



EMPLOYMENT TRIBUNALS

Claimant

Jane Harper

Respondent

v

Global Delivery Solutions Limited

Heard at: Cambridge

On: 18 March 2026

Before: Employment Judge Tynan

Appearances

For the Claimant: In person

For the Respondent: Ms T Sandiford, Counsel

The Claimant's application for interim relief having been refused on 18 March 2026 and written reasons having been requested by the Claimant in accordance with Rule 60(3) of the Employment Tribunal Procedure Rules 2024, the following reasons are provided:

REASONS

Introduction

1. I have been provided with two bundles for today's hearing: the first prepared by the Claimant, comprising of a Chronology & Statement of Events, together with 16 Appendices, which runs to 106 pages; the second, a 295-page indexed and paginated bundle prepared by the Respondent. The Respondent has submitted written statements by its Managing Director, Satpal Bains, and Charlotte Leigh, an independent HR consultant who was appointed by the Respondent to handle a combined grievance and disciplinary issue involving the Claimant and who seemingly decided that the Claimant should be dismissed from the Respondent's employment. Neither they nor the Claimant gave oral evidence. Inevitably, in the limited time available, I have been unable to read all of the documents contained within the parties' respective bundles, though I have had particular regard to those documents I was taken to in the course of their respective oral submissions.

Background

2. The Claimant was employed by the Respondent as a Bookkeeper from 11 November 2024 until 11 February 2026, when she was summarily dismissed for alleged gross misconduct. The reasons for her dismissal

are set out in some detail in a letter from Ms Leigh dated 11 February 2026 which also addresses various grievances raised by the Claimant.

3. It is not in dispute that on 17 October 2025 the Claimant recorded a meeting with Ms Bains which was also attended by the Respondent's accountants, TGFP, and that she did so without the knowledge of either of them or their prior agreement. It was alleged that the Claimant had shared the recording, which captured confidential advice on business matters, with a personal contact of hers and that by her actions she had brought the Respondent into disrepute, undermined trust and confidence, and damaged the Respondent's relationship with TGFP.
4. The Claimant claims that she was dismissed because she made protected disclosures. She does not require any qualifying period of service to bring such a claim. Pursuant to s.128 of the Employment Rights Act 1996, an employment tribunal may grant interim relief pending the determination of the claim.
5. The Claimant's application for interim relief, which was submitted on 18 February 2026, namely before the end of the period of seven days immediately following the effective date of termination, is opposed by the Respondent.

Law

6. Ms Sandiford has submitted a skeleton argument, which sets out the law and relevant legal principles in some detail.
7. As to the circumstances when interim relief may be granted, s.129(1) of the Employment Rights Act 1996 ("ERA 1996") provides that a tribunal's power to grant interim relief applies where, on hearing the application for interim relief, "it appears to the tribunal that it is likely that on determining the complaint to which the application relates, the tribunal will find the reason (or if more than one the principal reason) for the dismissal" is that she made a protected disclosure.
8. The correct test to apply when considering whether 'it is likely' is whether the Claimant can demonstrate a 'pretty good chance' of succeeding in the final application to the tribunal; Taplin v C Shippam Ltd. [1978] ICR 1068. As Mr Young notes, the approach in Taplin was endorsed thirty years later by the President of the EAT in Dandpat v University of Bath & anor. UKEAT/0408/09/LA. The meaning of 'likely' was also addressed in the case of Wollenburg v (1) Global Gaming Ventures (Leeds) Ltd., (2) Herd UKEAT/0053/18/DA (unreported),

"Put shortly, an application for interim relief is a brief urgent hearing at which the Employment Judge must make a broad assessment. The question is whether the claim under s.103A is likely to succeed. This does not simply mean more likely than not. It denotes a significantly higher degree of likelihood. The Tribunal should ask itself whether the

applicant has established he has a pretty good chance of succeeding in the final application to the Tribunal."

