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EMPLOYMENT TRIBUNALS

Claimant: Miss G Okwu
Respondent: Rise Community Action (A company limited by guarantee)
Heard at: East London Hearing Centre
On: 18-19 October 2018, 12 November 2018 & in chambers on 19 November 2018
Before: Employment Judge Hallen
Members: Mr S Morpew
Mr D Ross

Representation

Claimant: In Person
Respondent: Mr J Nkawfu (Counsel)

JUDGMENT

It is the unanimous judgment of the Employment Tribunal that: -

1. The Claimant's claims for unfair dismissal for making a protected disclosure under Section 103(a) Employment Rights Act 1996 during her probation period contrary to Section 47(b) of the Employment Rights Act 1996 are unfounded and dismissed.
2. The Claimant's claim for unpaid holiday was settled by the Respondent during the course of the proceedings by cheque and is dismissed.
3. The Claimant's claim for unpaid pension during her probation period could not be adjudicated upon because the Claimant did not provide sufficient evidence as ordered by the Tribunal. Accordingly, no finding is made by the Tribunal in respect of this claim.

4. **The Claimant indicated during her evidence that she would be pursuing the pensions claim in a different jurisdiction so the Tribunal makes no finding in respect of such claim.**

REASONS

Background

1. This matter came in front of Employment Judge Burgher on 15 June 2018 in a Preliminary Closed Hearing at which Judge Burgher listed the issues for hearing, made an Order for further and better particulars and gave directions for preparation for the substantive hearing which was listed before a full Tribunal on 18 and 19 October which was subsequently extended by one day to 12 November 2018. The matter was considered by the Tribunal in Chambers on 19 November 2018.

2. In the Case Summary provided by Judge Burgher to the parties on 21 June 2018 he confirmed that the Claimant alleged that she made the following protective disclosure to Miss Janet Murungi as follows: -

- 2.1 An allegation that it was unlawful to pay the Claimant her pension contribution until the probation period was completed.
- 2.2 An allegation that Miss Murungi was unlawfully claiming telephone expenses for her private home telephone number.
- 2.3 An allegation that it was unlawful for the Respondent to employ the Claimant without seeing her passport and CRB check.
- 2.4 An allegation that the Respondent breached the Data Protection Act.

3. During the course of the hearing, the Claimant clarified the alleged protected disclosure that she made to the Respondent as follows: -

- 3.1 The Respondent's failing to automatically enrol her into a pension scheme upon the commencement of her employment.
- 3.2 The Respondent requesting the Claimant's tax reference because it was not on her payslip.
- 3.3 The Respondent not providing reliable internet access and a land line phone in the office which was said to be a breach of the Date Protection Act. In addition, the storage of service users' personal files in an unlocked draw was asserted to be a breach of the Data Protection Act.
- 3.4 The Respondent's failure to provide the Claimant with her Section 1 Particulars of Employment under the Employment Rights Act 1996.
- 3.5 The Respondent offering to pay the Claimant in cash.

- 3.6 The Respondent failing to employ the Claimant with the necessary employment documents such as seeing her passport and completing a CRB check.
 - 3.7 Misusing public funds such as Ms. Marungi allegedly claiming expenses that she should not have done.
4. The issues for the Tribunal to determine in respect of the public interest disclosure claims were as follows: -
- 4.1 Did the Claimant make the above assertions orally or in writing?
 - 4.2 In any or all of these, was information disclosed to which in the Claimant's reasonable belief tended to show one of the following: -
 - 4.2.1 A criminal offence had been committed;
 - 4.2.2 A person had failed to comply with a legal obligation to which he was subject;
 - 4.2.3 A miscarriage of justice had occurred or was occurring;
 - 4.2.4 The health or safety of any individual had been or is likely to be in danger;
 - 4.2.5 That the environment had been or was likely to be damaged.
 - 4.3 If so, did the Claimant reasonably believe that disclosure was made in the public interest?
 - 4.4 Was the making of any protective disclosure the reason or principal reason for the dismissal?
 - 4.5 As the Claimant did not have two years continuous service the burden of proof was on the Claimant to show jurisdiction and therefore to prove that the reason or if more than one of the principal reasons for the dismissal was the protected disclosures?

