



EMPLOYMENT TRIBUNALS

Claimant: Dr M Mclean

Respondent: Bradford Teaching Hospitals NHS Foundation Trust

Heard at: Leeds

On: 15-17, 20-24, 27-30 April, 1 May (deliberations only) and 5 May 2026

Before: Employment Judge Maidment

Members: Ms K Grace
Mr DW Eales

Representation

Claimant: In person

Respondent: Mr R Stubbs, Counsel

JUDGMENT having been sent to the parties on 7 May 2026 (and reasons having been requested by the respondent) summary reasons are provided as set out below:

SUMMARY REASONS

1. The claimant's complaints are all of whistleblowing detriment. The first question for the tribunal is then whether the claimant made a protected qualifying disclosure.
2. The first in time, and the most significant, the claimant would accept, of those relied upon is that he told the respondent, that it had failed to investigate 3 neonatal serious incidents ("SIs) within a reasonable timescale despite a national timeframe requirement set out in the national NHS

England SI Framework. He did this initially through his emails of 11 November and 27 November 2022 to the respondent's CEO

3. It might be thought that it is difficult for an NHS employee to raise issues of neonatal deaths and injuries to newborn babies and yet not be regarded as being a whistle-blower. Indeed, it probably is. The claimant certainly provided information critical of the handling of neonatal SIs. Did he however do so in the reasonable belief that the information disclosed, tended to show a breach of a legal obligation or health and safety?
4. As relevant to his subjective belief, the claimant had never been employed within the NHS and the tribunal has not been told of him having any medical or clinical knowledge or experience. On the other hand, he was the most senior person within the respondent, privy to reports made to the board by various academies, including the one tasked with ensuring quality and patient safety. He had the ability to obtain whatever information he wished to see, to require executives and clinicians to provide reports and to have direct access to all relevant people if he had any queries or concerns. He was tasked with the responsibility of overseeing the respondent's activities, including in terms of their contracts with commissioning bodies and their compliance with the license granted by NHSE, without which the respondent was unable to provide patient services. In a sense, when he raised concerns with his CEO, he was raising them with his subordinate, the person who reported to him. In terms of whistleblowing, he was in an unusual position.
5. Whilst the disclosure itself focused on investigation timescales, this was in the context that the claimant was asserting a wider failure to deal with neonatal SIs, the respondent failing its patients and their families.
6. The claimant was privy to numerous and extensive reports from the first occurrence of the neo-natal incidents in April 2021. The evidence, however, suggests a reluctance of the claimant to rely on what he is told or recognise a piece of information at all if it does not fit with his own narrative.
7. The claimant was notified, as chair, of the serious incidents on 28 April 2021 and, at an early stage, that, at the end of the internal investigation process, the incident reports would be submitted for an external independent review. As he had been told, by May 2021, rapid clinical reviews had taken place with early learning put in place. The quality academy had been assured of the appropriateness of the response to the incidents. The regulation and assurance committee, which the claimant himself chaired, had been taken

through a maternity services update – an update which was provided on a monthly basis and to the board every 2 months. The claimant, as chair of the regulation and assurance committee, reported to the board that assurances had been provided and that immediate lessons had been learnt and shared. His committee was informed in July 2021 that additional staffing had been brought into the neonatal unit and that a deep dive and thematic review was being undertaken. This was produced to the quality academy in July 2021 which reported it to the board.

8. Detailed reporting continued through the academies and at board meetings. The claimant was kept updated on the progress of the investigations, receiving them in early 2022 before then receiving the external review report from Liverpool Women's Trust which commended the respondent on the standard of the reports and the learning taken from them.
9. The claimant may reasonably have been unaware as to the exact regime applying in terms of any applicable timescale. Saying that, he had been told that the investigations were being conducted in accordance with the new PSIRF methodologies. The significance of that may not have been fully obvious to him, but he raised no enquiries. He had not been specifically told that, during Covid, the 60 day timescale in the SI framework, whilst never absolute, had been suspended. However, the evidence is not that the claimant was concerned about progress against any particular timescale.
10. Clearly, he had not raised any query or concern in respect of the speed of the production of reports by 28 September 2021 as he asked Prof Dawber by email that day how they were performing in recent times with reference to timescales saying that he genuinely did not know and hadn't enquired of anyone else. He said: "I imagine sticking to timescale targets may have been tough in recent times." The tribunal does not accept that this was a straightforward general enquiry and that he had separately raised issues of concern regarding the progress of the April SI investigations.
11. When there was correspondence with the claimant about outstanding SI reports in January 2022, the claimant responded to Ms Tomlin of the quality team: "Absolutely no time pressures from me on this." Prof Pickup informed the claimant in February 2022 that she had agreed with Dr Smith that incident reports had to be produced much quicker in the future. It was clear to him then that she was aware of the need for timeliness and was proactively managing the issue. The claimant responded thanking her for the email.

