



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

MS A A V PAMITTTAN

AND

Respondent

**BARCHESTER HEALTHCARE
LTD**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: BRISTOL ON: 1ST MAY 2026

**EMPLOYMENT JUDGE MR P CADNEY
(SITTING ALONE)**

APPEARANCES:-

FOR THE CLAIMANT:- IN PERSON

FOR THE RESPONDENT:- MR P SINGH (SOLICITOR)

JUDGMENT

The judgment of the tribunal is that:-

1. The claimant's application to amend her claim to add a claim for automatic unfair dismissal asserting that the reason (or principal reason) for her dismissal was that she had made public interest disclosure(s) (s103A Employment Rights Act 1996) is granted.
2. The claimant's application for interim relief pursuant s128 Employment Rights Act 1996 is dismissed.

Reasons

Background

1. The claimant is a Registered General Nurse who commenced employment with the respondent on 6th January 2025. By a claim form submitted on 24th February 2026, at which point she was still employed by the respondent, the claimant brought claims of unfair dismissal (although she was still employed by the respondent), disability discrimination, and public interest disclosure detriment.
2. In respect of the public interest disclosure detriment claim she asserted that she had made an internal protected disclosure on 16th August 2025. This was investigated as a grievance by Cristina Iliuta, with the outcome being delivered on 17th December 2025. The claimant lodged a second grievance against Ms Iliuta on 17th January 2026.
3. On 27th January 2026 the respondent commenced a disciplinary investigation in respect of nine allegations. The claimant disputes the allegations and asserts that one, relating to an alleged medication error on 14th January 2026 is not only demonstrably untrue but has been fabricated as she was not working on the day of the allegation.
4. On 30th January 2026 she stated during a grievance meeting that she intended to elevate her concerns to the CQC/NMC; which she did at 16.50 that day. She asserts that her disclosures related to the fabrication of the medication error on 14th January 2026; and supplied the investigation letter and the documentation supporting her assertion that she had not been working that day to the CQC /NMC .
5. At 17.10 that same day she was suspended and the suspension letter increased the disciplinary allegations to twelve. She contends that her suspension was a detriment causally linked to the disclosure to the CQC/NMC.
6. The claimant was subsequently dismissed as a result of the disciplinary allegations on 31st March 2026. On 2nd April 2026 she submitted an application to amend her claim to add a claim for automatic unfair dismissal asserting that the reason (or principal reason) for her dismissal was that she had made public interest disclosure(s) within the meaning of s43B Employment Rights Act 1996; together with an application for interim relief.
7. As a result this hearing was listed to determine two issues, firstly the application to amend, and secondly if it successful, the interim relief application.

Amendment Application

8. The respondent does not object to the application to amend, which is granted.

Interim Relief Application

9. The application before me today is for an order for interim relief in the making of a continuation of contract of employment order (s129 ERA 1996) against the respondent. The respondent resists the application on the basis that it is not “likely” (within the meaning of s129) that the tribunal which determines the complaint will make a finding that the claimant was automatically unfairly dismissed pursuant to s103A ERA 1996.
10. The tribunal can only make one of the orders set out in section 129 if it holds that it is “likely” that the tribunal which determines the complaint will find (in this case) that the reason or principal reason fell within s103A. “Likely” in the context of s129 means that there is “a good chance” that the tribunal will find in the claimant’s favour; and a good chance means something more than the balance of probabilities, indeed a significantly higher likelihood (*Ministry of Justice v Sarfraz [2011] IRLR 562 per Underhill P*). That test applies to all aspects of the claimant’s claim that may be in issue.
11. In *London City Airport v Chacko [2013] IRLR 610*, the EAT set out the approach to be taken in determining an application for interim relief:

“[23] In my judgment the correct starting point for this appeal is to fully appreciate the task which faces an employment judge on an application for interim relief. The application falls to be considered on a summary basis. The employment judge must do the best he can with such material as the parties are able to deploy by way of documents and argument in support of their respective cases. The employment judge is then required to make as good an assessment as he is promptly able of whether the claimant is likely to succeed in a claim for unfair dismissal based on one of the relevant grounds. The relevant statutory test is not whether the claimant is ultimately likely to succeed in his or her complaint to the Employment Tribunal but whether “it appears to the tribunal” in this case the employment judge “that it is likely”. To put it in my own words, what this requires is an expeditious summary assessment by the first instance employment judge as to how the matter looks to him on the material that he has. The statutory regime thus places emphasis on how the matter appears in the swiftly convened summary hearing at first instance which must of necessity involve a far less detailed scrutiny of the respective cases of each of the parties and their evidence than will be ultimately undertaken at the full hearing of the claim.”

