



EMPLOYMENT TRIBUNALS

Claimant: Mr G White

Respondent: Edmundson Electrical Ltd

Heard at: Reading **On:** 12 June 2026

Before: Employment Judge Hawksworth

Appearances

The claimant: represented himself
For the respondent: Ms L Murray (solicitor)

JUDGMENT refusing the respondent's application for strike out having been given with oral reasons at the hearing on 12 June 2026 and written reasons having been requested by the claimant in accordance with Rule 60 of the Employment Tribunal Procedure Rules 2024, the following reasons are provided:

REASONS

1. These are full written reasons for my decision to refuse the respondent's application to strike out under rule 38(1)(a) of the Employment Tribunal Procedure Rules 2024 the claimant's complaints of whistleblowing detriment and dismissal.

Legal tests

2. Rule 38(1)(a) says:

"(1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—

(a) that it is scandalous or vexatious or has no reasonable prospect of success..."

3. Discrimination claims should not be struck out except in the most obvious cases (*Anyanwu and anor v South Bank Student Union and anor* [2001] ICR 391, HL) and the same or a similar approach will generally apply in whistleblowing complaints (*Ezsias v North Glamorgan NHS Trust* 2007 ICR 1126, CA). These complaints are generally highly fact sensitive. When there is a dispute about facts which is central to the complaints, it will only be in an exceptional case that a complaint will be struck out as having no reasonable prospect of success.

4. The relevant legal principles were summarised in *Mechkarov v Citibank NA* [2016] ICR 1121:
 - 4.1 Only in the clearest case should a claim be struck out;
 - 4.2 Where there are core issues of fact that turn to any extent on oral evidence, they should not be decided without hearing oral evidence;
 - 4.3 The claimant's case must ordinarily be taken at its highest;
 - 4.4 If the claimant's case is “conclusively disproved by” or is “totally and inexplicably inconsistent” with undisputed contemporaneous documents, it may be struck out. I am deciding whether it is so clear that the claim has no reasonable chance of success, that it should not proceed to a main hearing on the evidence.
 - 4.5 A tribunal should not conduct an impromptu mini trial of oral evidence to resolve core disputed facts. That means I am not hearing evidence or making decisions today about what happened.
5. Section 43B of the Employment Rights Act 1996 explains which disclosures qualify for protection. The parts of section 43B relied on by the claimant say:

“(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—

(a) that a criminal offence has been committed, is being committed or is likely to be committed,

(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

...

(f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.”
6. Section 103A says that an employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.
7. Section 47B says that 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. The test for whether a detriment was done ‘on the ground that’ the worker has made a protected disclosure is explained in *Fecitt and others v NHS Manchester* [2012] IRLR 64, CA. It is wider than the principal reason test which applies in dismissal complaints. The question is whether a protected disclosure materially influenced (in the sense of being more

than a trivial influence) the treatment of the worker.

The claimant's complaints

8. At the hearing on 12 June 2026 I first clarified the issues with the parties and I gave the parties a printed copy of the list of issues which was printed and given to the parties.
9. The claimant relies on two alleged protected disclosures as set out in the list of issues:
 - 9.1 A disclosure made verbally at a meeting on 21 March 2025 by reference to a paper copy of a list of concerns which the respondent took after the meeting;
 - 9.2 A disclosure in an email on 24 March 2025.
10. The complaints are of automatic unfair dismissal for whistleblowing and whistleblowing detriment. The alleged acts of detriment are factually closely related to the dismissal, and so there will be a question for the tribunal as to whether they are separate acts from the dismissal. If they are not, the claimant will be prevented from pursuing them as complaints of detriment, by section 47B(2) of the Employment Rights Act 1996.

