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# EMPLOYMENT TRIBUNALS

**Claimant:** Mr P Hall

**Respondents:** (1) Transport for London  
(2) Mr C Walker  
(3) Mr H Carter

**Heard at:** East London Hearing Centre (by Cloud Video Platform)

**On:** 10 November 2021

**Before:** Employment Judge Reed

## Appearances

For the Claimant: In person

For the Respondent: Ms R Thomas, Counsel

# RESERVED JUDGMENT

The judgment of the Tribunal is that the Claimant cannot take forward against any of the Respondents his claim that he suffered detriments by reason of protected disclosures.

# REASONS

1 In this claim the Claimant Mr Hall commenced proceedings against three Respondents, namely his employer and two of his colleagues, claiming (amongst other things) that he was subjected to detriments as a consequence of making a protected disclosure. This was a preliminary hearing as part of a case management hearing in order to determine whether such claims could go forward.

2 I did not take evidence but my attention was directed to various documents and I heard submissions from Mr Hall and Ms Thomas. The relevant facts, which were not disputed, were as follows.

3 On 3 June 2019 and 28 May 2020, Mr Hall commenced proceedings against the First Respondent. The 2020 proceedings were stayed pending the outcome of the hearing addressing the 2019 claim.

4 In the 2019 claim Mr Hall alleged that he had made a protected disclosure to his MP, Oliver Heald QC on 3 November 2017. By a judgment promulgated on 4 June 2021 the Tribunal determined that the communication in question did not amount to a protected disclosure. In the current claim he again asserted that precisely the same communication to Mr Heald was a protected disclosure, for which he had been subjected to detriments. This was a hearing to determine if he was entitled to make such a claim in the light of the doctrine of res judicata.

5 The doctrine of res judicata (meaning "a matter judged") prevents a party from re-litigating any claim, defence or issue which has already been litigated. The doctrine is designed to ensure the finality of judgments and conserve judicial resources.

6 The Tribunal having reached the conclusion that no protected disclosure was made, as against the parties to that claim the matter was finally determined. It follows that as against the First Respondent Mr Hall cannot again assert that it was a protected disclosure.

7 The real issue for me in this case was whether that was the principle that applied in relation to the Second and Third Respondents, employees of the First Respondent. They were not parties to the 2019 claim.

8 The leading case on this question is *Gleeson v J Wippell & Co ChD [1977]*. There must a "sufficient degree of identity" between the parties to the original action and the "new" party in order for the principle to apply. They must have privity of interest.

9 It seemed to me that was undoubtedly the case here. The only reason the Second and Third Respondents had been added as parties was that they were alleged to be the very actors who had subjected Mr Hall to a number of the detriments. They were employees of the First Respondent and, for the purposes of these proceedings, the agents of the First Respondent. There was an identity of interest between them and the First Respondent.

10 Since in the current (unamended) claim, the only protected disclosure relied upon was that referred to above, it followed that the claims against all three Respondents in the present proceedings could not go forward.

11 For the avoidance of doubt, this declaration applies only to the claims of whistleblowing detriment.

**Employment Judge Reed**

**12 November 2021**