50. More particularly this allegation appears to stem from the recorded comments of the manager Rebecca Nielsson formerly known as Rebecca Blundell. When she was interviewed by Mr Davis on 18 July 2024 she made reference to the claimant particularly in the last mobilisation meeting, together with Mrs Rogers expressing "negativities". However, there is no evidence that I can see that Miss Nielsson reflected that potential view of the negativities raised at meetings in any acts towards the claimant or indeed Mrs Rogers. In fact, I have been referred to documents from early February where the interactions between Miss Nielsson and Mrs Rogers appear to entirely amicable and supportive and with recognition of the stresses faced by Mrs Rogers in dealing with the mobilisation programme as well as dealing with the stresses of those few residents who were already in place. And equally on 7 February Miss Nielsson engaged with the claimant in introducing her to the facilities for the new developments. Following the meetings the claimant takes exception to reference to there being treated as "take away points", but there do appear to be provisions stated to be put in place with further contact with either the claimant or Mrs Rogers to address some of their concerns.
51. This matter is most appropriately addressed when I look at the way that Mrs Attenborough dealt with it, because she revisited it on the appeal, reinterviewed Miss Nielsson and specifically asked her about these matters. Of course the claimant had made the point that what has been described as "negativities" by Miss Nielsson was in fact her making protected qualifying disclosures. But almost by definition if somebody does make a protected qualifying disclosure it is expressing a negative. That is what a disclosure is. It is disclosing information that shows something had gone wrong or was likely to go wrong. Mrs Attenborough dealt with this at great length in her outcome and

I am satisfied that as far a burden falls upon the respondent to show the reason for an act Mrs Attenborough was very clear that what Miss Nielsson was describing was concerned with the manner in which these legitimate concerns were raised, not the fact that they had been raised at all. And that is a perfectly permissible distinction. Detrimental treatment because of the way somebody raises a protected disclosure is not unlawful under the Act, only detrimental treatment on the grounds that they made the disclosure itself. So I am not satisfied that that gives rise to any actual detriment and certainly not on the ground that a claimant had made any of the disclosures.

52. The second allegation relates to the claimant allegedly in her professional role and responsibility being undermined, belittled or disrespected by Kayleigh Foster in the presence of junior members of staff. This relates also to further allegations that the claimant was not given specific notice that Claire Rogers was leaving her employment and that the claimant was not told specifically who would assume the responsibility of registered manager of Montagu Gardens when Mrs Rogers left.
53. Claire Rogers, with whom the claimant shared concerns about the way that the respondents managed their business, tendered her resignation on 28 February 2024. She then agreed that she would give longer than her contractual notice and was due to leave after three months. The claimant knew that Mrs Rogers, had resigned and she was told by Mrs Rogers why she felt she had to take that step. In evidence the claimant said that even from that very first stage, 28 February, the respondent should have kept her informed as to what steps they had envisaged to replace Mrs Rogers as resident manager. But I can see no basis whatsoever for saying that that failure to implement that succession planning at an earlier stage or to involve the claimant in it had anything to do with the disclosures that she had made prior to that date. But what then happened is that on 7 March Mrs Rogers sent a letter to her employers. It is described by the claimant as a whistleblowing letter. I am not at all clear that it would meet the definition. Primarily it is to explain that Mrs Rogers would be unable to attend the scheduled meeting and to provide in writing the information that she would have given to that meeting, which was an update on the situation, staffing issues. She did expressly state that she would then like a further opportunity to meet to discuss those matters.
54. On 11 March which was the following Monday Mrs Rogers was not in work and the regional manager, Kayleigh Foster, came looking for her. She and Mrs Rogers then arranged to meet outside of the workplace at a coffee shop. Following that meeting it was understood that Mrs Rogers would no longer work her extended notice period but would leave with immediate effect. On Mrs Rogers' own evidence it was she who first raised the possibility that this may be an outcome from that meeting, because she asked Ms Foster without any prompting whether she should bring her company laptop and equipment to handover. On balance, however, it does appear that this would have been in law a dismissal by the respondent. The period of notice they may have been required to give Mrs Rogers might, though, in fact have been as short as the statutory one week and Mrs Rogers was in fact paid until the end of that month, March, a further three weeks. Following that termination of Mrs Rogers' employment, Ms Foster then returned to Montagu House and spoke with the

claimant and Courtney Plant who as the assistant manager was now in fact the most senior person in site, in terms of the local management at least.

