



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr I Khan  
**Respondent:** British Airways Plc

**Heard at:** Watford (by CVP) **On:** 7 July 2026

**Before:** Employment Judge Dick

## Appearances

**For the claimant:** In person  
**For the respondent:** Ms R Cairney (solicitor)

## JUDGMENT

1. By agreement, the name of the respondent is amended to British Airways Plc
2. The claimant's application for interim relief is refused as it is not likely that on determining the complaint to which the application relates the Tribunal will find that the reason or the principal reason for the dismissal is that the claimant made a protected disclosure.

## REASONS

### Introduction

1. At the conclusion of today's hearing I gave a judgment with full oral reasons, refusing the claimant's application for interim relief. These written reasons were requested by the claimant at the hearing in accordance with Rule 60(4D) of the Employment Tribunal Rules of Procedure 2024.

### The Law and Procedure

2. There is no dispute that the application for interim relief was made in time and that the claimant otherwise has the legal standing required to make the application. Although the respondent has raised an issue about early

conciliation, that cannot affect this application as there is no requirement for early conciliation in an claim for interim relief.

3. The issue for me is whether it is likely that the claimant will succeed at a full hearing of the complaint of automatically unfair dismissal. I am applying section 129 of the Employment Rights Act 1996 ("ERA"), which says that an application for interim relief should be granted if "it appears to the tribunal that it is likely that on determining the complaint to which the application relates the tribunal will find" that the reason or principal reason for dismissal was one of the statutory automatically unfair reasons.
4. The correct test for me to apply has been set out in Taplin v C Shippam Limited [1978] ICR 1068, which is whether or not the claimant has a "pretty good chance" of success at a final hearing. This is a fairly high bar, although of course it is not insurmountable. It is clearly a higher standard than the balance of probabilities which the Tribunal usually applies.
5. At interim relief hearings the default position is that there will be no oral evidence unless the Tribunal directs otherwise (and I did not). Findings of fact are not made. Instead, an "expeditious summary assessment" is to be conducted (London City Airport Ltd v Chacko [2013] IRLR 610). The process was described by HHJ Eady QC as she then was as a necessarily "broad-brush approach", and "very much an impressionistic one", in His Highness Sheikh Bin Sadr al Qasimi v Robinson UKEAT/0283/17. In this case I decided the application on the basis of oral submissions, a 111 page agreed bundle (which contained a statement and written submissions from the claimant) and separate written submissions from the respondent. The latter had not reached me or the claimant before the hearing, but both of us had sufficient time to read them during the course of the morning.
6. The particular complaint in this case is automatically unfair dismissal because of making a protected disclosure, or whistleblowing as it is more commonly known. The Taplin test must be met for each element of that complaint here.
7. S 103A ERA provides that an employee who is dismissed shall be regarded 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. In such circumstances the employee is said to be subject to an automatically unfair dismissal.
8. By operation of s 43A and s 43C(1)(a) ERA, a disclosure will be protected if it is a qualifying disclosure made by an employee to an employer. By s 43B, a qualifying disclosure means any disclosure of information which, in the reasonable belief of the person making the disclosure, is made in the public interest and tends to show one or more of six things, or concealment of those things ("the wrongdoing"). These include: that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject (s 43B(b)). In the case of a disclosure directly to an employer, the Tribunal will consider the following. First, was there a disclosure of

information? It is immaterial that the recipient is already aware of the information (s 43L(2)). Second, did the claimant reasonably believe two things: (i) that the information tended to show the relevant wrongdoing and (ii) that the disclosure was in the public interest. So far as both beliefs (i) and (ii) are concerned, it is the claimant's belief at the time of making the disclosure (not any later) that is relevant, and the belief must be genuine, i.e. subjectively held, but objectively reasonable.

9. Some other authorities were cited by the claimant in his written statement. I do not list them all here, but I hope it will be apparent that I have taken account of the relevant principles as and where appropriate.

