



EMPLOYMENT TRIBUNALS

Claimant Mr Hitesh Kumar Lakkad

Respondent S&H Wholesale & Distribution t/a Max Distribution Ent Limited

HEARD AT: Watford

ON: 20 November 2023

BEFORE: Employment Judge J Lewis KC

Representation

For the Claimant: In person

For the Respondent: Mr I Hurst (Solicitor)

RESERVED JUDGMENT

1. The following claims of direct discrimination and/or harassment are struck out pursuant to rules 37(1) of schedule 1 of the Employment Tribunal Rules:
 - 1.1 The claims in relation to the Claimant being made homeless is struck out on the basis that it has no reasonable prospect of success.
 - 1.2 Save for the claim (on the basis of direct discrimination on the grounds of religion/ religious belief or race or harassment related to those protected characteristics) as to Mr Siraj causing the Claimant to be followed by the police after 20 July 2022, the claims in relation to the Claimant being followed by police or any other person is struck out on the grounds that it has no reasonable prospect of success and (in relation to the period up to 20 July 2022) is vexatious, and for non-compliance with orders of the Tribunal.
 - 1.3 The claims in relation to the Respondent causing wrong or broken items to be sent in relation to orders procured by the Claimant or delaying sending items in response to such orders in so far as it relates to any period on or prior to 17 March 2023 is struck out on the grounds that it is vexatious and for non-compliance with Orders of the Tribunal.
2. Except as above the application to strike out the claims of discrimination

and/or harassment are refused.

3. The application to strike out the claim of unlawful deduction of wages is refused.

REASONS

1. These are my reasons for the reserved Judgment upon the application by the Respondent (“R”) to strike out the Claimant’s claims. This follows a hearing on 20 November 2023. I heard verbal submission from the Claimant and Mr Hust from the Respondent. I also considered the subsequent correspondence from the parties following my Order sent to the parties on 22 November 2023 and the letter from the Tribunal of 24 November 2023.
2. There is an overlap with the material considered in the Case Management Summary and Reasons for the Order I have made dealing with the issues as to amendment and giving directions. As in those Reasons, I refer to the claim presented on 20 July 2022 as “the First Claim”, and the claim presented on 22 June 2023 as “the Second Claim”.

Relevant chronology of the litigation

3. In relation to both the strike out application (addressed below) and the amendment application (addressed separately) it is relevant to take into account both the content of the First Claim and the relevant procedural chronology.

The First Claim

4. The First Claim was presented on 20 July 2022, following ACAS notification on 3 July 2022 and an ACAS certificate of 5 July 2022. In addition to R, four other respondents (who were said to be previous employers) were named. The claim against the other respondents was struck out at an open preliminary hearing on 20 July 2023. An appeal against this strike out order was rejected by the EAT as being “totally without merit” by an order of 13 November 2023.
5. The Claim Form stated that the Claimant was employed by R from 1 October 2021 as a Marketing representative. (R denies that he was an employee.) It set out a claim of unfair dismissal and discrimination on the grounds of age, race and religion or belief. Particulars given included contentions that the respondents were:
 - 5.1 failing to pay his commission.
 - 5.2 not paying him national minimum wage
 - 5.3 harassing him by stalking him or sending police behind him to stalk him/harass him.
6. The unfair dismissal claim against R was dismissed on 22 February 2023 because the Claimant did not have qualifying service.

