EMPLOYMENT TRIBUNALS

Claimant: Mr Syed Ali Nasir
Respondent: DHL Services Ltd

Heard at: Cambridge Employment Tribunal via CVP
On: 28,29,30 April and 1 May 2026
Before: Employment Judge Andrew Clarke KC

Representation
Claimant: In person
Respondent: Ms Kirsten Barry, counsel

JUDGMENT

1. The claim for constructive unfair dismissal is dismissed.

2. The claims alleging unlawful detriments consequent upon the making of two protected disclosures are dismissed.

FULL REASONS

Introduction

1. By a claim form issued on 26 September 2024, the claimant alleged that he had been constructively unfairly dismissed; had suffered detriments by reason of the making of protected disclosures; had suffered unlawful deductions from wages due to the non-payment of notice monies and claimed arrears of holiday pay. That last claim was previously dismissed on it being withdrawn.

2. Evidence was heard from the claimant and from four managers on behalf of the respondent. These were:

   - Mr V Pandya

   - Ms Nadine Sheridan-Jones

   - Mr Callum Burgess, and

   - Mr Kevin Hynard

3. I am satisfied that each witness did their best truthfully to recall the material

events. However, I found the claimant's evidence somewhat unsatisfactory in two respects:

3.1 First, he repeatedly interrupted the respondent's counsel when he disagreed with what she was saying such that it was at times difficult to get him to focus on answering the questions.

3.2 Secondly, it became clear that he had constantly re-examined the history of his employment and concluded that the respondent's actions were all aimed at removing him as an employee. To that end, he has striven to re-interpret events and his recollection of events is not necessarily reliable for that reason. By way of example, when explaining one aspect of his case in cross examination, he placed Mr Hynard at the meeting on 27 March 2024 but then had to concede that he was not there. I have treated his evidence with caution but I emphasise that I do not consider that he was being deliberately untruthful. He is convinced that he has been very seriously wronged.

4. I was provided with an agreed bundle of documents. Most were relevant to the issue of liability and those I have read.

The facts

5. The claimant was employed by the respondent from 21 February 2022 until his resignation on 22 June 2024. There had been a short prior period of employment by the respondent but it is of no present relevance.

6. From February 2022 the claimant was employed as a First Line Manager (FLM). He reported to Mr Chad McCallam who himself reported to Mr V Pandya. They worked on that part of the respondent's business at Milton Keynes which serviced its contract with Sky. This involved fulfilling orders from customers of Sky for TVs and other hardware by picking and dispatching the appropriate equipment.

7. The respondent operates a two shift system at Milton Keynes. The AM shift works from 7 am to 3 pm and the PM shift from 3 pm to 11 pm. The claimant was initially employed on the AM shift. That shift's hours overlap with the working hours of the respondent's more senior managers. For much of the PM shift, the respondent has few, if any, managers on site other than the shifts FLMs.

8. In May 2023, the respondent began to implement plans to restructure its operations at Milton Keynes. This included reducing the number of FLMs and Team Leaders. This resulted in some redundancies. There were at least two consultation meetings with those potentially affected. The claimant's meetings were on 6 June and 4 July 2023. The claimant 's contract of employment did not specify his being employed for the AM shift, rather it stated that his shifts, shift patterns, and shift periods could be varied on the giving of one week's notice.

9. In the context of the restructuring, the claimant was asked to move from the AM to PM shifts, He was not threatened with redundancy if he did not agree, as he accepted during the grievance process referred to below. However, given the context of the request, the possibility of redundancy should he decline the move

would inevitably been in his mind.

10. There were good business reasons for putting the claimant on the PM shift. He was seen as an experienced manager capable of dealing with problems without resort to senior managers who would not be present for much of that shift. As part of the reorganisation another manager, who would otherwise have been made redundant, moved to the AM shift to be the Operations Managerial Systems Champion for the Sky contract. That was a role involving co-ordination with senior managers. The claimant could undoubtedly have done this but the other manager was seen as better suited to that role and the claimant to the PM shift FLM role. As already noted, in accordance with his contract of employment, the respondent had the right to move the claimant and he accepted this in cross examination. He also accepted that the AM shift would in future have only one FLM and that a lady called Alina had longer service than him as an AM shift FLM and had greater experience on the returns part of that job and, hence, he accepted that she would inevitably be the one FLM chosen for that shift.