Evidence

12. Both parties have supplied bundles of documents for the hearing. However, and for the avoidance of doubt I have not heard any evidence and I am not making or purporting to make any findings of fact. The matters set out below simply provide the

background to enable my decision as to whether or not to make a continuation of contract of employment order to be understood.

Disputes

13. The respondent submits that there are two fundamental aspects of the claim, both of which are in dispute, and that on the information before the tribunal that there is not a good chance that the final tribunal will find in the claimant's favour in respect of any of them. They are:
- i) Protected Disclosure – The respondent submits that on an assessment of the existing documentary evidence the claimant is unlikely to establish that she has made any protected disclosure.
 - ii) Reason or principal reason for dismissal–The respondent submits that the reason for the termination of the claimant's employment is clearly set out in writing; is supported by documentary evidence; and that there is nothing, at least at present, to indicate that the reason given was not the true reason.

Misconduct allegation January 14th / 13th 2026

14. One of the central factual disputes concerns allegations of misconduct on 14th / 13th January 2026. The claimant asserts in the Grounds attached to the ET1 that “ *On 27th January 2026 the company escalated matters by issuing an investigation letter signed by Jin Wang setting out nine allegations. One central allegation concerned an alleged medication error said to have occurred on the 14th of January 2026. I was not on duty and not present at the workplace on that date a fact confirmed by the company's own loop rota records*”. She describes the allegation as “fabricated”
15. The respondent's position is that the use of the 14th January as the date of the alleged misconduct is simply an error. The allegation is in fact that that the claimant was on duty on 13th January when she signed for use of medication cream. The date of 14th January is the date of the next shift when a colleague discovered that the claimant had signed for use of the cream, but that it was unopened and unused. The correct date and explanation of the allegation relating to the claimant's conduct when she was on shift on 13th January 2026 is set out both in the investigation report and the dismissal letter.

Protected Disclosures

16. The claimant relies on one public interest disclosure:
- i) The disclosure to the CQC / NMC on 30th January 2026;

17. As set out in the claimant's information provided for the purposes of this hearing she asserts:

i. The Protected Disclosure (Whistleblowing) relied upon:

a. What was said/written: I disclosed that the Respondent was systematically fabricating medication administration records (MAR charts) and clinical governance data to facilitate retaliatory disciplinary outcomes. Specifically, I reported that management had "retrospectively created" a clinical drug error and attributed it to me for a date (14 January 2026) when I was off-duty and physically absent from the premises.

b. To whom: Internally to Agnieszka (Aga) Musial (Senior General Manager). Externally to the Care Quality Commission (CQC) [Ref: GFC-00001241] and the Nursing and Midwifery Council (NMC).

c. When: 30 January 2026 (Internal disclosure at 16:30H; CQC notification at 16:50H; Suspension at 17:10H; NMC notification at 19:16H).

d. Reference in claim form: Case Ref: 6006890/2026, ET1 Support Document.

ii. What the Claimant believed the disclosure tended to show: I believed the disclosure showed a fundamental **breach of a legal obligation** (the Health and Social Care Act 2008 and NMC Code regarding accurate, contemporaneous record-keeping) and a significant **danger to the health and safety of residents**. Falsifying medication records masks the reality of care delivery, creating systemic risks to vulnerable service users.

iii. Why that belief is reasonable: As a Registered Nurse of over 14 years, a trained Expert Witness, and an ICO-recognised Data Protection Officer, my belief was based on objective forensic proof. The Respondent's internal "Loop" Rota system confirmed I was off duty on 14 January 2026. For a manager to allege a drug error on a date a nurse did not work is prima facie evidence of institutional fraud. The reasonableness is further proven by the Respondent's subsequent shifting of the "allegation date" three times (14 Jan 2026 -> 13 Jan 2025 -> 13 Jan 2026) once I provided proof of the initial fabrication.

iv. Was the disclosure in the public interest? Yes. The disclosure concerns the clinical integrity and safety protocols of a major UK healthcare provider. Ensuring that medication records are not manipulated to facilitate the "managing out" of staff—at the expense of regulatory accuracy and resident safety—is a matter of profound public interest.