5. The Tribunal had in front of it an agreed bundle of documents. In addition, the Claimant prepared a written witness statement made up of some 14 pages and gave oral evidence and was subject to cross-examinations and questions from the Tribunal. The Respondent called four witnesses namely Miss Faida Iga the Chair Person of the trustees and Dismissing Officer, Miss Ular German Sessional Office Administrator employed by the Respondent, Miss Marika Mason who was the Forum Facilitator working with Hackney Women's Forum and finally Miss Janet Murungi a volunteer and temporary Line Manager for the Claimant at the Respondent being Rise Community Action. All of these witnesses produced written witness statements and were subject to cross-examination and questions from the Tribunal.

Facts

6. In this case, the Tribunal heard a great deal of conflicting evidence from the Claimant and the Respondent's witnesses. The Tribunal on balance preferred the evidence of the Respondent which appeared to the Tribunal to be more consistent than that of the Claimant and such consistency mirrored the documentation within the bundle of documents that was produced and that was said to be an agreed bundle of documents.

7. The Respondent is a small charity organisation run by a group of eight volunteers and made up of a management committee. The charity supports individuals affected by domestic violence, female genital mutilation or HIV. The Respondent's activities include outreach work while raising awareness of the above issues in the community and providing one-one support service for individuals affected by domestic violence being genital mutilation or HIV.

8. The Respondent's annual turnover for the last accounting year was £14,454.33 and the Respondent is funded by "Big Lottery" for the post that the Claimant was employed for but the Big Lottery has funded the Respondent before in other projects during the last five years.

9. The Claimant was employed on a probation period initially for three months as the Domestic Violence and Female Genital Mutilation Specialist Worker on 15 November 2017. The Claimant's job description was at page 70 – 74 of the bundle of documents which set out her hours of work (17.5 per week) and the duration of the fixed term contract being 2.5 years. The job description also set out the particular qualities that were required for example the ability to approach work with service users with diligence and optimism, to adopt a proactive approach to support, to develop risk management plans, to accompany service users to appointments where necessary, to work with colleagues, partners and external agencies and to promote the service and ensure consistent referrals. It was clear to the Tribunal that this document required a proactive and hardworking employee to undertake the duties of the post and to promote the service from day one of employment. The Claimant gave evidence of her long and varied experience of social work so the Tribunal was satisfied that she could undertake the full duties of the post.

10. At pages 75 – 80 of the bundle of documents was the written terms and conditions of employment document which confirmed the Claimant's employment commencement date being 15 November 2017 as well as setting out her salary at £27,500 payable by cheque on or near the 15th working day of each month. Clause 10, confirmed that "you will be enrolled into Rise Community Actions Pension Scheme when you satisfactorily complete your probation period. Further details will be provided to you". In addition, at Clause 16 it confirmed that the Claimant was appointed on a probation period for the first three months of her employment which may be extended if more time was needed to assess her suitability for the job. The contract at Clause 16 confirmed that the employment could be terminated during the probation period with one week's written notice. At page 81 the document was signed by the Respondent and the Claimant.

11. At pages 83 – 84 of the bundle of documents was the Respondent's pension statement which confirmed its pension scheme and confirmed that the Respondent was required to contribute to a pension for each employee on a fixed term contract. The policy of the Respondent was to commence payment of pension contributions

once an employee had successfully completed her probation period with pension contribution of being backdated to the date of commencement.

12. At pages 85 – 86 of the bundle of documents was the Claimant's DBS check which confirmed that the Claimant had no relevant entries made that would prevent her from working for the Respondent. At page 87 of the bundle of documents was the Claimant's P46 and P45 form.

