Case Number: 3200785/2026

EMPLOYMENT TRIBUNALS

Claimant: **Mr Marco Capuano**

Respondents: **(1) CIS Security Limited**
(2) CIS Holdings Limited
(3) Carl Palmer
(4) Neill Catton
(5) Tracy Plant
(6) Alex Morvan
(7) Christopher Timms
(8) Wayne Nye Jones
(9) Alice Tillett
(10) Diana Talaia
(11) Robert Harrison

Heard at: **East London Hearing Centre (sitting at London Tribunal Centre, Taylor House); in public)**

On: **7 September 2026**

Before: **Employment Judge Suzanne Palmer**

Appearances and Representation

For the Claimant: Mr Capuano represented himself
For the Respondent: Mr Raj Pal, litigation consultant, represented all Respondents

JUDGMENT ON APPLICATION FOR INTERIM RELIEF

1. The Claimant's application for interim relief is not upheld.

2. No order is made for reinstatement, re-engagement or continuation of the contract of employment.

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REASONS

Introduction

1. The Claimant was employed by the First Respondent as a Security Officer, working on night shifts. His employment commenced on 24 August 2022 and ended on 23 July 2026 when he resigned with immediate effect in circumstances which he alleges amounted to constructive dismissal.

2. The Second Respondent is the holding company of the First Respondent. Respondents 3 to 11 inclusive are all employees of the First Respondent. Respondents 3 and 4 are Directors. Respondent 5 is Director of People and Culture. Respondent 6 is Senior People Operations Manager. Respondents 7, 9 are People Partners and Respondent 10 is a People Advisor (all working within the First Respondent's human resources function). Respondent 8 is a Key Account Manager. Respondent 11 is a Customer Liaison Manager.

3. For the purposes of today's application for Interim Relief, the only relevant Respondent is the First Respondent, because Respondents 2 to 11 were not the Claimant's employers and cannot be liable for his unfair dismissal claim, or, therefore, for the claim for interim relief. The Claimant confirmed in his claim form that his complaints of unfair dismissal, wrongful dismissal, redundancy payment, holiday pay and unpaid wages are all brought against the First Respondent alone.

4. The First Respondent provides, amongst other things, security staff to a number of clients at a range of sites. The Claimant was initially employed at the "KCL" [HMRC Bush House/King's College London] site. That site closed in July 2025, when after a consultation process the Claimant was redeployed to a London Borough of Hackney site where he worked until March 2026. That site closed in March 2026. The Claimant returned from annual leave to find that the site had closed. Shortly after that time he went on sick leave until June 2026.

5. Between 15 June 2026 and the end of his employment the Claimant submitted a number of grievances and subject access requests, some of which he relies on as protected disclosures. In the meantime, the Respondent's position is that on 16 June, all employees were told that on 22 June they would be migrated onto the "*redeveloped CIS Hub"*, but that this was subsequently postponed until 2 July 2026 due to technical issues. The Respondent scheduled a grievance meeting to address the Claimant's grievance. That hearing was rescheduled to 23 July 2026. It was postponed on the day it was due to be heard, but before it had been postponed, the Claimant had submitted his resignation letter.

6. On 22 July 2026, the day before he resigned, the Claimant had submitted a 260 page document alleging issues, amongst other things, with the Respondent's access controls, document governance and information security. The Claimant does not rely on that document in support of his claim under Section 103A and the Respondents' position is that the issues the Claimant raised are still under investigation.

7. The Claimant has a number of health and neurodivergent conditions. He has autism, ADHD, Complex PTSD, Generalised Anxiety Disorder and Fibromyalgia. He requested adjustments for today's hearing which were accommodated, in particular the hearing was conducted in person, additional time and assistance in processing questions and formulating answers, the ability to write answers down before responding if required, and clarification of complex legal language where necessary. I asked him to let me know whenever he felt he needed a break if he became overwhelmed. I allowed him to wear tinted glasses which assists him in avoiding eye contact if he becomes overwhelmed. I invited him to interrupt me if he required any clarification during the hearing.

