EMPLOYMENT TRIBUNALS

Claimant: Rory Dwyer

Respondent: (1) Torch BidCo Limited
(2) OCNR (EMEA) Limited

Heard at: Reading Employment Tribunal (by CVP) **On:** 16 September 2026

Before: Employment Judge Baran (sitting alone)

Appearances:

Claimant: A Mayhew KC (counsel)

Respondents: L Chudleigh (counsel)

JUDGMENT

1. The claimant's application for interim relief under section 128 Employment Rights Act 1996 is refused.

FULL REASONS

JUDGMENT with summary reasons was given at the hearing on 16 September 2026 and written full reasons were requested at the hearing in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided.

1. The claimant was dismissed from employment as an IT Director by the first respondent on 31 July 2026. As part of his ET1 Claim Form dated 6 August 2026 he applies for interim relief pursuant to section 128 Employment Rights Act 1996 ('ERA') pending determination of his complaint of unfair dismissal. His claim alleges that he was unfairly dismissed contrary to section 103A ERA because the reason or principal reason for his dismissal was that he had made protected disclosures.

2. The hearing of the claimant's application was listed before me by CVP for 3 hours on 16 September 2026. All parties were represented by counsel. The application was opposed.

3. I case managed the hearing timetable in line with the suggested approach in paragraph 27 of the Presidential Guidance on Applications for Interim Relief (2026). Both counsel agreed with this approach.

4. In the time available to me before the hearing, and in the initial hour of the 3 hour listing, I read and considered the following documents:
    a. statements filed on behalf of the claimant: Rory Dwyer (19 pages), Roy Duggan (6 pages), Jason Howlett (4 pages);
    b. statements filed on behalf of the first respondent: Ian Weideman (25 pages), G Blackburn (10 pages);
    c. skeleton arguments for the claimant (21 pages) and the respondents (15 pages).

5. I also considered those documents central to the issues as signposted in the statements and skeleton arguments within the 262 page bundle filed by the claimant and the 772 page bundle filed by the respondents. The volume of material put before me for the purposes of this application gives an insight into the potential factual complexity of the issues arising for determination in this claim at some future point by a Tribunal considering the merits.

THE LAW AND THE ISSUES

6. The law in relation to interim relief applications is summarised in the Presidential Guidance, as recently approved and applied by the Employment Appeal Tribunal in the case of Duffy v BXTR 3 Ltd t/a House of Gods [2026] EAT 119. The following basic propositions were not in dispute between counsel for the parties.

7. In considering whether to grant interim relief, the Tribunal must decide whether it is likely (meaning "is there a pretty good chance" in line with Taplin v C Shippam Ltd [1978] ICR 1068) that the claim will succeed at final hearing.

8. The Tribunal must therefore consider, on such an application, whether there is a pretty good chance that on determining the claimant's complaint the Tribunal will find that:
    a. he made protected disclosures as defined by section 43B ERA, and
    b. a protected disclosure was the reason or principal reason for his dismissal for the purposes of section 103A ERA.

9. In relation to the first issue, the Tribunal has to consider the constituent parts of the section 43B ERA definition, by reference to the following questions:
    a. what did the claimant disclose?
    b. did he disclose information?
    c. did he believe the disclosure of information was made in the public interest?
    d. was that belief reasonable?
    e. did he believe it tended to show one or more of the following (set out at section 43B(1) ERA)
        i. a criminal offence had been, was being or was likely to be committed;
        ii. a person had failed, was failing or was likely to fail to comply with any legal obligation
        iii. a miscarriage of justice had occurred, was occurring or was likely to occur

iv. the health or safety of any individual had been, was being or was likely to be endangered

v. the environment had been, was being or was likely to be damaged

vi. information tending to show any of these things had been, was being or was likely to be deliberately concealed.

f. was that belief reasonable?

g. if the claimant made a qualifying disclosure, was it made to his employer or an external body in accordance with s43F or 43G ERA, i.e. were the requirements of those provisions satisfied?

10. The Presidential Guidance refers to the relevant case law that I must consider when deciding an application of this type, namely Taplin (above), Ministry of Justice v Sarfraz [2011] IRLR 562, Wolllenberg v Global Gaming Ventures (Leeds) Ltd EAT/0053/18 and Dandpat v University of Bath EAT/0408/09.

11. The decisions make it clear that the test for granting interim relief is set relatively high for reasons of policy. I must be satisfied that there is something nearer to certainty of success than a mere probability of success for the claim at final hearing if I am to grant the application.