11. The claimant would have preferred to stay on the AM shift but agreed to move shifts. He was promised that if and when it became possible, having regard to the interests of the respondent's business, he would be moved back to the AM shift. For the first time during cross examination the claimant asserted that he had been moved to the PM shift because, during an interview with the senior manager on site, he had complained about the cumbersome system for ordering replacement gloves. The move was, he suggested, in some way a punishment and he claimed that this was the beginning of the effort to get rid of him. I regard this as the product of the claimant constantly reviewing all events during his employment and finding meanings, motivations and significance that he did not see at the time. I am satisfied that he was moved to the PM shift because of his abilities and the needs of the business.

12. On 27 July 2023, the claimant raised a formal grievance regarding his move to the PM shift. At the heart of that grievance was the contention that he could have been left on the AM shift and given the OMS work. At his grievance meeting he explained that he was struggling with the PM shift pattern because his wife worked normal office hours and they might hardly see each other on his working days. He accepted, when cross examined, that this grievance was raised purely relating to personal matters; that he was not seeking to raise matters in the public interest and that he was not suggesting that even his own health and safety was being endangered.

13. The claimant received a grievance outcome letter on 3 October 2023. He was told that as the FLM on the AM shift, Alina, had just resigned, he would be moved back to the AM shift as soon as a suitable FLM for the PM shift could be recruited. The claimant was moved back to the AM shift sometime between January and March 2024. Given his current complaints and stated beliefs, it is surprising that the claimant cannot recall, even approximately, when the move took place during that period. The delay in moving him was because the respondent needed to find a suitably strong manager to replace him. Interviews did not yield a suitable candidate and, eventually, an existing manager was moved to that part of the site but this could not happen, until his existing post could be backfilled.

14. The claimant did not raise any grievance or less formal complaint relating to the delay in moving him back to the AM shift. I am satisfied that the delay was, as the grievance outcome letter foreshadowed, because a new FLM to work the more difficult PM shift had to be recruited and introduced.

15. The grievance process relating to this matter, looked at from the original email from the claimant to the outcome letter, took a little over two months. The claimant was himself on annual leave after submitting that grievance and a meeting was not arranged until 17 August. The respondent was then considering how it might get the claimant back to the AM shift. Once a route became clear this was discussed with the claimant and later the formal letter was written. There was no deliberate or unnecessary delay in that process.

16. In early 2024, the respondent introduced a new checking system with regard to the picking of correct items on the Sky contract. It was introduced because of concerns, particularly from Sky, about inaccurate picking such that Sky customers were being sent the wrong items including the wrong television. This was a particular concern as televisions are pre-programmed with the intended recipient's personal details. The wrong TV would not work for the recipient and would reveal personal data belonging to the intended recipient. FLMs and team leaders were to carry out five random checks per day and the data was then to be added to a live spreadsheet which was then reviewed the following morning and this data was part of the contract data supplied to Sky.

17. That review took place at the daily meeting of managers itself taking place at 8.45 each morning. These meetings were led by Mr Pandya, but the discussion of the results of the sampling exercise, which was usually dealt with as the last item, was led by the Inventory Manager, Ms Sheridan-Jones. The meetings were also attended by Mr McCallam, Ms Charlotte Tulloch, the Customer Account Manager for Sky contracts, Dan Bofan, the Returns Manager, and one or more FLMs. A periodic complaint raised by Ms Sheridan-Jones at these meetings was that managers were not completing or logging these inventory checks. This was, understandably, a matter of great concern to the respondent.

18. Such a meeting took place on 27 March 2024. The sole FLM in attendance that day was the claimant. Ms Sheridan-Jones again raised the point that managers were not doing the inventory checks as the spreadsheets which she put up on screen showed. She did not say that no managers were doing them, nor did she direct the comments at the claimant; she was not aggressive; she did not shout or point her finger at the claimant; and she did not tell him to stop talking, save politely in the circumstances described below. When he interrupted what she was saying she did politely ask him to let her finish what she wished to say before he spoke. She was firm in this regard because he had the habit of interrupting her and others. This was put to him in the grievance investigatory interview and he did not deny it, rather, he suggested, that he would interrupt those who were not listening to him. He reiterated that point in his evidence.

