

which addressed the 8 alleged disclosures that he had specified in his claim form, explaining why he considered each one amounted to a disclosure which qualified for protection and why he believed that his dismissal was because he had made them.

5. The respondent submitted a 233-page bundle and witness statements from;
 - Foyaz Uddin; Director & Head of Privacy and Data Protection Services (Mr Rawlins-Crawford's team)
 - Nicola McMahon; Employee Relations Manager
 - Asam Malik; Partner & Head of Technology & Digital Consulting Practice
 - Ann Lee; former Assistant Manager, Privacy & Data Protection Team, currently in-house legal team.
6. Mr Michell provided a written submission and made oral representations based upon it.
7. My task at this hearing was not to hear any live evidence or to make any findings of fact. It was to consider the relevant written documents, witness statements and the oral and written submissions by the parties, and then to decide whether Mr Rawlins-Catterall had established that it was likely that at the final hearing the Tribunal would find in his favour on the automatic unfair dismissal complaint under section 103A of the Act. For that reason, I did not hear any oral evidence and nothing in this judgment should be taken as making any finding of fact.
8. During the hearing, Mr Michell alluded to previous interim relief applications made by Mr Rawlins-Catterall and the two Judgments were contained within the respondent's bundle. Mr Michell also pointed out that Mr Rawlins-Catterall has a legal qualification of some description. I did not consider either of those matters to be relevant to my deliberations and I did not take them into account.
9. The hearing was conducted via CVP and was recorded. The parties had been advised by letter of 23rd May 2023 of the process by which a transcript can be obtained.
10. At the conclusion of the hearing, with the consent of the parties, I amended the respondent's details to Mazars Limited.

Claimant's Case

11. Mr Rawlins-Catterall was employed by the respondent as a Manager in the Privacy & Data Protection Team between 4th July 2022 and 13th March 2023. He states that during that time he made a sequence of disclosures about behaviours within his team of plagiarism, theft of intellectual property, passing off, fraud, false accounting, and misrepresentations to, and breach of contractual obligations towards, clients. These alleged disclosures were laid out in a table appended to his claim form.

12. Mr Rawlins-Catterall's claim also refers to *'other detriments C suffered included being side-lined, isolated, not receiving proper support from specialist*

services that were promised to him, a loss of pay due to sickness caused by R's conduct, unfounded and demonstrably false complaints being made and was explicitly told not to provide further evidence to support his position'. These matters were not further particularised and were not the focus of today's application which was on the S103A automatically unfair dismissal.

13. The respondent's position is that the alleged disclosures do not qualify for protection and, in any event, were not the reason or principal reason for dismissal which was because of (1) an irreparable loss in trust and confidence due to Mr Rawlins-Catterall's behaviour towards his colleagues which had resulted in a complete breakdown of working relations within the team; (2) Mr Rawlins-Catterall's performance and approach which had a detrimental impact on the team and profitability; (3) Mr Rawlins-Catterall's conduct in posting negative and damaging comments about an existing client of the respondent on his LinkedIn profile.

Relevant Legal Framework

14. The application for interim relief was brought under section 128 of the Act. The test for whether it succeeds or not appears in section 129(1) as follows:

“This section applies where, on hearing an employee's 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 if more than one the principal reason) for the dismissal is [the reason] specified in...section 103A...”

15. In this context “likely” means that there is “a petty good chance of success”: **Taplin v C Shippam Ltd [1978] IRLR 450**. In **Ministry of Justice v Sarfraz [2011] IRLR 562** the Employment Appeal Tribunal said that this means “something nearer to certainty than mere probability”. It is not enough if the Tribunal thinks the claimant has a better than evens chance of success.

16. In assessing the prospects of success, I had to have regard to the legal framework which applies to the substantive complaint of automatic unfair dismissal. Parts IVA of the Act defines a protected disclosure. The key requirements are that the claimant must have made a disclosure of information rather than a bare allegation, that he must reasonably have believed that the information tended to show one of the matters set out in section 43B(1), and that he reasonably believed that his disclosure was made in the public interest. If those requirements are met, a disclosure to an employer will qualify for protection. The former requirement that a disclosure be made in good faith is now a matter which goes to remedy only: section 123(6A) of the Act.

17. If one or more protected disclosures have been made, the complaint will succeed only if the reason or principal reason for dismissal is that the employee made a protected disclosure. Where the decision is that of one person it is the sole or principal reason in her mind which matters: **Royal Mail Ltd v Jhuti [2017] EWCA Civ 1632**. It is not enough for any protected disclosure to have had a material influence if it is neither the sole nor the main reason for dismissal.

Mr Rawlins-Catterall's Submission

18. Mr Rawlins-Catterall submitted that he had a pretty good prospect of success under section 103A; explaining that in respect of each disclosure, he had documentary evidence, contained within his bundle, supporting his assertion. He believes that he had become a 'thorn in the side'; raising legitimate but unwelcome issues with senior management and colleagues, leading colleagues to level untrue allegations at him and providing the respondent with an opportunity to dismiss him.

Respondent's Submission

19. Mr Michell argued that none of the 8 alleged disclosures met the various requirement to qualify for protection and provided a detailed analysis in respect of each one; cross referring to the witness statements and documentation contained within both bundles.

20. Mr Michell relied upon the detailed witness statements to demonstrate a breakdown in relationships in the team and Mr Rawlins-Catterall's performance and behaviour being the reason for his dismissal, unrelated to any disclosures.

