



EMPLOYMENT TRIBUNALS

Claimant

Respondents

Mr L Bougen

v

Greenwood & Coope Limited

Heard at: **Manchester** (by video) On: **7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 29 May 2026**

Before: **Employment Judge Kenward**
Ms L Atkinson
Ms B Hillon

Appearances

For the Claimant: **Ms R Howes** (lay representative)

For the Respondent: **Ms C Page** (Counsel)

WRITTEN SUMMARY REASONS

JUDGMENT and oral reasons having been given at the hearing on 29 May 2026, with Judgment having been sent to the parties on 30 June 2026, and written reasons having been requested by the Respondent and Claimant, written reasons are now provided, as set out below.

Judgment

1. The Judgment of the Tribunal was as set out below.
 - (1) The complaint of (constructive) unfair dismissal is not well-founded and is dismissed.
 - (2) The complaint of failure to make reasonable adjustments for disability is not well-founded and is dismissed.
 - (3) The complaints of harassment related to disability are not well-founded and are dismissed.



Introduction

2. These proceedings involve a machine operator in a carpet factory who complains that his treatment over a period of time between 2019 and 2023 amounted to discrimination related to his mental health disability. In November 2023, whilst still employed, but having been off work due to sickness since March 2023, the Claimant commenced Tribunal proceedings complaining of disability discrimination. He eventually resigned with effect from 20 May 2024 claiming that his resignation amounted to a constructive (unfair) dismissal so that his Claim was amended to include such a complaint
3. The final hearing took place over the 12 days for which it had been listed between 7 and 19 May 2026. At the request of the Claimant, adjustments were made by way of a late starting time and regular breaks. The hearing was then adjourned with a further day being listed on 29 May 2026 when the Tribunal gave Judgment dismissing the various complaints with summary reasons being given orally for that Judgment.
4. The written Judgment was approved by the Judge on 1 June 2026. By reason of administrative delays at Manchester Employment Tribunal, it was only sent to the parties on 30 June 2026.

The requests for written reasons

5. Although the written Judgment had not yet been sent out to the parties, a request for full written reasons was made by the Respondent on 5 June 2026 and forwarded to the Judge on 16 June 2026. As the request had not been made at the hearing, this request for written reasons were premature as the effect of rule 60(4B) and (4D) of the Employment Tribunal Procedure Rules 2024 (the "ET Rules 2024") is that, where oral reasons are given, any request for written reasons either needs to be made at the hearing, or within 14 days of the written Judgment being sent to the parties.
6. The Claimant had also written to the Tribunal indicating that he wished to appeal the decision on 12 June 2026.
7. As such, once the written Judgment had been sent to the parties, on 1 July 2026, at the direction of the Judge, the Tribunal wrote to the parties as below.

"Where, as here, the oral reasons which were provided were announced to be summary reasons, rule 60(4B) of the ET Rules requires the Tribunal to provide written summary reasons on request unless it considers it appropriate to provide written full reasons.

Where written summary reasons are provided, rule 60(4C) states that a party can then request written full reasons within 14 days of the sending of the written summary reasons"



8. Following receipt of the written Judgment, a request for full written reasons was made by the Claimant on 6 July 2026 (as well as requesting clarification as to the date from which any time limit for appealing ran) and by the Respondent on 10 July 2026.
9. This correspondence was referred to the Judge on 10 July 2026, and, at his direction, the Tribunal wrote to the parties on 20 July 2026, as set out below.

“The Claimant’s e-mail of 6 July 2026 was referred to Employment Judge Kenward on 10 July 2026 although he is away on annual leave until 20 July 2026. It is noted that the parties have now received the written Judgment in the case. The written Judgment simply records the decision as to the outcome of the case. Written reasons will be provided as soon as the Judge’s workload allows which will mean a short delay. Any appeal will need to be lodged with the Employment Appeal Tribunal once full written reasons have been provided for the Judgment. The 6-week time limit for appealing only begins to run from the date that the full written reasons are sent to the parties”.
10. As stated above, rule 60 of the Employment Tribunal Procedure Rules 2026 is to the effect that, where, as here, oral summary reasons have been provided, where written reasons are requested, the written reasons which will be provided, in the first instance, will be summary written reasons, unless the Tribunal considers it appropriate to provide full written reasons. I am not satisfied that the fact that a party has requested that any written reasons be full written reasons or has indicated an intention to take further action arising out of the Judgment are, on their own, sufficient (at least in this case) to make it appropriate to provide full written reasons at this stage. The whole purpose of providing for summary reasons to be provided (in addition to reducing the demand on stretched judicial resources) is that the explanation provided by the Tribunal for its decision, as set out in the summary written reasons, may assist a party in deciding whether or not to take any next steps which it might be open to a party to take arising out of the Judgment. As such, the written reasons which are now provided are summary written reasons. Of course, it remains open to either party, once it has received the summary written reasons, to request full written reasons.
11. As such, as the written reasons which are now being provided are summary reasons. The Tribunal has not set out the full factual history of the matter or all of the relevant law.

The proceedings

12. In order to be able to commence proceedings, on 7 September 2023 the Claimant had complied with the requirement to notify ACAS of his prospective Claim for the purposes of early conciliation and an early conciliation certificate was issued on 19 October 2023. The ET1 Form of Claim was received by the Tribunal on 1 November 2023. Given the date that the ET1 Form of Claim



was presented and the dates of early conciliation, any complaint about something that happened on or before 7 June 2023 may not have been brought in time.

13. At section 8.1 of the ET1 Form of Claim, the Claimant ticked the applicable box in respect of bringing complaints of disability discrimination. He is also ticked the box to indicate that he was making "*another type of claim*", with reference made to personal injury, injury to feelings, aggravated damages and loss of earnings. Properly analysed, these were not separate complaints but the headings under which the Claimant was claiming compensation of disability discrimination.
14. At section 8.2 of the ET1 form of Claim, the details given of the Claim were as set out below.

"I have attached a RTF which is my claim statement for Loss of earnings, Injury to feelings, Person injury - injury to health (PTSD) and aggravated damages. I can present more information and evidence such as my grievance and schedule of loss at a later date, when asked".
15. In fact, there was no attached rtf document. Much later, it seems, on 24 April 2024, the Claimant provided a document headed "Statement of Claims" as well as a Schedule of Loss which also set out more detail, together with copies of a grievance and a whistleblowing complaint which he had submitted to the Respondent in 2023.
16. At section 15 of the ET1 Form of Claim, the Claimant stated that "*I wish to submit the following which I feel will help Tribunal come to a decision*" and he set out a list of different types of documentary evidence, although the evidence was not submitted at this stage.
17. On 30 November 2023, the Respondent submitted a Response stating that there was insufficient information in the ET1 Form of Claim.
18. A case management preliminary hearing was listed which took place on 1 May 24 before Employment Judge Tobin who ordered the Claimant to provide further particulars of the Claim and evidence as to any condition relied upon as amounting to a disability.
19. On 4 June 2024, the Claimant provided further particulars of the Claim which listed the incidents alleged to amount to discrimination. The Claimant also referred to issues which post-dated the ET1 Form of Claim such as the Respondent's handling of grievance and whistleblowing issues
20. On 4 June 2024, the Claimant also provided a disability impact statement and stated that "*I have also attached all relevant documents such as Occupational Health reports, Dr's notes/letters, Hospital records and police reports*".