19. The claimant became angry and agitated during that meeting on 27 March. Mr Pandya tried to calm him down but failed, Mr McCallam spoke but I accept that he did not shout at the claimant nor did he swear at him. In fairness, the claimant does not now suggest that he did.

20. It is unclear whether the claimant considered that the comments about failing to do the checks were directed specifically at him. The data displayed at the time probably did show that he had failed to do his checks and it may be the case that this was so, as his grievance suggested that checks were not done by him on the previous day or were done but had not been logged. The claimant was, he said at the time, fasting, which he said was impacting on how he felt and acted. That may be so, and there may be other reasons why he acted as he did in interrupting Ms Sheridan-Jones; being aggressive and confrontational; leaving the meeting and then leaving the site. However, he has not suggested any such reason. I am satisfied that he did behave as all of the others present alleged.

21. On 4 April 2024, the claimant raised a grievance concerning that meeting. He complained of Ms Sheridan-Jones' aggression towards him; Mr McCallam shouting at him, and Mr Pandya failing to do anything about it. He said that these three managers were ganging up on him and bullying him. He complained that Mr McCallam frequently used the word "fucking" when conversing with him one to one. He also claimed that all of this behaviour was a consequence of his having raised his first grievance regarding the AM to PM shift change. He referred to a bullying culture in the workplace towards the end of his written grievance which, he said, he wanted to see irradicated. He said that he was suffering significant mental stress and anxiety at work and his mental health was affected. In cross examination he again started that this was a personal grievance that he was raising. He said that he did consider that the respondent used bullying to try to get rid of staff, but that he did not make that point at the time as he was not then concerned with the wider context, as he later became. He maintained that the impact on him was to threaten his mental health.

22. Those present at the meeting, including the claimant, were then interviewed by Mr Burgess who had been tasked with dealing with this grievance. The consistent account of the managers present, including those not accused of acting in any way improperly, was:

    22.1 There had been obvious frustration that checks were not being consistently done or recorded on the part of Ms Sheridan-Jones.

    22.2 There had been no rudeness or aggression towards the claimant.

    22.3 He had tried to talk over Ms Sheridan-Jones and she had made it clear that he should let her finish first.

    22.4 He had raised his voice, appeared to be suggesting that checks should not be done by the FLMs or team leaders but should be the responsibility of the inventory team; and

    22.5 He had accused Ms Sheridan-Jones of shouting at him when she had not.

23. Mr Burgess decided that the appropriate way forward was to organise a mediation meeting between the claimant and each person accused by him of acting inappropriately at the March meeting. This was explained to the claimant at a grievance outcome meeting on 4 June 2024, when Mr Burgess set out to the claimant in some detail why he did not accept the allegations of inappropriate

behaviour which underpinned the claimant's grievance.

24. In the interval between the grievance being raised and the outcome being announced, the claimant was absent sick. A series of four health discussions took place with the claimant in that period. The notes taken record what the claimant was saying about his state of health. The claimant said that he was not sleeping well; suffering from migraines and an ulcer and reported a diagnosis of depression which he said was due to stress at work. By early May he was reporting an improvement in sleep and other symptoms and that he was staring a six week psychotherapy course. Mid-May saw some further improvement but he reported discomfort in his neck and shoulders. Eventually he became fit to return to work and returned on 13 June. He had been absent for a little over two months.

25. The claimant had a return to work meeting on 13 June which I deal with below. His first day of actual work was Sunday 16 June when he worked a full day as FLM.

26. The mediation sessions took place just before and just after the claimant returned to work in June 2024. The claimant's concern about these meetings is that none of the managers involved admitted that they had misbehaved on 27 March. Mr McCallam did say that he knew that he swore too often and was making an effort to cut this out. Of course, as I have already noted, the claimant did not accuse him of having done so on 27 March itself.

27. Although none of them accepted that they had acted in the way the claimant alleged, I am satisfied that each was empathetic towards the claimant and sought to reassure him that they valued him as an employee and wanted to see him return to the business. Each explained how they saw the incident and assured the claimant that what was said did not represent an attack on him, but that there was real concern about the failure of FLMs and team leaders to do and/or record the checks. It was also made clear that Ms Sheridan-Jones' concerns were as much, if not more, addressed to Mr McCallam and Mr Pandya who should have taken steps to ensure that these important checks were being done and recorded by those junior to them.

