



EMPLOYMENT TRIBUNALS

Claimant: Anita Parkes

Respondent: Guncast Swimming Pools Limited

Heard at: Southampton

On: 31 May 2026

Before: Employment Judge Lumby

REPRESENTATION:

Claimant: In person

Respondent: Mr C McDevitt (Counsel)

PRELIMINARY HEARING IN PUBLIC JUDGMENT

The judgment of the Tribunal is as follows:

Protected disclosures

1. The claimant did not make any protected disclosures.
2. The complaints of detriment pursuant to section 47B of the Employment Rights Act 1996 and automatically unfair dismissal pursuant to section 103A of the same Act are therefore dismissed.

REASONS PURSUANT TO A REQUEST FROM THE CLAIMANT

1. These are written reasons for the Tribunal's decision, given at the request of the claimant.

2. The claimant has also enquired about obtaining a transcript of the oral judgment given. These written reasons are based on that oral judgment. If a transcript is still required, the claimant should apply to the Tribunal. A fee is payable for transcripts, save in exceptional circumstances.
3. The claimant was employed by the respondent between 31 July 2024 and 31 December 2024 as a Trainee Service Engineer. She brings complaints of automatically unfair dismissal as a result of protected disclosures, detriments from protected disclosures and discrimination by reason of age and/or sex. The detriments all relate to the claimant's dismissal.
4. A preliminary hearing took place on 29 September 2025. At that hearing, Employment Judge Smail ordered that a further preliminary hearing be held to determine whether the claimant had made one or more protected disclosures. These written reasons relate to the judgment I gave at that further hearing.
5. In reaching my decision, I reviewed the pages to which I have been referred within the 211 page bundle provided to me. This contained the disclosures which the claimant contends she made; where I refer to a number in these in square brackets (such as [10]) that is reference to the relevant page in the bundle. By agreement from the parties, I relied on the chronology of protected disclosures provided by the claimant together with her witness statement. The claimant gave evidence based on that witness statement and was cross-examined by Mr McDevitt. Both parties made submissions. I listened to the evidence she gave and took account of the oral and written submissions made and the documentation provided.
6. Ms Parkes emphasised that she was not qualified as an electrician. She argued that she raised issues with situations she faced which should be treated as raising health and safety concerns. She argued that the respondent knew she was unqualified and so would know that her various messages were raising these concerns, even if she did not state this expressly every time. She contended that the position should be looked at cumulatively. The respondent argued that these did not convey information tending to show any endangerment of anyone's health and safety and that the claimant's contention these were in the public interest was unreasonable.
7. The contended protected disclosures were contained in WhatsApp and text message conversations between the claimant and work colleagues or superiors, with one exception, a disclosure made in January 2025. The sole issue to be determined was whether these amounted to protected disclosures.

8. The contended disclosure made in January 2025 relates to correspondence with a trade body. The correspondence occurred after the claimant's dismissal on 31st December 2024 so cannot have been a protected disclosure leading to the detriments or dismissal, as the disclosure occurred after these events. This disclosure was therefore disregarded from further consideration.

Law

9. I begin with a summary of the applicable law. The relevant statute is the Employment Rights Act 1996. I refer to it as the Act.
10. Section 47B of the Act provides that an employer is not to subject to a worker to a detriment as a result of them making a protected disclosure. In addition, section 103A of the Act provides that a dismissal is automatically unfair if the principal reason for the dismissal is that the claimant made a protected disclosure. If so the question of fairness does not arise.
11. The important point is that for both sorts of claims, there must be a protected disclosure. A protected disclosure has two elements. It must first be a qualifying disclosure as defined by section 43B of the Act. Secondly, it must fall within the various conditions set out in sections 43C to 43H of the Act. In this case, the second limb is fulfilled in all cases bar the January 2025 disclosure because the contended disclosures were made to the respondent.
12. As a result, I was only required to assess whether any of the remaining disclosures were qualifying disclosures. If they were, then they are also protected disclosures. If they are not, then they are not protected disclosures. If none are, then any whistleblowing detriments and the automatic unfair dismissal complaints must fail and be dismissed.
13. A "qualifying disclosure" is defined as

