



EMPLOYMENT TRIBUNALS (SCOTLAND)
Case No: 8000759/2026

Held in Glasgow on 1 and 2 July 2026

Employment Judge Neilson

Mr M Jones

Claimant

**City Facilities Management Holdings
(UK) Limited**

Respondent

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that the claimants claim for unfair dismissal fails and is dismissed.

REASONS

1. The claimant lodged a claim in the Employment Tribunal on 1 April 2026 for constructive unfair dismissal under section 94 of the Employment Rights Act 1996 ("ERA").
2. The claimant attended the hearing in person and was unrepresented. The respondent was represented By Ms Veitch, Solicitor.
3. There was a Joint Bundle of 91 pages.
4. It was agreed that the claimant would lead evidence first. The claimant gave evidence. For the respondent Mr Lee McIntosh, Helpdesk Supervisor with the respondent ("Mr McIntosh") gave evidence.

Issues

5. The parties agreed the issues that would require to be determined at the final hearing were as set out below.

6. Was the claimant dismissed in terms of section 95(1)(c) ERA (constructive dismissal)? Specifically, that the respondent was in breach of the implied duty of trust and confidence in the manner in which the respondent dealt with allegations made against the claimant in October/November 2025?
7. If the respondent was in breach of the implied duty of trust and confidence was it a material breach justifying the claimant in treating himself as constructively dismissed?
8. If the claimant was dismissed what compensation is the claimant entitled to?
9. Should any compensation, if awarded to the claimant, be reduced by up to 25% due to any failure by the claimant to comply with the ACAS Code?
10. The respondent accepted that if the claimant was constructively dismissed it would be an unfair dismissal.

The Law

11. The relevant provision of Section 94(1) ERA is as follows:-

“An employee has the right not to be unfairly dismissed by his employer.”
12. The relevant provisions of section 95(1)(c) ERA provide as follows:

“(1) For the purposes of this Part an employee is dismissed by his employer if

(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.”
13. In every contract of employment there is an implied term that the employer must not, without reasonable and proper cause, conduct itself in a manner calculated and likely to destroy or seriously damage the relationship of trust and confidence between employer and employee – *Malik v Bank of Credit and Commerce International SA (In Liquidation)* 1998 AC 20.

Findings of Fact

14. The claimant commenced employment with the respondent on 18 July 2022. He was employed as an Assets Administrator. The claimant's employment terminated on 11 November 2025.
15. The respondent is a limited company based in Glasgow and engaged in facilities management. The respondent has approximately 5,000 employees.
16. The claimant worked for the respondent as part of the Assets team with specific responsibility for the respondent's customer, Asda. He was part of a

team of 5 and he reported into Team Leader, Caron Mcleary. The claimant worked at the respondent's offices at Caledonia House, Lawmoor Street, Glasgow.

17. The respondents have a formal Disciplinary & Grievance Policy. Under Principles that Policy states:-

"Prior to disciplinary action, an investigation into the relevant issues will take place (Complete Form D2). For formal disciplinary action to commence the colleague will need to be advised of the complaint against them in writing and will be given the opportunity to state their case before any decision is made at the disciplinary meeting.

Colleagues will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing. Electronic evidence e.g., CCTV or telephone recordings will be made available to colleagues on site prior to or during the hearing. If during the hearing appropriate time will be allowed to review and comment.

At all stages of the formal procedure (not including investigation meetings) the colleague will have the right to be accompanied by a work colleague or recognised trade union representative."

18. On or about 14th October 2025 the respondent was made aware of two allegations regarding the conduct of the claimant. The allegations related to alleged comments made by the claimant in the workplace. It was alleged that these comments were inappropriate and made about trans people and that further inappropriate comments were made regarding immigration. The two witnesses wished to remain anonymous.

19. Mr Macintosh was asked by the respondent to investigate these allegations. Mr McIntosh was provided with the two anonymous statements.

20. By letter of 29th October 2025 ("the Invitation Letter") the claimant was invited to attend an investigation meeting to be held on Friday 7th November 2025 at 10:30 a.m. at the respondent's offices. The Invitation Letter was issued by Mr McIntosh. The Invitation Letter set out that the purpose of the meeting was to discuss an accusation of:-

"Breach of the Diversity, Inclusion and Belonging policy. Specifically it is alleged you made offensive remarks regarding members of the LGBTQ+ community and also culturally diverse groups, resulting in a hostile work environment."

21. Following receipt of the Invitation Letter the claimant sent, on 30 October 2025, an e-mail to Emily Craig in the respondent's HR team to confirm that he would attend the investigation meeting as requested. In that e-mail the

claimant also asked for further details regarding the specific comments or incidents referred to in the allegation including dates, context and any supporting information. He also asked if he could be accompanied by a colleague or trade union representative.

