



EMPLOYMENT TRIBUNALS

Claimant: Ms E Tucker

Respondent: Ultimate Complex Care Ltd

Heard at: Bristol

On: 17, 18 and 19 August 2026

Before: Employment Judge Livesey

Appearances

For the Claimant: In person

For the Respondent: Mr Henry, consultant

Following the Judgment dated 19 August 2026, which was sent to the parties on 9 September 2026, the Claimant requested written reasons in accordance with rule 60 of the Employment Tribunal Procedure Rules 2024. The following reasons are duly provided.

REASONS

1. The claim

- 1.1 By a claim dated 12 June 2025, the Claimant brought complaints of detriment and dismissal on the grounds of public interest disclosure. No claim was ultimately pursued under s. 103A (dismissal) for the reasons explained below.

2. The evidence

- 2.1 The Claimant gave evidence in support of her case and Mr Muguti, the Respondent's Director and Registered Manager, gave evidence on behalf of the Respondent.
- 2.2 Two hearing bundles were produced, one from each party, C1 and R1 respectively.

3. The issues

- 3.1 The issues had been discussed, agreed and recorded at the Case Management Preliminary Hearing which had been conducted on 17 March 2026 by me. They were confirmed at the start of the hearing.
- 3.2 In summary, beyond the jurisdictional time issues relating to matters

before 8 January 2025, the Claimant relied upon six public interest disclosures, which had concerned alleged health and safety and/or breaches of legal obligations, and she alleged that she had been the victim of 13 detriments, although some were subdivided.

- 3.3 The Case Summary of 17 March 2026 explained why no complaint of unfair dismissal under s. 103A had ever been brought (paragraphs 70 to 73). The Claimant did not subsequently apply to amend to include one.

4. The hearing

- 4.1 The following features of the hearing will aid in the understanding of the balance of these Reasons;

- 4.1.1 The Claimant's witness statement did not deal with or address many of the issues in the case, nor were any documents referred to within it. The extent of her evidence was to have been found within paragraphs 4 and 5;

"During my time as Acting Registered Manager, I developed auditing systems which identified errors, concerns and dangerous non-compliant work practices.

After raising these issues on several occasions, the Respondent's behaviour towards me changed from giving the glowing reports to criticism and attempts to alienate me from the team."

The statement also included references to claims that had not been brought (for example, reasonable adjustments). She asked to rely upon the contents of her Claim Form to supplement evidence, which was not opposed by the Respondent;

- 4.1.2 In relation to disclosure, the Claimant accepted that she had not complied with the Case Management Order which had required her compliance by 24 April. She did, however, disclose 35 documents to the Respondent and the Tribunal on 27 July. She also applied for disclosure of another 24 classes of documents on that day too, an application which she pursued at the start of the hearing. I went through the documents that she sought and the detriments that she claimed. She was unable to satisfy me that the disclosure of any document was reasonably necessary for a fair disposal of the issues in the case and/or was either directly or indirectly relevant to any of the detriments and I dismissed that application;

- 4.1.3 In relation to the hearing bundles, the Claimant accepted that she had received an initial bundle from the Respondent on 8 June, a revised version on 21 June and a final version, incorporating her disclosure of 27 July, on 10 August. She did not bring any of them to the hearing. She brought her own disclosure bundle but, because it was accepted as having been subsumed into the Respondent's bundle, it was not necessary to refer to it, save in one respect (see, below);

- 4.1.4 The Claimant had produced a short rebuttal witness statement following receipt of the Respondent's evidence. It was neither appropriate nor fair for such evidence to have been adduced. The

Claimant was entitled to cross-examine the Respondent's witness about such matters and/or give her own evidence in response to questions and I did not read it;

- 4.1.5 The Claimant had made an application to strike out the Response in the run-up to the hearing, which was not pursued at the hearing itself.

5. The facts

- 5.1 The following factual findings were made on the balance of probabilities. Findings were restricted to matters which were relevant to a determination of the issues. Pages cited in these Reasons are to pages within the hearing bundle, R1, unless otherwise stated and they appear in square brackets. When each of the detriments have been referred to, paragraphs in the Case Summary have been used and the detriments appear in braces, thus; {}.