8. I noted from recent documentation that the Claimant had referred to a lack of sleep. I asked him about this and he informed me that he had not slept since Friday in order to prepare for today's hearing (which is being heard on a Monday). I asked the Claimant whether he felt well enough to proceed and he said that he did. I repeated that he should ask me if he needed to break at any time, particularly if he felt that tiredness was impacting on his ability to process information, present his case or answer questions.

Claims and Issues

9. The Claimant's claim was presented on 30 July 2026 and was accepted and served on the Respondent on 7 August 2026, although it appears that there may have been a delay before a copy reached the Respondent. ACAS early conciliation started on 6 July 2026 and ended on 24 July 2026. I understand from Mr Pal that the Respondents' response and grounds of resistance were provided to the Tribunal on Friday 4 September 2026. A copy of the Grounds of Resistance was provided to me this morning.

10. The Claimant makes the following complaints in his claim form:

    10.1. Unfair (constructive) dismissal;
    10.2. Automatically unfair dismissal under Section 103A Employment Rights Act 1996 – the Claimant alleges that the sole or principal reason for his (constructive) dismissal was that he made protected disclosures;
    10.3. Disability discrimination;
    10.4. Detriments other than dismissal for having made protected disclosures;
    10.5. Wrongful dismissal (notice pay);
    10.6. A redundancy payment;
    10.7. Unpaid holiday pay;
    10.8. Arears of pay;
    10.9. Other payments.

11. The Claimant also made a claim for Interim Relief, which is the matter listed before me today.

12. The Respondents dispute the entirety of the Claimant's claims. They raise issues in terms of time limits. They deny that there was a dismissal or that it was unfair. They deny that any matters relied on by the Claimant as protected disclosures were capable of amounting to qualifying protected disclosures, and deny that the

Claimant was subjected to detriment or dismissed by reason of any such disclosures. They deny disability discrimination. They deny entitlement to a redundancy payment, notice pay, holiday pay, arrears of pay or any other payment.

13. I reminded the parties and myself that it is not part of my function today to consider the claim as a whole, or to hear evidence or to make findings of fact or determinations in respect of the substantive issues in the claim. I am solely concerned with whether or not to order interim relief. The test I have to apply, which I set out for the parties at the outset of the hearing, is set out more fully under "Law" below. Essentially, I have to consider whether the Claimant is likely to succeed in his claim under Section 103A.

Documents and evidence

14. The following documents were provided to me:

    14.1. An agreed hearing bundle of 410 pages;
    14.2. A copy of the Respondents' Grounds of Resistance;
    14.3. A witness statement for the 7th Respondent;
    14.4. A document from the Claimant, entitled "Representation at the Interim Relief Hearing", which he described as his position statement, consisting of 13 pages.
    14.5. I had also had sight of the Claimant's application for interim relief, submitted with his claim.

15. The start of the hearing was delayed because the parties did not arrive at the hearing venue (which had been notified relatively recently) until 10:30 am. As anticipated by the Case Management Orders made by Employment Judge Beyzade, I spent approximately an hour reading documentation, including all the documents referred to in a reading list provided by the Respondent and agreed by the Claimant.

16. I heard oral submissions from the Claimant and from Mr Pal on behalf of the Respondent. The Claimant addressed me in general terms and then answered my specific questions focussed on the issues directly relevant to my decision today, because he indicated that he would find it helpful to be asked questions to help him to focus on the relevant issues.

Law

17. Section 103A Employment Rights Act 1996 makes it clear that where the sole or principal reason for dismissal is that the employee made a protected disclosure, the dismissal will automatically be regarded as unfair.

18. Section 128 ERA 1996 goes on to say that an employee who presents a complaint of unfair dismissal alleging that the dismissal is unfair by virtue of section 103A may apply for interim relief.