9. In His Highness Sheikh Khalid Bin Sagr at Qasimi v Robinson (UKEAT/0283/17/JOJ), Her Honour Judge Eady QC said:

"By its nature, the application had to be determined that expeditiously and on a summary basis. The ET had to do the best it could with such material as the parties had been able to deploy at short notice and to make as good an assessment as it felt able. ... The Employment Judge also had to be careful to avoid making findings that might tie the hands of the ET ultimately charged with the final determination of the merits and the points raised. His task was thus very much an impressionistic one: to form a view as to how the matter looked, as to whether the Claimant had a pretty good chance and was likely to make out her case, and to explain the conclusion reached on that basis: not in an over-formulistic way but giving the essential gist of his reasoning, sufficient to let the parties know why the application had succeeded or failed given the issues raised and the test that had to be applied."

10. Similar observations were made in London City Airport Ltd v Chacko [2013] IRLR 6101, namely that a Judge is required to make as good an assessment as they are promptly able of whether the Claimant is likely to succeed and, by necessity, that this involves less detailed scrutiny of the respective cases of the parties and the evidence than will be undertaken at the full hearing of the claim. A Judge in an interim relief case is doing the best they can with the untested evidence advanced by each party.
11. In Ministry of Justice v Sarfraz [2011] IRLR 562 at [19], Underhill P (as he then was) confirmed that "likely" connotes something nearer to certainty than mere probability". The case involved an interim relief application in respect of a s.103A automatic unfair dismissal claim. The President said that a judge has to decide whether it is likely that the tribunal at the final hearing will find five things:
- a. that the Claimant made a disclosure to [their] employer;
 - b. that [they] believed that the disclosure tended to show one or more of the things itemised at (a) – (f) under s.43B(1) ERA 1996;
 - c. that that belief was reasonable;
 - d. that the disclosure was made in good faith; and
 - e. that the disclosure was the reason or principal reason for dismissal.

S.43B of ERA 1996 was subsequently amended so as to remove a good faith requirement in order for a disclosure to qualify for protection. Instead, a claimant must establish that they reasonably believed their disclosure to have been made in the public interest.

12. As Ms Sandiford notes in her skeleton argument, the need for a structured approach has been reiterated by the EAT, for example in Williams v Michelle Brown AM UKEAT/0024/19 (29 October 2019) and Martin v London Borough of Southwark EA-2020-000432 (previously UKEAT/0239/20) (10 June 2021), both unreported.
13. It is important not to lose sight of the relevant statutory wording. In this case, S.129(1) ERA 1996 requires me to be satisfied that it is likely “on determining the complaint to which the application relates” that the reason for dismissal will be found to be because the Claimant made a protected disclosure. It is trite that the complaint is to be found within the claim form. In this regard, the Claimant has not set out in her claim form, nor indeed in her Chronology & Statement of Events, why she believed her disclosure to be in the public interest or why she had a reasonably held belief in that regard.
14. In Kuzel v Roche Products Ltd [2008] EWCA Civ 380, the Court of Appeal approved the following analysis of the proper approach to the burden of proof in an automatic unfair dismissal claim:
 - a. Has the claimant shown that there is a real issue as to whether the reason put forward by the respondent was not the true reason?
 - b. If so, has the respondent proved its reason for dismissal, in this case misconduct?
 - c. If not, has the respondent disproved the section 103A reason advanced by the claimant?
 - d. If not, dismissal is for the s.103A reason.
15. Establishing the reason or principal reason for dismissal is an exercise in identifying the reason(s) within the mind of the decision maker based on the facts known or relied upon by that individual. In Orr v Milton Keynes Council [2011] IRLR 317i, the Court of Appeal held that “known to the employer” does not mean that the employer is taken to have knowledge of all facts known to all of its employees; just the facts known to the decision maker at the time of reaching the decision to dismiss. Accordingly, where an Employment Tribunal is satisfied that a decision maker acted in good faith and without an improper motive, a claim that the dismissal was for a proscribed reason is unlikely to succeed unless for example the Claimant resorts to an argument that the decision maker was manipulated such as to bring the matter within the ambit of the Supreme Court’s judgment in Royal Mail Group Ltd v Jhuti [2019] UKSC 55. I would expect any such case to be expressly pleaded, which is not the case here.