12. When the claimant was interviewed by Ms King in March 2023, he said to her that “timescale was not such an important issue”. The words recorded are clear – he was not simply recognising here a balance between the need for speed and the risk of rushing an investigation.
13. After the report of Liverpool Women’s Trust in June 2022, the claimant raised no issues in respect of the April 2021 SIs until his email to Prof Pickup of 11 November 2022. As relevant also to the question of whether the claimant reasonably believed the disclosure to be in the public interest, had the claimant held a belief that the delays in the conclusion of the SI investigations tended to show a breach of a legal obligation or a health and safety risk, this would have been raised by him sooner. When all the learning had, to his knowledge, been implemented, the assertion that the reports should have been completed more quickly does not sound as one where the claimant had in mind a breach of legal obligation or risk to health and safety.
14. The claimant clearly sees himself as a “hands-on” chair, diligently scrutinising the actions of the executive in order to ensure the best possible and safest service is provided to the community in Bradford. If he had concerns, he ought reasonably have taken steps to understand what had happened even by just refamiliarising himself with all the reports he had already received and effectively approved. The tribunal struggled to understand what Prof Pickup was being criticised for by the claimant and can only discern from him that he believed she ought to have managed the process more closely and held the clinicians involved and the people to whom they reported, to account for not ensuring that the process was concluded more quickly. Dr Smith said, at the meeting of the members of the board on 2 October 2022, that if anyone ought to be being criticised he, as chief medical officer and one of the executives on the quality academy, should have been more in the firing line. The timing and the way in which the concerns were first raised is not suggestive of a reasonable belief on the claimant’s part that there had been or was likely to be any breach of a legal obligation or health and safety.
15. The tribunal indeed rejects further that the claimant at the time of his disclosures reasonably believed them to be made in the public interest. Without an understanding of the full context, it might appear a surprising conclusion that a chair of an NHS trust raising issues of delay in the investigation of serious incidents in neonatal did not have a public interest motivation for his disclosure. The tribunal fully appreciates that a person making a protected disclosure may have mixed motives, some of them

highly personal, yet still be making the disclosure in the reasonable belief that it is in the public interest.

16. In this case, however, the delay in the disclosure and the lack of prior reference to his concerns to Prof Pickup or others is indicative of a lack of belief of a need to protect the public. Of course, the claimant was party to discussions of the neonatal SIs and did, at times, ask questions and seek information. The evidence is, however, of him being satisfied that the incidents had been appropriately dealt with and that there was no ongoing vulnerability within neonatal services which might be a risk to patients.
17. The claimant's raising of concerns to Prof Pickup on 11 November 2022 came out of nowhere, certainly in terms of him having any genuine public interest concerns. It is inexplicable, in its tone and timing, without the claimant having undergone some form of metamorphosis or some "lightbulb moment" or him reacting to a perceived and unwelcome challenge, as is the respondent's case. There is no evidence of the claimant having just discovered something or of some other form of "lightbulb" moment. The tribunal can only conclude that indeed the claimant raised the concerns because of an element of pushback from the respondent's senior executives when the claimant, amongst other things, was seeking a more granular level of oversight which would create a substantial amount of additional work for executives with little perceived benefit and in the context of the claimant adopting, indeed on his own perception, a more dictatorial approach. The claimant appeared to be in danger of blurring the lines between the role of a non-executive and executive officer of the respondent.
18. Up until the point of this email, the claimant was taking Prof Pickup through a routine appraisal where achievements against objectives and the setting of new objectives had been under consideration, but without any hint that the claimant was dissatisfied with her performance. Previous appraisals of Prof Pickup had been very good and there had been no discernible change in her performance up to the point of the 11 November email. The claimant himself recognises that, of all the 9 issues he ultimately raised, 2 of them, including the issue of the neonatal SIs, were most important. The inclusion of many of the issues, as will be explained, is representative of the claimant looking for things to criticise Prof Pickup for. It was very much an exercise of him "scraping the barrel".
19. Had there been considerations of public interest in the claimant's mind, the confinement of his raising of these issues to a private internal appraisal of the CEO is surprising. If he was whistleblowing, he was whistleblowing to the person he considered was knowingly acting improperly. He did not turn