21. A further preliminary hearing took place before Employment Judge Ross on 16 August 2024. The existing complaints were identified as being complaints of harassment related to disability (contrary to Equality Act 2010 section 26) and a breach of the duty to make reasonable adjustments contrary to Equality Act 2010 sections 20 and 21. It was noted that the Claimant had resigned and wished to bring a complaint of constructive unfair dismissal (which would still be in time). Accordingly, the Claimant was allowed to amend his Claim to add a complaint of constructive unfair dismissal (contrary to Employment Rights Act 1996 sections 95(1)(c), 98 and 111), and the Tribunal finalised a list of the issues to be determined at the final hearing.
22. The List of Issues identified a jurisdictional issue, which was to be determined at the final hearing, as to whether the complaints under Equality Act 2010 had been brought within the time limit for doing so and, if not, whether the time limit should be extended.
23. Similarly, the list of issues identified a further preliminary issue as to whether the Claimant had a relevant disability at the material time (effectively between 2019 and his resignation in May 2024). It had been conceded that the Claimant had a relevant disability by reason of anxiety, depression and post-traumatic stress disorder (PTSD) although the position of the Respondent was that it only had knowledge of any such disability from May 2022. The Claimant also relied upon having a relevant disability by reason of physical impairments to his back and knee.
24. The final hearing was listed for 12 days from 7 May 2026. The estimated length of hearing took into account the fact that the Claimant had said that he was unable to attend any hearing in person before 12 noon due to a medical condition.

Evidence

25. In terms of documentary evidence, the parties had provided the Tribunal with a joint bundle of 921 pages.
26. In terms of witness evidence, on behalf of the Claimant, in addition to a disability impact statement, the Tribunal had Statements of Evidence from the Claimant and his partner, Robyn Howes. The Tribunal had nine statements of evidence from the Respondent, mostly from managers, team leaders, and HR employees who had had dealings with the Claimant. The Tribunal heard oral evidence from the witnesses who had provided written Statements of Evidence (with the exception of Helen Polito and Laura Warrington).
27. The Tribunal also listened to audio recordings provided by the Claimant.
28. The Tribunal was provided with additional documents from the Claimant in the form of the team leaders' log and a draft grievance letter from 2019.



29. The Tribunal was further provided with additional documents from the Respondent which related to Claimant's participation in the Made In Bury Business Academy 2025 and an engraving business. The Claimant then provided further documents in response to this disclosure.
30. Disputes of primary fact about matters central to the Tribunal's conclusions will be addressed in the section headed "Discussion and conclusions".

Credibility

31. The Tribunal accepted the analysis of the Respondent that many of the complaints turned on the oral evidence of the witnesses and whose evidence was preferred.
32. The Claimant's credibility was undermined by the additional evidence admitted on 19 May 2026 which related to Claimant's participation in the Made In Bury Business Academy 2025 and an engraving business that he seems to have operated since early 2024 (while on sick leave from the Respondent). The Claimant's participation in the Business Academy appears to have commenced around mid-2025. This directly contradicted representations made in the Statements of both the Claimant and Robyn Howes (and in oral evidence) as to the recent state of the Claimant's health and capabilities.
33. In fact, the additional evidence did not initially appear to the Tribunal to be that damaging in that it might have been capable of being explained in terms of the Claimant tentatively and / or therapeutically seeking to rehabilitate himself back into the world outside his window or reintroduce himself to the world of work. However, instead of seeking to provide a credible explanation by owning up to what the evidence showed, through the specific references in the documentation to the Claimant by name, the Claimant "*doubled down*" to use Ms Page's description of his answers in oral evidence. The Claimant suggested that this was the sole venture of his partner, Robyn Howes. This was not credible: the references were to Claimant alone, including an online testimonial written by the Claimant. Robyn Howes was not mentioned by name. The explanations of Robyn Howes were also unconvincing. The Claimant's evidence was similarly implausible when, having adduced additional and recent text messages between himself and an individual called "*David*" he professed not to know who "*David*" was.
34. This rather served to confirm the impressions which the Tribunal had formed regarding the Claimant's evidence generally which was that, when faced with evidence which appeared to be inconsistent with his case, he was unwilling to make reasonable concessions in the face of clear evidence, but rather, he had a tendency to be evasive or obfuscated.
35. At the heart of the Claimant's case, he was effectively alleging that there was a conspiracy which involved numerous individuals within the Respondent's



organisation stretching from Ian Ford at the top down to Laura Warrington. Moreover, this involved individuals being prepared to act dishonestly by fabricating documents and making false allegations against the Claimant. The Tribunal had to consider whether, on the balance of probability, this is what had happened. Ultimately, having heard from many of the individuals involved in the alleged conspiracy and having heard their evidence being tested, the Tribunal was satisfied, on the balance of probability, that the individuals involved had not been conspiring to mistreat the Claimant.

36. As a result, where there were clear conflicts on the evidence, The Tribunal tended to prefer the Respondent's version of events, save where we have specifically indicated otherwise.

Issue of disability and knowledge.

37. The Claimant's Disability Impact Statement from June 2024 referenced various conditions.
38. In relation to anxiety and depression, it was stated that the Claimant "*first suffered Anxiety in February 2019 following being trapped in a room*" and "*ended up suffering with a more heightened Anxiety*" and depression "*around November/December 2019 following being off work sick till January 2020 with work related stress*".
39. In relation to PTSD, it was stated that this had been diagnosed by a psychiatric nurse in October 2022 following a GP referral for a form of talking therapy.
40. The Claimant also suffers from abdominal pains, but the case management summary of Employment Judge Ross had identified that this condition was not directly relevant to any of his legal complaints.
41. By the time of the preliminary hearing before Employment Judge Ross, the Respondent had conceded disability in relation to the mental health impairments of anxiety, depression and PTSD. The Respondent also conceded that it knew that the Claimant was disabled by reason of mental health as of 25 May 2022.
42. However, Employment Judge Ross also identified that the Claimant was contending that impairments to his back and knee sustained in a road traffic accident in November 2022 had given rise to a relevant disability. The Claimant was ordered to provide a further Disability Impact Statement dealing with these impairments.
43. The issue as to whether any back or knee condition amounted to a relevant disability at any material time remained a disputed issue.
44. The further Disability Impact Statement was provided on 30 September 2024 and sought to explain that the Claimant had sustained a back injury at work



on 30 January 2019 *"on number 2 machine"* when *"he tried to move his steps and they had totally locked up on the rail"* so that he *"pulled his lower back on this occasion and his back has flared up since"*. The Claimant had a motorcycle accident on 22 November 2022 when he *"again pulled his lower back and damaged his knee in the accident"*.