7. By an Order made on 5 March 2023, the Claimant was ordered to provide details of the First Claim by 14 March 2023. The order provided that he was required to set out a list, in date order, and numbered paragraphs, of each relevant event of age discrimination or race discrimination (religious discrimination was not mentioned), saying for each event (a) what happened,(b) when it happened, and (c) which respondent was responsible for it.
8. C responded on 17 March 2023. The response does not appear to have been copied at the time to the other parties. It set out allegations that:
 - 8.1 Mr Siraj and “London corner pound shops” were stalking and “sending police behind” the Claimant;
 - 8.2 Mr Siraj was not paying his commission properly and discriminating against him in relation to his religion and age; and
 - 8.3 when the Claimant took orders Mr Siraj would send wrong and broken items.
9. There were further generalised allegations including of “bullying all the time and doing anti-social behaviour with me all the time”, harassing, modern slavery and gaslighting, and it was also alleged that the London Mayor Sadiq Khan and London Assembly member Unmesh Desai were also harassing him and sending police behind him.
10. In addition in relation to several other respondents (each with different individuals owning them), there were allegations made that are now asserted against R. In particular it was alleged that:
 - 10.1 Shimir Premji sent police behind him and made him homeless four times when the Claimant worked for him from 1 January to 31 October 2019.
 - 10.2 DDC Foods sent police behind him to stalk him and made him homeless four times when the Claimant worked for them from 1 January 2020 to 31 July 2020.
 - 10.3 Express UK Wholesale Limited used to stalk him and send police behind him to harass him when the Claimant worked for them from 1 August 2020 to 31 January 2021.
 - 10.4 Emregas Wholesale Ltd used to stalk and send police behind him to harass him when the Claimant worked for them from 1 February 2021 to 30 June 2021.
 - 10.5 Shakun Trading Ltd used to send police behind him to do stalking when the Claimant worked for them from 1 October to 31 December 2021.
11. In the Case Management Summary following a preliminary hearing on 20 June 2023 EJ Alliot noted that the 17 March 2023 response was “*largely incoherent and lacks the details that it ought to have*”.
12. Without detracting from that conclusion, whilst the response was generalised and inadequate, taking into account that the Claimant is a litigant in person whose first language is not English, I accept that it amounted to a genuine,

though inadequate, attempt to comply. In particular:

- 12.1 In relation to the obligation to state which respondent was responsible for the conduct, it contained a separate account of what was alleged in relation to each respondent, and listed those respondents in the chronological order in which he worked with them.
 - 12.2 At a generic level it stated what had happened, albeit that it was in excessively generic terms such as referring generically to bullying and anti-social behaviour without setting out what happened on which specific occasions which amounted to such anti-social behaviour or bullying.
 - 12.3 Despite the requirement to state what happened and when it happened, there were no specific dates given. I infer however that the Claimant understood that he had complied by giving the dates of employment, and the generalised assertion of “bullying” and “anti-social behaviour” all the time.
 - 12.4 There was a failure to identify each relevant event of age or race discrimination in numbered paragraphs. I infer however that the Claimant understood (incorrectly) that he had complied by giving a numbered paragraph for each employer with associated dates of employment, placed in chronological order of employment.
13. In the Case Management Summary EJ Alliot recorded that he had clearly explained to the Claimant that the response of 17 March 2023 was largely incoherent and lacking in necessary detail and added that:
- “I explained to the claimant that it was vital that he set out all information in support of his assertion that he was an employee or a worker, each act that he complains about as discrimination and full details of the shortfall in commission payments he is alleging.”*
14. EJ Alliot also recorded that he had emphasised to the Claimant that he was giving him a second chance (in addition to the initial Claim Form) to get his case in order and that it was vital that he provide the details requested.
 15. C was ordered to provide further information of his claim by 18 July 2023. The particulars required were in materially the same terms as the particulars ordered in the Second Claim on 18 September 2023 to which I refer further below.
 16. By a letter dated 31 August 2023 R’s solicitors applied to strike out the First Claim on the basis that the Claimant had failed to comply with the order to provide particulars without good cause despite having been given guidance by EJ Alliot at the hearing on 20 June 2023.
 17. By a Judgment made at a hearing on 18 September 2023, EJ Alliot struck out the First Claim. The Judgment noted that at the hearing the Claimant had produced three emails that he said responded to the order for particulars, being emails of 27 June 2023, 15 July 2023 and 30 July 2023. Those emails were also forwarded to the Tribunal in the course of this

hearing, and where relevant I refer to them further below. EJ Alliot noted that there was a complete absence of detail of any of the commission claims, and that whilst there were general assertions of discrimination it was not possible to identify the specific complaints of discrimination. He noted that the Claimant had had three opportunities to set out his claim, and that whilst he took into account that he is a litigant in person, he had failed to comply with the orders to particularise the claim on two occasions. He concluded that in doing so the manner in which he had conducted the proceedings had been unreasonable. He concluded that the prospects of the claim ever being in a triable format were negligible. On that basis the claim was struck out.