28. The claimant alleges that at the mediation meeting Mr Pandya told him, in relation to the alleged bullying, that he should "suck it up and get on with it." I do not accept that this was said. The meeting was a difficult one for Mr Pandya as whilst he allowed the claimant to set out his concerns without interruption, the claimant frequently interrupted him, Mr Pandya, to reject the points that he was making. The way he gave his answers in cross examination shows that the claimant regards it as an appropriate to interrupt and talk over others when they are making points with which he does not agree. The claimant's score sheet for the redundancy exercise in 2023 shows very high scores in many areas but does note concerns about precisely this kind of behaviour that the respondent had spoken to him about it and that he had shown no signs of changing his behaviour which was likely to hamper any progress up the management chain. I accept that this had occurred.

29. The meeting with Ms Sheridan-Jones took a similar course, as her brief notes

demonstrate. Once she tried to explain her views and her recollection of the meeting, the claimant interrupted her and spoke over her, and the HR facilitator present had to intervene to ask him to stop. Nevertheless, like Mr Pandya, she wanted to draw a line under the past events, and the claimant agreed to do this at her suggestion and they shook hands.

30. On 17 June 2024, the claimant had an interaction with Mr Hynard which the claimant describes as “the straw that broke the camel’s back” and led to his resignation. Mr Hynard was a General Manager at the site. He was above the claimant’s managers in the hierarchy, but would see the claimant, if not interact with him on most days. On 17 June he was carrying out checks in an area known as TV Pick Faces. TVs were there picked in order to fulfil orders. The claimant managed that area on his shift and this check was carried out by Mr Hynard and Ms Sheridan-Jones each Monday. It was clear to Mr Hynard that something was amiss as TVs which had been picked, having been scanned, should then have been removed but they were still in the picking area.

31. Mr Hynard raised the issue with the claimant. Ms Sheridan-Jones was close by, not close enough to hear what was said in a normal voice, but close enough to hear if there was shouting or voices were raised and she could observe the interaction of Mr Hynard and the claimant which appeared to her to be entirely normal.

32. Mr Hynard did not shout at the claimant; he was not aggressive and he did not in some way lean into the claimant’s personal space. The claimant says that the trigger for this behaviour by Mr Hynard was his, the claimant’s, attempt to explain the failures that Mr Hynard had noted by reference to the lack of staff. The claimant’s suggestion that the area was understaffed, a suggestion which he certainly made at the time, is rendered highly unlikely by an examination of the crewing figures for the shift. In fact, the area was overstaffed by two people when the volume of work was taken into account. This interchange was a simple matter of a manager, Mr Hynard, calmly raising an issue which he had noted with an appropriate junior manager, the claimant.

33. The claimant’s return to work interview had been carried out on 13 June by the Senior Operations Manager. The record of the interview shows that a tick was placed against the “Yes” box in relation to the question “Do you require refresher training to resume your duties.” The “Details” section in relation to that was not completed.

34. It is unclear what training the claimant might have needed and his evidence on this was somewhat confused His witness statement does not identify the training required and his absence had only been for some two months during which the FLM role had not changed . His witness statement suggests that he was “told off” by Mr Hynard for not following a procedure he did not know about. Yet the procedure regarding picked TVs was basic and unchanged and he never suggested that lack of knowledge of it was a problem at the time. Furthermore, whilst his resignation letter repeats the point of lack of staff, it does not suggest that he was unaware of the relevant procedure or that his lack of awareness had been causative of the problems identified by Mr Hynard. He did not identify any particular training he needed either on 13 June or subsequently. And, on

balance, I consider that he did not do so as he actually did not need any training. This is supported by the fact that he appears to have managed to complete his first shift on 16 June without any problems and without identifying a need for training. Had a need for training arisen, the claimant would have been provided with it once he raised the point.

35. The claimant left the site on 17 June sometime after his discussion with Mr Hynard and was then off sick until his resignation.

36. On 22 June 2024, the claimant submitted a lengthy letter of resignation. The claimant set out chronologically the matters of which he complained and which he said had left him no option but to leave the respondent's employment. These maters start with the move from the AM to PM shift and culminate with the incident on 17 June. He complained that the history of his employment between those events shows that the respondent was prepared to allow a culture of bullying to develop and thrive and, despite this being brought to the attention of senior managers, they would do nothing about it. Indeed, he claimed that he had just been told to "suck it up."