Introduction

- 5.2 The Respondent operates a domiciliary care service in and around the Worle, Weston-super-Mare for adults with learning disabilities, autism and/or physical disabilities. Mr Muguti is a Director, so too is his wife, who is also the Finance Coordinator. There are approximately 22 employees. Mr Muguti was always the Registered Manager for regulatory purposes during the period of the Claimant's employment.
- 5.3 The Claimant started work for the Respondent on 9 January 2023 and was provided with a contract a few days later [62-5]. Within the Employee Handbook [100-190] and associated Policies, there was a Whistleblowing Policy which emphasised the duty upon employees to speak up about things that they were not happy with [191-201]. Designated whistleblowing contacts were identified (Ms McNally, Service Manager, then Mr Muguti [194-5]), but the parties agreed that the Policy had not been so specific at the time when the Claimant had been employed. Mr Muguti agreed that that level of specificity was only introduced following the issues which were the subject of this claim.
- 5.4 The Claimant's role was that of 'Care Assessor/Field Supervisor' [62] which involved her accepting referrals for service users, allocating staff and completing care plans (see the Job Description [66]).

Registered Manager's role

- 5.5 The Registered Manager had responsibility for regulatory compliance, staff management, budgetary management and for growing the business. The role was, effectively, a mixture of operations management and business development (see the Job Description [84-5]).
- 5.6 The Claimant was interviewed for the role in 2023, without success, but she was encouraged to try again. In March 2024, the position became vacant again and she was appointed on an 'acting' basis from 4 March [74-5]. She received updated terms and conditions [76-83].
- 5.7 A few days later, she started to look for a training provider to start her learning towards a Level 5 Diploma in Leadership and Management in

Adult Care. The course was to have run from April 2024 until December 2025 [87]. She could only have 'acted' as Registered Manager at that point because she was not herself registered with the CQC and could not have been because she was not then Level 5 qualified. The manager registered with the CQC remained Mr Muguti.

The disclosures

5.8 The six disclosures relied upon by the Claimant fell into three categories, as set out in her Claim Form [14-5];

5.8.1 The first two (paragraphs 2.1.1.1 and 2.1.1.2 of the Case Summary [53]) concerned verbal disclosures made to Mr Muguti in the period between June and August 2024 concerning a service user and the fact that medication had been and/or was being repeatedly missed and similar disclosures made over the same period to Mrs Muguti.

The Claimant suggested in cross examination that, in response to her concerns, Mr Muguti organised someone to provide medication training to the staff.

Mr Muguti could not remember specific disclosures having been made to him as the Claimant had alleged, but did not deny that they had occurred. It was part of the Claimant's role to raise such concerns which he would then have addressed them, either himself or collaboratively. The medication training was not provided specifically because of concerns raised by the Claimant but, rather, by the requirements of North Somerset Council.

Mrs Muguti was not called to give evidence and I accepted that it was likely that the Claimant had repeated her concerns to her as well.

On the balance of the evidence, therefore, I considered it more probable than not that those disclosures were made as alleged;

5.8.2 The next three disclosures concerned manual handling issues (paragraph 2.1.1.3-5 [53]). The Claimant alleged that she made verbal disclosures to Mr Muguti between May and September 2024 about the lack of manual handling training, which prompted him to organise some further training. Once she had received it, she wrote to him on 10 October to allege that it was inadequate and dangerous and she made further, verbal disclosures to that effect and about how it had not complied with CQC requirements.

Mr Muguti accepted that the Claimant had raised concerns about manual handling, as reflected in her Claim Form [15]. There was then an email dated 11 November (not 10 October) in which she raised a number of concerns about the training. She identified specific problems with the instruction in respect of the use of a manual hoist in conjunction with a chair, amongst other things [271]. That feedback was immediately escalated by Ms McNally, the Service Manager, to the training provider, as reflected in her subsequent statement to the grievance investigation [332];

- 5.8.3 Finally, the Claimant alleged that she had made disclosures to Mr Muguti verbally in June and/or July 2024 about unsafe meal preparation and food storage because complaints had been raised by service users about undercooked food and food which had not been eaten but which was subsequently reheated for later meals (paragraph 2.1.1.6 of the Case Summary).