18. Before me the Claimant argued that the way he responded to the particulars had been affected by the fact that he had not received the Case Management Orders of 20 June 2023 until after the date for compliance had passed. The particulars had to be provided by 18 July 2023, but the Order was not sent to the parties until 26 July 2023. He contended that he had noted down just three or four questions from EJ Alliot, and understood he had been required to answer by 16 July 2023. He contended that when the order came his view was that the time limit for answering had passed so he did not reply again.
19. In considering the Claimant's explanation I regard the following matters as relevant:
 - 19.1 The Claimant is a litigant in person, and whilst his own contention is that he is an intelligent and well-educated individual who trained as a GP in India before coming to the UK, English is not his first language. He is capable of reading, understanding and conversing in English but these factors lead to a significantly heightened risk of misunderstanding.
 - 19.2 Whilst before me the Claimant was not able to specify the three or four questions he contends he had noted down, his case to that effect is consistent with paragraph 4 of the Order, referring to the three headings as to (a) the basis for the assertion that he was an employee or a worker, (b) each act that he complained about as discrimination and (c) full details of the shortfall of commission. I infer that at least those three matters would have been spelled out. However it is clear that there was some further specification as to what information he was required to provide. Thus, in relation to the commission issue it is apparent from the Claimant's own email of 27 June 2023 that he understood that he was required to state at least how many orders he took and the amount of each order. Equally in relation to each act of discrimination it is overwhelmingly likely that further details were specified as to particulars required. That is apparent from the fact that EJ Alliot explained the lack of detail in what had been provided.
 - 19.3 Even if the Claimant had noted down the questions only in broad terms I do not accept that the three emails he relied upon at the hearing on 20 June as containing his response (emails of 17 June 2023, 15 July 2023

and 30 July 2023) could have been regarded as complying with what was required. In particular:

- (a) The email of 27 June 2023 was concerned principally with the commission issue and complaints of being denied access to an app. Rather than providing any further detail of the discrimination complaint it asserted in generalised terms that Mr Siraj was still cheating him, harassing him, doing anti-social behaviour and bullying, stalking and sending police behind him.
- (b) The email of 15 July 2023 was not framed as answering a requirement to give specifics as to the discrimination claim or employee/worker status. On the contrary it was framed as being sent to inform EJ Allcott of anti-social and bullying behaviour by his roommate and main tenant. In the course of the email it made allegations in very general terms that R was stalking him, and “sending police behind” him, making him homeless every 3-4 months, harassing him and discriminating against him on ground of age and religious belief. It wholly failed to provide specifics.
- (c) The document of 30 July 2023 was an appeal to the EAT against the dismissal of the claims against the other respondents rather than a response to the requirement for particulars. In any event it failed to provide any detail beyond assertions about making him homeless every 2-3 months, generalised assertions about harassing him and police stalking him and not paying him correctly.

19.4 Even if the Claimant had not fully appreciated what was required of him before receiving the Order, it was set out clearly in the Order. It was obvious that he had not provided the answers required, and if he was in any doubt as to what to do given the time for doing so had expired, the obvious course, especially as he was still corresponding with the Tribunal, was to ask about this.

19.5 Any contention that the Claimant did not feel able to provide responses after 16 July 2023 (the deadline for responses) is inconsistent with his own contention at the 18 September 2023 that he had responded in the email of 30 July 2023 (though as above that was an appeal document rather than a response to the requirement for particulars) and with his having attempted to email the Tribunal on 2 August 2023 (with details relevant to the commission claim), albeit that email was not received. (In the letter from the Tribunal of 24 November 2023 the Claimant was required to provide the Tribunal with a copy of that email, which was shown to the Tribunal and Respondent at the hearing, but he has not done so. When he tried to forward it at the hearing it was too large to send).

19.6 Paragraph 4.2 of the Order of 20 June 2023 expressly provided that anyone affected by an order could ask for it to be varied. Paragraph 4.3 provided that the parties could agree a variation of up to 14 days. As such even if the Claimant was not aware of the provision in the

Tribunal rules to ask for an extension of time, it was plain on the face of the written order that he could seek to agree an extension of time or to apply to vary dates of compliance.