19. Section 129(1) says that where, on hearing an application for interim relief, it appears to the tribunal that it is likely that on determining the complaint to which the application relates the tribunal will find that the reason, or principal reason, for dismissal was that specified in section 103A, then the tribunal may go on to exercise its powers to order interim relief in accordance with the process set out in section 129(2) to (6).

20. I am mindful that the case law in relation to these provisions makes it clear that, for reasons of public policy, the bar is set comparatively high in the case of applications for interim relief.

21. The test is whether the automatically unfair dismissal claim has "a pretty good chance of success" at the eventual hearing (*Taplin v C Shippan Ltd* [1978] ICR 1068). This is significantly higher than a "more likely than not" test. It means "something nearer to certainty than mere probability" (*Ministry of Justice v Sarfaz* [2011] IRLR 562).

22. The burden is on the applicant to establish that relatively high degree of likelihood. That test of "pretty good chance of success" applies to each matter or element which the Claimant would be required to establish in order to succeed with his claim of automatically unfair dismissal at the eventual hearing.

23. I am also required to bear in mind that this is an emergency jurisdiction and I am not making findings of fact. I am expected to be careful to avoid making findings which might tie the hands of the tribunal ultimately charged with the final determination of the merits of this claim. My task is one of forming an overall impression of the Claimant's likelihood of success in his claim of automatically unfair dismissal, based on the material which is before me at this stage.

24. I have to bear in mind what the elements are which the Claimant would be required to prove in order to succeed with his claim. The "likely to succeed" question applies not just to whether the reason for dismissal is the protected disclosure, but to all disputed elements of the claim. The case of *Sarfraz* (above) makes it clear that in a protected disclosure case, in order for a claimant to succeed, the tribunal would need to establish five things:

    24.1. That a disclosure was made to the employer;
    24.2. That at the time he made the disclosure, the claimant believed that it tended to show one or more of the statutory failures itemised in Section 43B;
    24.3. That the claimant's belief was reasonable;
    24.4. …
    24.5. That the disclosure was the principal reason for the dismissal.

25. In addition, of course, more recent case law makes it clear that the Claimant would also have to establish that at the time the disclosure was made, he reasonably believed that the disclosure was in the public interest.

26. Because protected disclosure cases are complex, it can be difficult to assess at the preliminary stage what the likelihood of success is, particularly where the

evidence which has been assembled is lengthy or complex. The tribunal is required to consider the likelihood of success in respect of each of the requisite elements of the case in accordance with the proper test – the impressionistic task I have referred to above. *Wollenberg v Global Gaming Ventures (Leeds) Ltd and another* [EAT/0053/18]. If there are conflicting accounts of key facts and issues, it may be legitimate to conclude that the conflict cannot be resolved at an interim relief hearing and to refuse the application on that basis. This was illustrated in *Parsons v Airplus International Ltd* EAT/0023/16, in which the tribunal found that while some of the disclosures were likely to be found to be protected, resolution of whether these formed the principal reason for the dismissal was less clear cut (the employer was arguing that it was the manner in which the disclosures were made, rather than the fact of them being made, which resulted to dismissal, so there was an issue as to whether motivations could be separated in this way which would require careful fact-finding. While there was a good arguable case, it could not be said at the preliminary stage to have a "pretty good chance of success".

27. In a constructive dismissal case, the question the tribunal would have to consider in due course is, if the Claimant could establish that there was a constructive dismissal, whether the protected disclosure was the reason, or principal reason, that the employer committed the fundamental breach of contract which the Claimant relies on when he resigns, and which he resigns in response to.

28. In some cases, there is a distinction to be drawn between the making of the protected disclosure and the employer's response to it. For example in *Price v Surrey County Council and another,* EAT/0450/10, the claimant raised a grievance about bullying which was not dealt with for several months and was then rejected. The tribunal found that the reasons for rejecting the grievance were sufficient to establish constructive dismissal. However it was found that the claimant's resignation came about not because of the making of her complaint, but because of the respondent's inadequate response to it.

