EMPLOYMENT TRIBUNALS

Claimant: Mr L Fox

Respondent: Bury Council

Heard at: Manchester **On:** 28 April 2026

Before: Employment Judge Phil Allen

REPRESENTATION:

Claimant: In person
Respondent: Mr J Searle, counsel

INTERIM RELIEF JUDGMENT

The judgment of the Tribunal is that:

1. The application for interim relief is refused. It does not appear likely that in determining the complaint the Tribunal will find that the principal reason for the dismissal will be because the claimant made one or more protected disclosures.

REASONS

Procedure

1. This was an application for interim relief.

2. The claimant represented himself at the hearing. Mr Searle of counsel represented the respondent.

3. The hearing was conducted in person with both parties in attendance in the Manchester Employment Tribunal.

4. There had been a previous hearing on 13 April 2026 which had been intended to be the interim relief hearing, but for which insufficient time had been allocated for it to be heard and determined. Case management orders had been made at that hearing.

5. With regard to documents, the case management orders were for a bundle to be prepared and agreed so that a single bundle of documents was provided for this hearing. The parties had also been required to provide reading lists of the key documents which needed to be read. The respondent provided a physical bundle of documents, consisting of two lever arch files. It provided a list of key documents to be read from the documents in that bundle. The claimant appeared to have ignored the directions made regarding an agreed bundle. He provided a reading list and copies of the documents upon which he wished to rely, separately and electronically only. In advance of the hearing, I read all of the documents which the parties asked me to read. During the hearing, I referred to documents both in the physical bundle and in the electronic bundle provided by the claimant, as required.

6. Each party had prepared a written skeleton argument. I read those skeleton arguments in advance of the hearing.

7. The claimant had provided a table setting out the twenty-one alleged protected disclosures upon which he wished to rely. I referred to that table during the hearing. The respondent had responded to that table and had agreed that some of those relied upon had been protected disclosures, but denied it for others and summarised why it had done so.

8. The respondent provided in its bundle witness statements prepared by Stephen Tonge and Timothy Normanton. It did not seek to call either person to give evidence under oath, but I was asked to read those statements and did so before the hearing commenced.

9. Each of the parties was given the opportunity to make oral submissions. They each did so. I asked them questions during their submissions.

10. After hearing submissions, I adjourned the hearing to consider my decision. After the adjournment, I returned and informed the parties of my Judgment and the summary reasons for doing so.

11. The claimant requested full written reasons of my decision. As a result, those full written reasons are provided in this document.

Facts

12. As it was an interim relief hearing, it was not for me to make decisions on the facts. As a result, I will not record in this Judgment anything more than a broad summary of the relevant facts. Some of the relevant factual matters are set out in my conclusions below.

13. The claimant is a quantity surveyor. He was employed by the respondent from 5 January 2004 to 28 November 2025. At the end of his employment his role was programme manager (procurement and contracts).

14. In February 2021 the claimant identified a client tender which looked too good to be true. He considered that there had been collusion or inappropriate conduct on the tender. He raised that with the respondent. At a later date, the claimant identified what he believed to be clear evidence of inappropriate conduct. The claimant relied upon twenty-one disclosures which he alleged that he made from 1 February 2021

until 6 August 2025. Those disclosures began with the ones about the tender and then were about what the claimant believed to be a cover up and/or inadequate internal investigations undertaken as a result. Some of the later disclosures were made to councillors. The claimant was ultimately told in August 2025 to desist from contacting councillors, which he did. The claimant said that the twenty-one disclosures were protected disclosures.

15. The respondent accepted that the claimant made protected disclosures in 2021, 2022 and 2023. It said that the claimant was thanked for the information he disclosed and that steps were taken as a result. It did not accept that the majority of the disclosures were protected disclosures, particularly relying upon arguments that the claimant did not reasonably believe that some of the disclosures made were in the public interest, and for some others contending that the disclosures were not made to those required for disclosures to be protected under the Employment Rights Act 1996.

16. In 2025 the claimant was made redundant by the respondent. The respondent said that information had been provided as part of collective consultation at a meeting on 30 June 2025. There was some dispute about exactly what had been provided as part of that collective consultation meeting because the copy of the relevant report provided to the claimant on 17 July 2025 (which was purported to have been the document provided on 30 June), included word data that showed it had been created on 17 July. The respondent relied upon the document as showing the facilities management restructure and the reason why the claimant's role had been identified to be deleted and had been placed at risk. A quantity surveyor and a housing surveyor who reported to the claimant, were recorded as being moved to the housing function, something which the claimant asserted should also have happened to him in accordance with what the cabinet had previously approved.