45. The Claimant had attended hospital (at 7.46 pm) following the accident where he *"was sent for an x-ray where they have stated "Fracture" on the paperwork"*. Due to his *"fear of losing his job over this accident Lee discharged himself from Fairfield Hospital at 21:32 pm"* having been *"bandaged up ... given an aftercare plan to follow"*. Remote physiotherapy sessions were arranged by the hospital although the Claimant only attended a couple of virtual sessions as *"due to the hours of work he had at the time, he was unable to continue the physio and was ultimately forced back into manual labour within 2 weeks after the accident, giving him no chance at a proper recovery of the left knee or lower back"*. The work involved was creeling which the Statement describes as *"having to bend down constantly, lifting heavy objects and stand on his feet for 12 hours a shift"*. The Statement suggests that the Claimant *"was told he needed to rest and unfortunately against doctors' orders had to work 12 hours manual labour in creel"*.
46. The Claimant's case was that the *"issues have not stopped and still persist"*. The Disability Impact Statement described the impact of the injuries on the Claimant in the terms set out below.

"After the accident Lee struggled to walk and bend the knee. This was due to the swelling and tenderness.

- Lee's knee and back flares up in sporadic pains, this is brought on more when he has walked for 5 minutes or when it is freezing cold. Walking up or down hill makes his knee pain worse.

- Lee's knee needed to be cleaned daily for nearly a month with iodine and fresh, clean, bandages changes to prevent any infections due to the deep abrasion which showed his fatty tissues and muscle tissue.

- Lee has had to wear two different knee supports when the pain becomes unmanageable, one is a basic knee cover with a sponge support to increase blood flow around the knee to prevent swelling and the second cover is more technical with rods to help him keep his balance when his knee "gives up" - this means it goes randomly from under him or locks up and he can drop to the floor. To prevent this happening he wears this, but this can worsen his anxiety due to how bulky the knee support is.

- Lee needed assistance in getting up the stairs for the first month along with needing assistance in getting food shopping as he was essentially bound to the couch. He is now able to walk to the shops but it takes a lot longer as his



leg just isn't the same after the accident, it can be very difficult for Lee to carry out day-to-day activities and hinder what he needs to do due to the pain and stiffness that still persists".

47. The Disability Impact Statement described ongoing treatment for the Claimant's knee injury through pain medication, knee supports and physiotherapy as well as ultrasound investigations as the knee was still swelling.
48. Some medical evidence was provided although this was largely from the period shortly after the accident. One of the reasons that disability remained in issue in respect of these impairments was stated by the Respondent to be due to a lack of medical evidence.
49. Photographic evidence was provided showing the Claimant's knee injuries fairly soon after the accident although this simply showed a nasty wound.
50. The Tribunal's conclusions as to the disputed issue in respect of disability are as set out below.
51. The medical evidence appeared to show that the Claimant sustained a back injury in an accident at work in 2019 although there is little by way of any meaningful evidence to suggest that this was a continuing issue. On 22 November 2022, the Claimant was involved in a road traffic accident which caused him to attend hospital the hospital records refer to a knee injury and although it looks to be a nasty wound in the photograph which the Tribunal has seen it is described as an abrasion. The X-rays which were undertaken were normal and did not provide evidence of any more serious injury. The Claimant was off work for two weeks. There is no suggestion in the return-to-work notes that there was any continuing issue of any significance. However, in January 2023 the position had been that the knee had improved and that he was struggling with back pain. At that point he was able to bear weight on his limbs. Moreover, when seen at an occupational health appointment in February 2023 the resultant report was not suggesting that there were ongoing knee problems. Indeed, the report confirmed that he was fit and able to carry out all the duties of his role. The GP attendance note from 15 March 2023 refers to back pain since the accident as the history given by the Claimant. It is clear that he was treated with painkillers for the knee injury and that by April 2023 he was telling the doctor that he was struggling with pain and restriction of movement on the left knee. However, there are no records provided for any GP attendances after that date. In all the circumstances, the history provided by the Claimant to his GP would appear to suggest that there were continuing problems in early 2023 in relation to his knee injury and back injury impacting his movements, but this was not stopping him from undertaking the duties of his role. Moreover, there was no indication at this point in time that any knee or back condition was like to last 12 months or



more. In the circumstances, the Tribunal was not satisfied that the Claimant's knee and back condition amounted to a relevant disability at the material time.

52. In any event, the Tribunal was not satisfied that the Respondent had actual or constructive knowledge at the material time in relation to this alleged disability. The Claimant had two weeks off work. At the return-to-work meeting on 11 December 2022 the form was completed to indicate that he had no concerns about returning to work and did not require any help during the period of his return to work. The occupational health report from February 2023 recorded that he was fit to undertake his duties. There was nothing in these documents which put the Respondent on notice of the need to make further inquiries about the Claimant's knee or back injury.

Discussion and conclusions

Time limits

53. As far as the discrimination and harassment complaints were concerned, the Claimant's case was essentially out of time. The last alleged act of discrimination identified in the list of issues related to the welfare meeting on 19 April 2023. Even if the various acts of alleged discrimination and harassment in the list of issues were treated as part of the same continuing act, the three-month time limit for commencing Tribunal proceedings expired on 18 July 2023. The Claimant did not take the first step of contacting ACAS until 7 September 2023. Thus, at a minimum, the complaints were seven weeks out of time.
54. In any event, the Claimant's case that the acts of discrimination were linked, or part of a continuing conspiracy, made little sense. There was a gap of over three years between the alleged acts of harassment in 2019 and the next act of harassment identified in the list of issues. At the end of 2019, the Claimant had changed shifts as a result of the issues concerning his working relationship with Chris Haworth apparently being insurmountable.
55. Although the Tribunal recognised that the Claimant was absent from work due to sickness from March 2023 as a result of his mental health conditions, the Tribunal was not satisfied that there was a satisfactory explanation for any delay in bringing proceedings. It was clear that, in 2019, the Claimant was being assisted by his union and had sought advice and assistance from the Citizens Advice Bureau. It was clear that, in 2023, he was continuing to seek advice from the CAB in relation to legal issues as his GP notes refer to him having done so in connection with an issue with his landlord. The GP records also refer to the Claimant discussing seeking legal assistance in relation to his employment issues in early 2023, although it is not clear that the Claimant actually obtained any legal assistance at this point in time. He was able to draft a very detailed grievance letter in July 2023. Whilst the Claimant's evidence, which was supported by an entry in the GP records, suggested that