his mind to the respondent's Freedom to Speak Up Policy or the involvement of the respondent's own board or the Council of Governors or NHS England ("NHSE") as the ultimate regulator. To adopt, by way of illustration, some of the more emotive language featuring at times in this case, would a trust chair who considered that the respondent hospital was causing babies to die and that the public needed protecting, sit on that knowledge for months (or certainly, putting the claimant's case at its highest, raise issues only in passing) and then only raise the concerns as individual performance criticisms in a private appraisal process?

20. The claimant's subsequent widening of the scope of his disclosures was prompted in fact by Prof Pickup seeking to involve another, Ms Lawreniuk, as senior independent director. The claimant did not in reality see himself contemporaneously as making protected disclosures.
21. The claimant added the final 3 issues of concern only after Prof Pickup's entirely understandable and justified upset at the first 6 issues being raised in the way they had been and in circumstances where, had they been real and substantive concerns, they could and would so easily have been included from the outset.
22. The claimant did, in January 2023, escalate the concerns to NHSE, but for the purpose of procuring their intervention on his side in a personal battle he had commenced with Prof Pickup and because she had provided information which tended to demonstrate the lack of foundation of many of the concerns he raised.
23. When the issues were raised to Ms King, as part of her independent investigation, the purpose was to persuade her to find that Prof Pickup was guilty of serious misconduct. The further raising of the issues to NHSE in September 2023 represented a further escalation, and, indeed with an element of exaggeration and sensationalism, to seek to pressurise them to achieve his aim which, by then, the tribunal must conclude was the removal of Prof Pickup as chief executive.
24. The aforementioned findings are relevant to all nine issues which the claimant raised.
25. The suggestion that Prof Pickup ignored a real and credible threat of suicide was a misrepresentation of a situation in which the claimant and Prof Pickup had been involved in May 2022. The claimant cannot have reasonably believed that he was disclosing that Prof Pickup had ignored an extant risk

of an employee suicide. The correspondence from the trade union representative cannot have reasonably been read that way. The claimant had in this matter been quickly reassured that the respondent was dealing with it and it was not something he raised with Prof Pickup at the time. Again, the raising of this concern on 11 November 2022 comes from nowhere. It is, on the evidence, likely that the claimant had just been reminded of the matter at the recent board meeting and sought to retrospectively turn it into a matter of concern which he did not have at the time. The concern was raised to construct a case of poor performance against Prof Pickup, with no consideration of public interest and no reasonable belief of a breach of legal obligation or failure to address a health and safety risk. The claimant did further seek to exaggerate the situation in his January disclosure to NHSE. The tribunal struggles to categorise this incident as anything other than a quite common HR issue which the respondent was seeking to handle appropriately.