55. There is a dispute as to how that meeting was conducted. The claimant has always categorised it as Ms Foster behaving inappropriately, being cold towards her. As against that account I do have the versions of that meeting given to Mr Davis by both Courtney Plant and Kayleigh Foster. As I have said Courtney Plant has not been able to attend to give any evidence about what actually happened but I repeat that I accept the accuracy of the records of her interviews both at the grievance and at the appeal stage. Ms Foster has since left the company. It is quite apparent that she is not engaged with this Tribunal process, she has made a statement and attended to give evidence but effectively has just reiterated what she said in her statement. But looking at those accounts of Kayleigh Foster and Courtney Plant as given, which are essentially supportive of each other, I prefer those to the evidence of the claimant. The claimant was obviously upset when she was informed that Mrs Rogers would not be coming back, but both Courtney Plant and Kayleigh Fister then record that she responded somewhat emotionally or aggressively stating what right did Kayleigh Foster have to come and talk to her, she was not her manager, she was not going to engage with this. There is evidence from both Plant and Foster that the claimant referred to Ms Foster as Barbie, that is presumably to identify her as plastic and cold, and it is suggested she may have been specifically referred to as a blonde Barbie. It is not however immediately apparent how that could be at all an accurate description physically of Ms Foster. The claimant has also frankly accepted that she believed the relationship of trust and confidence had already broken down by this point. She was predisposed to believe that she and Mrs Rogers may in some way be targeted. Ms Foster did ask to speak to the claimant in private having been engaged with Mrs Rogers who had summarily left employment, it is not an unreasonable question to ask the two most senior members of staff with any responsibilities on site for Montagu House whether they too had any intention of leaving, particularly given the difficulties that have been imposed by the loss of the resident manager at that point.
56. So I do not on the facts accept the claimant's account that this was an undermining, belittling of disrespecting of her in the presence of a junior member of staff. And as I say Ms Plant was by this stage effectively acting as manager as Mrs Rogers was no longer employed.
57. Following that the claimant was removed from a WhatsApp group. There are, I accept, potentially differing accounts as to the respondent's rationale for that, but cumulatively I am satisfied they all add up to a satisfactory explanation from the respondent which has nothing to do with the claimant having raised a protected disclosure the last of which would have been at the 21 February meeting. There were clearly problems with the operation of that group as to whether it was used appropriately, there was also a vulnerable resident who had access to it. Concerns about its continuation I accept had been raised. It was now a group to which Mrs Rogers of necessity would not be a party and also the claimant having then left and gone off sick would not have been immediately involved in any matters. I accept the respondent's evidence that the ultimate intention was to close that group altogether, and the claimant was removed that afternoon. But the reason I am satisfied was a combination of

those various although potentially contradictory concerns about the appropriateness of keeping that group in operation and not because the claimant had made a protected qualifying disclosure.