this had been a struggle and taken some time, it is also noteworthy that the Claimant has provided the Tribunal with no medical evidence in relation to the period after April 2023. It is also clear that the Claimant had assistance from his partner in preparing the grievance letter and that, for these purposes, steps had been taken to research the law so that the Claimant was in the position of intimating a claim for compensation for personal injury and injury to feelings with the figure cited for injury to feelings being the precise figure at the top end of the top bracket of then current Vento guidelines. It would have been self-evident to the Claimant and his partner that, if he was seeking those sorts of figures, he would need to carry out similar legal research in relation to commencing any Employment Tribunal proceedings. With the assistance of his partner, he was clearly in a position to do so. The fact that the Claimant had intimated any compensation being claimed within a grievance and that any grievance was ongoing was not a satisfactory explanation for delaying bringing any proceedings since the Claimant had already taken the first step of notifying ACAS of his prospective Claim before any grievance meeting had taken place.

56. It was also clear to the Tribunal from the oral evidence given by the Respondent's witnesses, and also the oral evidence of the Claimant, that the passage of time had adversely impacted upon the cogency of the evidence. This was particularly the case in relation to events in 2019, but also, to a significant extent, when considering the allegations from early 2023. The Claimant himself was, at times, reluctant to engage with the detail of the factual issues. As a result, the Tribunal found it far from straightforward seeking to get to the bottom of what had happened. This was not a satisfactory basis upon which to be determining factual disputes of some seriousness.
57. The Tribunal recognised the potential prejudice to the Claimant through being time barred in respect of his complaints of discrimination, although he would still be able to pursue his constructive dismissal complaint. However, against this, there was the prejudice faced by those employees of the Respondent, and the Respondent itself, who were faced with having to defend themselves against allegations of varying degrees of stillness and or antiquity.
58. In Bexley Community Centre v Robertson [2003] IRLR 434, CA, the Court of Appeal provided the guidance set out below.

"It is also of importance to note that the time limits are exercised strictly in employment and industrial cases. When tribunals consider their discretion to consider a claim out of time on just and equitable grounds there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse. A tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time. So, the



exercise of discretion is the exception rather than the rule” (Auld LJ at paragraph 25).

59. Having regard to the considerations and analysis set out above, we were not persuaded that the time limits should be extended in this case.
60. Thus, we would dismiss the discrimination complaints as being out of time but have, in any event, concluded that the complaints did not amount to unlawful discrimination and so would have been dismissed on their merits. Accordingly, we deal with the position as to the merits of the discrimination complaints below.

Harassment related to disability

61. The first complaint of harassment related to disability was that around 27 February 2019
 - (i) Chris Howarth manhandled the Claimant in the workplace;
 - (ii) pushed the Claimant inside Chris Howarth’s office;
 - (iii) blocked the door to the office;
 - (iv) shouted at the Claimant;
 - (v) told the Claimant he would lose his job if he left the site.
62. The Tribunal preferred the evidence of Chris Haworth in relation to this incident so that the factual basis for the various complaints was not made out by the Claimant, save that he was given a sensible and reasonable piece of advice by Chris Howarth as to the possible consequences of leaving the site without authority. The Tribunal would comment that this was a very ordinary issue where the Claimant’s management needed to talk to him about a short roll and his response was completely disproportionate and would have been difficult for his managers to handle at the time. The Claimant’s response would have resulted in more severe disciplinary action in a less understanding workplace.
63. The second complaint of harassment related to disability was that on or around 25 March 2019, Chris Haworth:
 - (i) grabbed the Claimant under his neck, and
 - (ii) smiled at the Claimant and said, “*see you tomorrow, Lee*”.
64. Again, the Tribunal preferred Chris Haworth 's version of events which was supported by contemporaneous documentation and noted as well that the issue was not raised by the Claimant in his grievance or whistleblowing complaint. On this basis it seemed clear to the Tribunal that it would have been clear to the Claimant at the time that there was no intent on the part of Chris Haworth to make contact with him. Indeed, it seemed more likely to the Tribunal that the Claimant had effectively created an incident by walking into the outstretched arms of Chris Haworth. Alternatively, the Tribunal was



satisfied that the Claimant's response involved a significant over-reaction possibly, again, because of the emotional state that he was in at the time.

65. The third complaint of harassment related to disability was that on or around 23 August 2022, following the Claimant's nightshift, Les Holliday called the Claimant to discuss the Claimant's occupational health appointment.
66. The Tribunal was not satisfied that this incident came anywhere near meeting the threshold in terms of the definition of harassment. Whilst it was unfortunate that Carla Grant had given the Claimant to understand that communications with him would involve only certain managers, without this then being communicated to Matt Lord, the reality is that this simply amounted to an attempt to remind the Claimant about an occupational health appointment in circumstances where he had fairly recently missed an occupational health appointment, with a message being left which was completely innocuous when telephone contact was not made with the Claimant. In any event, the factual premise of the allegation in the List of Issues is a little misleading. The telephone call was only to discuss the Claimant's occupational health appointment in the sense of reminding him about the need to keep that appointment. It did not involve Les Holliday having any information regarding the Claimant's medical circumstances beyond the everyday fact that an occupational health appointment had been arranged.
67. The fourth complaint of harassment related to disability was that, on 2 March 2023 John Whalley, Team Leader, refused the Claimant's request to move from creeling to running a machine, instead advising him to take sick leave.
68. The Tribunal was not satisfied that this amounted to harassment. The simple fact was that a couple of weeks previously the Claimant's request to stop operating a machine had been granted on the basis that the Claimant had said that he was not in a mentally fit state to be running a machine. Instead, he was placed on creeling duties. There was no indication that the position had changed. What happened on 2 March 2023 was that the Claimant sought to swap duties with another operative, who no longer wanted to work on the machine that he was operating. Ultimately, it was a management decision as to the duties to be assigned to the operatives concerned. It was not a decision for the Claimant. It was not for the Claimant to start picking and choosing which duty he wanted to undertake. The management decision which was made was a perfectly reasonable decision having regard to the understanding of John Whalley that the Claimant had not been mentally fit to run a machine. Insofar as the Claimant was suggesting that he was no longer fit to be undertaking creeling, it was entirely reasonable on the part of John Whalley to point out that if the Claimant was neither fit to be running a machine nor creeling, then the remaining option was that of taking sick leave.