Mr Muguti expressly stated in his witness statement that he had not received any concerns from the Claimant to that effect (paragraph 14 (c)). He was not cross-examined on the issue at all and his positive evidence went unchallenged.

Given that the Claimant was a litigant in person, I did not take it that her failure to cross-examine him on that issue was an indication of her implicit acceptance that his evidence had been correct but, nevertheless, his positive account was clear and I accepted it on that issue. I did not therefore accept that it was likely that such disclosures had been made.

The detriments claimed

- 5.9 During the same period, records of supervisions with the Claimant were kept. They started because the Respondent had a policy of reviewing post holders in 'acting' roles after six months. The notes reflected relationship conflicts and concerns (for example [240-1]) and the need for her to have rebuilt relationships [246-7]. The Claimant provided apologies for errors [247] and was accepting of not having been supportive [246].
- 5.10 The notes of the September meeting [239-243] appeared supportive and helpful, but clearly reflected concerns that frictions were building. The October notes [246-9] were more detailed, stronger and clearly reflected growing concerns. The Claimant had refused to sign that set, not because she had not agreed that they were accurate, but because she had not agreed with the sentiments expressed to her during their discussions.
- 5.11 Notably, neither set reflected concerns about the matters which she had allegedly made disclosures about.
- 5.12 The Claimant complained that, during those supervisions, she was 'directed' to 'rebuild relationships' with care workers (the second detriment {3.1.2}) and that she was told to 'apologise' to a senior carer, Ms Nyomi {2.1.3}. She also complained that the supervisions were unscheduled and that no agenda had been provided {3.1.4}.
- 5.13 The notes did not contain 'directions' in the terms alleged. The Respondent had clearly thought that the Claimant's management style was causing friction and gave supportive advice as to how to have improved it. The message which caused conflict with Ms Nyomi [225] had, in my judgment, been direct and could have been handled differently. As to the point about notice, these appeared to have been standard supervision meetings. The September meeting served to schedule the October one [243], but it was brought forward because parties had concerns (see the email of 10 October [245]).

- 5.14 From August, the Claimant complained that she was excluded from

meetings and care 'runs', or rotas {3.1.1}. She never specified which meetings she had been excluded from and/or when they were supposed to have taken place. In cross-examination she said that she needed to have been at the meetings because they had concerned rotas, but I noted that that had not been part of the role described in the Job Description [74-5]. All of this evidence was somewhat woolly and vague.

- 5.15 In October 2024, the Claimant had two days off sick. Her return to work was unremarkable [251-2].
- 5.16 On 15 November, Mr Muguti sent her an email in which he explained that the Respondent was *"transitioning into a performance-driven service model, emphasising measurable outcomes across key performance indicators (KPIs)"*. He said that, as part of that process and *"as we assess your suitability for this position permanently"*, he wanted her to demonstrate how she was leading the service from the front and achieving performance through the established KPIs. He therefore wanted her to *"complete the attached Weekly Performance Report template, beginning immediately and submitting weekly on Mondays before close of play"* [272].
- 5.17 Ten days later, on 25 November, the Claimant commenced a further period of illness absence from which she never returned to work. The fit note that was supplied variously referred to 'stress' or 'stress at work'.
- 5.18 The Claimant was in receipt of Statutory Sick Pay. She alleged that she ought to have been paid her full salary {3.1.8.1}. There was a very stark evidential gulf on that issue. The Claimant maintained that others (Ms McNally and Ms French) had received full pay when they had been off sick. So too did the carers themselves, she said. Mr Muguti said that no other employee had received such pay (paragraph 23 of his witness statement). In evidence, he said that they did only if they were off for short periods and had not triggered SSP, which is exactly what had happened in the Claimant's case during her earlier period of sickness absence. The Claimant's contract entitled her to receive SSP only [81] and, on that issue, I accepted Mr Muguti's clear and unchallenged evidence.
- 5.19 Part of the Claimant's complaint was that the Respondent did not refer her to Occupational Health ('OH') {3.1.8.3} and/or acknowledge her fit notes {3.1.8.2}. The Respondent considered that an OH referral was something to have done only if and when an employee had been fit to *return* to work (see paragraph 33 of Mr Muguti's statement).
- 5.20 By March 2025, four months into the Claimant's absence, the Respondent wrote to her about her ongoing role. She was then six months into it but Mr Muguti had concluded that it was no longer needed and that, upon her return to her work, she was to have reverted to her substantive post of Care Assessor because she had not made any significant progression towards obtaining her Level 5 qualification and because...;
"..there have been recent developments in our contractual arrangements, notably over our re-admission onto the North Somerset Council (NSC) Specialised Care and Support Flexible Framework, effective from 1 April 2025. This new framework brings with it more stringent contractual conditions, including performance