13. During her probation period the Respondent gave evidence that the Claimant was set targets to achieve and the Tribunal preferred the evidence from the Respondent in this regard. It appeared clear from the job description that the Claimant was required to be proactive and to promote the services of the Respondent. Furthermore, at page 89 of the bundle of documents there was a report prepared by the Claimant being a one month in post report outlining to the Respondent what the Claimant was doing during the first one month. For example, it confirmed that the 'Awareness Day' was successful and was well attended by 20 people. The Claimant completed the feedback matrix and report for the event. The Claimant was hoping in the New Year to undertake further networking activities and to have compiled a mailing list and composed an introductory covering letter to accompany literature to be provided to service users. If the Claimant had not been set targets, it was unlikely that she would have prepared such a report.

14. In the one-month report, the Claimant complained about being hampered in not having access to the internet or phone. The Respondent gave evidence that there was mobile internet access and a mobile phone available to the Claimant to use during her probation period. The Claimant was dissatisfied with having an internet mobile device and mobile phone and preferred direct internet access and a direct land line. Nevertheless, the Respondent provided mobile telephone and internet access which was available to the Claimant to undertake her duties. It should be noted that the report prepared by the Claimant one month into her post made no reference to any public interest disclosure or breaches of any legal obligations.

15. At pages 111 – 113 there was an induction check list which confirmed a number of actions that the Respondent took in respect of inducting the Claimant into a new job. There was some dispute over the veracity of this document at the Tribunal hearing. The Claimant suggested that it was falsified. The Respondent gave evidence to the Tribunal that it was the draft of a completed document that had subsequently gone missing from the office. The Tribunal preferred the evidence of the Respondent in this regard. It appeared that a number of documents had gone missing from the Respondent's offices and the Respondent had subsequent cause to involve the police to investigate the matter. The police as is common in such matters chose not to pursue a criminal investigation in to the matter and referred the Respondent into civil jurisdiction to take civil action against former employees if there is a suggestion that documents have been taken by those employees. The Respondent gave evidence that it chose not to take such action against the Claimant in this regard. Nevertheless, the Tribunal noted the contents of the induction check list which appeared to be full and thorough and involved inducting the Claimant into her workplace on the first day, in respect of an introduction to the organisation, the provisions of terms and conditions of employment, the induction of the Claimant into the Respondent's equal opportunity and other policies and regulations of the Respondent including health and safety and employ benefits. The induction summary also set out an induction in respect of the

requirements of the new job and supervision and review arrangements which were undertaken on a monthly basis.

16. The bundle of documents contained supervision notes which were at pages 139 – 144. At page 137 was a supervision note conducted with the Claimant by Miss Murungi which confirmed targets, outreach and events with the Claimant being required to actively promote the service to get the necessary referrals into the organisation. The document sets out targets for the Claimant to achieve as well as confirming the next one-one meeting. At page 39 there were notes of a supervision meeting on 21 February 2018 which on page 140 set out a target of four referrals per month as well as setting out the requirements for the Claimant to comply with as it appeared the Claimant was not performing satisfactory at this stage. In addition, at pages 163 – 165 there appeared to be three work logs prepared by the Claimant herself for the dates 26 January, 30 January and 31 January 2008 which the Claimant gave evidence of being required to prepare at the instigation of the Respondent. This daily work log was prepared by the Claimant as the Respondent was unsatisfied of the Claimant's work load which to the Respondent appeared to be insufficient. The Claimant gave evidence that the Respondent asked her to enter her activities into the work diary but the Claimant chose to type these onto the work computer which she subsequently printed out and which were at pages 163 – 165 of the bundle documents. The daily work logs between 26 to 31 January showed a lack of activity which the Claimant readily accepted. The Respondent gave evidence which the Tribunal accepted that this work activity was insufficient for an employee of the Claimant's calibre, qualification and experience. Furthermore, the Claimant gave evidence which the Tribunal accepted that she was not occupied for substantial portions of the day during this period albeit she agreed that she could have been doing more proactive activities as set out in the job description.