29. Similarly, in a "last straw" case, where the constructive dismissal is based on a series of minor complaints, each different in nature, it may be difficult to establish that the protected disclosure motivated enough of them that the disclosure can be considered to be the reason or principal reason for dismissal.

Conclusions

30. In his claim form and interim relief application, the Claimant refers to three protected disclosures which he says he made:

    30.1. A grievance dated 15 June 2026;

    30.2. An amended version of that grievance, supplemented by a document raising concerns about data handling, dated 22 June 2026;

    30.3. A substantial document in relation to information governance, running to some 260 pages, dated 22 July 2026.

31. The Claimant made it clear in his claim that for the purposes of his Section 103A claim, he relied only on the first two of those documents. I therefore focused solely on those, and asked the Claimant questions about them, specifically:

    31.1. At the time he sent his disclosures on 15 and 22 June, what category of disclosure did he believe he was making with reference to the potential categories in Section 43B;

    31.2. What was the information he was relying on within the grievance(s) which he considered fell within that category.

32. The Claimant did his best to assist me, but clearly found it difficult to answer those questions, even when I reformulated them and asked them in different ways on a number of occasions. I understood his position to be as follows:

33. In relation to the grievance on 15 June, he said that:

    33.1. His main concern that there had been a failure over an extended period to offer him support and find him a suitable role following the closure of the Hackney site;

    33.2. He was seeking to ensure that the Respondent engaged with him to achieve this;

    33.3. He could not identify whether he had in mind any particular category within Section 43B at the time he sent the grievance and therefore was unsure whether or not this grievance would amount to a protected disclosure.

34. In relation to the amended grievance on 22 June, he said that:

    34.1. He had no idea what a “reasonable period” would be for the Respondent to respond to his original grievance. However to him, 7 days was a reasonable period for the Respondent to investigate and respond to his grievance, and he had not received a response to his grievance on 15 June within that time, save for a brief response on 15 June saying that the grievance would be investigated.

    34.2. He was seeking information about what had happened since the previous redundancy process in July 2025 and since the closure of the Hackney site in March 2026.

    34.3. He was raising concerns that the situation had been poorly managed and that, as a vulnerable employee, he had been left for three months with no work or income.

    34.4. Although he had been told in March 2026 that the Respondent would review the situation and inform him of the outcome, this had not happened.

35. In respect of the 22 June grievance, and possibly also the 15 June grievance, I understood the Claimant to be saying that he now thought that they disclosed

information tending to suggest that his health and safety were being endangered, as the Respondent was aware of his disabilities and vulnerability and had not taken steps to reassure him, inform him what was happening, consult him and identify suitable alternative employment for him.

36. The 22 June grievance raised (as an addendum) additional concerns by the Claimant about data handling in respect of his CV and various personal and health-related issues he had disclosed to the Respondent. I note that at the stage the Claimant raised those potential concerns, he was not alleging that there had been breaches of policy or law: he was simply asking for an explanation of "*the governance, review, approval, metadata, audit trail, and document process behind these … documents. For clarity, I am not alleging that these documents are automatically invalid. However, after reviewing the documents available to me, I have identified a number of apparent inconsistencies, drafting issues, metadata concerns, legacy approval references and document control issues which raise legitimate questions about whether these documents were subject to meaningful review, audit, quality control, and senior approval before being made available to employees"*.

37. I bear in mind that I have not seen the full evidence in this case, only the documents which have been pulled together by the parties in a relatively short space of time for the purposes of this application. I have not had the benefit of full evidence and submissions. There has not been the time or the opportunity for the sort of detailed analysis which I anticipate will take place in order for the parties to agree a list of issues, and then prepare disclosure, witness statements and representations for the purposes of a final hearing. My task is simply to look at the information which is before me to form an impressionistic view of the prospects of success.