driven delivery metrics, tighter monitoring, and operational restructuring.

With the current reduction in domiciliary volumes, coupled with the revised demands of the new framework, we have reviewed the structure of our management team. As a result, it has been determined that the need for a second Registered Manager is no longer operationally required.” [301-2]

- 5.21 The Respondent did, however, decide to design a new role, that of Clinical Lead. The Claimant accepted in cross-examination that the new role was closer to that of her previous Assessor’s role (see pages 112-3 of the bundle C1) than it was to the Registered Manager’s Job Description [74-5], which had required more by way of business growth and development.
- 5.22 The Respondent started to look to appoint into that role but, because the Claimant had asserted that it was, in reality, her role, the advertisement was said to have been a further detriment.
- 5.23 Those matters effectively covered {3.1.5, 3.1.6, 3.1.8.4 and 3.1.8.5}. The Claimant also alleged that the Respondent’s letter [301-2] implied that she ought to have completed her training and obtained her Level 5 qualification within six months {3.1.6}. On a simple reading of the letter, however, that was not what it had said or implied.
- 5.24 On 7 April 2025, the Claimant raised a grievance [305-7]. It concerned five matters, three of which were issues which she had previously raised by way of disclosures. She also said that she had not been told that her role had been temporary, yet the ‘acting’ nature of it had always been made clear to her. The handling of the grievance became a further alleged detriment {3.1.9}.
- 5.25 Mr Muguti attempted to address her concerns immediately in a reply the following day [311-3]. He expressed concern that the Claimant had only raised the safety of service users at that point, particularly with regard to *“the absence of any safeguarding referrals, risk assessments, or documented concerns during this time”*, which he referred to as having been ‘alarming’. In relation to the more specific concerns that she had aired about having been victimised as a result of making disclosures, Mr Muguti said this [312];
- “You also displayed behaviour that discouraged open communication, including sidelining staff, and your frequent absences for unscheduled smoking breaks were noted and challenged as part of the organisation’s performance-based model. Your claims of being penalised for raising issues do not align with the organisation’s open reporting culture. In fact, it was you who resisted the Closed Culture initiatives aimed at promoting staff voice and inclusion.”*
- Nevertheless, he indicated that her concerns were to have been investigated by an external body, Croner. He concluded as follows [313];
- “We would like to reiterate that should your claims be found to be false, defamatory, or malicious in nature, Ultimate Complex Care Ltd reserves the right to seek legal recourse to protect the reputation of the organisation, its staff, and the safety of those we support.”*

Those words formed the basis of a further alleged detriment {3.1.9.2}.

- 5.26 On 9 April, Croner made contact to set up a meeting on the 16th of 17th of the month. The Claimant requested a delay and the meeting did not happen until early May [318-320]. In the meantime, on 17 April, Mr Muguti became aware of a complaint that had been made to the CQC in similar terms to those raised by the Claimant in her grievance [323]. The Claimant accepted in cross-examination that she had raised those concerns.
- 5.27 The Grievance Hearing, which was conducted by Ms Ramsden on behalf of Croner, took place on 2 May. Other evidence was then considered from Ms McNally and Mr Muguti and a full report was prepared [336-343]. All of the Claimant's grievances were dismissed. An outcome letter was provided on 1 July [369-370].
- 5.28 The report had been dated 14 May [336] but it had taken about six weeks for the Claimant to have been provided with the outcome {3.1.9.3}. Mr Muguti explained the delay as having been down to Ms Ramsden; he had had to chase her for the report because he had not received it by June. Even though he did then receive it that month, he did not receive the draft outcome letter until 30 June. His evidence on the reasons for the delay went unchallenged.