17. At the end of the probation period, as the Claimant had not achieved the targets that she had been set and had not undertaken sufficient outreach work to generate additional referrals, the Respondent decided to extend the probation period. At page 121 of the bundle of documents was a letter dated 14 February sent to the Claimant by the Respondent's Chair Person, Miss Farida Iga. The letter stated as follows "We are writing to inform you that you have not satisfactorily completed the three-month probation period we are therefore unable to offer you a contract of employment at the moment but will extend the probation period for another three months while we continue to assess your suitability for the job. This serves as an extension of probationfor three months which will expire on 15 May 2018. You will continue to work with your Line Manager to look at your targets and have monthly supervision".

18. The Claimant upon receiving the probation extension letter wrote a letter dated 21 February 2018 which was at pages 122 – 127 of the bundle of documents. This was the only written correspondence to the Respondent in the bundle of documents to which the Claimant referred as evidencing specific written protected disclosures. These disclosures were as follows: -

- (i) "An employee cannot agree to a contractual term which gives them fewer rights than their statutory rights. Automatic entitlement is the law and pension enrolment cannot be conditional to successful probation. This is against the law'. (Page 125 in respect of pension entitlement).

- (ii) “I have asked for certain things which I thought was given in any employment. I asked for the employer tax reference because it is not on my payslip and it should be but to date I have not received it. My payslip states that I am paid by BACS when it is by cheque.” (Page 125 in respect of a request for her employer tax reference).
- (iii) “There was no internet or phone for the first six weeks of my employment. There is still no reliable internet access and the mobile phone in the office is a shared one and this is a breach of the DPA. It also has other people’s social media accounts and other things running in the background due to the sensitivity of the data emanating from my post and to the DPA complaint, I should have been provided with a phone for my sole use. I have asked and nothing has been done. I have also raised concerns about other breaches of the DPA – for example, I have had to store a service user’s personal file containing personal sensitive information in an unlocked draw.” (Page 124 in respect of breaches of the DPA).
- (iv) “Section 1 of the Employment Rights Act 1996 says that a written statement must be given to all employees who will be employed for more than one month. The written statement must be given within two months of the employer joining the organisation, but you are advised to provide the statement at an earlier stage when offering the job, or at the latest, on the person’s first day at work. This helps avoid confusion and misunderstanding”. (In respect of a breach of the requirement to provide particulars of employment (page 123).
- (v) “I have not been shown any of the organisation’s policies neither have I read any. I specifically asked to see the organisation’s lone work policy, but was told the organisation did not have one but HCVS will be contacted to see if they had any.” (Page 123) in respect of the Respondent’s failure to provide the Claimant with its policies and procedures).
- (vi) The Claimant asserted that the references cited above amounted to public interest disclosures. She also alleged in evidence that she made certain oral disclosures to the Respondent in respect of misuse of public funds, employing her without the necessary documentation and offering to pay her by cash. The Tribunal did not accept any of this evidence and did not accept that the Claimant made such oral disclosures to the Respondent. It was clear to the Tribunal from the documents in the bundle that the Claimant was provided with her terms and conditions of employment which confirmed her hours of work, her rate of pay and the fact that she would be paid on a monthly basis by cheque. This was what happened at the relevant time and was contrary to her suggestion that the Respondent offered to pay her in cash. Furthermore, the induction sheets at pages 111 – 113 confirmed that the Claimant was provided with the necessary policies and procedures adopted by the Respondent during her probation induction including her contract of employment and the Respondent’s procedures save for the lone working procedure which the Respondent only adopted after the Claimant left employment.

Therefore, the Tribunal did not accept the Claimant's evidence. Furthermore, there was no evidence produced by the Claimant relating to the misuse of public funds by the Respondent.

19. Following receipt by the Respondent's management committee of the Claimant's letter of 21 February 2018 and the Claimant making unfounded allegations in respect of contractual documentation which she said was not provided, the Respondent decided to terminate the Claimant's employment as it was satisfied the Claimant was not prepared to take reasonable instruction from it in respect of performance issues that had already been identified to the Claimant. The Chairperson of the charity Miss Farida Iga gave evidence to the Tribunal which was not challenged as follows:

"In light of what was clearly antagonism to the charity the Board decided on a meeting on 28 February 2018 to dismiss Miss Okwu as it was clear that she had no respect for the charity, its beneficiaries or the work it had been performing for over 12 years."

