



EMPLOYMENT TRIBUNALS

Claimant: Mr Faviano Barretto

respondent: APCOA Parking

Heard at: London South Croydon, in public, by CVP **On:** 21 July 2026

Before: Employment Judge Tsamados (sitting alone)

Representation

claimant: in person

respondent: did not attend, was not represented

JUDGMENT

The claimant's application for an order for interim relief under the Employment Rights Act 1996 section 128 is refused.

REASONS

Introduction

1. I gave oral Judgment at the hearing. The claimant requested for reasons. These reasons are slightly fuller and more formally set out those given orally but do not contain any substantial variation.
2. Under the Employment Rights Act 1996 ("ERA") section 128, where, inter alia, an employee brings a complaint of unfair dismissal by reason of making a protected disclosure(s) s/he can make a claim to the Employment Tribunal for interim relief. Such a claim must be made within seven days of the effective date of termination and the ACAS Early Conciliation procedure does not have to be followed.
3. The Tribunal must then hold a hearing as soon as possible and can do so on at least seven days' notice. At the hearing the Tribunal will determine whether it is likely that the employee will succeed in his/her unfair dismissal case at the eventual hearing. If so, the Tribunal can make an order for interim relief, that is for reinstatement or re-engagement, if the respondent employer agrees or, if not, for a continuation of contract order.

The application

4. The claimant presented his claim form to the Tribunal on 27 April 2026 raising a complaint of automatic unfair dismissal as a result of making protected disclosures. The claim included an application for interim relief in respect of the unfair dismissal complaint brought under ERA section 103A. His employment ended on 22 April 2026 and so the application for interim relief was brought within the time limit set out in ERA section 128(4).
5. Unfortunately, it took the Tribunal some time to serve the claim form on the respondent and to set the date for this hearing.
6. Notice of today's hearing was sent to the parties on 8 July 2026. In a separate letter also sent on 8 July 2026, the claimant was required to provide further information about the protected disclosure(s) he relied upon, the respondent to provide an agreed bundle of relevant documents and both parties to provide any written submissions upon which they intended to rely.
7. In preparation for the hearing, I was unable to find any compliance with the requirements of this letter on the Tribunal's file.

The hearing

8. The claimant attended belatedly accompanied by his ex-work colleague, Mr Grant. He was sitting in the passenger seat of Mr Grant's stationary car using his mobile phone to take part. I did express my surprise that they were not somewhere more conducive to participating in legal proceedings. Later in the hearing during an adjournment, the claimant and Mr Grant moved to what I understood to be their works canteen and after a further adjournment to consider my Judgment, the claimant was walking outside and then sitting in what appeared to be a train carriage. I did say to him that for the full hearing he really needs to find somewhere more private and appropriate from which to take part.
9. The claimant had responded to the Tribunal's letter of 8 July 2026 but only this morning by an email timed at 8.59. This was not copied to the respondent. I did not have a copy. During an adjournment, a copy of the email was forwarded to me by my clerk. It attached a three page skeleton argument which, in effect, answered the questions posed in the letter, and a 32 page bundle of documents in support. I adjourned to read both documents.
10. The respondent did not attend the hearing and was not represented. The only contact details we have is a postal address, which is in fact its registered office. In the absence of anything else I have no reason to suppose that the respondent has not received notice of this claim and of the hearing. Mr Grant has his own Tribunal claim against the respondent and the respondent has responded to that (the pleadings are included within the claimant's bundle of documents).
11. I considered the claimant's claim form, the documents provided to me and what he said to me at the hearing. References to the bundle will be by use of "B" followed by the relevant page number.

12. I did not make any findings of fact at this hearing but it is useful to summarise the claimant's claim under ERA section 103A, the parties' respective positions and, where appropriate, submissions.

Summary

13. The claimant was employed as a Civil Enforcement Officer by the respondent, working in the London Borough of Richmond Upon Thames, from 9 February to 22 April 2026.
14. The respondent provides off and on street parking management in the United Kingdom. The London Borough of Richmond Upon Thames outsources its parking function to the respondent. The claimant's duty was to patrol the streets of the borough and ensure that motorists followed parking restrictions.
15. He was required to wear and operate a body camera ("body cam") whilst on duty and signed a document to this effect when he started work, albeit he say under duress. In the grounds of resistance to Mr Grant's claim at paragraph 17 at B20 the respondent states that body worn cameras are implemented as a security measure to minimise the risk of attacks of employees and support health and safety objectives.
16. The claimant's case within his particulars of claim is as follows. At the morning briefing he stated his opposition to the respondent's policy that Civil Enforcement Officers were made to activate their body cams for the entire shift. He raised this matter due to his reasonable view that UK privacy laws had been breached. Others had raised their concerns and non-compliant employees were dismissed. As a result of the claimant's stated opposition to the policy, the respondent found ways to criticise his performance and ultimately dismissed him.
17. In the Tribunal's letter dated 8 July 2026, the claimant was required to provide the following information:

(i) What is the protected disclosure (whistleblowing) which the claimant relies on:

- *what did he say or write*
- *to whom*
- *when*
- *and where is this referred to in the claim form?*

(ii) What does the claimant say he believed the disclosure tended to show?

(iii) Why does the claimant say that belief was reasonable?

(iv) Did the claimant believe that the disclosure was in the public interest, and if so why?

(v) Why does the claimant say that the disclosure caused his dismissal?

18. In his skeleton argument, in essence, he responds as follows. He made a number of protected disclosures to his employer at morning briefings and also sent a report to the relevant regulator. These raised the issue of the breach of a legal obligation, namely that staff were required to keep their body cams switched on continuously and this was not in line with the law. As a result of his disclosures he was then dismissed. The claimant further believes that this policy was excessive and could not be justified by the respondent, that his belief was reasonable because the respondent had no thought out policy (as he says, he believes it was “written on the back of a fag packet”) and that the disclosures were in the public interest given that hundreds of Richmond residents were under excessive surveillance without their consent and the respondent subjected insubordinate employees to detriment. In answer to the question where he refers to these matters in his claim form, the claimant replied that he was inexperienced in drafting ET1s and unsupported in the process by his trade union.
19. Unfortunately, this information was still very vague and did not really address the questions that were asked sufficiently. I attempted to get more detail from him during the hearing but again this was still vague and somewhat limited.
20. In essence, he states that he raise concerns about having the body cam on all day at a number of daily briefings, although he was unsure of the dates. However, he accepted that the earliest one could only have been the date he started work, which was 9 February and he said that he perhaps raised his concerns once a week. He raised the issue with Rob Woodford, the contract manager and Marta Zybura, his team leader.
21. Doing the best I could, the most I could get from him was that he told Mr Woodford and Ms Zybura on unidentified dates that he disagreed with having his body cam switched on all day and would only switch it on when he was issuing a PCN or if there was a confrontation. However, later on in the hearing he told me that he had said that it was a breach of his privacy and/or a breach of the GDPR. I asked him how having a forward facing camera breaches privacy and he said that it would pick what he was saying in private telephone calls to his doctor or to his wife.
22. Staff attended daily briefings and were issued with these in writing. I was referred to one dated 16 April 2026 at B13 the last line of which states “Body cam must always be on, not just when issuing PCN’s”.
23. The claimant said that the respondent kept changing its policy. Originally staff were told the body cam had to be on at all times and then it was only to be on when issuing PCNs and then again they were told it was to be on at all times.
24. In its grounds of resistance to Mr Grant’s claim, at paragraphs 16 and 17 at B20, the respondent sets out its position regarding the use of body cams. This denies that body cams had to be switched on continuously and only had to be switched on whilst on duty, specifically when working on the streets and undertaking the Civil Enforcement Officers’ role during shift times. Further, it states that cameras should be switched off during breaks, including comfort breaks.

25. In addition, in paragraph 18 at B 20, the respondent states that all body worn cameras are operated in compliance with GDPR and clear policies are in place governing the recording, storage and access of such data.
26. The claimant sent a report to the ICO by email dated 30 January 2026 (at B4-6). I note that in this the claimant stated that he raised the issue with his employers on 1 June 2025. This predates the start date of his employment. When I asked him why he put this, he said that it was the date on which his colleague raised the issue.
27. It is not clear what the central issue is that the claimant is raising in this report. At B6 the claimant sets out other information relevant to his report and experience. This raises a large number of matters which do not appear relevant to his claim. The only obviously relevant reference to body cams in effect talks about their use by the respondent as a way of monitoring staff performance, where they are, and whether they are actually working. He describes the technology as unnecessary and highly invasive. The thrust of this is that he alleges that the respondent is using body cams to follow and track staff.
28. By email dated 31 January 2026, the ICO replied to his email and I note that this states that the information he has provided will be assessed to establish what, if any, action can be taken and that the ICO publishes information about the action taken as a result of disclosures in a yearly report but this would in effect be anonymized. This is at B7-8.
29. The claimant could not say with any certainty whether the respondent was aware of his complaint. He certainly did not tell them and the correspondence from the ICO indicates that neither would they.
30. The claimant had an accident whilst working on 7 April 2026 and as a result was absent from work due to ill-health thereafter. He obtained a medical certificate for this period on 27 April 2026 (at B11).
31. The claimant was dismissed from his employment by email from Mr Woodford dated 22 April 2026 (at B12). In essence, this states that the claimant's employment has been terminated during his three month probationary period on the basis that his performance has not met the standard required. In particular, that the main reason was that he had failed to fulfil his contractual obligations: due to the total number of days of absence, lateness and failing to be in uniform at the start of shift. In addition, the email cites that he had requested that a member of the management team falsify the processes relating to his absence.
32. The claimant said that he had been sick perhaps one or two days prior to his absence from 7 April onwards. That he had been late on a number of occasions, perhaps two or three times, but only by perhaps one, two or five minutes because the bus was late. However, he said that this was put down as 15 minutes late. He has no idea what the allegation of falsifying records relates to.