Resignation and subsequent events

- 5.29 The Claimant resigned on 4 August 2025. She complained that she then did not receive all of her payslips {3.1.10} or her P60 {3.1.11}. In his witness statement, Mr Muguti had accepted that all of the payslips and the P60 had been sent to her when she had asked for them, but he believed that they had been sent to her as/when they had fallen due. He had not known that they had not been received month by month until she raised the issue. It had been the Respondent's normal practice to send such documents to any employee monthly if they were off sick. The Claimant could not and did not question or gainsay that evidence. I accepted it.
- 5.30 There were two other complaints of detriment covered in the Case Summary {3.1.12 and 3.1.13} which related to an alleged dishonest and/or unreasonable reference that was provided to AMG Services in November 2025 and a lack of confidentiality in relation to the Claimant's on going sickness absence.
- 5.31 Neither matter was covered in the Claimant's witness statement or the Claim Form. No evidence was therefore given about either allegation whatsoever. That said, the Claimant did cross examine Mr Muguti about the reference {3.1.12} and the following evidence was provided; on 17 October, he was asked to provide a reference for AMG Care Services [380]. He responded to say that he would need to take HR and legal advice because of ongoing tribunal proceedings [380]. He was then asked for the dates of the Claimant's employment [381]. He provided them and the dates of her illness absence [381]. There did not appear to have been any inaccuracies in the information provided.

6. The relevant legal principles

- 6.1 In accordance with the stepped approach recommended in the case of

Williams-v-Michelle Brown UAEAT/0044/19/00 and, more recently, *Khna-v-Novai Ltd* [2026] EAT 19, first, I had to determine whether there had been disclosures of ‘information’ or facts, which was not necessarily the same thing as a simple or bare allegation (see the cases of *Geduld-v-Cavendish-Munro* [2010] ICR 325 in light of the caution urged by the Court of Appeal in *Kilraine-v-Wandsworth BC* [2018] EWCA Civ 1346). An allegation could contain ‘information’. They were not mutually exclusive terms, but words that were too general and devoid of factual content capable of tending to show one of the factors listed in section 43B (1) would not generally be found to have amounted to ‘information’ under the section. The question was whether the words used had sufficient factual content and specificity to have tended to one or more of the matters contained within s. 43B (1) (see, further, *Simpson-v-Cantor Fitzgerald* UAEAT/0016/18).

- 6.2 Words that would otherwise have fallen short, could have been boosted by context or surrounding communications. For example, the words “*you have failed to comply with health and safety requirements*” might ordinarily fall short on their own, but cross the threshold if accompanied by a gesture of pointing at a specific hazard. The issue was a matter for objective analysis, subject to an evaluative judgment by the tribunal in light of all the circumstances. That said, a claimant could not rely upon selected elements of an alleged disclosure if the material in its entirety and in context was not capable of having amounted to a disclosure of information which met the rest of the test (*Jackson-v-Chief Constable of Greater Manchester Police* [2026] EAT 112).
- 6.3 Next, I had to consider whether the disclosure indicated which wrongdoing was in the Claimant’s mind when the disclosures were made such that the Respondent was given a broad indication of what was in issue (*Western Union-v-Anastasiou* UAEAT/0135/13/LA). A whistleblower did not have to have had the precise legal basis of the wrongdoing asserted in his/her mind before they were protected (*Twist DX-v-Armes* UAEAT/0030/20/JOJ).
- 6.4 I also had to consider whether the Claimant had a reasonable belief that the information that he had disclosed had tended to show that the matters within s. 43B (1)(b) or (d) had been or were likely to have been covered at the time that any disclosure was made. To that extent, I had to assess the objective reasonableness of the Claimant’s belief at the time that she held it (*Babula-v-Waltham Forest College* [2007] IRLR 3412, *Korashi-v-Abertawe University Local Health Board* [2012] IRLR 4 and *Simpson*, above). To that extent, it was a mixed objective and subjective test.
- 6.5 ‘Likely’, in the context of its use in the sub-section, implied a higher threshold than the existence of a mere possibility or risk. The test was not met simply because a risk *could* have materialised (as in *Kraus-v-Penna* [2004] IRLR 260 EAT). Further, the belief in that context had to have been a *belief* about the information, not a doubt or an uncertainty (see *Kraus* above).
- 6.6 Next, I had to consider whether the disclosures had been ‘*in the public interest*.’ In other words, whether the Claimant had held a reasonable belief that the disclosures had been made for that purpose. As to the