20. At pages 128 – 130 of the bundle of documents was the letter of termination dated 28 February 2018 which set out the rationale for determination of the Claimant's employment. It read as follows: "The decision was made because of your unsatisfactory work performance, unacceptable conduct and failure to communicate effectively during your probation period. This decision was compounded by a recent communication you sent to the trustees, the content of which later demonstrated your contempt for the charity its work and its client group". The Claimant was given one week's notice which she was paid to her albeit that she did not work out the notice. The letter at page 129 set out eleven examples of poor work performance/misconduct. These included her failure to conduct the pre- requisite number of one-one sessions, her failure to promote the services of the Respondent, her refusal to hand out organisational information, her failure to undertake the required outreach activity, her failure to produce reports on activity, her leaving the office on a number of occasions when it suited her. The letter stated, "the preceding is representative of your unsatisfactory level of performance and conduct. While any one issue would not necessarily constitute failure to meet expectations when viewed singularly, the cumulative effect is, however, one of unacceptable performance and behaviour. Unfortunately, you have demonstrated no significant success and improving your work performance and conduct; therefore, we have no reason to believe that additional management intervention would bring your performance to an acceptable standard. For this reason, we believe that it is in the best interest of this charity and its clients that you should be dismissed."

21. The notes of the Board meeting at which the decision to terminate the Claimant's employment were at pages 143 – 144. The Claimant did not appeal against her dismissal and subsequently brought this claim to the Tribunal by way of a Claim Form which was received by the Tribunal on 1 March 2018. The Claimant made a claim for holiday pay which was settled by the Respondent during the course of these proceedings by way of a cheque for £205.24 which the Claimant accepted. Accordingly, the holiday pay claim was dismissed. The Claimant also claimed for her outstanding pension contribution during the period of her probation period. The Tribunal ordered the Claimant to provide a letter from her pension provider as the Respondent had prepared a cheque made personally to the Claimant for this contribution and had agreed to pay the contribution prior to the hearing. The Claimant

did not accept this cheque saying in evidence that the pension provider required the cheque to be made payable to the Claimant's pension provider. The Claimant attended the third day of the Tribunal hearing without a letter confirming this information as the Tribunal had previously directed. Accordingly, the Tribunal could not adjudicate on this particular issue as insufficient evidence was provided by the Claimant.

Law

22. The relevant section of the Employment Rights Act (ERA) 1996 is section 43 which defines the meaning of protected disclosure. Section 43(a) says as follows:

“In this Act a “Protected Disclosure” means a qualifying disclosure (as defined by section 43(b)) which is made by a worker in accordance with any of sections 43(c) – 43(h).”

43(b) – Disclosure qualifying for protection:

- “(i) In this part a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure (is made in the public interest) and, tends to show one or more of the following –
 - (a) that a criminal offence has been committed, is being committed or likely to be committed;
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - (d) that the health and safety of any individual has been, is being or is likely to be endangered;
 - (e) that the environment has been, is being or is likely to be damaged, or
 - (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.”

43(c) – Disclosure to Employer or other responsible person:

- “(i) A qualifying disclosure is made in accordance with this section if the worker makes the disclosure ...
 - (a) to his employer ...

103A ERA - An employee who is dismissed shall be regarded for the purposes of this part as unfairly dismissed if the reason (or, if more than

one, the principal reason) for the dismissal is that the employer made a protective disclosure.”

23. The basic issues for the Tribunal were: -

23.1 Was there a protective disclosure or disclosures?

23.2 Was that protected disclosure/were those protected disclosures the reason or principal reason for the Claimant’s dismissal?

Test for protected disclosures

24. Any such disclosure must be: -

24.1 “Disclosure of information”

24.2 Must be a “qualifying disclosure i.e. one that in the reasonable belief of the worker making it is made in the public interest and

24.3 Tends to show that one or more of six “relevant failures” has occurred or is likely to occur.

24.4 Must be made in accordance with one of the specified methods of disclosure.

25. A disclosure may concern new information, in the sense of telling any person something of which they were previously unaware, or it can simply involve drawing a person’s attention to a matter of which they are already aware (Section 43(1)(3), ERA 1996). The worker making a disclosure must actually “convey facts”, even if those facts are already known to the recipient (Cavendish Munroe Professional Risks Management Limited v Geduld (2010) IRLR38EAT at Paragraph 24 and 25).