22. Emily Craig from the respondents HR team responded to the claimant by an e-mail of 30th October 2025 in which she explained that the upcoming meeting is an investigatory meeting and as such is an opportunity to gather the facts. She explained that the purpose of this meeting is to gather information and understand the circumstances surrounding the matter highlighted within the Invitation Letter. She explained that further details regarding the concerns would be shared with the claimant during the meeting itself. She further explained that as this was not a formal disciplinary hearing the right to be accompanied by a colleague or trade union representative does not apply at this stage but should the matter progress to a formal disciplinary process the claimant would be provided with the opportunity to be accompanied.
23. The claimant attended the investigation meeting with Mr McIntosh on 7th November 2025 at 10:30 a.m.. Kelly Ann Muir, Help Desk Team Leader, took notes of the meeting.
24. At the outset of the meeting on 7 November 2025 Mr McIntosh explained that the purpose of the meeting was to discuss the allegation which had been set out in the Invitation Letter. Mr Macintosh went on to explain that a witness statement had been received and it detailed that the claimant had been involved in conversations that are deemed inappropriate for a work environment. He explained that the topic of these alleged conversations were of a discriminatory nature, particularly towards the LGBTQ+ community and also culturally diverse groups. When asked for an explanation the claimant could not provide an explanation. Mr McIntosh went on to say that within this witness statement it was alleged that the claimant had said trans people are mentally ill and should not be allowed a platform to influence young children on social media. The claimant neither confirmed nor denied making the statement. Mr McIntosh went on to say that within the witness statement it was additionally alleged that the claimant had conversations discussing his views on immigration mentioning names such as Tommy Robinson and Charlie Kirk. When asked to explain this the claimant said that it was simply an alleged allegation and it was just hurt feelings that are being dealt with here.
25. Mr McIntosh adjourned the meeting at 10:45 a.m. and reconvened the meeting at 10:50 a.m.. At the reconvened meeting Mr McIntosh explained that he had reviewed the answers and confirmed that the matter would proceed to

a disciplinary hearing and that the claimant would receive a letter from the people team with a date and time of the hearing.

26. Mr McIntosh then completed an investigation outcome summary sheet form (Form D2) in which he concluded that the case should proceed to a disciplinary hearing and he stated "I believe that more information needs to be followed up within the disciplinary hearing and there needs to be questions around his contradiction of denying the allegation yet stating the witness would have had hurt feelings".
27. Immediately following the meeting on 7 November 2026 the claimant sent an e-mail to the HR department of the respondent requesting information about the exact time and date of the alleged incident; the specific location where the incident is said to have occurred; the precise statement or allegations made against him and the full context and circumstances in which these alleged comments were reportedly heard or made.
28. The claimant did not receive any response to his e-mail of the 7th of November 2025.
29. On 10th November 2025 the claimant sent a further e-mail to the HR department at the respondent in which he stated:-

"I am writing regarding the recent allegations made against me. I understand the need for a fair investigation and I'm committed to cooperating fully.

However, I have not been provided with clarity regarding the identity of the accuser, which, combined with the serious nature of the allegations, makes it difficult for me to feel comfortable or safe in the workplace.

I would like urgent clarification on the following points

1. The identity of the accuser so I can respond appropriately.
2. Any arrangements being put in place to ensure a safe and professional environment while the investigation is ongoing.
3. Measures to minimise contact or potential conflict during this period.

I feel uneasy continuing to work without this information without any adjustments to protect the neutrality and safety of the workplace. I would appreciate a timely response, as this situation is affecting my well-being and ability to perform my duties.

Thank you for your attention to this matter

Kind regards"

30. The claimant did not receive a response to his e mail of 10 November 2025 prior to the termination of his employment.
31. At no stage did the claimant receive a copy of the anonymous statements relied upon by Mr McIntosh in the meeting on 7 November 2025.
32. On 11th November 2025 at about 3:50 p.m.in the claimant requested a meeting with Kelly Goldie and with Emily Craig from the respondent's HR team. The claimant complained to Kelly Goldie and Emily Craig that the respondent had not followed the ACAS guidelines or employment law in relation to their dealings with him around the investigation. At the meeting the claimant was upset and Emily Craig and Kellie Goldie interpreted the claimants body language as being aggressive. The claimant informed Emily Craig and Kellie Goldie that he was going to resign immediately and walked out of the meeting.
33. The claimant did not return to work after the 11th of November 2025. The claimant secured alternative employment with another company commencing on 12 November 2025.
34. By e-mail to Caron Mcleary on 12 November 2025 the claimant gave formal notification of his resignation effective immediately.
35. By e-mail of 12 November 2025 to the HR team at the respondent the claimant also gave formal notice of his resignation with immediate effect. In that e-mail the claimant stated

"This decision has been made due to the recent accusations made against me. The nature of these allegations and the handling of the situation have made it untenable for me to continue in my role."

Discussion & Decision

Evaluation of witnesses

36. I found the claimant to be a credible witness. I also found Lee McIntosh to be a credible witness. There was not really any dispute as to the essential facts in this matter. The dispute here was the interpretation to be applied to those facts.

Was the claimant dismissed?