37. It is unnecessary for me to seek to extract the key points from the claimant's resignation letter as it has been agreed that the claimant's complaints, said to amount cumulatively to a breach of the implied term as to trust and confidence, are those listed in seven sub paragraphs in the draft list of issues prepared for the preliminary hearing in this case. I note three further matters. The first was agreed by the claimant at the start of this hearing when he also agreed the list as being comprehensive. The second and third are matters that I have added having heard his evidence, read the resignation letter, and heard submissions. The parties agreed to these additions to the list. They are as follows:

    37.1 In sub-paragraph 6 and 7 the dates are respectively 13 and 17 June 2024 and not the dates initially inserted.

    37.2 The second point is that the claimant complains of the respondent's managers failing to take appropriate steps to deal with the bullying and aggression at the meeting on 27 March, both at that meeting and subsequently.

    37.3 The third point is an amendment to the complaint in sub-paragraph 5 regarding the use of foul language at the March meeting. The claimant does not allege that Ms McCallam swore at that meeting but he does complain at the repeated use of the word "fucking" by Mr McCallam on numerous occasions.

38. The claimant also alleged in his cross examination of the respondent's witnesses, that Mr McCallam had, on occasions, mimicked his way of speaking when talking to him in front of other employees. That allegation was not made in the second grievance nor was it made in the grievance investigation meeting with Mr Burgess. It did not feature in the claimant 's witness statement or the list of issues to which I have just referred. It does however feature in paragraph 17 of the resignation letter. Given that he did not raise it before the resignation letter, and it did not feature thereafter until the claimant cross examined witnesses, I

conclude that, even if it did take place, the claimant cannot have viewed it as being something of any great seriousness or consequence, as far as he was concerned.

39. The respondent did not simply accept the claimant's resignation. The correspondence shows attempts being made to find a way to persuade him to stay. The details of that process are not relevant. The process does not shed further light upon the material events and was ultimately unsuccessful. What it does do is cast further doubt on the claimant's contention in evidence that he now saw that the respondent's every action from the move from AM to PM shifts onwards was designed to force him out. He contends that the subsequent acts were only made necessary because he did not resign earlier as the managers had hoped and intended. Were that the case, I do not think that they would have sought to persuade him (or to find ways to help him) to stay. I consider that the efforts, of which I heard a little in evidence but which are reflected in the correspondence, were genuine efforts to seek to retain someone who was a valued member of staff.

The law and submissions

40. The claimant made oral submissions addressing issues of fact. These and the respondent's submissions regarding matters of fact are dealt with in the findings of fact set out above.

41. The claimant had received legal assistance in formulating his claim form and it contains reference to a number of legal principles with some supporting authorities. The respondent provided written closing submissions which included a summary of the relevant law.

42. There was no dispute between the parties as to the relevant principles of law as I set them out below. I have considered the various cases cited by both sides including those which I do not make specific reference to below.

Constructive unfair dismissal

43. I deal first with constructive unfair dismissal.

44. Section 95(1)(c) of the Employment Rights Act 1996 defines dismissal for the purposes of that part of the Act dealing with unfair dismissal, as including the following:

> "(c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct."

45. The nature of constructive dismissal was considered by the Court of Appeal in the well-known case of Western Excavating (ECC) Limited v Sharp [1978] ICR 2215. It is a concept based on the law of contract not upon the looser principles of reasonableness. An employee needs to show a repudiatory breach of contract which repudiation he accepted within a reasonable period of time. As Lord Denning MR said:

> "The conduct must… be sufficiently serious to entitle him to leave at once. Moreover he must make up his mind soon after the conduct of which he complains:
>
> … if he continues for any length of time without leaving, he will lose his right to treat himself as discharged. He will be regarded to have elected to affirm the contract."

46. Each contract of employment contains an implied term as to trust and confidence which was formulated in this way by the House of Lords in Malik and Mahmud v Bank of Credit and Commerce International SA [1997] ICR 606:

> "[An employer shall not] without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of confidence and trust between employer and employee."