Analysis and Conclusions

16. It is not in dispute that the Claimant raised various concerns over a period of several months, culminating in a formal report to the Respondent's directors on 25 November 2025. The Respondent makes no admission as to whether these were disclosures qualifying for protection. It is something the Claimant will need to address more fully in due course within any witness statement so that, as appropriate, the issue can be tested in the normal way at final hearing.
17. Putting aside whether the Claimant has a pretty good chance of establishing that she reasonably believed her disclosures were in the public interest, I agree with Ms Sandiford that the principal question today is whether the Claimant has a pretty good chance of establishing that she was dismissed because she made a protected disclosure.
18. In her witness statement, Ms Leigh states that she had "unfettered authority" to carry out the disciplinary and grievance process. There is no evidence before me to the contrary. Ms Leigh also states that she relied upon an investigation report prepared by Donna Kendrick, another external consultant, and that she had no input or influence in the conduct or outcome of that report which recommended that there was a disciplinary case to answer. Again, there is no evidence before me to the contrary.
19. Ms Leigh was undoubtedly aware that the Claimant was claiming to be a whistleblower. In paragraph 19 of her witness statement, Ms Leigh states that on 8 December 2025 the Claimant copied her into a grievance in which the Claimant alleged that her suspension earlier that day was an act of detrimental treatment due to her having made protected disclosures. However, the fact that Ms Leigh knew the Claimant was alleging she had been subjected to detrimental treatment as a whistleblower does not of itself obviously support an inference that the subsequent decision to dismiss her was in response to her protected disclosure(s). It certainly does not enable me to be satisfied today that at the final hearing the Tribunal is likely to conclude that the Claimant was dismissed because she had made one or more disclosures. This is not to say that she will not succeed at final hearing. I express no further view as to her prospects in that regard. Indeed, I reiterate, as I explained in the course of the hearing, that my decision on the interim relief application will not, indeed must not, tie the hands of the Tribunal that hears the case. I have been careful not to make any findings or reach any conclusion beyond that required by s.128 ERA 1996.
20. As the Claimant lacks sufficient qualifying length of service to bring a claim of 'ordinary' unfair dismissal, s.98(1) of the Employment Rights Act 1996 does not operate so as to require the Respondent to establish the reason for the Claimant's dismissal. Instead, as noted above, it will be for the Claimant at final hearing to place sufficient information before the Tribunal to raise a real issue as to whether her alleged misconduct was in fact the reason for her dismissal. In this regard, there is a contemporaneous

record of the reasons why she was dismissed, in the form of Ms Kendrick's investigation report and Ms Leigh's detailed 16-page decision on the grievance and disciplinary issues in which, as Ms Sandiford says, she sets out a seemingly clear and logical rationale for dismissal. To date, the Claimant has not suggested that Ms Kendrick and Ms Leigh were simply acting on Mr Bain's instructions or that he or indeed anyone else manipulated the process, including the outcome, in some way. Nor does she offer any particular explanation as to why she believes that Ms Leigh may have been influenced by the fact that she was raising concerns, when she came to her decision that that Claimant should be dismissed from the Respondent's employment.

21. Regardless of the burden of proof and having regard to the materials I have been taken to, including the witness statements, the Respondent has advanced an arguably clear and consistent explanation for the Claimant's dismissal, namely that her actions in recording a meeting without the knowledge or consent of those involved served to destroy its trust and confidence in her. Whether this explanation will stand up at final hearing, I cannot say. However, it seems to me that arguments can plainly be made by the Respondent as to why principal reason for dismissal was that the Claimant was believed by Ms Leigh to be guilty of gross misconduct following an independent investigation and hearing.
22. In conclusion, I am unable to say that the Claimant has a pretty good chance of establishing the necessary causal link with her dismissal, alternatively if the burden of proof does shift to the Respondent, that the Respondent has a relatively poor chance of proving that any protected disclosures were not the reason why the Claimant was dismissed.
23. In the circumstances I refuse the Claimant's application for interim relief.

Approved by:

Employment Judge Tynan

Date: 12 May 2026

Sent to the parties on: 16 June 2026

For the Tribunal Office.

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