



EMPLOYMENT TRIBUNALS

Claimant: Mr M Williams

Respondent: Brighton & Hove City Council

Heard at: London South

On: 15, 16, 17 July 2026

Before:
Employment Judge Heath
Ms A Boyce
Ms N O'Hare

Representation

Claimant: In person

Respondent: Ms M Bouffé (Counsel)

JUDGMENT was sent to the parties on 21 July 2026 and full reasons were requested by the claimant by email of 4 August 2026 in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided:

FULL REASONS

Introduction

1. The Claimant, Mr Mark Williams, was employed by the Respondent, Brighton and Hove City Council, as an electrician. The Respondent's case is that he was dismissed for gross misconduct on 13 March 2024 following allegations that, whilst attending two tenants' properties in the course of his duties, he exposed himself to female tenants. The Claimant contends that his dismissal was unfair and that the real reason for his dismissal was that he had made protected disclosures concerning health and safety matters within the Respondent's housing repairs service. The issues for determination are automatic unfair dismissal by reason of protected disclosures and, in the alternative, ordinary unfair dismissal.

Issues

2. The issues had been agreed with the parties at the case management hearing before Employment Judge Macey on 28 April 2025. We confirmed with the parties at the start of the hearing that these issues were the ones we were to determine. They are annexed to this decision.

Procedure

3. The Claimant, Mr Mark Williams, gave evidence on his own behalf. Mikila Beck, Lisa Hodge and Grant Ritchie gave evidence on behalf of the Respondent. The Tribunal was referred during the hearing to a trial bundle comprising 304 electronic pages and a witness bundle comprising 32 electronic pages. The claimant provided a couple of further documents, and the respondent disclosed minutes of the appeal meeting.
4. We made clear to the parties that we would only be reading pages in the bundle which the parties drew to our attention either in witness statements, cross examination or otherwise during the course of evidence. There were no page references in the claimant's witness statement, but he provided a reading list during our initial pre-reading, and we read these documents.
5. At the outset of proceedings Ms Bouffe raised a potential issue of privacy. The allegations against the claimant are allegations of sexual misconduct made by two the respondent's female tenants. We briefly discussed the issue, and the approach agreed was to refer to the tenant and address relating to the 4 July 2023 allegation as Tenant A and Address A. Similarly, the tenant and address relating to the 7 November 2023 allegation will be referred to as Tenant B and Address B.
6. We took an hour and a half at the start of the hearing to read the witness statements, documents referred to in them or by way of the claimant's reading list. We heard evidence, closing submissions, deliberated and gave an oral decision.

Facts

7. We make clear that we do not make findings of fact on every single matter put before us, but solely on facts which are necessary for us to set a relevant background and context, to determine the issues in the case and allow the parties to understand why they have won or lost.
8. The Claimant's employment transferred from Mears to the Respondent BHCC on 1 April 2020 under TUPE arrangements. The Claimant contends that his continuous service dates back to March 2012 through earlier

employment with the transferring business. He was employed by the Respondent as an electrician until his dismissal on 13 March 2024.

9. On 16 July 2021, the Claimant alleges that he made a protected disclosure by email to Mark Turner of the GMB concerning instructions said to have been given by Mr Pauly, the Electrical Project Manager, and his line manager's manager, requiring the removal of a tenant's electrical supply
10. On 7 December 2021, the Claimant alleges that he made a further protected disclosure to Mr Pauly concerning reverse polarity discovered when undertaking electrical work and a previously replaced fuseboard.
11. On 19 December 2022 the claimant put in a formal grievance about Mr Pauley, in particular about the way he had been aggressive and abusive to him in a telephone conversation.
12. On 3 January 2023, the Claimant alleges that he reported to Mr Poore, Electrical Supervisor, and his line manager, that a tenant with young children had been left without hot water.
13. On 9 January 2023, the Claimant alleges that he reported to Mr Poore that he had discovered a newly installed fuse box which had nearly caught fire.
14. On 12 January 2023, the Claimant alleges that he reported concerns about electrical testing and certification relating to a shower installation.
15. On 23 January 2023 there was a grievance hearing chaired by Mr Ritchie, Head of Service, Housing Repairs and Maintenance. During that hearing it was made clear that Mr Pauley had admitted he had used inappropriate language toward the claimant. On 7 February 2023 Mr Ritchie sent a grievance outcome letter upholding the claimant's grievance, finding that Mr Pauley had used unacceptable language. He proposed a meeting to take place between the claimant and Mr Pauley to resolve the issue.
16. On 8 November 2023, the tenant of Address B contacted the Respondent's helpdesk and alleged that the electrician who attended the previous day had exposed his penis to her and her daughter, and had asked inappropriate questions. The call handler escalated this to her manager. It was referred to Mr Pauley, who escalated it to his manager, Ms Beck Operations Manager.
17. Ms Beck telephoned tenant B at 13.46 8 November 2023 and made notes of the call. She spoke to both the tenant and her daughter. Ms Beck asked to make an appointment to take a statement. Various allegations were made during this call, including:
 - a. An electrician believed to be called Mark had visited Property B on 6 November 2023 to look at the shower.