### **The issues**

10. I have to decide whether there is a pretty good chance that the claimant will succeed in the claim that the sole or principal reason for the dismissal was whistleblowing, as opposed to there being some other reason for the dismissal. For the purposes of whether the application for interim relief succeeds, it would merely have to be some other reason, not some *good* other reason. As the claimant had more than two years' service, at a final hearing he would need to prove that he made a protected disclosure (or disclosures) and produce some evidence to suggest that the disclosure(s) were the principal reason (Kuzel v Roche Products Limited [2008] ICR 799), after which the burden would fall on the respondent to prove the reason for the dismissal. This is what I mean below when I refer to what the claimant will have to show at the main hearing.
11. Given the summary nature of the decision I make today, I have not made a distinction between the points that the claimant has technically pleaded in his claim form and points which he has relied on in later written documents and in his oral submissions – I have taken all of those things into account when assessing his chances of success.
12. Although I am explicitly making no factual findings, it seems to me that the following is unlikely to be in dispute at any future hearing:
  - 12.1. The claimant started work for the respondent as a project manager in October 2023. He worked in the respondent's "transformation department".
  - 12.2. The respondent embarked upon a collective redundancy consultation in October 2025, by which it proposed to remove 25 roles and create 12 new roles. The claimant was one of 17 project managers, and the proposal was that that role be removed entirely (alongside some other roles, hence why the figure was 25 and not 17).
  - 12.3. The process was initially intended to be finished by February 2026. Regular meetings took place between the respondent and the relevant trade unions during the course of the process.

12.4. Over the period of the consultation the claimant was off sick for at least some of the time, but he was aware that he was one of those employees affected or potentially affected.

12.5. The process became somewhat elongated, with the respondent eventually writing to the claimant in May 2026, confirming that he would be dismissed for what the respondent said was reasons of redundancy.

**The disclosures and the reason for the dismissal**

13. For the sake of brevity in these reasons I will use the word “disclosures” rather than, for example, “purported disclosures” but I make clear that I am not making any finding that there were in fact disclosures within the meaning of s 43B ERA.
14. The claimant explicitly relies on what he says are two disclosures made by email, although he was only able to produce one of those in evidence today. I accept that the claimant has a pretty good chance of showing that he sent both emails, even though they were sent from an anonymous account. Quite simply, he can give evidence about that, which at least at the moment is uncontradicted. Likewise I accept that the claimant has a pretty good chance of showing that both emails went to some or all of those employees affected – he can give evidence about that and in the “sent to” box, the first email says: “General - Impacted B2 and B3 in Transformation”.
15. The first email, included in the bundle, was sent on 29 November 2026. The email conveyed a number of complaints about the redundancy process, including complaints that a proper consultation had not taken place and that meaningful redeployment was not being considered. Of course it is not relevant in a whistleblowing case whether the information conveyed was already known to the recipient. In those circumstances I accept that the claimant has a pretty good chance of showing that there was a disclosure of information which he reasonably believed tended to show that the respondent was not complying with legal obligations, including the requirement to consult and the requirement not to unfairly dismiss its employees. I make very clear at this point that I am not making a finding that the respondent was not complying with its legal obligations – all I am deciding is whether the claimant has a good chance of showing that he had a reasonable belief about that.
16. The claimant was, as I say unable to produce the second email, but I do accept, on the basis of the evidence I have seen, that he has a pretty good chance of proving that he sent the second email shortly after the first had been sent and that the second email’s contents were along similar lines to those of the first.
17. However, it seems to me that the claimant has two particular difficulties relating to the disclosures.
18. First, I do not accept that the claimant has a pretty good chance of proving that he reasonably believed that his disclosures were in the public interest.

Whilst the Tribunal may well accept that his disclosures were not solely about his own private interests, that is not the same as saying that the Tribunal is likely to accept that the disclosure was in the wider public interest, since it concerned a relatively small group of employees. I say that even taking into account the claimant's argument that the respondent is a large publicly-listed company and that the respondent would later apply similar processes to a considerably larger group of employees.