Conclusions on the respondent's application

11. I then heard the respondent's application for strike out of the claim. Ms Murray on behalf of the respondent said that there were three reasons why the claims of whistleblowing detriment and dismissal have no reasonable prospect of success.
 - Disclosures not in public interest
12. Ms Murray said that the claimant's disclosures were made in his own private interest, not in the public interest. She took me through the documents which she says show that Mr White was really concerned about the impact on the profit share, not the public interest.
13. Predominant motive is not the legal test. The legal test is whether the person making the disclosure believed, at the time they made the disclosure, that it was in the public interest to make it, and whether it was reasonable to believe that. Disclosures can qualify for protection even if they were predominantly motivated by self-interest, or if there was more than one interest involved. Personal interest is not entirely irrelevant in this context: it is likely to be one of the circumstances taken into account by a tribunal when considering what the claimant believed and whether a belief that the disclosure was in the public interest was a reasonable one (*Chesterton Global Ltd (t/a Chestertons) and anor v Nurmohamed (Public Concern at Work intervening)* 2018 ICR 731, CA).
14. There is a factual dispute at the heart of this in the claimant's case. It concerns the question of the claimant's belief at the time he made his disclosure. Whether he had a belief that he was raising his concerns in the public interest is a matter which can only be decided by the tribunal at the main hearing, having heard all the evidence. Oral evidence will be important for the tribunal to decide this issue in

respect of both disclosures, but perhaps particularly in relation to the meeting, where the tribunal will have to decide what the claimant said as well as what he believed.

- Was there a dismissal?

15. Ms Murray's second point is that the claimant's case that he was dismissed for whistleblowing is inconsistent with his email of 24 March in which he said that he could not stay employed by the respondent without a pay rise. My assessment is that the email is more conditional than the respondent suggests, as the claimant says he will respect and have no issue with the respondent if they are unable to increase his pay, but that not getting a pay rise 'might mean' that he and the respondent are not the right fit.
16. Further, and importantly, there is also a central factual dispute about the way the employment relationship ended, because the claimant's evidence about what happened in his conversation with Mr Walton on 27 March is completely different to what the respondent says about it. The claimant says there was no discussion and he was told he was being dismissed. The respondent says that there was a mutual agreement, and no dismissal. The appeal outcome to which I was taken by Ms Murray says that Mr Walton 'decided to end the contract'.
17. These factual differences illustrate that the question of how and why the employment relationship came to an end must be decided by the tribunal and that can only be done by hearing all the evidence and making findings of fact. This is not an issue which is appropriate for strike out.

- The principal reason for dismissal

18. Ms Murray said that if there was a dismissal, the sequence of events admits of only one sensible explanation, namely that the principal reason for the dismissal was the claimant's insistence on a pay rise. Taking the claimant's claim at its highest, as I must do in this application, on the claimant's case the sequence of events could be expressed as:
 - 18.1 raising public interest concerns in a meeting on 21 March;
 - 18.2 reiterating them on 24 March in an email;
 - 18.3 dismissal on 27 March.
19. I am not making findings that that is what happened, but explaining why, when the claimant's case is considered at its highest, I have concluded that the automatic unfair dismissal complaint is not suitable for strike out.
20. The claimant also makes complaints of detriment. There is a jurisdictional point for the claimant to meet because the acts he relies on as detriments are closely related to dismissal. However, putting the claimant's claim at its highest and assuming that he can pursue these complaints, what is said about the sequence of events in respect of the dismissal applies equally here. The tribunal will be looking at the reason why Mr Walton behaved as he did in the days following the meeting and the email, and considering whether Mr Walton's conduct was materially influenced

by any protected disclosure made by the claimant. Those are questions which can only be decided on the oral evidence. It is not possible to say on the documents that I have seen that there is no reasonable prospect of the tribunal concluding that Mr Walton's conduct was materially influenced by the claimant's disclosures.

21. This is not a case where what the claimant is saying is "conclusively disproved by" or is "totally and inexplicably inconsistent" with the evidence I have seen today such that strike out would be appropriate. It will be necessary for the tribunal to hear all the evidence to decide whether the complaints succeed.
22. For these reasons, I refused the application to strike out the complaints. I reached the same conclusion in respect of the deposit order application. I did not consider the test of 'little reasonable prospect' of success to be met either.

Approved by:
Employment Judge Hawksworth

Date: 21 June 2026

Sent to the parties on: 23 June 2026

For the Tribunals Office