58. The respondent did not fail to pay the claimant enhanced sick pay because she made a disclosure. They failed to pay it because they did not have the documentary evidence to support her contention that she was contractually entitled to that.
59. I accept that the claimant's grievance was progressed in a reasonably timely manner. I accept that the respondent did carry out a reasonable grievance investigation in reasonable compliance with the ACAS Code of Practice, which requires such an investigation but does not expressly require a quasi-judicial process of taking evidence on both sides. And although there were delays in providing an outcome to the claimant's grievance, the reasons for that are explained both by Mr Davis and then by Mrs Attenborough and they are nothing to do with the claimant having raised any disclosures. I have already therefore dealt with the alleged failure to follow the ACAS Code which I hold was not unreasonably breached.
60. There is a reference to allegedly committing data breaches. This appears to be a matter that came up in the documentation in preparation for the case management hearing. It is not part of the original claim. There was no formal application to amend to add it as a further complaint and it is unclear what is envisaged. The best I can establish on the evidence before me is that the claimant, when she made a subject access request in relation to contractual documents, was provided with a pro forma version of a contract of employment, not specifically her own psychological support role. The version provided to her bore the name of somebody else and their signature, but not as I understand it any personal details about them. But in any event if that happened there is no basis whatsoever for believing that that was done because the claimant had made any disclosure. This SAR request was of course handled by Mr Drakeford the data protection officer and not by those actively involved in the grievance process. There is no suggestion that it was done because the claimant had made a disclosure or even that Mr Drakeford knew about those matters.
61. The next matter is that the respondent exposed the claimant to a working environment causing stress and deterioration in her health leading to her sickness absence from 11 March. And as we agreed at the start of proceedings that is to be taken in conjunction with paragraph 54 of the claimant's witness statement where she refers to those matters within her working environment. That is allegedly being placed in an operational role from June 2023 without supervision with unsafe and unrealistic mobilisation targets. Again, it is not possible to identify a specific act or failure to act on the part of the respondent. As I have already accepted the claimant was in a difficult working environment, it is a stressful role in any event even in the best managed of businesses. But logically if the claimant was placed in that environment and then as is accepted made disclosures in relation to that then being placed in that environment is not on the grounds that she made the disclosures. It is rather the other way round. She made the disclosures because she said she was placed in that environment.
62. So the most that could be argued is that the respondent deliberately failed to act in not addressing those matters earlier because the claimant had made the

disclosures about it, but that's not the matter that has been properly explored or what I could make any sensible conclusions that that in fact happened.

63. The next matter is that the respondents failed to consider and address the implementation of the occupational health report of 23 May. I set out the timeframe as to how the respondents proactively took up the referral to occupational health. The author of the report, as is quite common in these situations, stated that they did not identify any particular adjustments to work that would assist the claimant but identified that the issue preventing her return was her perception of problems with the respondent. And unless those could properly be resolved there was no reasonable prospect of her returning. So they suggested that that might in the circumstances be done by departing from the normal procedural on grievances and dealing with the matter on the papers which the respondent adhered to. But the respondent therefore did not fail to deal with those recommendations. They did seek to continue to progress the matter and I do observe that Mr Davis on 22 June when he was trying to chase up the apparent failure to provide further grievance particulars and then again on 1 July, just before that matter was finally resolved, does expressly quote from the occupational health report and observe that he is well aware of the requirement to try and progress these matters as quickly as possible. He is not ignoring it. Quite the opposite he is taking it into account in seeking to progress these matters.
64. The final matter alleged is a purported inadequate and incomplete response to the claimant's data subject access request. Again this is somewhat imprecise. If I had to decide it, I have expressed my views to the respondent that this is not a *Tiplady* type situation because it is a request for information held by the employer in their capacity as employer and not in any other sense. But it is hard to identify what the complaint is. There was a subject access request. Mr Drakeford as the responsible manager dealt with that. The claimant now says that she is and her solicitors consider that an inadequate response but Mr Drakeford's unchallenged evidence is that he received no further communications to suggest that anything additional was required. I have seen a purported list of failures prepared apparently by the claimant's solicitors, I have expressed my provisional view that many of those matters do not obviously relate to personal information of the claimant which would be required to be provided under the SAR, but more particularly in any event Mr Drakeford on his unchallenged evidence had stated that he dealt with that request as he believed it to be appropriate and not because the claimant had made any protected disclosure.
65. So I appreciate it has taken some time to go through all the issues but this has been an extensive case dealing with those matters. But the end result as I expressed at the outset of this decision is that the only complaint that succeeds is that the claimant is entitled to the balance of her contractual pay for the six month period. If it is possible to resolve that matter shortly, we will do so otherwise it may be that it has to be adjourned for an agreement on the figures.

Approved by Employment Judge Lancaster

Date 16th January 2026

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