69. The fourth complaint of harassment related to disability was that when the Claimant asked for a half day holiday on 2 March 2023, Geoff Lane said, “*get the fuck off site before I remove you*”.
70. The Tribunal was unpersuaded as to the factual basis for this allegation since it preferred the evidence of Geoff Lane. The Tribunal notes that the evidence of both Matt Lord and John Whalley was to the effect that they did not hear Geoff Lane make the alleged remarks to the Claimant. The Tribunal was particularly persuaded by the oral evidence of Geoff Lane from which it is clear that his focus at this point in time was on the safety of the Claimant due to the Claimant having described himself as being suicidal. The Tribunal was satisfied that Geoff Lane was seeking to deal with the situation in a sympathetic way and would not have used such language.
71. The fifth complaint of harassment related to disability was that on 2 March 2023, when the Claimant told him not to use a holiday or pay him for the time for the time off, Geoff Lane replied, “*I’d f*cking love to*”.
72. The context in which this was alleged to have been said by Geoff Lane is not entirely clear from the List of Issues, but it is clear that the Claimant’s case is that this was part of the same exchange as that involved in the allegation referred to above as the fourth complaint of harassment related to disability (paragraph 5.4 of the List of Issues) and was effectively a continuation of the same exchange. The alleged context is clearer from the Claimant’s Disability Impact Statement where he seeks to allege that, having effectively ordered him off site, Geoff Lane then made it plain that the Claimant would not be getting paid for his absence, whether by way of paid holiday or otherwise, to which the Claimant replied that Geoff Lane should “*do that then*” which resulted in Geoff Lane allegedly saying “*I’d fucking love to*”, at which point the Claimant left the office. However, for the same reasons as already given in relation to paragraph 5.4, the Tribunal was not satisfied that the factual basis of the allegation was established as the Tribunal preferred the evidence of Geoff Lane.
73. The sixth complaint of harassment related to disability was that, on 19 April 2023, during a welfare meeting, Matt Lord:
 - (i) interrupted the Claimant by saying, “*in your opinion*”; and
 - (ii) told the Claimant, “*you need to get over it already*”.
74. In relation to the use of the words “*in your opinion*”, it is clear from Carla Grant’s handwritten notes of the welfare meeting that these words were used by Matt Lord. Moreover, he accepted in his evidence, that this is a turn of phrase that he is prone to use. The context in which these words were used involved the Claimant having asserted that he had been threatened by Geoff Lane on 2 March 2023. Matt Lord originally engaged with the detail of this assertion by making it clear that he had not been threatened in the way



alleged because *"I was there"*. The Claimant then repeated the allegation saying that Geoff Lane *"threatened to remove me off site I told him I was suicidal"* and at this point Matt Lord had stated, *"in your opinion"*. Whilst it is not entirely clear from the handwritten note, the Tribunal was not satisfied that this was a comment in relation to the Claimants' suicidal state but was a comment in relation to the allegation that the Claimant was making about Geoff Lane, with Matt Lord making the point that it was the Claimant's version of events and not accepted. In any event, it is not clear from the note that the Claimant had any issue or problem at the time with the comment made by Matt Lord. Indeed, later on during the same meeting, the Claimant used the words *"in your opinion"* himself. Moreover, the overall impression of the meeting is of a meeting which was seeking to support the Claimant both in relation to his mental health and in relation to facilitating a return to work. Right at the end of the meeting the Claimant asked Matt Lord, *"do you want me to come back"* to which Matt Lord replied quote *"yes, I don't want anyone to not have a job"*. In the circumstances, whilst the Tribunal accepts that the use of the words concerned by Matt Lord may have been unwise, particularly at a point in the conversation where the Claimant was referring to having been suicidal, the Tribunal was not satisfied that the use of those words met the statutory definition of harassment. This was not conduct which had the purpose or effect of violating the Claimant's dignity or creating an intimidating, hostile degrading, humiliating or offensive environment for the Claimant. In arriving at this decision, the Tribunal takes account of the circumstances of the meeting, the fact that no issue was taken with the comment at the time, the Claimant himself used these words in the meeting and the fact that other than disagreeing with factual allegations made by the Claimant, the conduct of Matt Lord towards the Claimant was otherwise very supportive.

75. In relation to the use of the words *"you need to get over it already"*, whilst Matt Lord denies using the words alleged, and they do not appear in the handwritten note of the meeting, the Tribunal notes that the Statement of Evidence of Matt Lord does state that *"I encouraged Lee to get over things and move on as he was referring to things in the past"*. For the same reasons as those set out in relation to the use of the words *"in your opinion"*, the Tribunal was not satisfied that the use of such words by Matt Lord satisfied the statutory definition of harassment. He was essentially trying to be supportive and assist the Claimant with getting back to work.
76. On the basis of the reasons set out above, the tribunal has dismissed the complaints of harassment related to disability.

Breach of duty to make adjustments

77. For the purposes of this complaint, the List of Issues identified the relevant provision, criterion or practice ("PCP") as being that, in or around December



2022 *“John Whalley and/or Geoff Lane refused to reallocate the Claimant’s duties from creeling to running a machine”.*

78. The Respondent’s Closing Submissions sought to suggest that the complaint was misconceived in that the PCP must be capable of being applied to others, whereas the PCP upon which reliance was being placed was personalised to the Claimant and was a one-off management decision which was, by definition, incapable being applied to others. It was further contended that the PCP could not be said to place disabled people, as a group, at a disadvantage, compared to non-disabled persons, so that a complaint based on the PCP as drafted was similarly misconceived.
79. However, the Tribunal was satisfied that the effective PCP in this case was the PCP of requiring the Claimant to carry out the duties which were assigned to him, which were, at this point in time, creeling duties.
80. Did the PCPs put the Claimant at a substantial disadvantage compared to someone without the Claimant’s disability, in that creeling caused the Claimant physical pain, especially working 48 hours a week 12 hours a day? The Tribunal was not satisfied that this was the case.
81. In this regard, the history given in the GP attendance notes, as set out above in relation to the issue of disability, did not provide a coherent narrative which the Tribunal could rely upon with any confidence. In the GP attendance notes between November 2022 and April 2023 there were references to the Claimant giving a history of his knees hurting or back pain which in April 2023 was causing restriction of movement in respect of his left knee. However, in January 2023 it was clear that he was able to bear weight on his limbs. Moreover, at the return-to-work meeting in December 2022, there was nothing reported to the effect that the Claimant would not be able to carry out his duties because of any knee or back problem and there was no indication to that effect in the subsequent occupational health report.
82. Did the Respondent know, or could it reasonably have been expected to know, that the Claimant was likely to be placed at the disadvantage? Based on the information which the Respondent had, from the return-to-work meeting and from the occupational health report, the Tribunal was not satisfied that the Respondent had knowledge of any alleged substantial disadvantage.
83. Did the Respondent fail in its duty to take such steps as it would have been reasonable to have taken to avoid the disadvantage? The Claimant says that the adjustment to the PCP which should have been made was that the Claimant should have been reallocated from creeling to running a machine.
84. Based on the information provided by the Claimant to the Respondent, in particular in the return to work meeting and later in the occupational health



report, the Tribunal was satisfied that it was reasonable for the Respondent to allocate creeling duties to the Claimant where this either met its business needs or was on account of the Claimant suggesting, as he did in February 2023, that he could not run a machine because of his mental health issues. The Tribunal accepts the point made in the Respondent's opening note that the complaint as to a breach of the duty to make reasonable adjustments makes little sense when, properly analysed, the Claimant himself was effectively requesting creeling duties in around the middle of February 2023 which suggests that he was physically able to do such duties.