38. At its height, on the basis of the information currently available to me, it seems that the Claimant's grievances on 15 and 22 June 2026, viewed individually or taken together, appears to be that he was alleging that:

    38.1. The Respondent had, over a period of 3 months, taken insufficient steps to redeploy him in suitable employment following the closure of the Hackney site, or to keep him informed or consult him about doing so;

    38.2. It had not taken into account the impact this could have on him as a vulnerable employee with his health issues and personal circumstances;

    38.3. This was unfair or inappropriate, and potentially not in compliance with the Respondent's policies.

    38.4. He wanted to understand the way his personal data had been handled as he had concerns about it.

39. At this preliminary stage, these concerns appear to be too vaguely expressed, both in the original documents themselves and in what the Claimant has said about them in his claim form, in his application for interim relief, and in his oral submissions today, for me to be able to identify with any clarity the matters which

the Claimant would need to establish in order to prove that these were protected disclosures, in other words that the grievances included disclosure of:

39.1. Information,
39.2. Which in the reasonable belief of the Claimant when he made them,
39.3. Tended to show one or more of the categories of wrongdoing set out in Section 43B.

40. Moving on to the issue of the public interest element which the Claimant would need to satisfy, again I asked the Claimant specifically about this. I understood him to say that he did not necessarily think that either of the grievances rendered matters of general public interest going beyond his own personal circumstances, but that the Respondent was not a small company, and if the disclosures showed issues which required intervention in his case, the same issues might arise in respect of other employees as well.

41. It seems to me that, expressed in this way, this formulation falls some way short of what the Claimant would need to show in order to establish, for the purposes of Section 43B, that at the time he made his disclosures, he had the reasonable belief that they were made in the public interest.

42. I emphasise that I am not reaching any final conclusion in relation to these issues and that what I say today in no way ties the hands of any future tribunal considering the matter at any Final Hearing or Preliminary Hearing. The test I am applying is different from that which would be adopted at a Final Hearing or at a Preliminary Hearing considering prospects of success, and I am applying a broad-brush, impressionistic approach based on the evidence which is available to me today.

43. I am mindful that the Claimant is a litigant in person and that this is a complex and technical area of law. The Claimant has mental health issues and neurodivergent conditions which make it difficult for him to process and respond to information, and at today's hearing this is likely to be compounded by a lack of sleep. This is a case in which there will need to be careful case management in due course in order to identify the issues with clarity so that the parties and the tribunal can fully understand the issues in order to resolve them at a Final Hearing. I am aware that today's hearing may be the first time the Claimant has been asked to perform that kind of analysis of the legal issues.

44. Bearing all of that in mind, and looking carefully at what the Claimant has said, I do not consider that he has a "pretty good chance" of establishing that the grievances of 15 and 22 June amounted to qualifying protected disclosures, on the basis of any of the following elements:

44.1. The disclosure of information;
44.2. Reasonable belief of the information tending to show a relevant failure;
44.3. Reasonable belief that the disclosure was in the public interest.

45. In case I am wrong about that, I went on to consider whether the Claimant could show that there was a pretty good chance of establishing a causal link between

the bringing of his grievances and the various matters he relies on in support of his allegation that he was treated in such a way that the implied term of trust and confidence was broken resulting in constructive dismissal.

46. I note in that regard that the Claimant has set out a list in his claim form as the matters he is relying on as, cumulatively amounting to a breach of the implied term of trust and confidence. The Claimant would need to establish that any protected disclosure was the sole or principal reason for the treatment he alleges.

47. It stands to reason that any matters which predate the disclosures cannot be causally linked to the disclosure itself, so I have disregarded those and looked only at the alleged breaches occurring after 15 June 2026.

48. I note that many of the matters set out in the Claimant's list appear not to be actions by the Respondent so much as an allegation of continued inaction despite the grievances having been made. Some of them are actions by the Claimant rather than actions by the Respondent.