12. I must consider the application by making an expeditious, impressionistic summary assessment of the materials deployed at short notice in order to reach my conclusions: Al Qasimi v Robinson UKEAT/0283/17/JOJ. I should not make any findings of fact that might tie the hands of a future Tribunal hearing the substantive complaint. I make it clear that in setting out my reasoning below I make no such findings.

13. Applying that test and approach to the issues, I find as follows.

A. DID THE CLAIMANT MAKE PROTECTED DISCLOSURES?

14. The claimant relies on 4 documents to constitute protected disclosures for the purposes of this claim as follows:

a. an email of 8 April 2026 to directors of the respondents in relation to the appointment of a new CEO, setting out research he had undertaken into their corporate background and requesting that the board be satisfied of certain matters before the appointment was made;
b. an email to the group head of people on 28 April 2026 following the appointment, explicitly headed 'Protected Disclosure' and alleging wrongdoing in the appointment relating to misrepresentation of the new CEO's corporate background along with suppression of the previous alleged disclosure, conflicts of interests and failures of governance on the part of the board;
c. a further email to HR dated 12 May 2026, again explicitly invoking the protected disclosure legislation relating to governance failures on the part of the board;
d. a grievance lodged by email dated 20 May 2026.

15. I have considered the documents in relation to each of the alleged protected disclosures. The later disclosures overlap in terms of content with the earlier ones. As time goes on, however, the disclosures are framed more explicitly through the protected disclosure lens with the use of legalistic terminology.

16. It is clear from the documents that the claimant was basing his protected disclosures on his statements of opinion. In relation to the suitability of the new CEO, he bases his opinion on facts relating to the new CEO's background. He expresses in terms the belief that the new CEO was unsuitable and that his appointment would lead to breaches of fiduciary and regulatory duties on the part of the board. He also expresses opinions, which he purports to found on facts, as to whether the board was acting in compliance with its legal duties more generally.

17. The respondent's evidence before me, however, is that the new CEO was to be appointed following removal of the previous incumbent who was a longstanding personal friend and business associate of the claimant. It is said that the claimant was dissatisfied with this removal and was deliberately making written complaints as a result. The implication is that the claimant's

motivation for making the alleged disclosures is open to question, and the reasonableness of his belief in the content of and the public interest in the disclosures made requires close examination.

18. In my judgment there are inherently difficult questions of reasonableness of belief in a corporate or boardroom dispute context in both the content of the disclosures and in the public interest in making the disclosures. Such questions will require further examination on the basis of oral evidence at a future hearing before it can safely be concluded that the claimant's disclosures were protected. The concerns raised in the disclosures related to corporate governance are not objectively self-evident public interest concerns as one might see in a health and safety disclosure case. It is not self-evident on the material presented to me that they were reasonably believed to be as much by the claimant. The disclosures could potentially be self-serving and not based on reasonable belief given the alleged background dispute. The context as found by the Tribunal upon consideration of the totality of the evidence will be important.

19. For these reasons, I am unable to conclude, based on my impressionistic summary assessment of the documentary material presented to me, that the claimant has a pretty good chance, nearer to certainty than mere probability, of proving that he made qualifying protected disclosures in this claim. The matters raised by the claimant may engage section 43B ERA, but the context in which the disclosure emails were sent will need to be explored for the Tribunal to make findings as to whether the claimant had reasonable belief in the content of the disclosures made and the public interest in making them. The documentary material alone does not in my judgment warrant a conclusion to the standard required for interim relief that protected disclosures were made.

B. WAS/WERE THE CLAIMANT'S PROTECTED DISCLOSURES THE REASON OR PRINCIPAL REASON FOR HIS DISMISSAL?

20. The claimant was dismissed by Mr Wiedeman in a letter of 31 July 2026. The claimant frames the dismissal as being based on a disciplinary process and dismissal outcome pursued because of his protected disclosures. The respondents frame the alleged protected disclosures as being a response to the boardroom changes and disputes over the replacement CEO mentioned above. The respondents further frame the investigation as being a response to IT concerns raised independently of the dispute raised by the claimant, which genuinely uncovered gross misconduct on the part the claimant. It was this misconduct which was the reason for dismissal.

21. To succeed, the claimant will have to show that the principal reason for dismissal was his protected disclosures. On my impressionistic assessment of the documentary evidence presented at this stage, and particularly the contemporaneous documents, in my judgment it cannot be said that he has a pretty good chance, nearer to certainty than mere probability, of proving such a case.

22. The reasons given for the dismissal are on the face of it substantiated by an independent IT investigation report prepared by Reliable Networks dated 1 July 2026. In the dismissal process and outcome letter Mr Weideman relied on the report to dismiss the claimant. The concerns raised in the report about the claimant, relating in very broad terms to illicit email forwarding and misuse of company telephone numbers, could on the face of it amount to gross misconduct justifying dismissal.