assessment of that belief, I had to consider the objective reasonableness of the Claimant's belief at the time that she possessed it (see *Babula* and *Korashi* above). That test required me to consider her personal circumstances and ask myself the question; was it reasonable for her to have believed that the disclosures were made in the public interest when they were made? It was therefore a mixed objective and subjective test.

- 6.7 The '*public interest*' was not defined as a concept within the Act, but the case of *Chesterton-v-Normohamed* [2017] IRLR 837 was of assistance. In it, Supperstone J decided that the public interest may have been limited to a small group of 100 or so employees (in that case, about 100 senior managers were potentially affected by the employer's massaging of performance figures in relation to bonus). The Court of Appeal confirmed the decision and determined that it was the character of the information disclosed which was key, not the number of people apparently affected by the information disclosed. There was no absolute rule. Further, there was no need for the 'public interest' to have been the sole or predominant motive for the disclosure.
- 6.8 As to the need to tie the concept to the reasonable belief of the worker;
"*The question for consideration under section 43B (1) of the 1996 Act is not whether the disclosure per se is in the public interest but whether the worker making the disclosure has a reasonable belief that the disclosure is made in the public interest*" (per Supperstone J in the EAT, paragraph 28).
So the question depended upon a claimant's subjective belief. The consideration of whether the belief was reasonable involved an objective standard, but viewed in the context of the worker (*Bibescu-v-Clare Jenner t/s Jenner's* [2026] EAT 30).
- 6.9 The position was to have been compared with a disclosure which was made for purposes of self-interest only, as in *Parsons-v-Airplus International Ltd* UKEAT/0111/17).
- 6.10 Finally, I did not have to determine whether the disclosures had been made to the right class of recipient since the Respondent accepted that they had been made to the Claimant's 'employer' within the meaning of section 43C (1)(a).
- 6.11 The next question to determine was whether or not the Claimant suffered detriment as a result of the disclosures.
- 6.12 Detriment was to have been interpreted widely as a concept (*Warburton-v-Chief Constable of Northamptonshire Police* [2022] EAT 42); although the test was framed by reference to a reasonable worker, it was not a wholly objective test. It was enough that a reasonable worker might have taken such a view. That meant that the answer to the question was not dependent upon the view taken by the tribunal itself *only*. The tribunal might have been of one view, and be perfectly reasonable in that view, but if a reasonable worker (although not all reasonable workers) might take the view that, in all the circumstances, it was to his detriment, the test was satisfied.

- 6.13 The test in s. 47B was whether the act was done “*on the ground that*” the disclosure had been made. In other words, that the disclosure had been the cause or a material influence of the treatment complained of, in the sense that it had an influence that had been more than trivial (see *NHS Manchester-v-Fecitt* [2012] IRLR 64, per Elias LJ, and paragraphs 15 and 16 of the decision in *Harrow London Borough Council-v-Knight* [2002] UKEAT 80/0790/01). The perpetrator needed to have known some of the detail of what had been raised by way of the disclosures *Nicol-v-World Travel and Tourism Council and others* [2024] EAT 42 (paragraph 82);

“*For employers to be fixed with liability, therefore, they ought to know at least something about the substance of what has been made: that is, they ought to have some knowledge of what the employee is complaining or expressing concerns about.*”

- 6.14 Section 48 (2) was also relevant;

“*On such a complaint it is for the employer to show the ground on which any act, or deliberate failure to act, was done.*”