26. Similar considerations apply to the next issue of a failure to treat an employee's complaint of discrimination with adequate care and attention. The claimant became involved in the matter because of correspondence directly to him. He discussed it with the respondent's HR director and was satisfied at the time as to how the matter had been dealt with. The claimant raised nothing with Prof Pickup about her involvement from May until 11 November 2022. There was no reasonable belief of any wrongdoing, nor that he was raising a matter in the public interest.
27. The claimant raised as a concern Prof Pickup's disruptive blocking behaviour regarding the provision of information to NEDs. The claimant has not assisted the tribunal in seeking to identify a breach of legal obligation in his mind, though it assumes that he is seeking to rely on some form of breach of governance or the respondent's constitution or the board's statutory responsibilities. The claimant accepted that Prof Pickup was entitled to reach a conclusion that a particular presentation would be too technical and not useful to non-executive directors ("NEDs"). There was a request that the COO be excused from a briefing to NEDs due to operational pressures arising out of the Covid pandemic, but the briefing did in fact take place as the claimant requested. A NED was appointed to the patient safety group, Prof Pickup acceding to the claimant's request. The claimant could not reasonably have regarded such routine matters as amounting to a breach of any legal obligation (or concealment of such breach) and, again, they were not raised in the reasonable belief that the disclosure was in the public interest.

28. The claimant's next concern about Prof Pickup's failure to attend or arrange for an executive colleague to attend a new staff induction exposes in the claimant a level of pettiness and desperation in his desire for Prof Pickup to be found to be guilty of poor performance.
29. The raising of concerns about Prof pickup's failure to attend meetings was generalised and in circumstances where Prof Pickup had good reason for missing all the meetings which she effectively detailed herself, where she had sought permission and where it was granted – the claimant understanding the conflicting demands on her presence.
30. The concern about Prof Pickup's refusal to support or produce a health inequalities strategy was baseless, as the claimant knew. He had been satisfied in April 2022 when Prof Pickup explained the health inequalities strategy. He knew that health inequalities were part of the remit of the Equality and Diversity Council which Prof Pickup had set up. This was part of Prof Pickup's appraisal objectives which she had been found to have met in November 2021. A report had been made on health inequalities as recently as the board meeting on 10 November 2022.
31. There was no reasonable belief of any wrongdoing and no belief that this matter was being raised in the public interest.
32. The claimant then raised that the respondent was taking over a year to respond to a written instruction from NHSE to analyse waiting lists by ethnicity and deprivation. In fact, the claimant accepted before Ms King that this was not an instruction. Further, he knew that the respondent was seeking to provide a breakdown by reference to learning disabilities first. A report had then been provided in July 2022 which the claimant was clearly satisfied with at the time. The claimant has not assisted in explaining where a breach of legal obligation might arise and the tribunal must conclude that he did not have a belief that he was disclosing any wrongdoing or in the public interest.
33. The claimant's final concern was of Prof Pickup failing to inform him regarding incidents of violence against accident and emergency staff leading to the claimant only learning of this when notified by a local newspaper article.
34. This did relate to a single incident in December 2021. The claimant in fact knew at the time he learnt of the incident that Prof Pickup herself had been unaware of the particular incident. There was no concealment. Prof

Pickup gave him information about the incident as soon she became aware of it. The claimant subsequently referred to an incident where a patient had escaped onto the hospital roof in August 2022, necessitating the calling of the emergency services. The claimant asked that he be kept apprised of such incidents and Prof Pickup confirmed that she would take steps to do so, whilst warning the claimant that incidents of this type were not infrequent.

35. The claimant had no public interest in mind in raising this issue and re-raising it through and after the process of investigation. He had no reasonable belief that this tended to show any wrongdoing.
36. On the tribunal's conclusions the claimant did not make protected disclosures and therefore cannot have suffered any detriment because of any such disclosures.
37. The tribunal has obviously, nevertheless, heard extensive evidence regarding the detriments which the claimant says he suffered. Indeed, a quick answer to this case is found on the question of causation.
38. The claimant was treated to his detriment in him being asked to resign, including in circumstances where the alternative option was the instigation of a formal process which might have led to the respondent removing him as chair. The claimant did resign. There was no decision to accept that resignation in the sense that resignation is a unilateral act and the respondent had no effective choice in the matter. Certainly, however, the respondent received the resignation as an effective resolution and as ending the claimant's relationship with the respondent.
39. There had been, by 3 October 2023, a fundamental breakdown in relationships between the claimant as chair and Prof Pickup as the respondent's CEO. This was a pivotal relationship in the functioning of the respondent and a situation had developed where the claimant and Prof Pickup were only communicating with each other in formal meetings and at set piece events. This was a situation beyond merely unhealthy - it was the conclusion of the board (with the exclusion of the claimant and Prof Pickup from any decision-making), that the situation could not be allowed to continue.
40. The concerns raised by the claimant on 11 November 2022 were the genesis of the breakdown in relationships. They formed part of the relevant

background to the respondent's decision to ask the claimant to resign. They were not, however, the reason why he was asked to resign.