33. The claimant believes that he was dismissed because he asked questions about the use of the body cam and expressed his objection to having it on all the time.

Relevant law

34. ERA section 103A provides 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.”

35. ERA section 43 states a disclosure must be of information a claimant reasonably believes tends to show, in this case, the breach of a legal obligation, and further that a claimant reasonably believes to be in the public interest. The disclosure must be made to one or more of a number of prescribed persons, in this case the claimant relies on making the disclosures to his employer and the ICO.
36. Having considered whether a claimant has made one or protected disclosures, the Tribunal then needs to consider whether the reason or the main reason for his dismissal was because of one or more of those protected disclosures. The burden of proof in a case where a claimant does not have sufficient length of service to claim ordinary unfair dismissal lies on him.
37. For the purposes of an interim relief hearing, the issue under ERA section 129 is whether it appears to the Tribunal that it is likely that on determining the complaint the reason or principal reason for the claimant's dismissal was the making of a protected disclosure(s).
38. In order to determine whether it is likely the claimant will succeed at a full hearing, the Employment Appeal Tribunal said in London City Airport v Chacko 2013 IRLR 610, that this requires the Tribunal to carry out an “expeditious summary assessment” as to how the matter appears on the material available, doing the best it can with the untested evidence advanced by each party. Clearly this involves less detailed scrutiny than will be undertaken at the full final hearing.
39. “Likelihood” has been interpreted to mean “a pretty good chance of success” at the full hearing - Taplin v C Shippam 1978 ICR 1068. The burden of proof was intended to be greater than that at a full hearing, where the Tribunal only needs to be satisfied on the balance of probabilities that the claimant has made out his case - or 51% or better. A pretty good chance is something nearer to certainty than mere probability.

Conclusions

40. I would stress that my role today is to effectively carry out a broad assessment of the case on the basis of the information before me as to whether the claimant has a pretty good chance of success, which has to be 51% or greater chance. So it is something nearer to certainty rather than a mere possibility.

41. I have a number of concerns about the claimant's case. What he said to me is very vague and a lot of what he said in his skeleton argument or today was not set out in his claim form, although I can see he has clearly had some assistance in drafting it, but possibly simply by use of AI software. The respondent is not present and the most I have to go on is where relevant its defence to his colleagues' claim and the correspondence provided.
42. The claimant could not tell me with any certainty when he made the protected disclosures and specifically what he said. What he told me could possibly be a disclosure of information or simply a complaint or just comment. He veered between each of these during the course of the hearing.
43. Whilst he approached the ICO, the issues raised are much wider and put on a different basis to what he has alleged he disclosed to his employer. Further, there is no certainty that his employer was even aware of his approach to the ICO.
44. However, of more concern is whether the claimant was dismissed because he blew the whistle. On the face of it he was dismissed for the reasons given in the letter of termination, not least for his absence from work due to ill-health and this was someone who was dismissed within a probationary period. The claimant obviously disputes this but beyond making what he alleges are protected disclosures and then being dismissed he has not provided evidence of the necessary causal link between the two. In the context of an interim relief claim he has to show a 51% or more chance of success. He has not done so. I therefore do not find that it appears likely that the claim will succeed.
45. I would add that these are of course matters which would need to be tested at a final hearing at which witness statement evidence and full documents are provided.
46. For these reasons the application is refused.

Employment Judge Tsamados
Date: 21 July 2026

Sent to the parties on:
Date: 22 July 2026

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