- b. He exhibited a number of behaviours that made Tenant B and her daughters feel uncomfortable, including gazing inappropriately at them. When he invited the tenant to look at the finished work he unzipped his trousers and took his penis out. She got past him and told her daughter in Arabic what had happened. He then came out of the bathroom still exposed and the tenant's daughter saw this.
- c. The tenant had a crime reference number but said that she did not want to go to court or have any issues arising from this. She said there had been "*a lot of tears and disrupted sleep*" because of the incident.

18. Ms Beck visited Property B later the same day. Tenant B had said she wanted a female electrician to attend, but there were not any. Ms Beck therefore attended with Mr McNamara, an electrician. Both subsequently made notes of their attendance.

19. Ms Beck's notes included:

- a. Tenant B and her daughter expressed concerns that the electrician had installed cameras in the shower and toilet. Mr McNamara checked, and this was not the case.
- b. Tenant B said the electrician had kept staring at them, asked lots of personal questions (including about their Sudanese ethnicity).
- c. She repeated her description of his having exposed himself to her and to her daughter.
- d. She explained how she was concerned about disciplinary or police action in case the operative retaliated.
- e. She explained how she and her daughter had been affected by it.

20. Mr McNamara made notes of the visit which also included that the tenant and the daughter had said that the claimant exposed himself to them.

21. On 9 November 2023, the Claimant attended an informal meeting with Ms Beck and Mr Crick (another Operations Manager) and the meeting was minuted. The claimant was asked to explain his day, and then asked to explain his visit to Property B in more detail. He referred to some matters which tallied with the description given earlier by Tenant B (reference to discussion of her Sudanese heritage, the claimant using their dustpan and brush etc.). Ms Beck explained that Tenant B had alleged that the claimant had exposed his penis to her and her daughter. The claimant said this was "crazy" and denied it. Ms Beck asked, given that the claimant had used the toilet, whether he could have accidentally exposed himself. He said that he did not wear pants, but would have felt if his flies were undone. Ms Beck acknowledged that this must be worrying for the claimant, and offered him

the services of Firstcare (an employee assistance service). Ms Beck said that she would have to suspend the claimant due to the nature of the allegation.

22. The claimant was sent a suspension letter the same day which strongly advised him to contact his trade union representative.

23. On 22 November 2023, Mr Hilton, a plumber in a different team within the Respondent's Repairs and Maintenance Service (ie. Not under Ms Beck's management) attended Property A to conduct a site visit. Tenant A is a disabled wheelchair user who lives alone. At 4.43pm Mr Hilton sent an email to Mr Crick (the Operations Manager for that team) which included:

- a. Tenant A discussed a number of issues she had with her property.
- b. She mentioned an electrician she believed was called Mark who had made her uncomfortable when he attended the property on 4 July 2023.
- c. He had worn knee length shorts with no underwear and his fly had been fully open so she could clearly see his penis, which she felt he was purposely making visible.
- d. She said that when he bent over or stretched he would exaggeratedly pull his top up and exposed his bum.
- e. She felt very vulnerable and uncomfortable.
- f. He spoke about inappropriate matters.

24. On 28 November 2023, Ms Beck attended Address A and took notes from her meeting with Tenant A. Typed up notes appeared at 162-3. They included:

- a. Ms Beck asked the tenant whether the electrician had gone to the toilet and maybe accidentally exposed himself. The tenant said at first she thought it might be an accident, but that he was clearly not wearing underwear, he would lift up his t-shirt when bending to expose his bottom, that he positioned himself in front of her and pulled his flies apart to make his fly gape and that he would reposition himself to be in her eye line when she moved away.
- b. Tenant A said that the conversation from the electrician made her feel uncomfortable (he said he was single and looking for a relationship, asked if her carer showered her etc).
- c. She said she was in no doubt that the exposure was deliberate, and that the electrician had been partially aroused.
- d. Tenant A was clearly upset.