23. The Reliable Networks report, if accepted at face value, is capable in my judgment of supporting a reason for dismissal other than protected disclosures. It cannot in my judgment be said that there is a pretty good chance that a Tribunal will reject the content of the report and the first respondent's case as to the reason for dismissal.

24. Further, if the email exchanges produced by the respondents dated 1st May 2026 are also accepted at face value, the commissioning of Reliable Networks to investigate IT issues was entirely independent of anything related to the claimant or any protected disclosures he had raised. These exchanges reflect alleged discussions at a board meeting at or around the same time. The emails and discussions pre-date the instruction of Reliable Networks. On the face of the emails, the report was commissioned following the raising of staff concerns about remote monitoring of their work.

25. The claimant's submission in relation to the Reliable Networks report is along the lines that it was tailored by the respondents and Mr Weideman, to frame it to his satisfaction following a contrived investigation. Mr Weideman was in effect 'fishing' for allegations against the claimant to base disciplinary action on. As I put it to counsel in submissions, the claimant would be inviting the Tribunal to draw a conclusion that there was a conspiracy here rather than a coincidence of timing between the emergence of the IT concerns and the aftermath of any protected disclosures by the claimant. The claimant would be inviting the Tribunal to put aside the 1st May emails supporting the respondents' case as to the reason for the Reliable Networks investigation, and to conclude that these were part of a trail placed to justify the Reliable Networks investigation and the action taken against the claimant.

26. In my judgment, a conclusion that disregards the paper trail behind the respondents' apparent reasons for instigating the Reliable Networks investigation is not the kind of conclusion that can be readily reached at this stage on the paper evidence alone. I cannot find that the claimant has a pretty good chance, nearer to certainty than mere probability, of establishing such a conclusion.

27. Counsel for the claimant developed a series of careful and well- reasoned points in the skeleton argument and submissions which sought to undermine the conclusions supported by the paper evidence as regards the reason for dismissal. In broad terms the following points were made:

a. the documents show that the allegations faced by the claimant evolved over time and through different versions of the Reliable Networks report, in particular in relation to the misuse of company telephone numbers and two-factor authentication;
b. the final Reliable Networks report lacked detail, putting the claimant in a difficult position in responding to what were weak allegations;
c. the documents show that the respondents overly relied on the claimant's alleged failure to deny the illicit email forwarding allegations made in the final report, whereas the correspondence between the claimant's solicitors and the respondents at the time does not bear this out;
d. the procedure adopted to put into effect the claimant's dismissal was rushed through and (to quote counsel) 'really odd', with Mr Weideman taking multiple roles as investigator and decision maker through the process and having involvement in the evolution of the Reliable Networks report;
e. a separate investigation into alleged misconduct by the claimant, conducted during the same period by Hill Dickinson solicitors and involving several interview sessions, was not relied upon by the respondents in the dismissal process. The documents generated have not been disclosed. It can be inferred that this investigation did not produce findings consistent with dismissal.

28. I have considered these points individually and cumulatively. In my judgment, these are all points from which inferences could or might be drawn as to whether the reason for dismissal advanced by Mr Wiedeman in the dismissal letter is genuine. I do not consider however that I can draw such inferences to arrive at a conclusion that must be reached at the level significantly higher than mere 'balance of probabilities' for this application to succeed. 'Could' or 'might', based on inferences without the benefit of oral evidence and in the presence of documentary evidence to the contrary on the reason for dismissal, does not in my judgment equate to 'nearer certainty than mere probability' which would be needed if interim relief was to be granted.

29. It would in my judgment be unsafe to reach a conclusion at this level of probability in reliance on these inferences without having the points tested in oral evidence, particularly where it is clear from the witness statement served for the purposes of this hearing that Mr Wiedeman disputes such inferences being used to challenge his account of the reason for dismissal.

CONCLUSION

30. I refuse this application for interim relief. In my judgment, it cannot be said based on the material presented to me that there is a pretty good chance, nearer to certainty than mere probability, that the claimant will succeed in proving that he made protected disclosures. In addition, even if I was wrong in my analysis of the claimant's prospects of establishing qualifying protected disclosures, in my judgment it cannot be said that there is a pretty good chance of establishing that any such disclosures were the principal reason for the claimant's dismissal. Considering the material put before me, my impressionistic assessment is that the high bar set for the granting of interim relief has not been met by the claimant.

Approved by:

Employment Judge Baran

25 September 2026

Sent to the parties on:
26 October 2026
For the Tribunal Office:

Notes

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