85. In the Claimant's closing submissions, Ms Howes sought to rewrite the List of Issues by taking the question which identified the adjustments which the Claimant says would have been reasonable as an opportunity to suggest additional adjustments which had not been in the List of Issues. The main focus was on the suggestion that the Respondent could have amended the Claimant's break time to suit and reflect the extra ten minutes that he was granted on occasions. It was being suggested that this was as an alternative to allowing the Claimant to take time off as paid annual leave, at short notice, as a form of reasonable adjustment. The Tribunal was not satisfied that this was part of the case before the Tribunal.
86. Further, the need, if there was any, to amend the Claimant's break time, seemed to arise from any abdominal issues which were specifically stated by Employment Judge Ross, in her Record of a Preliminary Hearing, not to be a disability or impairment which was relevant to the issues in the case.
87. In any event, the evidence before the Tribunal was that the Respondent allowed the Claimant to take half days off as paid annual leave at very short notice as a reasonable adjustment in itself and at the request of the Claimant since this obviously ensured that he could take time off and be paid for it, as otherwise, had he taken the time off, any payment would have been on the basis of the limited arrangements in respect of sick pay.
88. The Claimant's closing submissions seemed to suggest that, as an alternative to the way in which the Respondent was already very reasonably making allowances for the Claimant, his break time should have been amended. It was then further suggested that there were occasions when an extra ten minutes was granted. There was a lack of evidence before the Tribunal in respect of the position in respect of break times, or amending break times, or granting an extra ten minutes, but from the way in which the issue was formulated in the Claimant's closing submissions, the Claimant's case itself seemed to recognise that allowance was made, where appropriate, by granting an extra ten minutes.
89. In the circumstances, the Tribunal was not satisfied that these submissions provided a basis for any further or alternative case as to a breach of the duty



to make reasonable adjustments. Looking at the matter in the round, it appeared that the Respondent was, on a regular basis, prepared to make allowances for the Claimant, where appropriate, recognising that there may have been occasions when the Respondent considered that it was not appropriate.

90. It follows, that the conclusion of the Tribunal was that the complaint as to a breach of the duty to make adjustments was not well founded.

Constructive dismissal

91. The List of Issues had set out in various matters relied upon by the Claimant, whether individually or cumulatively, as giving rise to a breach of the implied term of trust and confidence so as to entitle him to resign and treat himself as having been constructively dismissed. The Tribunal duly considered the alleged conduct on which reliance was being placed, as set out below.

(1) The Claimant issued a grievance in July 2023, but the Respondent delayed holding a grievance meeting until 28 September 2023, in breach of the time period as stipulated in the company handbook,

92. The Tribunal accepts that there was a significant delay in arranging a grievance meeting following the Claimant having submitted his grievance on 20 July 2023. Whilst the Respondent's grievance procedure does suggest that a meeting should take place within five days of the grievance being submitted, it also makes it clear that there may be circumstances in which this does not happen. Clearly one such circumstance would be over a period of time when individuals were likely to be away on holiday which was effectively the position here since most of the period of delay falls in August. A further fact was that there was correspondence with the Claimant over who should deal with his grievance with the Claimant objecting to Matt Lord so that the Respondent then had to identify an alternative individual who was suitable to undertake any grievance investigation. The Tribunal notes that Carla Grant did write to the Claimant on a number of occasions both explaining the delay and apologising for the delay. No issue was taken with the delay at the time. The Claimant was off sick during this period which was a further factor. Whilst the Tribunal considered that the extent of the delay was unsatisfactory, the Tribunal notes that the Claimant's grievance and his grievance appeal had been dealt with and finalised in terms of any outcome many months before he resigned. The Tribunal was not satisfied that this was an issue which contributed to or amounted to a repudiatory breach of the contract of employment.

(2) The Respondent failed to implement the recommendations of the Occupational Health reports dated 25 May 2022, 24 August 2022, 23 February 2023 and 5 October 2023 (List of Issues paragraphs 2.1.2 as amended and 2.1.9).



93. Essentially, the occupational health recommendations from May and August 2022 were to the effect that there should be weekly supportive contact with the Claimant by his line manager. The Tribunal was satisfied that this recommendation was implemented through the regular meetings which took place informally between Geoff Lane and the Claimant at which Geoff Lane would check on the Claimant's welfare and where further support was required. The Tribunal accepted the evidence of Geoff Lane to the effect that, as the Claimant was reluctant to attend any meeting in the office, he effectively facilitated these meetings taking place at the Claimant's machine which may not have been entirely ideal. This was consistent with the evidence which Geoff Lane gave to Luke Cowell which was also followed up over the course of a number of e-mail exchanges between Geoff Lane and Luke Cowell.
94. The Respondent took steps to implement the recommendations of the February 2023 occupational health report through arranging a welfare meeting with the Claimant which ultimately took place in April 2023, after the Claimant had gone off sick in March 2023. During that meeting the Claimant was asked as to any support which he needed and had no suggestions or requests to make, as was confirmed by the colleague, Colin Booth, who attended with him, when Colin Booth was asked by Luke Cowell.
95. The position in respect of the recommendations made in the October 2023 report was perhaps less satisfactory in that the recommendation was that the Respondent should seek to resolve the Claimant's work-related issues in order to facilitate an early return to work with regular meetings being advised to monitor his well-being and progress. Effectively, Carla Grant dealt with this by prioritising the resolution of the Claimant's work-related issues through the grievance process and through the handling of the Claimant's whistleblowing complaint.
96. The Tribunal considers that it is informative that, at the end of those processes, once Ian Ford had provided his decision on the Claimant's whistleblowing complaint appeal in the outcome letter dated 16 April 2024, Ian Ford concluded that letter by noting that the Claimant remained off work sick but stated that *"I do hope you start to feel better soon, and we can welcome you back to work when you are fit and well enough"*. In terms of the Claimant's return to work, the ball was very much in the Claimant's court in that it was dependent on the Claimant being well enough to return.
97. In this regard, the Tribunal considers that it is significant that, despite the fact that the Claimant had by this point in time been off for over a year, the Respondent had not taken any steps with regards to dealing with the Claimant's absence under its capability procedures.