- 6.15 The section was easily misunderstood. It did not mean that, once a claimant asserted that he or she had been subjected to a detriment, the respondent (whether employer, worker or agent) had to disprove the claim. Rather, it meant that, once all of the other necessary elements of a claim had been proved on the balance of probabilities by a claimant (that there was a protected disclosure, there was a detriment, and the respondent subjected the claimant to that detriment) the burden shifted to a respondent to prove that the worker was not subjected to the detriment on the ground that he or she had made the protected disclosure. The test was not one amenable to the application of the approach in *Wong-v-Igen Ltd*, according to the Court of Appeal in *NHS Manchester-v-Fecitt* [2012] IRLR 64). It was important to remember, however, if there was a failure on the part of the Respondent to show the ground on which the act was done, that the Claimant did not automatically win. The failure then created an inference that the act occurred on the prohibited ground (*International Petroleum-v-Osipov* UKEAT/0058/17/DA and *Dahou-v-Serco* [2017] IRLR 81).

7. Discussion and conclusions

- 7.1 The disclosures were addressed in the same three groups as they had been above;

7.1.1 2.1.1.1 and 2.1.1.2 [53];

The Claimant stated in evidence that her oral concerns had been of a safeguarding nature; they had concerned the health and safety of service users and breaches of legal obligations which had been in the public interest. Mr Henry did not cross-examine or challenge her to the effect that she had not genuinely held the concerns. I had little difficulty in accepting that they were covered by the health and safety and/or legal obligations requirements within s. 43B (1), whether those identified within the Claim Form [14] or otherwise.

Mr Henry also did not dispute that the disclosures had been made in the public interest because of the potential impact upon service

users. He also did not challenge the Claimant on her having held that belief.

Accordingly, in my judgment, the Claimant did make the qualifying, protected disclosures alleged.

7.1.2 2.1.1.3 to 2.1.1.5 [53];

The email of 11 November [271] was a disclosure of information in that there was specific detail as to *how* the training was considered to have fallen short. I accepted that the Claimant had genuinely believed what she had been saying. Again, Mr Henry did not challenge her in that respect.

The disclosures had concerned the health and safety of staff and service users, legal obligations (under the Manual Handling Operations Regulations and/or the Health and Safety at Work Act) and had been made in the public interest because of the potential implications for staff, present and/or future service users.

In context, the oral disclosures both before and after the training (2.1.1.3 and 2.1.1.5) were also likely to have fallen into the same category;

7.1.3 2.1.1.6 [53];

Given the factual findings above, these disclosures were not proved.

7.2 Before coming to the detriments and the issues of causation, several important features of the evidence needed to be highlighted;

- It was clear that Mr Muguti had not been scared of raising potential safeguarding issues himself to the CQC (for example, [211] and [226]). In the documentation and in his oral evidence, he impressed me as someone who had always been keen to address safeguarding concerns if they were raised;
- In response to the first and second batches of issues raised to him by the Claimant as disclosures, she believed that he had acted to rectify them; she thought that he had organised medication training for carers (although her belief in that respect was proved wrong) and that he had organised manual handling training. In other words, he had not swept her concerns under the carpet and she then appeared to think that he had taken them on board appropriately because she had not felt the need to raise them again at the supervision meetings in September and/or October 2024;
- In many respects, considering the operational nature of the Claimant's role it was her *job* to have raised issues of that sort to Mr Muguti and it was his job to have reacted to them. That appeared to have worked well;
- Running alongside all of this, there were issues which had arisen regarding the Claimant's management style which she clearly rejected but which Mr Muguti duty had felt were genuine;
- Apart from two exceptions (the delay in providing the grievance outcome {3.1.9.3} and the alleged inaccurate reference {3.1.12}), the Claimant did not cross-examine Mr Muguti on any of the

detriments identified in her Claim Form or the issues as framed in the Case Summary.

7.3 In respect of each of the detriments, my conclusions were as follows (again adopting the paragraph numbers from the Case Summary);

3.1.1;

As was stated above, the evidence in respect of this allegation was vague. I was not satisfied that the Claimant's Job Description required her to have been at such meetings but, in any event, it was never clear which meetings she felt that she ought to have been at, whether her attendance ceased and/or had ever even started;

3.1.2 and 3.1.3;

I was not satisfied that these events had occurred as alleged. Even if they did, the guidance that the Claimant received could not have been described as detrimental. Helpful and supportive advice was given as to how she might have built and/or fostered more effective working relationships with those beneath her. The Claimant had accepted some shortcomings and had apologised [246-7].