- e. She explained that she had not reported the matter to the police, and had not reported the matter to the council earlier as she was concerned her report would not be taken seriously.
25. The Claimant states that he became unwell with anxiety and depression in late November 2023 and commenced sickness absence. On 4 December 2023 he reported himself unfit for work due to work-related stress and anxiety.
26. On 20 December 2023 the claimant had an occupational health consultation arranged by the Respondent which reported that the claimant was fit to attend meetings.
27. On 2 January 2024, the Claimant ended his sickness absence and indicated that he was fit to engage with disciplinary proceedings.
28. On 22 January 2024, the Claimant attended a voluntary police interview.
29. On 29 January 2024, the investigatory interview took place by Teams conducted by Ms Beck, supported by Ms Hodge, HR Consultant. The claimant was accompanied by Mr Wood, trade union representative. The meeting was minuted (179-185) and included:
- a. Ms Beck asked the claimant to talk through the job at Property B, and the claimant described the job.
 - b. Ms Beck put the allegation that the claimant exposed his penis to Tenant B and her daughter. The claimant denied this.
 - c. Ms Beck asked why the tenant may have said this, and the claimant did not know.
 - d. Ms Beck asked the claimant to talk through the job at Property A. The claimant said that he had been questioned by the police about this, and read out his statement to the police in which he denied the allegations made by Tenant A.
 - e. There was some discussion about whether Tenant A was designated a "*client of concern*".
 - f. Ms Beck asked if the claimant could explain why two separate tenants had alleged he had exposed his penis to them. He did not have an explanation or have anything to say to refute the allegation.
 - g. Ms Beck said the next step would be for her to consider whether a disciplinary hearing was warranted, and the claimant would be kept posted.
30. Because of the suggestion that the tenants may have been clients of concern Ms Beck interviewed Mr Pauley on 1 February 2023. He was

asked whether either of the tenants were known to have complained frequently. He confirmed that Tenant B was not on the respondent's "radar" and had no knowledge of Tenant A complaining or being a problem.

31. On 21 February 2024, the Claimant received the disciplinary case papers. This included a management statement of case setting out the allegations, the background, summary of investigation, the investigation findings, conclusion and recommendations. There were 19 appendices which included the initial report from Tenant B, the statement of the call handler, Notes from the visit to Tenant B from Ms Beck and Mr McNamara, email from Mr Hilton concerning the visit to Tenant A and Ms Beck's notes of meeting with Tenant A. The claimant observes that the notes from the tenants' meetings were unsigned. The respondent's Disciplinary Guide for Managers says that it is important that statements and notes of meetings are signed as an accurate record of the discussion.

32. On 13 March 2024, the disciplinary hearing took place before Mr Ritchie. This was chaired by Mr Ritchie who was supported by Ms Hodge. Ms Beck presented the management case and the claimant was accompanied by his trade union representative Mr Woods. The minutes included:

- a. Ms Beck presented the management case and ran through the evidence.
- b. Mr Woods challenged the fact that the tenant notes of meeting were not signed. He questioned the mental state of the tenants and the accuracy of their accounts.
- c. Mr Woods pointed out the claimant's clean disciplinary record having had no allegations made against him in 12 years.
- d. The claimant challenged some of the factual allegations made by the tenants.
- e. Ms Beck and the claimant and his representative were given the opportunity to sum up.

33. Mr Ritchie adjourned for 45 minutes and returned to the meeting to give a decision. He told the claimant that he considered the management case had been proven and that on the balance of probabilities the claimant had acted inappropriately and that this was gross misconduct. His decision was to dismiss the claimant. He gave him a right of appeal.

34. Mr Ritchie sent the claimant a disciplinary outcome letter on 15 March 2023. This included:

- a. Mr Ritchie setting out extracts from the Code of Conduct

12.1 As an employee of the council, you are expected to conduct yourself at all times (inside and outside of work) in a manner that will maintain public confidence in both your personal integrity and in the good reputation of the council.

7.1 You are expected to behave in a professional, friendly and respectful manner in line with the organisation's Values when dealing with colleagues, councillors, service users, contractors or those working for their organisations with whom the council has dealings.

You are employed by Brighton & Hove City Council and that means that you are a Local Government Officer. You and the services you provide are paid for by public money and therefore you are accountable to the public for your behaviour, actions and decisions. You must not only behave properly, you should also be seen to behave in a way that is beyond question.