37. The key issue in this case is whether or not the claimant was constructively dismissed. The onus is on the claimant to establish that there has been a breach of the implied duty of trust and confidence and that it is material.
38. In further and better particulars lodged by the claimant on 15 May 2026 the claimant made specific reference to six failures by the respondent as follows:-

1. Failing to provide sufficient particulars of the allegations made against me at the outset of the investigation.
 2. Failing to provide exact wording, dates, context or sufficient evidence relating to the allegations.
 3. Relying upon anonymous allegations without allowing proper opportunity to challenge or understand the accusations being made.
 4. Escalating matters rapidly towards disciplinary action and potential dismissal.
 5. Conducting the process in a manner which I felt was intimidating and placed me under significant pressure during the investigation meeting.
 6. Failing to conduct a fair and balanced investigation prior to progression of the matter.
39. The claimant has in addition referenced the failure to be accompanied at the Investigation Meeting. However, I am satisfied that there was no statutory or contractual right to be accompanied at the Investigatory Meeting so I discount this issue.
40. It is clear from the case law on the implied duty of trust and confidence that it will extend to the way in which an employer conducts a disciplinary process. In *McCabe -v- London Borough of Greenwich UKEAT 0608/04* the EAT held that it might be a breach of the implied duty
1. To charge an employee with one matter but take into account and punish them for another.
 2. To hold an employee guilty of gross misconduct if the employer did not really believe them to be guilty of gross misconduct.
 3. To discipline an employee for gross misconduct if the finding of gross misconduct is in fact unjustified.
 4. To impose a punishment which is grossly out of proportion to the offence.
41. The investigation is part of a disciplinary process so I can accept that the way in which an employer conducts itself with regard to an investigation is covered by the implied obligation.
42. I deal with each of the six points raised by the claimant in turn.
43. Points 1 and 2 are essentially the same point – the failure to provide the particulars of the allegations to the claimant. I take into account that the Investigation Meeting was not a disciplinary hearing. It was an investigation meeting. There is, in my opinion, no requirement upon an employer in the

context of carrying out an investigation, to disclose the specific details regarding the allegations. Failure to do so may raise issues at the disciplinary hearing stage (particularly if the failure has not been rectified by then) but at the preliminary stage of an investigation the employer has in my view a wide discretion in relation to the information that it discloses. It may be different if it could be said that the employer was acting in bad faith in some sense. I am satisfied there is no evidence of bad faith here. Allegations of misconduct were made by two individuals against the claimant. On the face of it these allegations suggested potential misconduct under the respondents Diversity, Inclusion and Belonging Policy. The two witnesses wished to remain anonymous. Mr McIntosh had the two anonymous witness statements but little further information. The notes of the Investigation Meeting (which the claimant accepted were broadly accurate) disclose that the primary allegation – the comment about Trans people – was put to the claimant.

44. The third allegation is the reliance upon anonymous witness statements. I do not consider that there is any requirement upon an employer to disclose witness identity at the investigation stage. It may be that to have a fair disciplinary hearing there can be circumstances where disclosure is necessary – although even here it will depend entirely upon the context. At investigation stage an employer is entitled to investigate without disclosing the source of the evidence.
45. The fourth allegation was escalating matters rapidly towards a disciplinary hearing and potential dismissal. Although Mr McIntosh recommends a disciplinary hearing for the claimant there was no evidence that the respondent was proceeding with a disciplinary hearing. It may well have been likely but no action had been taken by 11 November 2025 when the claimant resigned. Whether dismissal was likely is unknown. However, even having regard to the determination by Mr McIntosh to proceed to a disciplinary hearing I am satisfied that that is a conclusion he reached in good faith. He considered there was a contradiction in the evidence given by the claimant regarding this being about hurt feelings whilst not admitting or denying the comment. He considered that further investigation was required and that a disciplinary hearing was the best format for that.
46. The fifth allegation is that the process was conducted in a manner that was intimidating and put him under stress. Mr McIntosh accepted that the claimant may well have found the process intimidating – but that that was the unavoidable nature of such a process. There was no evidence that Mr McIntosh or the respondent did anything in particular to make the process more intimidating than it would otherwise be.
47. The final allegation is that there was a failure to conduct a fair and balanced investigation prior to progression of the matter. This is really a catch all –

covering all of the preceding points. I have considered in the round the manner in which the investigation process was conducted by the respondent. I am not satisfied that there was anything that was unfair or unbalanced in the way in which it was conducted having regard to the fact that it was an investigation rather than a disciplinary hearing. A number of the points that the claimant makes would be entirely relevant in relation to a disciplinary hearing and had the case proceeded to a disciplinary hearing the respondent would have been required to set out with much greater clarity the specific allegation or allegations against the claimant and the evidence to support that. The claimant would have been entitled to know at least in broad terms the source of the evidence and the circumstances that it related to. However, the disciplinary hearing stage had not been reached by the point the claimant opted to resign. In my view the claimant has “jumped the gun” and has resigned at a time when the respondent has not acted in breach of the implied duty of trust and confidence.

48. Accordingly in the circumstances I do not consider that there has been a breach of the implied duty of trust and confidence in this case and accordingly dismiss the claim.

Conclusion

49. For the reasons set out above I do not find that there has been a breach of the implied duty of trust and confidence. Accordingly, there is no dismissal under section 95(1)(c) ERA and the claim fails as a consequence.

8th July 2026
Date sent to Parties