26. In Kilraine the London Borough of Wandsworth 2018 EWCA Civ 1436, the Court of Appeal held that “information” in the context of Section 43(b) is capable of covering statements which might also be characterised as allegations. Rather than introducing a rigid dichotomy between information and allegations, the EAT in Cavendish Munroe had merely held that a statement which was general and void of specific factual content could not be said to be a disclosure of information tending to show a relevant failure. The word “information” in Section 43(b)(i) has to be read with the qualifying phrase “tends to show”. For a statement or disclosure to be a qualifying disclosure, it has to have sufficient actual content and be sufficiently specific as to be capable of tending to show one of the matters listed in Section 43B(i)(a) – (f).

Public Interest Component

27. The disclosure will only be a qualifying disclosure if the worker also reasonably believes that the disclosure is in the public interest. The ambit of this requirement has been recently considered by the Court of Appeal in Chesterton Global Limited (t/a Chestertons) v Nurmohamed (2017) EWCA Civ 979. The Tribunal has to determine (a) whether the worker subjectively believed at the time that the disclosure was in the public interest and (b) if so, whether that belief was objectively reasonable. The

legislation does not define what “the public interest” means in the context of qualifying disclosure although Employment Tribunals must be intended to apply it “as a matter of educated impression’ looking at the following factors: -

- 27.1 The numbers in the group whose interests the disclosure served.
- 27.2 The nature of interests affected and the extent in which they are affected by the wrong being disclosed.
- 27.3 The nature of the alleged wrong doing disclosed.
- 27.4 The identity of the alleged wrong doer.

Reason for Dismissal

28. An employee who lacks the requisite continuous service to claim ordinary unfair dismissal has the burden of showing, on the balance of probabilities, that the reason for dismissal was an automatically unfair reason (Smith v Hayle Town Council 1978 ICR 996) Court of Appeal. The EAT in Ross v Eddy Stobbart Limited EAT0068/30 confirmed that the same approach applied to whistle blowing cases. The Claimant must show that her alleged protected disclosures were the principal reason for her dismissal and/or any other detriments that she asserted she suffered during the probation period.

Tribunal’s Conclusions

29. As specified above in the facts section of this judgment, the Tribunal preferred the witness testimony of the Respondent over that of the Claimant. The evidence of the Respondent mirrored the documentation that was produced in the agreed bundle of documents. In this regard, the documentation showed that the Claimant was taken through an induction process that appeared to be reasonably full and complete. The induction check list was at pages 111 – 113 and confirmed that the Claimant was provided with the Respondent’s policies and procedures as well as with her terms and conditions of employment. In addition, the Claimant was told about the Respondent’s expectations in regard to her post and the targets that had been set with supervision and review arrangements being on a monthly basis. The Respondent produced copies of its relevant policies and procedure documents which it said it provided to the Claimant and these were in the bundle of documents. The Claimant asserted that these documents were manufactured by the Respondent at a later date. The Tribunal saw no evidence of this being the case and accepted the Respondent’s evidence. It was said and accepted that these documents had been produced and were available for a considerable period of time and were part of its documentation necessary to obtain grants from its grant providers. The only document that was subsequently produced was the lone working policy which it was accepted the Claimant was not provided with. In addition, there appeared at pages 75 – 82 a copy of the written terms and conditions of employment which mirrored the Section 1 requirements of the ERA and which was signed by the Claimant and the Respondent. In addition, there was a detailed job description which the Claimant did not deny receiving at pages 70 – 74 of the bundle of documents outlining the requirements of the job in detail and specifically requiring the Claimant to be pro-active in respect of her duties. The Claimant gave evidence that she was an extremely qualified and experienced social worker and had

more than enough experience to undertake the duties of this job and hit the ground running. The Tribunal accepted this evidence.