- b. He referred to the allegations that the claimant had exposed himself to the tenants and how the matters had been reported to the council and the police.
- c. He set out how the claimant had been asked why two sets of tenants would make such similar allegations. The claimant had said they were not true, but the trade union representative was unable to say if they had been fabricated.
- d. He acknowledged that the meeting notes with the tenants were unsigned but was satisfied that they were an accurate record. Some sort of indication that the notes were an accurate record would have been better practice, but this was not so serious a deviation from guidance as to cast doubt on the notes. He observed that the tenants had independently made similar reports to the police, and the notes could be relied on.
- e. He referred to Mr Pauley's evidence that the tenants were not known as complainers.
- f. He found that a reasonable investigation had taken place and that the claimant was appropriately supported during it.
- g. He set out that the claimant's role was to work autonomously, and with that comes trust and confidence that he does the work to a good standard representing the council. The quality of the claimant's work was not in question, but his conduct was not in line with the council's values.

- h. He was mindful that the tenants were vulnerable, as were many who live in council homes. They have the right to be treated with dignity and not subjected to indecent behaviour.
- i. The claimant's actions constituted gross misconduct and therefore he would be summarily dismissed.
- j. He was given a right of appeal.

35. On 18 March 2024, the Claimant appealed against dismissal. His grounds were "*Failure of BHCC to follow process in taking written statements, failure in establishing credibility of tenant accusations and failure of employers duty of care operative*".

36. On 19 March 2024, the Claimant commenced ACAS Early Conciliation.

37. On 8 April 2024, ACAS issued the Early Conciliation Certificate.

38. On 24 April 2024, the Claimant presented his ET1 claim.

39. On 26 April 2024, the appeal hearing took place before a panel of elected councillors. Mr Rithchie presented the management case and the claimant was again represented by a trade union representative.

40. On 19 June 2024, the Personnel Appeal Panel confirmed by letter that the appeal was unsuccessful and upheld the dismissal decision. The letter included:

- a. The grounds of appeal were set out.
- b. The appeal panel did not consider it was mandatory for statements to be signed, but acknowledged that this was preferable that statements are signed or that an interviewing officer signs some sort of declaration of the veracity of the content.
- c. The panel did not consider the fact that the statements were unsigned impacted the veracity of them. It observed that the evidence of the complainants was credible. They were not known to each other and yet provided accounts that bore a resemblance to each other. The reports were 5 months apart and no evidence was provided which suggested that they had colluded with each other prior or after the events. Neither was a client of concern and there was no evidence that they were known for making complaints.
- d. Given the seriousness of the conduct the panel did not consider reinstatement was appropriate.
- e. The panel made recommendations around the use of mobile phones and about vulnerable tenants being recorded as clients of

concern who may require another person to attend their property with a tradesperson.

- f. The panel saw no evidence to overturn the decision to dismiss. The conduct breached a number of policies, could lead to the claimant's prosecution and led to a loss of trust and confidence in the claimant.

41. On 19 June 2024, the Claimant alleges that he made a protected disclosure to the Health and Safety Executive concerning the fuse box incident.

42. The claimant attended Crown Court in Brighton on 13-15 October 2025. Ms Beck attended the hearing, but the CPS did not call her to give evidence. This would have been a decision made by the CPS and not by either the respondent or Ms Beck. The court considered a charge relating to Tenant A and not Tenant B. The claimant was acquitted of this charge.

The law

43. The Employment Rights Act 1996 ("ERA") provides as follows in relation to protected disclosures:

Section 43A

In this Act a "protected disclosure" means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H

Section 43B

(1) In this Part a "qualifying disclosure" means 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 the following—

(a) that a criminal offence has been committed, is being committed or is likely to be committed,

(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

...

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

44. The authorities stress the importance of the tribunal taking a structured approach to determinations relating to protected disclosures. As set out in *Williams v Michelle Brown AM* UKEAT/0024/19

“First, there must be a disclosure of information. Secondly, the worker must believe that the disclosure is made in the public interest. Thirdly, if the worker does hold such a belief, it must be reasonably held. Fourthly, the worker must believe that the disclosure tends to show one or more of the matters listed in sub-paragraphs (a) to (f). Fifthly, if the worker does hold such a belief, it must be reasonably held.”