41. On the tribunal's findings, responsibility for the breakdown in relationships lay primarily with the claimant. He raised concerns about largely historic matters with which he had had no concern at the time. He misrepresented and exaggerated those concerns. He raised them in a tone and manner which was unjustified. The respondent's policy on appraisals suggests that criticisms during an appraisal process ought not to come as a surprise to the appraisee. In this case they came out of nowhere as a complete shock to Prof Pickup and reasonably so. A chief executive receiving a communication in the terms of the claimant's 11 November 2022 email would be likely to conclude that trust and confidence in them had been lost and that they were heading towards a process which would result in the termination of their employment. There is generally no way back from such a communication to someone at Prof Pickup's level.
42. From the multitude of evidence which has been presented to the tribunal, it still has not identified any misconduct or lack of personal performance on Prof Pickup's part. The claimant himself has struggled to articulate any.
43. However, the board was presented with a report where both Prof Pickup and the claimant had been found to have fallen short of the standards to be expected of them, albeit not to any serious extent which would involve, for example, a breach of the Nolan principles or which might lead to any process to remove either of them from their positions. The claimant was (and remains) blind to any findings about his own behaviour. Rather than straightforwardly accepting the report, he lobbied for action to be taken, undoubtedly hoping that Prof Pickup would be removed.
44. Whilst the claimant, during the investigation, had made some comments suggestive of a potential willingness to mediate, such comments were significantly caveated. He saw Ms King's report as a vindication of his own position that he had raised serious concerns and that Prof Pickup ought to be taken to task for them, rather than as an opportunity for peace and reconciliation.
45. Without any thought or regard to such issues, however, the board determined to accept the report and the key recommendation that the respondent should seek to resolve the issues through a mediation between the claimant and Prof Pickup. Whilst Ms King had referred to the possibility of another form of conversation if mediation was not possible, her

recommendation was for mediation and it is difficult to conceive of her suggestion that the parties might have an opportunity to say how they felt to each other as anything other than a form of or precursor to a mediation.

46. The respondent determined to ascertain the claimant's and Prof Pickup's view on their participation in a mediation. Ms Lawreniuk approached her task of ascertaining their views fairly and in a determined effort that she treated them equally. The tribunal accepts that Prof Pickup told her verbally that she would be willing to mediate and that this was confirmed in writing on 2 October.
47. The claimant was asked for his position on mediation. He was asked that question directly and unequivocally. He replied saying that he could not in good conscience work with Prof Pickup. That was the same message he had given to Mr Barker of NHSE in an effort to persuade him to intervene. It was certainly the message he gave to the respondent, which was reasonably understood to be a refusal to mediate. Indeed, the statement could not reasonably be interpreted in any other way. It was not qualified by any suggestion by the claimant that, despite his view of the CEO, it might be possible to build bridges between them.
48. Fundamentally, Ms Lawreniuk genuinely believed the claimant to be rejecting the recommendation of mediation. She did not in any sense mislead the members of the board when she read out his and Prof Pickup's response to the request. The other board members came to their own similar understanding of the claimant's response. It was not inappropriate for her to have failed to have highlighted to the members of the board that the claimant had at times in the investigative process said that he might mediate. Indeed, that was of no relevance. Things had moved on. A report had been produced and, in the face of this report, the claimant would not mediate.
49. Nor was the claimant misled as to why he was being asked. It was obvious that his response would feed into a consideration of what decisions the board would have to take if he and the CEO could not work with each other. Ms King had previously discussed with the claimant that he might have to step down if he did not accept the recommendations of the report.
50. Ms Lawreniuk conducted the meeting of board members on 2 October 2023 in a professional and scrupulous manner to ensure everyone in attendance had an opportunity to explain their position on whether the claimant or Prof Pickup might have to leave the respondent. She ensured that the members

of the board had an opportunity to speak freely in an effective “safe space” and without any influence from herself as to her own preference. Obviously, she had her own preference formed prior to the meeting, but this was no premature pre-judgement. In any event it was not because of any of the claimant’s disclosures, but because, in the context of a relationship breakdown, only one individual was willing to seek to repair that breakdown and that was the person the respondent could ill afford to lose in circumstances where a chair was eminently more replaceable than a CEO.