To the extent that the Claimant considered the advice to have been detrimental, it was given because of perceived relationship problems, not because she had blown the whistle;

3.1.4;

This allegation was not proved as a matter of fact;

3.1.5, 3.1.7, 3.1.8.4 and 3.1.8.5;

The Acting Registered Manager's role that the Claimant had been fulfilling was lost, but for objective reasons unrelated to her disclosures. The new role was not the same as her old role. In fact, it was closer to that of a Care Assessor, including only some of her old functions as Acting Registered Manager. These allegations therefore failed on the facts;

3.1.6;

This allegation was not proved as a matter of fact;

3.1.8.1 to 3.1.8.3;

These allegations all concerned the Claimant's sickness absence.

The allegation in respect of SSP was not proved as a matter of fact {3.1.8.1}. In relation to the acknowledgement of Fit Notes, it was not clear what the Respondent was alleged not to have done and/or what detriment the Claimant suffered in that respect {3.1.8.2}.

Finally, in relation to an OH referral, Mr Muguti had only considered that one ought to have been made when and/or if the Claimant had been fit to return to work. In my experience, that was often an employer's approach when they needed to gain an understanding of what adjustments might have been needed at work upon an employee's return. But many employers do use OH in order to gain an understanding of when a return to work might have been expected.

The fact that that was not the Respondent's approach here did not mean that the Claimant suffered a detriment because she had blown the whistle. I was not satisfied that Mr Muguti's belief in the usefulness of OH had been grounded in her disclosures to any extent. Further, it was not clear

what detriment the Claimant had sustained. It was not clear what she believed OH might have said which might have been advantageous to her at an earlier point;

3.1.9;

The three sub-allegations all concerned the Claimant's grievance.

In my judgment, the Respondent did conduct an investigation and the report prepared by Ms Ramsden and the evidence attached to it demonstrated as much {3.1.9.1}.

Mr Muguti's letter of 8 April did not contain an overt threat of legal action. Whilst, in the circumstances, it seemed a little harder than might have been necessary, he was clearly keen to have protected his business, to have issued cautionary advice and have drawn a line in the sand {3.1.9.2}. There clearly was a delay between mid-May and the outcome letter of 2 July which was explained on the basis of Ms Ramsden's delay and/or the error in not sending her report sooner. It could not have been attributed to the fact that the Claimant had blown the whistle;

3.1.10 and 3.1.11;

I did not accept that any deliberate decision had been made to withhold payslips and/or the Claimant's P60. They were sent to her when she asked and, again, she failed to demonstrate any clear detriment in that respect;

3.1.12;

Despite this issue having not been covered in the Claimant's witness statement or Claim Form, it was covered by her in her cross-examination of Mr Muguti.

In the factual findings set out above, I did not conclude that what he had provided to AMG had been 'dishonest' or 'unreasonable'. No other evidence regarding other references to other employers was covered;

3.1.13;

No factual findings on this issue at all were made for the reasons given above.

- 7.4 Although it was academic in light of the previous findings, the jurisdictional time issue was also one covered in the Case Summary (paragraph 1 [52-3]). The provisions of s. 48 (3) of the Act were considered and, in particular, whether those acts which occurred before 8 January 2025 could have been said to have been part of a course of similar acts or failures.
- 7.5 On their face, the detriments alleged within paragraphs 3.1.1 to 3.1.4 were out of time, but they had all been allegedly committed by Mr Muguti who was the central actor throughout. They were 'similar' in the sense that they were detrimental acts committed by him in an attempt to upset, humiliate and/or ostracise her for having blown the whistle. At least that was the Claimant's case. In short, had I found that those acts had been at detriment caused by her disclosures, I would have found that they had been part of a series of similar acts which had concluded within time.

Employment Judge Livesey
Date: 11 September 2026

SENT TO THE PARTIES ON
29 September 2026

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