45. There must be a disclosure of information, that is to say the conveying of facts, and it is not sufficient for the claimant simply to have made allegations *Cavendish Munro Professional Risks Management Ltd v Geduld* [2010] IRLR 38. However, a disclosure may contain sufficient information to qualify for protection even if it includes allegations. The question of whether there is sufficient information will be a matter of fact for us taking into account context and background *Kilraine v London Borough of Wandsworth* [2018] EWCA Civ 1436.
46. In terms of the public interest element, in *Chesterton v Nurmohamed* [2017] IRL 837 the Court of Appeal set out factors to be considered by a tribunal in deciding whether there was a reasonable belief a disclosure was made in the public interest. They are the numbers whose interests the disclosure serve; the nature of the interests affects; the nature of wrongdoing disclosed; the identity of the alleged wrongdoer. Where a disclosure raises questions of a personal character, the question of whether it is reasonable to regard it as being in the public interest is to be answered by considering all of the relevant circumstances of the case. *Dobbie v Felton* [2021] IRLR 679 held that a disclosure relevant to one person could nonetheless be in the public interest.
47. The tribunal is to determine whether, i) the claimant had a genuine belief that the disclosure was in the public interest, and ii) whether he had reasonable grounds for so believing. The claimant's motivation, as such, is not part of the test (*Ibrahim v HCA International* [2019] EWCA Civ 20).

Automatic unfair dismissal

48. Section 103A ERA 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”*.
49. The “reason” for the dismissal *“connotes the factor or factors operating on the mind of the decision-maker which causes them to take the decision.”* *Beatt v Croydon Health Services NHS Trust* [2017] ICR 1240.
50. The focus of the Tribunal is on the mind of the individual responsible for making the decision to dismiss. *Royal Mail Ltd v Jhuti* [2019] UKSC 55 provides an exception to this general principle where a person in the hierarchy of responsibility above the decision maker decides to dismiss

and hides the true reason behind an invented reason which the decision maker adopts.

51. Where there is an overall plan to dismiss an employee, to which a number of managers are party, then a Tribunal can draw inferences from the overall circumstantial evidence to conclude that the dismissing manager was acting in accordance with that plan *University Hospital North Tees & Hartlepool NHS Foundation Trust v Fairhall*, UKEAT/0150/20 [36].
52. The burden is on the claimant to prove some evidence of the facts that support a claim of automatically unfair dismissal. If this has been done, the burden is on the employer to establish that the reason for dismissal was not the automatically unfair reason (*Kuzel v Roche Products Limited* [2008] ICR 143).

Ordinary unfair dismissal

53. Under section 98(1) ERA 1996:

1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—

(a) the reason (or, if more than one, the principal reason) for the dismissal, and

(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

54. It is for the employer to show the reason for the claimant's dismissal, and that this is a potentially fair reason under section 98(2) ERA 1996. In this context, a reason for dismissal is "*a set of facts known to the employer, or it may be beliefs held by him, which cause him to dismiss the employee*" (*Abernethy v Mott, Hay & Anderson* [1974] ICR 323).

55. Potentially fair reasons include a reason relating to conduct (section 98(2)(b)).

56. The approach to fairness of dismissal is governed by section 98(4) ERA, which provides: -

Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—

(a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and

(b) shall be determined in accordance with equity and the substantial merits of the case.

57. The EAT set out the approach to what is now section 98(4) ERA in *Iceland Frozen Foods v Jones* [1983] ICR 17.

(1) the starting point should always be the words of [s.98(4)] themselves;

(2) in applying the section an Industrial Tribunal must consider the reasonableness of the employer's conduct, not simply whether they (the members of the Industrial Tribunal) consider the dismissal to be fair;

(3) in judging the reasonableness of the employer's conduct an Industrial Tribunal must not substitute its decision as to what was the right course to adopt for that of the employer;

(4) in many (though not all) cases there is a band of reasonable responses to the employee's conduct within which one employer might reasonably take one view, another quite reasonably take another;

(5) the function of the Industrial Tribunal, as an industrial jury, is to determine whether in the particular circumstances of each case the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band the dismissal is fair: if the dismissal falls outside the band it is unfair.

58. Where the reason for the dismissal is misconduct, the approach to fairness is the test in *British Home Stores v Burchell* [1980] ICR 3

"First of all, there must be established by the employer the fact of that belief; that the employer did believe it. Secondly, that the employer had in his mind reasonable grounds upon which to sustain that belief. And thirdly, we think, that the employer, at the stage at which he formed that belief on those grounds, at any rate at the final stage at which he formed that belief on those grounds, had carried out as much investigation into the matter as was reasonable in all the circumstances of the case."

59. It is important to focus on the wording of section 98(4) ERA, which does not set out a perversity test. It is for the tribunal to decide how serious the claimant's conduct was on the information available to the employer.

60. In considering a dismissal that is disciplinary in nature, the tribunal will have regard to the ACAS Code of Practice on Disciplinary and Grievance Procedures.