18. The respondent does not accept that it is likely that the claimant will be able to show that it was a protected disclosure for the following reasons:

- i) The whole claim for automatic unfair dismissal relates to a constructed claim of a protected disclosure relating to a single disciplinary allegation disclosure, in respect of which the claimant knows that the allegation as set out in the dismissal letter is that the claimant was on duty on 13th January when she signed for use of medication cream which she had in fact not administered. The date of 14th January is the date of the next shift when a colleague discovered that the claimant had signed for use of the cream but that it was unopened. The claimant's whole claim rests on the fact that in the original investigatory letter the date of 14th January when the incident was discovered was used, and not the date of 13th January when the incident occurred.
- ii) The claimant has not disclosed the actual disclosure, only the CQC's acknowledgement of receipt, and it is impossible to know precisely what was disclosed at this stage and the tribunal cannot simply assume that it will fulfil the statutory definition. It was open to the claimant to disclose it if she wished to but she has chosen not to.
- iii) Even on her own description of the disclosure, it relates solely to the one disciplinary allegation which is characterised by the claimant as a fabrication.
- iv) There is a live question of whether the claimant could have had any reasonable belief that the disclosure tended to show any breach falling within s43B ERA 1996. It is entirely possible that the tribunal will find that the claimant knew full well that she had committed the misconduct alleged and constructed the claim from the error in the date. In addition the claimant has herself disclosed documentation showing that she was openly and expressly threatening to make the disclosure unless the respondent agreed to a termination package including the payment of £25,000; which is curious as she herself asserts in her email of 30th January 7.59 pm that she had an obligation to do so, and that the disclosure was expressly a response to her suspension.
- v) In any event there is a live issue as to whether she can have had any reasonable belief that the disclosure tended to show any breach of a legal obligation; particularly given that at the time the claimant made the allegation set out at 1a) above she cannot have had any reasonable belief that any records had been fabricated, as none had, none had been provided to or seen by the claimant, and the allegation is at least arguably factually untrue and may simply be invented;
- vi) Similarly there is a live issue as to whether she can have had any reasonable belief that it engaged the public interest as it solely concerned one disciplinary allegation against her and had no implications for anyone else at all;

19. Conclusions – In my judgement the respondent is correct there are live issues as to what the claimant disclosed, whether the claimant could have reasonably believed that the disclosure tended to show a breach of any legal obligation and/or was in the public interest.
20. It follows that I am not satisfied that it is “likely” (as defined above) that the claimant will establish that she made any protected disclosure.

Reason/ Principal Reason for Dismissal

21. The second dispute in this case is the reason for dismissal. The respondent submits:
- i) Firstly that the disciplinary allegations and commencement of the investigation precede the alleged protected disclosure and that there cannot be any allegation that they were invented or the investigation started in response to the disclosure:
 - ii) The allegations were the subject of detailed investigation including interviewing the relevant witnesses; and
 - iii) Were the subject of a detailed disciplinary investigation report which recommended formal disciplinary action;
 - iv) The claimant faced twelve disciplinary allegations which are the subject of detailed analysis and explanation in the disciplinary outcome letter
22. The claimant contends that there is evidence which supports the contention that the reason or principal reason for her is dismissal was making the public interest disclosure:

v. Why the disclosure caused the dismissal: The causal link is proven by an immediate and aggressive retaliatory timeline:

1. **The 10-Day Strike:** I filed a grievance regarding bullying on 17 January 2026. The Respondent launched a "no-evidence" disciplinary counterattack on 27 January 2026.
2. **The 40-Minute window:** I informed the Senior General Manager of my intention to escalate to the CQC at 16:30H on 30 January 2026. I was issued a suspension letter at 17:10H (40 minutes later) with "inflated" allegations.
3. The Respondent's bad faith is further evidenced by the **fabrication of meeting minutes**. Senior General Manager Agnieszka Musial issued minutes for our grievance meeting dated **28 January 2026**; however, this meeting physically occurred on **30 January 2026**. I informed the Respondent of

my intent to escalate to the CQC at 16:30H on the 30th and was suspended at 17:10H. The Respondent's attempt to retrospectively 'back-date' the meeting to the 28th is a transparent attempt to hide the 40-minute retaliatory window.

4. **The Evidence Refusal:** I requested the underlying clinical evidence (MAR charts) multiple times. The Respondent proceeded to summary dismissal on 31 March 2026 whilst **explicitly refusing to disclose the evidence** relied upon, citing GDPR as a shield for lack of transparency.

5. **The Timing:** The dismissal was accelerated only after the service of this Tribunal claim and just one day before my scheduled biometrics for Indefinite Leave to Remain (granted 6 April 2026).

23. Conclusions – There is in my judgement little evidence at this stage of any link between any disclosure and the decision to dismiss, particularly in the light of the detailed disciplinary investigation, hearing and outcome letter; and there is nothing before me which is sufficient to hold that it is “likely” (as defined above), that it will be found at the final hearing that the reason given for dismissal was not the true reason and/or that the reason or principal was the making of the alleged disclosure.

24. For both reasons in my judgement the application for interim relief must be dismissed.

Judgment Approved by EJ Cadney

Dated: 18th May 2026

**Judgment entered into Register
And copies sent to the parties on
02 June 2026**

**Phoebe Hancock
for Secretary of the Tribunals**