98. On the face of it, through its communications with the Claimant, the Respondent was making it clear that, far from the contract of employment being destroyed or damaged, it was encouraging the Claimant to continue his employment, rather than seeking to get rid of him, when his lengthy absence would have given the Respondent grounds to do so. In the circumstances, the Tribunal was satisfied that the way in which the Respondent dealt with the occupational health recommendations did not cause or contribute to a repudiatory breach of the contract of employment.

(3) Chris Edwards in the grievance outcome said that the Claimant was not well enough to return to work.

99. The Tribunal was satisfied that the comments of Chris Edwards in the grievance outcome letter have been taken out of context. On the basis of the information which Chris Edwards had regarding the length of time for which the Claimant remained signed off from work and on the basis of what the Claimant had said during the grievance meeting, it was apparent that the Claimant was not yet well enough to return to work and, having recognised that, the comments made were clearly supportive as the very next sentence stated that *"I do hope to see you return to work at some point in the future when you are ready to do so"* having effectively signposted the Claimant to Carla Grant for the purposes of facilitating any return to work. Again, the Tribunal was satisfied that this was not an issue which caused or contributed to any breach of the implied term of trust and confidence.

(4) The grievance outcome of 6 October 2023 was unfair and was not impartial as Chris Edwards did not interview all the relevant witnesses.

100. From the evidence given by the Claimant, the Tribunal was not satisfied that the Claimant had identified specific individuals to be interviewed by Chris Edwards. In the course of the grievance appeal, the Claimant identified Colin Booth and Dave Haberlin as potential witnesses. Luke Cowell interviewed Colin Booth but was unable to interview Dave Haberlin as he had left the Respondent. Instead, Chris Edwards provided the Claimant with the opportunity to obtain a witness statement from Dave Haberlin and to submit this to the investigation as evidence. However, Luke Cowell's report notes that the Claimant did not provide this evidence. In the course of the Tribunal hearing, the Claimant also referred to St John Daniel. However, St John Daniel was also subsequently interviewed by Luke Cowell. Long before the Claimant resigned, any shortcomings which he may have considered there to be with any investigation carried out by Chris Edwards had effectively been rectified by the very thorough investigation carried out by Luke Cowell. In the circumstances, the Tribunal was not satisfied that's this issue caused or contributed to any breach of the implied term of trust and confidence.



(5) The Respondent appointed an external investigator to deal with the Claimant's grievance appeal and a whistleblowing complaint which was also made by the Claimant on or around 24 October 2023.

101. The Tribunal found this to be a surprising complaint. On the face of it, where the Claimant was complaining about a number of managers and team leaders, the step taken by the Respondent to arrange for an independent HR consultant to deal with the Claimant's grievance appeal and whistleblowing complaint was a step which would have been supportive of trust and confidence in the employment relationship. In any event, the Tribunal was satisfied that it was an entirely appropriate step for the Respondent to take did not cause or contribute to a breach of the implied term of trust in confidence.

(6) The Respondent failed to uphold the Claimant's grievance appeal and failed to uphold his whistleblowing complaint.

102. The Tribunal considered this complaint together with that complaining about the Respondent having issued a grievance appeal outcome which did not support the Claimant.
103. The Tribunal considered these complaints to be misconceived. The fact that a grievance appeal or whistleblowing complaint was decided with a particular outcome does not, on its own, amount to a breach of the contract of employment. Moreover, the Tribunal was satisfied that Luke Cowell had undertaken an extremely diligent and thorough investigation resulting in a detailed and reasoned conclusion which it was open to him to reach on the evidence before him. As such, the fact that the Claimant's grievance appeal and whistleblowing complaints were not upheld does not cause there to have been a breach of the implied term of trust and confidence.

(7) The Respondent permitted Geoff Lane and Chris [Haworth] (not Edwards) to submit new statements for the grievance appeal and whistleblowing process rather than using their original statements.

104. This complaint appears to be based on a misunderstanding of the evidence. The grievance investigation undertaken by Chris Edwards involved speaking to relevant witnesses although the evidence provided by those witnesses was not committed to writing in the form of a statement or record of interview. When Luke Cowell came to undertake an investigation for the purposes of dealing with the Claimant's grievance appeal, given that the evidence obtained from Geoff Lane and Chris Haworth had not been recorded in this way, it made complete sense to interview these witnesses so that Luke Cowell was sure as to the evidence which they were able to give. As such, this issue does not cause or contribute to any breach of the implied term of trust and confidence.



(8) The Respondent issued a grievance appeal outcome which did not support the Claimant.

105. See (6) above.

(9) The Respondent continued to fail to follow the Occupational Health recommendation made in October 2023 (see 2 above).

106. See (2) above.

(10) The Claimant was not permitted to show video evidence he had of John Whalley stating what he had done on 2 March 2023. Ian Ford, who was hearing the final appeal, did not permit the Claimant to play the video in the room and did not permit him to play the video with his witness (Dave) present.

107. This complaint simply did not reflect the evidence before the Tribunal in that the minutes of the whistleblowing appeal clearly refer to Ian Ford having asked and encouraged the Claimant to play any recording with the Claimant declining to do so stating that it was pointless and would be wasting his time. In his oral evidence, when cross-examined, the Claimant's position became that the minutes had been fabricated. The minutes had been taken by Laura Warrington, HR assistant. The Claimant raised the possibility that she had been instructed to fabricate the minutes by Ian Ford. The Tribunal had the benefit of a Statement of Evidence from Laura Warrington confirming that the minutes were accurate, although she did not give oral evidence. However, the Tribunal was satisfied that there was no evidence to suggest that the minutes had been fabricated. The allegation of fabrication simply did not make sense given that, at the point in time of the whistleblowing appeal meeting, the Respondent would have had no idea that this issue would form part of a legal case brought by the Claimant.

(11) Ian Ford told HR to stop taking notes during the final appeal hearing.

108. The statement of Laura Warrington does confirm that Ian Ford initiated a conversation with the Claimant which was intended to be off the record. There is nothing, in itself, inappropriate about having such a conversation, although it might have been better to have had any such discussion after the meeting had concluded. However, there is no allegation before the Tribunal to the effect that anything which was said off the record gave rise to any form of impropriety. In the circumstances, the Tribunal was satisfied that this was an innocuous allegation which did not contribute or cause any breach of the implied term of trust from confidence. It is worth reflecting that the very nature of an off the record discussion involves the person initiating the discussion taking the other person into his or her confidence.