30. The bundle of documents contained various pre-employment documentation including the Claimant's DBS check at pages 85 and 86 and the Claimant's P46 and P45 forms at pages 87 of the bundles of documents. On this basis, the Tribunal did not accept that the Claimant was not provided with her Section 1 ERA terms and conditions of employment or had been employed by the Respondent without conducting the necessary employment checks. The Respondent produced a pensions policy that confirmed that the Claimant was entitled to receive a workplace pension and that the contributions would be backdated after she successfully completed her probation period.

31. The Tribunal did not accept the Claimant's evidence that she made any oral protected disclosures to the Respondent in respect of misuse of public funds and being paid by the Respondent in cash. The Tribunal preferred the Respondent's evidence in this regard and in particular that of Miss Murungi who said that she did not receive an email from the Claimant saying that it was unlawful not to pay pensions until after the probation period. She denied that she received such email and this email was not in the bundle of documents if it was indeed sent. She denied unlawfully claiming telephone expenses for her private home number asserting that any expenses that were claimed were fully justified. Miss Murungi denied that she had any conversation with the Claimant about employing her without seeing her passport and CRB check or any conversations relating to breaches of data protection. The only contemporaneous document that the Tribunal has referred to was the Claimant's letter dated 21 February 2018 sent to the trustees after her probation period was extended by another three months. This was at pages 122 – 127 of the bundle of documents. Extracts from this letter have been dictated verbatim in the facts section of this judgment. After reviewing each one of those alleged protected disclosures, the Tribunal decided that these disclosures did not qualify as protected disclosures as they did not disclose the requisite content of information with sufficient specificity tending to show a breach of any criminal or civil liability on the part of the Respondent or of any other relevant potential matters that might make a qualifying disclosure. That being the case there was no matter of public interest before the Tribunal to examine. The matters raised by the Claimant in her letter appeared to be principally personal matters that related to her personally such as her contract of her employment, her induction, the failure of the Respondent to allegedly provide her with its own policies and procedures and matters that related to her employment tax status and/or pension entitlement. These were personal contractual matters that the Claimant was dissatisfied with but did not fall within the protection provided for under Section 43(b) of the ERA. Furthermore, as cited above, the Claimant did in fact receive most of the items she was complaining about. Indeed, even the reference to the alleged breaches under the Data Protection Act relate to the Respondent's failure to provide the Claimant with internet or phone services for her to undertake her duties properly during the probation period. The reference to service users' personal information being kept in an unlocked draw referenced in the letter did not in the Tribunals' view contain specific details to fall within the protection of Section 43(b).

32. In addition, the alleged disclosures contained in the letter of 21 February from the Claimant to the Respondent, in the Tribunal's mind were not qualifying disclosures as they were not "in the public interest". The Tribunal noted that the concerns raised

by the Claimant were personal concerns relating to her own contractual situation and did not have sufficient public interest disclosure as they only related to her and nobody else.

33. As a consequence, the Tribunal found that the alleged disclosures made by the Claimant were not protected disclosures as defined.

34. For the sake of completeness, the Tribunal also found that the Claimant's dismissal was unrelated to any issues related to her own personal contractual situation. The Respondent had been dissatisfied with the Claimant's work performance for some time prior to her dismissal. This was the reason why the Respondent required her to prepare daily work records which the Claimant did on 28, 29 and 30 January 2018. Furthermore, this was the reason why on 14 February 2018 the Claimant's probation period was extended. The letter of dismissal which was contained at pages 128 – 130 outlined the poor work performance and conduct issues which led to the Claimant's termination of employment and these reasons were supported by documentation produced by the Respondent at pages 137 – 142 of the bundle which showed supervision meeting notes and discussions in relation to targets that had been set for the Claimant. The evidence in the bundle pointed to the Claimant's employment being terminated for poor performance and/or conduct issues during her probation period.

35. Accordingly, the Claimant's claim for automatic unfair dismissal under the public interest Disclosure Act is accordingly dismissed.

Employment Judge Hallen

26 November 2018