19. Second, it is far from clear at this stage whether the disclosure was in fact made directly to the claimant's employer, rather than simply being made, as appears on the face of it, to those employees who were affected. Further, it is likely to be an issue of factual dispute whether the disclosure ever reached the decision-makers in the claimant's case. While the claimant is right to say a disclosure is still a disclosure when made anonymously, it also stands to reason that a dismissal can only happen because of a disclosure if someone involved in the decision-making process (or, at least, someone with influence over those involved) is aware of the disclosure. The claimant's case is that three particular managers learned or deduced that he was the whistleblower. He bases that assertion on what he has been told by other people. As I understand it from his submissions, he says that was told by people that they had been told by the three managers that he was the whistleblower (and that they had been warned to keep away from him). One of those three managers, the claimant says, is "joined at the hip" with a Mr Pritchard, and so Mr Pritchard must also have believed he was the whistleblower. It is Mr Pritchard who the claimant asserts subjected him to various detriments because of the whistleblowing. (Though on the face of it the decision to dismiss appears to be made by someone else, a Mr Wear, there does not seem likely to be any dispute that Mr Pritchard was at least to some extent involved in the process.) It may be of course that the claimant is able to obtain evidence, either directly from the people he spoke to, or indirectly by way of records of what those people said in meetings about the subject, but at the moment it does not seem to me that there is a pretty good chance of the claimant showing that the decision-maker(s) in his case became aware of either the first or the second emails, given the various steps involved in the claimant himself reaching the conclusion that he had been identified as the whistleblower.
20. So, it seems to me that it is not possible to say at this stage that the claimant has a pretty good chance of showing that the disclosure was made to his employer. But even putting that aside, the more significant point is that in my judgment the claimant does not have a pretty good chance of proving that the sole or principal reason for his dismissal was that he made the disclosure. I have already explained that it seems to me that there is some uncertainty about whether the disclosure ever reached the decision-maker or makers in his case. I further accept the respondent's submission that there is a certain circularity to the claimant's argument. His suggestion is that the consultation was a sham process in order to get rid of various people. Yet it is clear that the process began considerably before the claimant made his disclosures. Whilst of course that would not prevent the claimant succeeding with an argument that he was selected for redundancy

because of making a protected disclosure, it does in my judgment weaken his case.

21. The claimant relies on a number of inferences which, I accept, a Tribunal might draw depending on the facts it finds. But those inferences will only be drawn if what appears to me to be likely factual disputes are resolved in the claimant's favour. Those disputes include the following: whether there truly was a meaningful consultation; whether redeployment was genuinely considered; whether there were many other suitable vacancies which the claimant could have been "slotted in" to; whether there were data breaches during the process; whether the necessary reasonable adjustments were made for the claimant during the process; whether Mr Prichard was involved at various points in the process and if so whether that involvement was improper. On the basis of the evidence presented to me, I cannot say at this stage that the claimant has a pretty good chance that those disputes or any one of them will be resolved in his favour. Perhaps they will, but perhaps they will not. Similarly, given that there was a lengthy redundancy process, with the unions involved, which affected more people than just the claimant, at this stage it does not seem to me that there is a pretty good chance that the respondent will fail to prove that the reason for the dismissal was something other than whistleblowing – and given that all I am considering is the automatically unfair dismissal complaint, that is all that is necessary – I do not have to consider the respondent's chances of proving that the dismissal was fair.
22. For the sake of completeness, the case is somewhat complicated by a further three emails, sent shortly after the first two disclosures, on the face of them from the same anonymous email account, but which the claimant denies he sent. The claimant asserts that the respondent wrongly concluded that he had sent those emails – which he points out are in a somewhat more combative tone than the first two – and took those into account in its decision-making which went against him. Again maybe the claimant will be able to prove that, but maybe he will not; I cannot see that it greatly assists him on the point of interim relief.

### **Conclusions**

23. Ultimately, I do not think that at this stage the claimant has a pretty good chance of showing that he made disclosures to his employer. But even if they were made to his employer, I do not think that the claimant has a pretty good chance of showing that he reasonably believed the disclosures to be in the public interest. Even if he were able to do that, I do not consider that there is a pretty good chance that he could provide sufficient evidence to enable a Tribunal to conclude that those disclosures were the sole or principal reason for his dismissal, or that if he did so the respondent would not be able to prove that there was another reason for the dismissal.
24. I have come to this conclusion on the basis of the written evidence presented by the claimant, i.e. despite the respondent's decision not to

produce a witness statement from the person who made the decision to dismiss the claimant.

**Approved by:**

Employment Judge Dick

Date: 7 July 2026

Sent to the parties on:  
11 August 2026.....

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For the Tribunal Office.

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