(12) The minute of the appeal meeting of [February 2024] (not November 2023) falsely noted that there was no opportunity to play the video when there was.



109. See (10) above.

*(13) The outcome letter dated 16 April 2024 of the Claimant's whistleblowing complaint failed to comment on the misuse of power by management in the comment where the Claimant was told to "get the f*ck off site".*

110. Again, this seems to involve a misunderstanding of the position in relation to the whistleblowing complaint. The complaint that the Claimant had been told to "get the f*ck off site" had formed part of the Claimant's grievance and, as such, had been dealt with by Chris Edwards and Luke Cowell. In his outcome letter Ian Ford made it plain that he had discussed, during the whistleblowing appeal hearing, the fact that there was no further right of appeal against the decision of Luke Cowell but "*nonetheless I've reviewed all what has gone on in respect of your grievance, I've done so for the sake of completeness even though I was under no obligation to do so*". He then commented that in relation to the allegation regarding Geoff Lane having told the Claimant to "*f*uk off site*", there had also been a discussion regarding the mobile phone recording which the Claimant had in his possession, with Ian Ford noting that "*since we met, I asked you to send it through to me, but you have not done so*" with Ian Ford noting "*I cannot comment on it further*". Ian Ford concluded his comments on the Claimant's grievance by stating that "*I've read the relevant papers in connection with your grievance, and I'm satisfied everything was done properly*" before adding that there was no further right of appeal against the outcome of the grievance.

111. Thus, it can be seen that, to the extent set out above, Ian Ford did deal with the issue of the Claimant's grievance and grievance appeal, but there was no need for him to deal with those matters in any more detail than he did. It follows that this complaint is misconceived and cannot be seen as causing or contributing to and a breach of the implied term of trust and confidence.

(14) The outcome letter of 16 April 2024 did not uphold the Claimant's complaint.

112. Again, the position is similarly one of the Respondent having considered the Claimant's complaint and reached a conclusion with which he did not agree. Such a state of affairs, without more, does not give rise to a breach of the implied term of trust and confidence. In any event, the Tribunal was satisfied that Ian Ford reached a decision which it was open to him to reach and which involved upholding the decision of Luke Cowell on the Claimant's whistleblowing complaint which was a decision which it had similarly been open to Luke Cowell to reach on the material which he had as a result of the detailed and thorough investigation which he had undertaken.

(15) Ian Ford failed to take into account their own occupational health report and failed to take on board the facts written from the Claimant's GP and psychologist which were provided to the appeal.



113. This was a complaint which lacked clarity. The point was not pursued by the Claimant in his Statement of Evidence. Moreover, the allegation was contradicted by the minutes of the whistleblowing appeal meeting where Ian Ford specifically stated that *"I've gone through all the evidence presented to me"*. When this was originally put to the Claimant in cross-examination he originally answered by stating that *"so he must have reviewed it"*. He was then asked to clarify whether he was admitting that Ian Ford did review the documents to which he replied, *"I couldn't tell you"*. This answer was illustrative of much of the Claimant's evidence where, when he identified that a piece of evidence might not support his case, his answers became evasive or avoided answering the question, presumably, in the Claimant's mind, to avoid damaging his case. However, in this instance, it can be seen that this was a counter-productive strategy in that, if the Claimant is unable to tell the Tribunal whether Ian Ford reviewed the documents, it follows that he is unable to establish the factual basis for this complaint.
114. The List of Issues further identified two matters, as set out below, being relied upon as the last straw in terms of the cause of the Claimant's resignation.
- (1) *Ian Ford confirmed in a letter of 16 April 2024 that the company had destroyed a grievance which the Claimant had lodged back in 2019.*
115. This was a complaint which did not make sense. In the first place, it involved a clear misinterpretation of the outcome letter of Ian Ford. On the second page of the letter, at numbered paragraph 4, the initial sentence, the first part of which was in bold type, was clearly setting out the basis for the Claimant's complaint. This included the words *"the company has destroyed the records of your grievance in 2019"*. Ian Ford was not saying that this had happened. What Ian Ford was saying was that the Claimant's whistleblowing complaint, to the effect that information has been or was likely to be concealed, involved an allegation to the effect that the company had destroyed the records of his grievance in 2019. To some extent, this was inconsistent with the evidence given by the Claimant in both the grievance meeting and the whistleblowing appeal meeting where he was clear in stating that there had been no written grievance submitted to the Respondent in 2019. The evidence before the Tribunal was clear in that the Claimant had discussed raising a grievance with Les Holliday and Les Holliday had been clear that any grievance would need to be provided in writing. The Claimant did not subsequently provide a grievance in writing, as he confirmed to Chris Edwards in the course of the grievance meeting in 2023. During the Tribunal hearing, the Claimant did produce a draft grievance from 2019 which was e-mailed to him by the Citizens Advice Bureau, but there was no evidence that this had been submitted to the Respondent.
- (2) *The Claimant was off work on sick leave and felt he had exhausted the appeal process, and no-one had contacted him about a return to work.*



116. The internal processes had effectively concluded with Ian Ford's outcome letter to the Claimant dated 16 April 2024 which had concluded by stating that *"I do hope you start to feel better soon, and we can welcome you back to work when you are fit and well enough"*. At this point in time, the Claimant was signed off work under a sickness certificate which covered the period between 1 March 2024 and 1 June 2024 although the fit note only seems to have been obtained on a back dated basis on 3 April 2024. The Tribunal has already made the point that if this had been a Respondent which was seeking to destroy or seriously damage the employment relationship of trust and confidence, then the Tribunal would have expected steps to have already been taken with regard to terminating the Claimants employment on the grounds of such a lengthy sickness absence. By contrast, the letter from Ian Ford, consistent with previous letters from the Respondent, was continuing to express the hope that the Claimant would be returning to work when fit and able to do so. In that regard, the ball was, to some extent, in the Claimant's court. Moreover, if he felt that he needed more support from the Respondent or that some form of contact, such as a further welfare meeting, would assist, then he could have been in contact with the Respondent himself. Whilst it might have made sense for the Respondent to have been writing to the Claimant, following the outcome of the whistleblowing appeal, with regard to any further steps that needed to be taken to support a possible return to work, the Tribunal was not satisfied that this caused or contributed to any breach of the implied term of trust and confidence.
117. It follows, that the conclusion of the Tribunal was that the treatment of the Claimant did not give rise to a breach of the implied term of trust and confidence and that the Claimant's resignation did not amount to a dismissal.

Outcome

118. The outcome is that the various complaints must be dismissed.

Approved by
Employment Judge Kenward

Dated 3 September 2026

Sent to the parties on

Dated 18 September 2026

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For the Tribunal office