47. A breach of such a term is necessarily repudiatory of the contract given that its breach destroys or seriously damages the relationship which lies at the heart of a contract for personal service (see Kaur v Leeds Teaching Hospitals NHS Trust [2018] EWCA Civ 978). It follows from that formulation that trivial conduct will not breach the term when looked at in isolation.

48. It is possible, however, to breach that implied term, the only one relied on here, by a series of acts or omissions which, if taken individually, may be trivial, but which when viewed together, destroy or seriously damage trust and confidence.

49. The final act in the sequence, the so called "last straw," need not be repudiatory on its own and, indeed, may not on its own even amount to a breach of contract. It is the cumulative impact that matters: See e.g. Marshall v McPherson [2025] EAT 100. The creation of an intolerable working environment by the bullying and harassing of employees can amount to a breach of the implied term, as can a failure on the part of the employer to address concerns raised as to the existence of such an environment (see Horkulak v Cantor Fitzgerald International [2003] IRLR 756).

Public interest disclosures

50. I next turn to the law in relation to public interest disclosures

51. Section 47B of the 1996 Act provides:

> "(1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure."

52. The link required between the disclosure and the detriment is not that the making of the disclosure must be shown to be the principal, or a major causative, factor. All that must be shown is that the making of the disclosure was more than a merely trivial influence on the act or omission said to amount to the detriment (see Feckitt v NHS Manchester [2012] ICR 372).

53. The claimant, having shown that a protected disclosure was made and that he suffered the alleged detriment, the employment must show that the reason for acting as it did was something other than the forbidden reason (see section 48(2)

of the 1996 Act).

54. Where an employer treats an employee unfairly, an employment tribunal may draw an inference that a material reason for such treatment was the making of the protected disclosure where the unfair treatment is unexplained or inadequately explained (see University Hospital North Tees and Hartlepool NHS Foundation Trust v Fairhall (UK EAT/0150/20/VP)). It follows that a tribunal dealing with such a claim as this needs to look to see what motivated the relevant decision makers.

55. Detriment is to be construed widely and conduct will amount to a detriment if a reasonable employee could consider the relevant treatment to amount to a detriment (see Jesudason v Alder Hey Children's NHS Foundation Trust [2020] EWCA Civ 73).

56. For a disclosure to be protected it must be a qualifying disclosure as defined by section 43B of the Employment Rights Act:

> "43B Disclosures qualifying for protection.
>
> (1) In this Part a " qualifying disclosure " means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—
>
> …
>
> (d) that the health or safety of any individual has been, is being or is likely to be endangered"

57. A qualifying disclosure has to be made to an appropriate person, that includes the employer (see section 43C).

58. In considering whether there has been a qualifying disclosure, the following needs to be looked at:

    58.1 Was there a disclosure of information, that is to say facts, as distinct from the making of an allegation? The classic statement of the distinction is by Slade J in Cavendish Munro Professional Riks management Limited v Geduld [2010] IRLR 38.

    58.2 Did the claimant have a reasonable belief that the information was disclosed in the public (as distinct from a purely private) interest? The first question here is whether the claimant had the relevant belief at all and, if so, whether to hold it was reasonable. The information need not necessarily be true. However, the nature and accuracy of the information may inform the reasonableness of the belief and the reasonableness of the belief will also require consideration of the claimant's state of knowledge and whether they would be expected to enquire further (see e.g Korashi v Abertawe Bro Morgannwg University Local Health Board [2012] IRLR 4).

    58.3 Was a sufficient segment of the public involved or believed likely to be involved? This is a matter of fact and degree. It was not here contested that if the claimant was acting solely in his own interests the section would

not be engaged, but if he reasonably believed that he was acting in the interests of DHL's workforce at Milton Keynes as a whole, it would be.

58.4 Did the claimant have a reasonable belief that the information tended to show that, in this case, the health and safety of any individual had been endangered or was being or was likely to be endangered? Again, the fact of belief and its reasonableness need to be considered.

Application of the facts to the law

59. So far as the various matters said cumulatively to amount to a breach of the implied term of trust and confidence, I need to consider whether the allegations made are factually accurate. Having established which of the allegations are made out, I then need to consider whether, cumulatively, those allegations amount to conduct which breached the implied term. I deal with each individually to begin with.