Conclusions

Protected disclosures

61. As will become clear, we have made fair firm findings on the reason why the respondent dismissed the claimant. For that reason we will not set out our detailed, structured findings on each alleged disclosure here.
62. On balance we find that the claimant did make disclosures of information as set out in 4.1.1.1, 4.1.1.2, 4.1.1.4, and 4.1.1.5. These were disclosures of specific incidents of what the claimant says was faulty work carried out by a colleague which presented a health and safety risk. We find that it was reasonable for him to believe that it presented such a risk. When there is the potential for tenants in social housing to be at risk from faulty electrics, we find that it was reasonable for the claimant to believe that the disclosures were in the public interest. In terms of causation we will approach this on the basis that 4.1.1.3 and 4.1.1.6 also qualified for protection in case we are wrong on that disclosure.

Reason for dismissal

63. The claimant's case is that the reason or principal reason for dismissal was that he was a whistleblower. In evidence he also made reference to the fact that he had been involved in an incident with a cyclist and had written off a van which made him unpopular with management. We would also note that he had put in a grievance against Mr Pauley. In essence, he appeared to be suggesting that there were other reasons over and above the disclosures which may have made the respondent ill-disposed towards him.
64. The respondent's case is that it dismissed the claimant because of his conduct in respect of Tenants A and B (and B's daughter).
65. Mr Ritchie was the dismissing officer. His dismissal letter and his evidence to the tribunal was clear that the reason he dismissed the claimant was that he considered that the management case, that the claimant had exposed himself to Tenant A and Tenant B and her daughter, was proven.
66. The claimant did not challenge Mr Ritchie's evidence in cross examination. He indicated that he had very few questions for him and in fact indicated that he had no more question after only a couple of minutes. The judge reminded the claimant what his case was (that he had been dismissed for blowing the whistle) and that this was the opportunity to challenge the decision maker. He asked a few more questions but did not meaningfully challenge Mr Ritchie's reason for dismissing him.
67. The judge considered that he would have to question Mr Ritchie himself about what impact the alleged protected disclosures had on his decision making. His evidence was that he had been aware during the claimant's

employment of disclosure 4.1.1.1, 4.1.1.2 and 4.1.1.4 but not aware of the other two.

68. He said, in general terms, that the respondent is reliant on operatives doing a good job. It does not have the resources to inspect work and is reliant on concerns being flagged up. It is important that the council learns about how it has failed, and it always welcomes feedback about poor work. If feedback highlights a capability issue then the council can address that through capability processes through the line management. It was absolutely not the case that the claimant was considered a troublemaker for highlighting potential safety issues arising from another operative's work. The disclosures had no impact on his decision. We accept this evidence. It was not challenged by the claimant, and it is coherent and cogent. Mr Ritchie's reason for dismissing the claimant was that he believed that he had exposed himself to the tenants as set out in the management case.
69. The claimant's case appears to be that Ms Beck had invented the reason for dismissal of misconduct which Mr Ritchie had adopted. As far as we can make out, the rationale for this was that firstly the notes of interview were not signed, the issues raised by Tenant A came through Mr Hilton who is a former police officer, these issues arose immediately following the police indicating that the case in respect of Tenant B was closed, that Ms Beck attended Crown Court but did not give evidence and that the claimant was found not guilty. He has not shied away from suggesting some sort of collusion between the respondent and the police.
70. We have not found this particularly easy to follow. Ms Beck says that she was aware that Mr Hilton had been a police officer. She explained that her interviews with the tenants had been difficult and emotionally fraught and she had not focused on getting a signature. She said the reason she did not give evidence at Crown Court was that she was not called to give evidence (presumably by the CPS). She had no knowledge towards the end of November 2023 about the police investigation regarding Tenant B. During the course of the hearing the claimant also made a number of references, in general terms, to not having been supplied with documents under a subject access request, and suggestions that certain documents had not been provided to him. There has not been an application for specific disclosure or any particularity about what documents were not provided. We do not consider that there has been a failure to provide evidence that might lead us to drawing any adverse inferences against Ms Beck or the respondent in general.
71. We have found Ms Beck a credible witness. We do not accept what must be the thrust of the claimant's case that she, effectively, was responsible for the fabrication of two separate allegations of indecent exposure by the tenants and Tenant B's daughter. There was no evidence whatsoever presented to us that the claimant's disclosures may have motivated her to

have fabricated a case against the claimant or collude with the police or Mr Hillton. We find that she conducted the investigation as she did as she received evidence from tenants that indicated serious misconduct.

72. We find that the disclosures had nothing to do with the decision to investigate or the decision to dismiss. The most recent disclosure was January 2023 and the investigation did not begin until early November 2023 after Tenant B had called the council help desk. In between times Mr Ritchie had actually upheld a grievance brought by the claimant. There is no evidence whatsoever to suggest that the dismissal had anything to do with the disclosures.