My Conclusions

20. Based upon all the documentary evidence and witness statements presented to me and the submissions of Mr Rawlins-Catterall and Mr Michell, I was not satisfied that it is likely; in the sense of there being a pretty good chance of success' that Mr Rawlins-Catterall would succeed with his claim of dismissal because of making public interest disclosures.

21. I did not consider it likely that a Tribunal would find that the 8 disclosures particularised in the grounds of claim, were disclosures qualifying for protection falling within the provisions of S43A-C ERA 1996.

22. In any event, I did not consider it likely that a Tribunal would find that the reason or principal reason for Mr Rawlins-Catterall's dismissal was because of any disclosures; there was no convincing evidence presented today of a causal connection between any disclosures and dismissal.

23. In respect of each individual alleged disclosure, I concluded the following:

24. PID 1: It is unlikely that this allegation of plagiarism would qualify for protection as asserted; that in Mr Rawlins-Catterall's reasonable belief it tended to show that a criminal offence had been committed or a failure to comply with a legal obligation. Mr Rawlins-Catterall presented me with no evidence to support his contention that cutting and pasting text from the IAPP website into a draft report is a criminal offence or a breach of any legal obligation. Even if Mr Rawlins-Catterall's belief was subjectively reasonable, it is not likely that a tribunal will find that he had objectively reasonable grounds for so believing.

25. PD2: It is unlikely that this allegation of plagiarism would qualify for protection as asserted; that in Mr Rawlins-Catterall's reasonable belief it tended to show as a failure to comply with a legal obligation; not least because DLA Piper was, in fact attributed to the slide in question.

26. PD3: It is unlikely that this allegation of fraud/concealment would qualify for protection as asserted; that in Mr Rawlins-Catterall's reasonable belief it tended to show that a criminal offence has been committed or was being concealed; Mr Uddin's statement provided a detailed account of client charging arrangements and explained that this was not an area of expertise for Mr Rawlins-Catterall; which Mr Rawlins-Catterall acknowledged in his email on 19-12-22, conceding that '*he could be wrong*'. Even if Mr Rawlins-Catterall's belief was subjectively reasonable, it is not likely that a tribunal will find that he had objectively reasonable grounds for so believing

27. PD4: Having read the communications at issue here; it is unlikely that a Tribunal would accept that there was any merit in the allegation of '*exam cheating*'. It is unlikely that a Tribunal would find that Mr Rawlins-Catterall held a subjectively reasonable belief that Lefteris Eleftheriou had engaged in cheating or that there were reasonable grounds for so believing or that such behaviour amounted to a criminal act or failure to comply with any legal obligation.

28. PD5: Mr Rawlins-Catterall was not able to specify with any precision, the actual disclosure of information he relied upon. In essence, he was challenging the accuracy and honesty of colleagues' accounts of his behaviour. In any event, it is unlikely that a Tribunal would find that Mr Rawlins-Catterall had made any such disclosure in the public interest or that he reasonably believed it to show a breach of a legal obligation or concealment.

29. PD6: Mr Rawlins-Catterall had expressed concerns about the OH provider that it was proposed he be referred to and, consequently, it was agreed that another provider would be used and the matter was resolved amicably. Mr Rawlins-Catterall's concerns focused on the OH provider's lack of compliance with PECR or GDPR. Whilst arguably this could amount to information which tended to show a breach of a legal obligation; it is unlikely that the Tribunal will find any causal connection between this and Mr Rawlins-Catterall's dismissal.

30. PD7: Mr Rawlins-Catterall expressed the belief that the respondent was misrepresenting himself and did not have the expertise to undertake work for a particular client. Senior management assured him that the requisite skills lay within the department or could be brought in from elsewhere in the company. It is unlikely that a Tribunal will find that Mr Rawlins-Catterall reasonably believed that this difference of opinion amounted to fraud and a criminal offence or breach of a legal obligation.

31. PD8: Ms Lees had provided a witness statement which substantiated her assertion that she was a Data Protection Specialist. Mr Rawlins-Catterall's email amounts to allegations aimed at undermining her credibility rather than information that tends to show a criminal offence. It is unlikely that a Tribunal will find that this allegation was made in the public interest or that it amounts to a protected disclosure.

32. In terms of causation; Mr Rawlins-Catterall advanced no credible evidence to demonstrate any causal link between any of these alleged disclosures and his dismissal; as against which the respondent provided witness statements of Nicola McMahon and Asam Malik, supported by Mr Uddin and Ms Lee and documentary

evidence demonstrating a pattern of behaviour by Mr Rawlins-Catterall towards his colleagues resulting in an irreparable breakdown in the department with significant potential impact on the department's effectiveness and productivity. The respondent's witness statements and documentary evidence presented today about the decision-making process by which the decision to dismiss was reached was compelling and strongly supported the contention of no causal link. On that basis, it is unlikely that Mr Rawlins-Catterall's claim will succeed.

33. For those reasons I decided that Mr Rawlins-Catterall had failed to establish that his complaint under section 103A of the Act was likely to succeed at the final hearing and I therefore refused to grant him interim relief.

Employment Judge

7th June 2023

JUDGMENT AND REASONS SENT TO THE PARTIES ON
15 June 2023

FOR THE TRIBUNAL OFFICE