Forcing the claimant to change to the PM shift

60. The claimant was not forced to change. The respondent was contractually entitled to ask him to change shifts on giving one week's notice. The respondent explained why it wanted him to make the change and he agreed, He noted that he would like to move back as and when that became possible. This was a lawful change under the contract, undertaken for good commercial reasons which were explained to and accepted by the claimant .

The failure properly to investigate each of the two grievances

61. It is clear that each grievance was thoroughly investigated. Having been taken through the course of the investigations the claimant all but conceded this in cross examination. His real complaint, in my view, was that the outcomes were not as he wanted. As to the first, he got his desired outcome but implementation was undoubtedly delayed. That is a separate complaint. As to the second, Mr Burgess carried out a thorough process and reached a detailed reasoned conclusion which he explained to the claimant. He sought to resolve the matter by workplace mediation sessions. Given his findings, this was a sensible way forward and all managers sought to use the sessions to clear the air and move on. Looking at both processes as a whole, the claimant could not reasonably complain about them.

Delay in returning the claimant to the AM shift

62. The claimant wanted to go back to the AM shift and the respondent agreed to arrange this by recruiting a replacement for him and moving him to be the sole FLM on the AM shift to replace the present FLM who was leaving. The respondent acted as swiftly as it could. It tried to recruit by advertisement but the applicants on interview were all unsuitable. It then located a sufficiently qualified FLM but he was working in another part of the business and a replacement had to be recruited before he could be moved,. I am sure that the claimant did want to move but his inability to recall when the move actually took place over a three month period suggests to me that the matter was somewhat

less pressing than he now asserts. Indeed, that is supported by the lack of contemporary protest against the failure to move him. I consider that at the time the claimant was aware that efforts were being made to find a replacement and he was reasonably satisfied with that.

The bullying and aggression displayed by three managers at the 27 March meeting and subsequently.

63. There was no such bullying or aggression on the part of the three managers concerned either at the meeting or later. I accept the evidence that this was an instance of the claimant wrongly seeing himself as the subject of what Ms Sheridan-Jones said when it should have been clear that she was making a more general point about managerial failings which, of course, did include him. It may well be that the claimant was upset and embarrassed by the fact that the failure, or one of the failures, in this instance, on this day, was his own. The managers behaved appropriately. It was the claimant who behaved inappropriately.

The use of foul language at the 27 March meeting and other meetings by Mr McCallam

64. Neither Mr McCallam nor any other manager used foul language at the meeting on 27 March. Nor for that matter did any of them shout. That foul language was not used at the meeting was certainly accepted by the claimant in his evidence. Ms McCallam did swear in conversations with the claimant; it appears to have been his way of speaking. He was aware that it was wrong and promised to try to stop doing it. I have no doubt that the claimant considered the language inappropriate but it had not previously caused him to make complaint and he accepted Mr McCallam's promise to try to mend his ways.

Senior managers did not act to prevent the inappropriate conduct on 27 March.

65. Given the finding that neither they nor Mr McCallam did behave inappropriately, this allegation must also fail.

The failure to provide the refresher training agreed to on 13 June.

66. It is correct that the claimant did say that he wanted refresher training but he never said what training he needed. He accepted that none could be provided on the shift he worked on 16 June as no managers were present. He worked that shift successfully which, as I have said, indicates to me that he had not then identified particular training which he required. He did not request training on the Monday morning. He did not, for example, suggest to Mr Hynard that he needed or wanted training and he was absent sick from shortly after the incident on 17 June until he resigned. I do not find anything here to criticise in the respondent's conduct with regard to refresher training.

Mr Hynard's aggression towards the claimant on 17 June

67. There was, in my view, no such aggression. Mr Hynard spoke to the claimant about the picking crew failing to follow the well-established procedure for doing their jobs. The claimant said that this was because of lack of staff. He never suggested that he thought that what they were doing was the right thing but that

the procedure has been changed in his absence. Indeed, it had not. The excuse about lack of staff did not hold water as the shift was overstaffed. Mr Hynard carried out his job in an appropriate manner. It is unclear why the claimant reacted as he did by walking off the job but, on balance, I am of the view that during his period of absence, he had begun to convince himself, wrongly, that the respondent wanted to get rid of him. Hence, he viewed a quite ordinary conversation in a completely inappropriate light.