"... 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 [what I will refer to for ease as "states of affairs"] ..." [Beatt v Croydon Health Services NHS Trust [2017] EWCA Civ 401]
14. In the present case the relevant states of affairs are one of those set out in section 43B(1) of the Act, as follows:

(d) that the health or safety of any individual has been, is being or is likely to be endangered

15. A qualifying disclosure also requires facts (referred to as information) to be relayed, as opposed to merely making an allegation, an expression of opinion or a state of mind or statement of position for the purpose of negotiation. Thus, the words, *"The wards have not been cleaned for the past two weeks. Yesterday, sharps were left lying around"* relay information whereas *"You are not complying with health and safety requirements"* is the making of an allegation and is not relaying information. [Cavendish Munro v Geduld [2010] IRLR 38 UKEAT/0195/09]
16. The difference between *"information"* and *"allegation"* is not one that is made by the statute itself. They are very often intertwined. The decision is to be determined in the light of the statute itself. The question is simply whether it is a disclosure of information. The judgment in the case of Kilraine v London Borough of Wandsworth UKEAT/0260/15 usefully summarised the question as being whether the statement or disclosure in question has *"a sufficient factual content and specificity such as is capable of tending to show one of the matters listed in the subsection"*. It said that this is *"a matter for evaluative judgment by a tribunal in the light of all the facts of the case"*. A bare statement such as a wholly unparticularised assertion that the employer has infringed health and safety law will plainly not suffice; by contrast, one which also explains the basis for this assertion is likely to do so.
17. It is irrelevant whether or not the recipient was already aware of the information; as the EAT stated in Cavendish Munro v Geduld:

The natural meaning of the word 'disclose' is to reveal something to someone who does not know it already. However section 43L(3) provides that 'disclosure' for the purpose of section 43 has effect so that 'bringing information to a person's attention' albeit that he is already aware of it is a disclosure of that information. There would no need for the extended definition of 'disclosure' if it were intended by the legislature that 'disclosure' should mean no more than 'communication'.
18. A necessary statutory ingredient of a "qualifying disclosure" is that a claimant has a reasonable belief that the information disclosed tends to show that the health and safety of a person has been, is being or is likely to be endangered.
19. A qualifying disclosure must satisfy a public interest test. Public interest is not defined by the statute but the Court of Appeal in Chesterton Global Ltd (t/a Chestertons) and Anor v Nurmohamed [2017] EWCA Civ IDS 1077 referred to the essential distinction between disclosures which serve the private or personal interest of the worker making the disclosure and those that serve a wider interest.

20. The questions the tribunal has to ask itself on public interest are (a) whether the worker believed, at the time that he was making it, that the disclosure was in the public interest and (b) whether, if so, that belief was reasonable. [Chesterton Global]
21. The necessary belief is simply that the disclosure is in the public interest. The particular reasons why the worker believes that to be so are not of the essence.
22. While “*belief*” alone requires a subjective consideration of what was in the mind of the discloser, “*reasonable belief*” involves an objective standard, and its application to the personal circumstances of the discloser, which are likely to include his knowledge of the employer’s organisation as a well-informed insider and having regard to his/her qualifications. [*Korashi v Abertawe Bro Morgannwg University Local Health Board* [2012] IRLR 4 EAT].