73. The reason why the respondent dismissed the claimant was that it believed he had committed the misconduct alleged against him.

Genuine belief on reasonable grounds

74. The genuineness of the belief and the reasonableness of the grounds are strictly speaking two factors. We will consider them together as often the reasonableness of the grounds informs a conclusions on the genuineness of the belief.

75. Mr Ritchie was presented with accounts from Tenant B and her daughter as set out in the investigation notes prepared by Ms Beck. Tenant B had also raised her complaint to the council helpline. Additionally, Tenant A had raised her issue with Mr Hilton, and Ms Beck had interviewed her and set out a written accounts of her allegations. As Mr Ritchie set out in his outcome letter, the allegations had been raised independently of each other and the investigation could not find a link between the two tenants. The claimant at the disciplinary hearing could not account for why two different tenants would produce such similar allegations of serious conduct against him. Further evidence obtained from Mr Pauley suggested that neither tenant was known as a serial complainer. Furthermore, the genuineness of Mr Ritchie's belief was not meaningfully challenged by the claimant.

76. We conclude that the respondent genuinely believed that the claimant had exposed himself to tenants as alleged. There were reasonable grounds for him to have formed this belief based on the evidence he received.

Reasonable investigation and fair procedure

77. The ACAS Code of Practice on Disciplinary and Grievance Procedures sets out the keys to handling disciplinary issues in the workplace. The employer is to establish the facts of the case, with different individuals being responsible for investigation and disciplinary hearing. The employee should be informed of the problem, and it would be appropriate to provide them with copies of written evidence and statements. There should be a

meeting to discuss the problem with the employee being given a right of accompaniment. At that meeting the employee should be informed of the complaint against them, be given the opportunity to set out their case, ask questions, present evidence and call witnesses. An employer should make a decision about disciplinary action. An opportunity to appeal should be offered if any action is taken.

78. The investigation and the process was in accordance with all of these principles.
79. The challenge that the claimant makes, and made at the disciplinary and appeal stages within employment, was that the respondent did not follow its own guidance, and that the evidence emanating from the tenants was not signed.
80. The case law makes clear that policies and procedures are not tramlines and that departure from procedures does not automatically make a process unfair. Fairness is to be judged in the round.
81. The issue of unsigned material was considered by both the disciplinary hearing and the appeal. We consider that best practice would have been for the evidence to be signed either by the tenants, or some sort of certification from Ms Beck. However, the lack of it does not make the overall process unfair. The thrust of the statements in respect of both Tenant A and Tenant B was unequivocally that the claimant deliberately exposed himself. The respondent made findings on that evidence.
82. Looking at the investigation and the procedure in the round, we find that they both fall within the band of reasonable responses.

Fair sanction

83. The respondent concluded that the claimant exposed himself to three women in two incidents at two council properties. As Mr Ritchie said in his dismissal letter, each tenant had certain vulnerabilities. The claimant in his role was a representative of the council wearing its uniform. He was entrusted to work alone and to attend the properties of tenants, many of whom will have vulnerabilities. We find that the decision to dismiss fell squarely within the band of reasonable response open to a reasonable employer.

Overall conclusions

84. The claims for automatic unfair dismissal and ordinary unfair dismissal dismissed.

Approved by:

Employment Judge Heath

7th August 2026

Judgment sent to parties on:
3rd September 2026

For the Tribunal Office

Notes

All judgments (apart from judgments under Rule 51) and any written full reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/

The Issues

1. Automatic Unfair dismissal

1.1 It is agreed that the claimant was dismissed.

1.2 Was the reason or principal reason for dismissal that the claimant made a protected disclosure/ s?

If so, the claimant will be regarded as unfairly dismissed.

2. Unfair dismissal (in the alternative)

2.1 It is agreed that the claimant was dismissed.

2.2 What was the reason or principal reason for dismissal? The respondent says the reason was conduct. The Tribunal will need to decide whether the respondent genuinely believed the claimant had committed misconduct.

2.3 If the reason was misconduct, did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:

2.3.1 there were reasonable grounds for that belief;

2.3.2 at the time the belief was formed the respondent had carried out a reasonable investigation;

2.3.3 the respondent otherwise acted in a procedurally fair manner;

2.3.4 dismissal was within the range of reasonable responses.

3. Remedy for unfair dismissal

3.1 Does the claimant wish to be reinstated to their previous employment?

3.2 Does the claimant wish to be re-engaged to comparable employment or other suitable employment?

3.3 Should the Tribunal order reinstatement? The Tribunal will consider in particular whether reinstatement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.