69. It follows that all that is left of the claimant's contentions in this regard is the swearing by Mr McCallam, on occasions, in the past. Of itself, it might be said to amount to a minor breach of contract but certainly not to a breach of the implied term as to trust and confidence. Mr McCallam swearing was not destructive or seriously damaging towards the contract of employment. Any such breach has in any event, been waived by the claimant continuing in employment and then by accepting Mr McCallam's apology at the mediation meeting.

70. There is no last straw and, indeed, no first or subsequent straws in this case save for that swearing. There was no breach of the implied term of trust and confidence.

71. In the circumstances, the claim for constructive dismissal must fail and is dismissed. The claim for notice monies falls with it.

<u>Whistleblowing claims</u>

72. I now turn to the whistleblowing claims.

73. Each grievance is said to amount to the making of a protected disclosure. I need to consider:

    a. Whether there was a disclosure of information .

    b. Whether the claimant reasonably believed that:

        i. The information was disclosed in the public interest, and

        ii. The information tended to show that the health and safety of any individual had been, was being or was likely to be endangered

74. I will begin by considering the first grievance. Information as to the claimant's treatment regarding the AM to PM shift move was certainly disclosed. However, the claimant accepts that he did not have any interest in mind other than his own. Hence, whether or not it could be said that this concern expressed as to the impact on his home life tended to show that his health and safety was endangered it is immaterial. In any event, in cross examination the claimant accepted that this grievance did not actually raise matters relating to health and safety.

75. I now turn to the second grievance. The email setting out this grievance begins by describing the claimant's version of the evets of 27 March, He notes that he left the meeting "for my own mental wellbeing". In the final paragraph he asks for "The bullying culture in the workplace to be eradicated." Does this email set

out information which tends to show that either the claimant's health and safety or the health and safety of other had been, was being or was likely to be endangered? I consider that the reference to his mental wellbeing is just enough to show that he considered that his health and safety had been endangered. The reference to a bullying culture is not in my view, the provision of information rather, it is the making of an allegation.

76. Was there a reasonable belief that the making of such disclosures was in the public interest? I look at the information regarding his own treatment on 27 March and, in case I am wrong with regard to my above conclusion on the reference to "bullying culture", his reference to that bullying culture. There are two questions; Did the claimant believe that he was making the disclosures in the public interest? And, if so, was that belief reasonable. I do not consider that the claimant gave the information in relation to the events of 27 March and its impact on him, in the public interest. He was concerned only with his own situation. I do not consider that the claimant had the interest of anyone other than himself in mind when he referred to the culture of bullying. That phrase is used in the context of comments relating wholly to him. He continued immediately after the reference to that alleged culture "I feel that I cannot work in an environment in which I am not wanted and I feel…." The reference to a "culture of bullying" was, in my view, having heard his evidence and looked at that phrase in context, intended to refer to the respondent's behaviour towards him which he considered the events of 27 March to exemplify.

77. It follows that the protected disclosure claims must fail. However, for completeness, because I was addressed on them, and because the factual substrata have already been dealt with, I will consider the alleged detriments said to flow or be appropriately causally connected to the alleged protected disclosures.

78. As regards the first alleged disclosure the following are relied upon.

    7.1 Delay in implementing the outcome of the first grievance. There was delay but the reason for it was unrelated to the fact that the claimant had raised the grievance or its contents.

    7.2 Being bullied by senior management on 27 March. He was not bullied. In any event, the conduct of the managers at that meeting was not influenced in any way by the making of this grievance or its contents.

79. As regards the second alleged disclosure, the following are relied upon:

    78.1 Mr Pandya telling the claimant to "suck it up" in relation to instances of bullying. Mr Pandya did not say that.

    78.2 The failure to provide refresher training. Certainly, no refresher training was provided, albeit that the window for its possible provision was narrow, and the claimant did not seek particular training. The failure was, in my view, unrelated to the raising of this second grievance or its contents.

    78.3 Mr Hynard's behaviour on 17 June. Mr Hynard did no more than do his

job and he did not act in the ways complained of. No aspect of his actual conduct was influenced by the making of this grievance or its contents.

80. In those circumstances, the public interest disclosure detriment claims must fail and are dismissed.

Approved by:

Employment Judge Andrew Clarke KC

25 May 2026

JUDGMENT SENT TO THE PARTIES ON
10 June 2026
....

....
FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/