Protected disclosures

23. Having explained the law, I then applied that to determine whether a qualifying disclosure was made. By way of reminder, this is fundamental as to whether the whistleblowing complaints can be considered further or must be dismissed.
24. I looked at each contended disclosure individually to see whether they disclose relevant information tending to show that the health of safety of any person has been, is being or is likely to be endangered. I then looked at the position cumulatively.
25. I began with the whatsapp messages with Adam Spencer in December 2024 ([126] to [136]). The only relevant message is on page [131] and contains a factual report about a filler lid. There is nothing to suggest it is intended to highlight health and safety issues. There is therefore no relevant information disclosed in this chain. There are therefore no qualifying disclosures on these pages.
26. Next is the discussion on 12 December 2024 with Ashley Head relating to a spa system and resetting an RCD ([77] and [78]). Again, these are only factual statements about actions and there is nothing to suggest it is intended to highlight health and safety issues. There is no relevant information disclosed in this chain. There are therefore no qualifying disclosures on these pages.
27. The third contended disclosure relates to smell from a spa, was made on 10 December 2024 to Mr Head and is on page [76]. Again, this is a statement of the fact and the issue is being treated. It cannot be a qualified disclosure as it reports

the remediation of an issue, not an endangerment. There is therefore no qualifying disclosure on this page.

28. The fourth disclosure occurred on the same date and relates to messages to Mr Head about a pump ([70] to [76]). It is the claimant seeking advice and acting on this. Ms Parkes acknowledged that it does not contain any express health and safety concerns, referring to what is unsaid. A qualifying disclosure needs to be made. I find no relevant information here. There are therefore no qualifying disclosures on these pages.
29. The next two disclosures were on 6 December to Chris McGill and Ashley Head, relating to an ozone system ([64] to [66] and [61]). The relevant parts are messages about not adding chlorine and getting someone else to view the plant. They do not reveal any endangerment of anyone's health and safety, but rather the avoidance of risk. They cannot therefore be relevant information. There are therefore no qualifying disclosures on these pages.
30. I next turned to pages [60] to [92], which the claimant said show her repeatedly communicating issues. Nothing here was identified as relevant information showing health and safety issues. I have re-read the pages to double check and there is nothing raising those sorts of issues, either generally or with sufficient specificity. They do not contain relevant information. There are therefore no qualifying disclosures on these pages.
31. Lastly, the claimant has referred me to photographs and messages on pages [87] to [89]. Ms Parkes said they show her under duress to do work and implicitly raise health and safety issues. I do not agree, they show her successfully completing tasks and no health and safety issues are raised. This then does not contain relevant information. There are therefore no qualifying disclosures on these pages.
32. I next considered whether the position was different if I stood back and looked at the position cumulatively. Ms Parkes said the recipients would have been aware she was an unqualified electrician and that she was raising concerns about equipment and her safety. I do not agree. These show her day after day performing her role and seeking guidance as to what to do. This is to be expected of a trainee and the implication she seeks to impute simply is not there. These are normal work messages and not a whistleblowing exercise.
33. This leads me to consider in addition the public interest test. The questions I asked myself are (a) whether the claimant believed, at the time that she was making it, that the disclosure was in the public interest and (b) whether, if so, that belief was

reasonable. Taking it at its widest and cumulatively, Ms Parkes referred to the relevant customers and their employees and guests potentially being endangered but nowhere refers to this expressly. Although she said in evidence that she believed this was in the public interest at the time, I found nothing to support this and on balance consider she did not have this belief. A small number of pool users in each case do not in any event constitute the wider public. In any event, I do not find this view reasonable from an objective perspective. She was raising queries about how to do her job or reporting facts, nothing in this indicates any concerns beyond her own performance. I therefore determine that she did not have a reasonable belief that any of the contended disclosures were made in the public interest.

34. I therefore determine that no information tending to show a health and safety endangerment has been disclosed and so no qualifying disclosures have been made. No disclosures were in addition made with a reasonable belief that they were in the public interest. This means that there were no protected disclosures.

35. I therefore determine that the claimant has made no protected disclosures for the purpose of this case. As a result, I dismiss all her complaints dependent on protected disclosures, being the complaints of detriment pursuant to section 47B of the Act and automatically unfair dismissal pursuant to section 103A of the same Act.

**Approved by:
Employment Judge Lumby
28 June 2026**

Judgment sent to the parties on
13 July 2026

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