51. The members of the board came to a consensus along the same lines. Each individual in attendance was of the view that the claimant should be asked to resign. The closest the claimant comes to a taint in any decision-making by his disclosures is reference made by Dr Smith and Prof Dawber to their view of the concerns the claimant had raised and a questioning of his genuineness and motivation in so doing. On the tribunal’s findings, those views were substantively justified. Neither, in any event, was suggesting that the claimant step down because he had raised concerns.
52. The claimant thereafter was asked to resign and communicated his own decision to resign after it was finally clear to him that NHSE would not intervene and take any form of action against Prof Pickup. The claimant was not removed from his office and there was no failure to follow due process, therefore, for the removal of a chair. Had the claimant determined not to resign, then such process would have been initiated - it was the claimant’s choice not to go down such a process and effectively not to fight his corner.
53. The claimant’s further detriment complaint relates to the respondent’s communication strategy after his resignation. It is perhaps unjustifiably grandiose to describe the respondent as operating any form of communications strategy in the sense of a planned form of messaging. The respondent was very much in a reactive mode issuing effective press releases/responses to articles which were about to be or had already been published. It sought to ensure that its staff and partners received the same message in circumstances where otherwise their knowledge might have been limited to what they had read in the press.
54. The tribunal does conclude that the respondent’s press release did not give a full account of the conclusions of Ms King’s report. The release suggested that there had been no finding that Prof Pickup had fallen short of standards, not just those standards encompassed within the Nolan principles. That was inaccurate. The context was that the claimant had raised concerns. The press release was reasonably viewed by the claimant as suggestive that his

concerns had been found to be without substance. Ms King had found them to be of some substance. He did therefore suffer a detriment.

55. The context was of the claimant having sought to, at the very least, feed a campaign against Prof Pickup and the respondent which he knew amounted to a distortion of reality and a sensationalisation of his concerns. The reference to the Lucy Letby case was an obvious example and an example which the tribunal concludes came from the claimant. The potential effect of the press coverage was a loss of confidence in the respondent to take care of, in particular, pregnant women or their newly born babies. The respondent was worried that people might not receive the care they needed because of their unwillingness to engage with the respondent out of fear stoked by the distorted press coverage. The respondent was seeking to take action to try to restore the public's confidence and to provide reassurance to its staff.
56. The claimant himself suggested in these proceedings that the respondent was seeking to protect Prof Pickup and limit the damage. Indeed, the respondent was trying to rebut misleading attacks on her and its neonatal service. That was the reason for the nature of the communications. The respondent did not want to suggest that Prof Pickup had been found to have fallen short of standards as the message that would send out was damaging to the respondent in circumstances where there was no basis for concluding that Prof Pickup was anything other than an effective leader of the respondent, but where any nuances in terms of a recognition of what Ms King's findings amounted to was likely to be lost in the public arena. It wanted to concentrate on the most serious allegations, which, if upheld, might have made Prof Pickup's position untenable. That was certainly the case given the nature of the press campaign the claimant was behind. The tribunal concludes that the communications were in no sense whatsoever because of the concerns which the claimant had raised.
57. Ms Hirst's approach to the board meeting on 16 November 2023 was influenced by her desire to avoid a You Tube recording of upsetting comments being made about Prof Pickup and the potential visible effect on her. There was no motivation of a more general concealment, and the full transcript and minutes were published on the respondent's website. Again, in no sense whatsoever was her approach because of the concerns which the claimant had raised.
58. Had the tribunal concluded, therefore, that the claimant had been a whistleblower, it would have concluded that he was not treated detrimentally because of any acts of whistleblowing.

Employment Judge Maidment

Date 8 May 2026

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

Notes

Full written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of these written summary reasons.

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>