17. Following a period of collective consultation, there had been a period during which it had been intended to have individually consulted with the claimant. The claimant did not wish to engage in that consultation; it appeared because of an ongoing or unresolved dispute which the claimant had with his line manager. No suitable alternative employment was identified for the claimant. He was notified in a letter of 5 September 2025 that he was to be made redundant on 28 November 2025. The claimant was paid for the notice period and was paid a relatively substantial redundancy payment (to which he was entitled).

18. The claimant alleged that he was dismissed in 2025 as a result of having made the protected disclosures. The respondent denied that he was and said he was dismissed by reason of redundancy.

The Law

19. Under section 129 of the Employment Rights Act 1996 the test I must decide at an interim relief hearing is whether it appears to me that it is likely that that the claimant's claim will succeed. Here the relevant claim was that of automatic unfair dismissal due to having made a protected disclosure under section 103A of the Employment Rights Act 1996.

20. In his skeleton argument, the claimant stated that for his interim relief application to be accepted I would need to find that it appeared that he was likely to be successful at a later Ttribunal hearing in showing that the reason (or if more than one, the principal reason) for dismissal was due to the claimant having made a protected disclosure.

21. In his skeleton argument, the respondent's counsel set out the test for a qualifying disclosure and reproduced section 43B(1) of the Employment Rights Act 1996 (which I will not reproduce here). He also set out what was described as the interim relief regime. He referred to a number of cases on the relevant interim relief test, including **London City Airport v Chacko** [2013] IRLR 610, **Taplin v Shipham** [1978] ICR 1068, **Dandpat v University of Bath** UKEAT/0408/2009, **Ministry of Justice v Sarfraz** [2011] IRLR 562 and **Wollenburg v Global Gaming** UKEAT/0053/18. From those cases, he said that the claimant must be able to demonstrate that his claim had a pretty good chance of success and likely means something nearer to certainty than mere probability. He also referred to various cases regarding what is a protected disclosure, which it is not necessary for me to refer to or reproduce in this Judgment.

22. In considering whether a claimant is likely to succeed, consideration must be given to all elements of the requisite test for a protected disclosure and for finding that such a disclosure was the principal reason for dismissal. I must carry out an expeditious summary assessment as to how the matter appears on the material available, doing the best I can with the untested evidence advanced by each party. This necessarily involves a far less detailed scrutiny of the parties' cases than will ultimately be undertaken at the full hearing. I am not required to make findings of fact. I must make a decision on the likelihood of success based upon a broad assessment on the material available.

Conclusions – applying the Law to the Facts

23. As I have explained, this was an interim relief hearing.

24. I considered whether the claimant was likely to succeed in his claim applying section 129 of the Employment Rights Act 1996. The relevant claim was for automatic unfair dismissal under section 103A of the Employment Rights Act 1996. Was the principal reason for the claimant's dismissal that he had made a protected disclosure? I applied the interim relief test as I have set out in the section on the law above. I would highlight that the test for the claimant to succeed at an interim relief hearing (pretty good chance of success/something nearer certainty than mere probability) is a tougher test than will be applied at the final hearing.

25. The first question was whether the claimant had made one or more protected disclosures? The claimant said he had made twenty-one protected disclosures on dates from 1 February 2021 to 6 August 2025. The respondent agreed that the claimant had made protected disclosures on some of those occasions. It was not in dispute that he had made protected disclosures in 2021, 2022 and 2023. It was disputed that the claimant had made protected disclosures on the other occasions. I did not need to consider at any length the issue of whether the claimant had made protected disclosures, because it was not in dispute that he had done. At the final hearing it will be important to determine exactly when the claimant made protected

disclosures and whether all twenty-one alleged were protected disclosures. It was not key for my decision.

26. The respondent highlighted and I noted that in the outcome provided to the claimant about some of the disclosures made, the claimant was thanked for raising the issues, remedial actions were said to have been taken, and lessons were said to have been learned (C158). There was also a detailed and lengthy outcome provided to the claimant's grievance (or, at least, one of his grievances) following an investigation undertaken by a third party. I heard the claimant's criticisms of the process followed by the respondent and his view that the clear proof he had provided had not been genuinely considered. However, I noted from the documented processes that were followed by the respondent, that the protected disclosures were certainly not ignored, at least initially and for the earlier disclosures.