    48.1. 6 July 2026 -the Claimant submitted a formal record of procedural failures concerning the handling of his grievance, "*including delays, non-responses, uncertainty about responsibility and decision-making authority and the failure to confirm the requested disability-adjusted arrangements"*, requesting that these issues be investigated and remedied. This is action by the Claimant, not the Respondent.

    48.2. 7 July 2026: a letter from the Respondent saying that it did not normally disclose the internal operation of its payroll systems: it is difficult to see how this can be alleged to be a breach of the implied term of trust and confidence.

    48.3. 13 July 2026: the Claimant escalated the grievance requesting direct senior oversight: again, this is action by the Claimant. It seems that it resulted in the Respondent providing an update about a grievance meeting and confirming that the Claimant could have disability mentor support.

    48.4. 20 to 21 July 2026: not contacting the Claimant following the expiry of his latest fit note: this is an assertion of a failure to act but it is difficult to see how it is said to be causally linked to bringing a grievance which was scheduled to be heard on 23 July.

    48.5. 22 July 2026: the Claimant's lengthy document about data handling: this was an action by the Claimant not the Respondent.

    48.6. 23 July 2026: the grievance had still not been determined. However at the point the Claimant resigned, his grievance was still due to be heard later that day – it was only postponed after he had resigned.

49. I bear in mind the case law I have set out above in relation to constructive dismissal in Section 103A cases. It is often difficult to identify which in a series of breaches relied on for their cumulative effect are alleged to be attributable to the

making of the protected disclosure. In the present case, I cannot see on the material before me any clear indication of what actions or inactions on the part of the Respondent are said by the Claimant to be causally linked to him having made a protected disclosure.

50. As I understand it, the Claimant's general point, in his constructive dismissal claim, is that there was an ongoing and cumulative state of affairs in which the Respondent failed to take appropriate steps to consult and redeploy him after March 2026. However that was the case since some 3 months before his grievances were submitted to the Respondent, and there is no evidence of anything different happening as a result of him raising the grievances, even if they were disclosures. That may point away from a causal link.

51. In addition, it is not clear from the Claimant's case what he considered to be the "last straw" resulting in his resignation. He resigned hours before his grievance was due to be heard. In so far as he was relying on the fact that his grievances had still not been addressed, that may fall into the category of *Price* above – the dismissal was not because of the grievance itself but because of the failure to act on it. That would arguably not be sufficient to establish a causal link for the purposes of the Section 103A constructive dismissal claim, although ultimately that would again be a question to be determined on the evidence at the Final Hearing.

52. I bear in mind that to establish a successful claim under Section 103A, a claimant is required to show that the protected act was the sole or principal reason or motivation for the treatment by the Respondent which is alleged to have resulted in a fundamental breach of contract. It is often difficult to evaluate either the motivation for the Respondent's decision to take or fail to take a particular action, or indeed the Claimant's reason for regarding that as a breach of the implied term of trust and confidence, without the benefit of full documentary and witness evidence.

53. On the case as currently articulated, and on the limited information currently before me, I do not consider that the Claimant reaches the threshold of showing that he is likely to succeed in establishing this, or that he has a "pretty good chance" of doing so. This is a higher bar than establishing that he has an arguable case, or a more than 50% chance.

54. It follows that I do not consider that the threshold for making an order for interim relief has been met in this case. That does not preclude the Claimant from continuing to pursue the claims he has brought, subject to any further case management decisions in due course. However it means that for today's purposes, my decision is that the Claimant's application for interim relief is dismissed.

55. I note that there is likely to be a Preliminary Hearing for Case Management in due course when the issues will need to be identified with precision. It may benefit the Claimant, if he is able to do so, to obtain some legal advice before he attends such a hearing. There are sources of free legal advice available to litigants in person – there is a link below which may assist him in finding such advice. I have

also suggested to the Respondent that, bearing in mind the Claimant's disabilities, it may be helpful if any requests for further particulars or attempts to draft a joint list of issues are made in clear and simple terms, and in good time.

Approved by:
Employment Judge S Palmer
Dated: 7 September 2026