3.4 Should the Tribunal order re-engagement? The Tribunal will consider in particular whether re-engagement is practicable and, if the claimant caused or contributed to dismissal, whether it would be just.

3.5 What should the terms of the re-engagement order be?

3.6 If there is a compensatory award, how much should it be? The Tribunal will decide:

- 3.6.1 What financial losses has the dismissal caused the claimant?
- 3.6.2 Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?
- 3.6.3 If not, for what period of loss should the claimant be compensated?
- 3.6.4 Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?
- 3.6.5 If so, should the claimant's compensation be reduced? By how much?
- 3.6.6 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
- 3.6.7 Did the respondent or the claimant unreasonably fail to comply with it?
- 3.6.8 If so is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?
- 3.6.9 If the claimant was unfairly dismissed, did they cause or contribute to dismissal by blameworthy conduct?
- 3.6.10 If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?
- 3.6.11 Does the statutory cap of fifty-two weeks' pay apply?

3.7 What basic award is payable to the claimant, if any?

3.8 Would it be just and equitable to reduce the basic award because of any conduct of the claimant before the dismissal? If so, to what extent?

4. Protected disclosure

4.1 Did the claimant make one or more qualifying disclosures as defined in section 43B of the Employment Rights Act 1996? The Tribunal will decide:

4.1.1 What did the claimant say or write? When? To whom? The claimant says they made disclosures on these occasions:

4.1.1.1 On 16 July 2021 in an email to Mark Turner (GMB union representative) the claimant reported that he had been told by Mr James Pauly (his line manager at the time) to remove a tenant's (of the respondent) electrical supply and to walk away with the main fuse out of working hours and on his own;

4.1.1.2 On 7 December 2021 in a telephone call with his line manager at the time (James Pauly) the claimant reported that he had replaced a shower in a tenanted property (of the respondent) but when testing the electrics he discovered reverse polarity and then found

that a fuseboard replacement had been completed a month prior;

4.1.1.3 On 3 January 2023 in a telephone call to his supervisor (Tony Poore) the claimant reported that a tenant (of the respondent) with young children had been left with no hot water over Christmas. Further that there was a brand-new water tank and all that was needed to be done for it to work was for it to be turned on in the cupboard;

4.1.1.4 On 9 January 2023 in a telephone call with his supervisor (Tony Poore) the claimant reported that on attending a tenant's property in a sheltered/ retirement block (of the respondent) where a shower was not working the claimant discovered that a new fuse box had nearly caught on fire. The claimant did not tell the tenant and replaced the fuse box the following day.

The claimant will provide further information about how and when this was reported to Grant Ritchie, Catherine Feliny, Mikila Beck and James Pauly by 12 May 2025.

4.1.1.5 On 12 January 2023 in a telephone call with his supervisor (Tony Poore) the claimant reported that on investigating a tenant's (of the respondent) shower that was not working the claimant discovered that a cable was disconnected within the shower unit and the isolator was turned off behind boxing in that the claimant had had to run a knife around to get access to. The claimant's opinion was that this had not been tested despite the certification for the unit recording a live test reading;

4.1.1.6 On 19 June 2024 by email to the Health and Safety Executive the claimant reported that on attending a tenant's property in a sheltered/ retirement block (of the respondent) where a shower was not working the claimant discovered that a new fuse box had nearly caught on fire. The claimant did not tell the tenant and replaced the fuse box the following day.

4.1.2 Did they disclose information?

4.1.3 Did they believe the disclosure of information was made in the public interest?

4.1.4 Was that belief reasonable?

4.1.5 Did they believe it tended to show that:

4.1.5.1 a criminal offence had been, was being or was likely to be committed;

4.1.5.2 a person had failed, was failing or was likely to fail to comply with any legal obligation;

- 4.1.5.3 a miscarriage of justice had occurred, was occurring or was likely to occur;
- 4.1.5.4 the health or safety of any individual had been, was being or was likely to be endangered;
- 4.1.5.5 the environment had been, was being or was likely to be damaged;
- 4.1.5.6 information tending to show any of these things had been, was being or was likely to be deliberately concealed.

4.1.6 Was that belief reasonable?

4.2 If the claimant made a qualifying disclosure in respect of issues 4.1.1.1 – 4.1.1.5 above, it was a protected disclosure because it was made to the claimant's employer.

4.3 If the claimant made a qualifying disclosure in respect of issue 4.1.1.6, was it made:

4.3.1 To the claimant's employer?

4.3.2 Was it made in accordance with the relevant requirements of either sections 43F, 43G, or 43H of the Employment Rights Act 1996?

If so, it was a protected disclosure.