27. In 2025 there was a reorganisation process undertaken. Many roles, including the claimant's, were affected by the process. A document (C22O) showed the review of the respondent's senior leadership structure and the pressing financial reasons for looking to make savings from back-office costs. Another document (C337) showed the housing services restructure and the reasons for it. Most importantly, a detailed document (C637/C676) set out the consultation proposal for the facilities management restructure, which involved the claimant. Collective consultation was undertaken with the respondent's trade union representatives under section 188 of TULRCA. There is a dispute about the accuracy of the document subsequently provided to the claimant regarding that consultation, but I did not understand the claimant to suggest that the collective consultation did not take place at all. I was also provided with feedback on issues raised as part of the collective consultation process.

28. The claimant was then offered the opportunity to meet as part of individual consultation, but he decided not to meet with his manager for reasons which appeared to me to be unrelated to his protected disclosures. As he did not engage, no suitable alternative employment was identified (although I was told it could have been). The claimant was made redundant by letter on the 5 September effective on the 28 November 2025, and he received a significant redundancy payment.

29. The consultation document identified the claimant's role as being at risk of redundancy. It was proposed that the post could be deleted in the revised facilities management structure. The claimant acceptive he was the only holder of that post in that part of the council. The claimant objected to the consultation document because it was highly personal and he could be clearly identified from it. He was right, but that did not, of itself, suggest that the proposal was not genuine

30. There is case law which suggests that pools of one should be carefully scrutinised. I noted that the claimant was the only person ultimately made redundant from the facilities management restructure. I understood and accepted that raised question marks about the process and whether the claimant was targeted. At the final hearing the Tribunal will need to scrutinise the reasons for the proposal and the process undertaken.

31. However, this was a case where:

31.1. there was a business case put forward to delete the claimant's unique role;

31.2. the business case appeared to me to be cogent and on the face of it rational;

31.3. collective consultation was undertaken with the trade unions about what was proposed; and

31.4. individual consultation would have been followed but the claimant refused to take part.

32. In those circumstances, I could not say it was likely that the claimant will show that the principal reason for his dismissal was the protected disclosure or disclosures he made. It is likely that the respondent will show that the reason was redundancy. At the final hearing the claimant will be able to challenge the genuineness of that reason and/or the fairness of the process followed. He might succeed in doing so. I am not in a position to say that he is likely to show that the reason for the dismissal was the protected disclosure(s) made, when, on the face of it, the respondent has put forward an alternative and potentially fair reason, and a full process was documented

33. The claimant's non-engagement with the redundancy process did not help his argument at this hearing.

34. In his skeleton argument, the claimant contended that he was dismissed via a fabricated redundancy process. He will be able to make that argument at the final hearing, but where the process followed was a relatively detailed and sophisticated one, I certainly could not say that it was likely to be found to have been fabricated.

35. I noted that the claimant said in his skeleton argument that the respondent had yet to provide any evidence to show how the redundancy selection process identified only the claimant for potential redundancy. I did not agree that no evidence had been provided, as the various iterations of the consultation proposal document were detailed and relatively clear. It did concern me that the claimant was uniquely made redundant after the relevant exercise. That will be a matter for evidence and argument at the final hearing. However, where the claimant fulfilled a unique role which was identified as being able to be deleted, the proposal went through collective consultation with trade unions, and the claimant did not engage with the individual consultation process or seek to identify suitable alternative employment, I considered that concern/position fell well short of making it likely that the claimant will succeed in his claim that his dismissal was because of his protected disclosure or disclosures.

36. I have not addressed all of the evidence and all of the arguments. I was provided with an enormous amount of documentation. By its very nature, an interim relief Judgment is a brief one based upon limited scrutiny of evidence which has not been tested. The Employment Tribunal who conducts the final hearing, will undertake a far more detailed scrutiny and consideration of the evidence and the arguments. Based upon the exercise I was required to undertake; my decision was that the interim relief application did not succeed.

Employment Judge Phil Allen

29 April 2026

JUDGMENT AND REASONS
SENT TO THE PARTIES ON

1 June 2026

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