- 19.7 Again, the failure to respond to the specific questions in the Order was highlighted in the application to strike out made in R's letter of 31 August 2023. It was plain that the Claimant had not responded to the specific questions, but despite non-compliance being highlighted in this letter, he still failed to respond further.
20. In all I do not accept that the Claimant considered he had provided particulars in response to the requirement to do so at the 20 June 2023. It is more likely that he waited for the Order. The date for compliance was not conditional upon the written record of the Order being received but it is to an extent understandable that as a litigant in person whose first language is not English that he wished to see the specific terms of the Order, particularly in circumstances where his previous response had not been adequate.
21. However when the Order arrived only after the time for responding had passed, he did not respond further other than the email of 2 August 2023 in relation to commission, which did not send successfully. Whilst I accept that his failure to do so was because the date for providing a response had passed, I do not accept that was reasonable mitigation or that he did not believe that he could provide a response. As noted above that contention is inconsistent with his own reliance at the 18 September hearing on the email of 30 July 2023 (albeit that was an appeal document) and with having tried to send order details on 2 August 2023, and nor did it make any sense simply not to reply rather than at least to seek clarification as to what he should do.
22. At the hearing on 20 November 2020, when asked why the Claimant had not responded once he received the Order of 20 June 2023, he initially answered that it was "the Court's mistake" and that "they all played dirty politics". I infer the Claimant's judgment was clouded by his annoyance at the Order arriving after the date for compliance. In any event, even allowing for the fact that the Claimant was a litigant in person whose first language is not English, his approach of neither providing a substantive response to the Order for particulars (save for the failed attempt to send order details) or seeking clarification as to what he should do was wholly unreasonable.

The Second Claim

23. The Claimant presented the Second Claim on 22 June 2023. It named R's director as the respondent, but this was changed to R at the hearing on 18 September 2023.
24. Aside from the unfair dismissal claim addressed above, the Second Claim ticked boxes for discrimination on grounds of age, race and religion. In the details of claim in the ET1 (Box 8.2), the Claimant [7]:
- 24.1 Repeated the allegation that R had been harassing hm by stalking and sending the police "behind" him and alleged that others ("local corner

- pound shop retailer”) were doing this.
- 24.2 Repeated the allegation that R had not been paying him his pay.
- 24.3 Claimed that when he took orders R sent wrong items, or broken items or did not send deliveries on time so that he could not get orders and that this was being done purposely to harass him. This was an allegation made in the response of 17 March 2023.
- 24.4 Claimed that R was making the Claimant homeless every two months.
- 24.5 Alleged that R, whose director Mohammed Siraj is said to be Pakistani Muslim, had been discriminating against him regarding the Claimant’s religious belief (Christian) and age. However there were no further details of this other than that he was “not treating me nicely, doing anti-social behaviour, bullying me all the time”.
25. The ET1 also contained allegations that R had been engaging in criminal activity, putting into modern slavery and bullying him and that the police had been tapping his phone, not being matters within the Tribunal’s jurisdiction.
26. At the hearing on 20 November the Claimant explained the Second Claim on the basis that at the time of his first claim he had been living in East London, whereas for his new claim he was at Wembley. He said it was because his landlord and Wembley police were harassing him, and his employer was harassing him. Although there was no claim against R as to being made homeless in the First Claim, as noted above it was a claim made against other respondents to that claim. The connection between R, and alleged harassment by the landlord and the police remains obscure. However I accept that this was the Claimant’s genuine thinking in bringing a further claim, rather than an attempt to circumvent the order to particularise the claim that had been made at the hearing two days earlier.
27. The Second Claim was presented just two days after the preliminary hearing in the First Claim where EJ Elliott had emphasised the importance of setting out all information in support of the Claimant’s assertion that he was an employee or a worker, each act that he complaint about as discrimination and full details of the shortfall in commission. Despite this, the ET1 set out the allegations in general terms without the particulars required at the hearing on 20 June 2023.
28. At the hearing on 18 September 2023, EJ Alllott declined to strike out the present claim, but ordered that the Claimant provide the same particulars as had been required in relation to the First Claim. Taken together with the First Claim, this was therefore the fifth occasion that the Claimant had been given the opportunity to property particularise the claim, being three occasions in the First Claim (in the Claim Form and pursuant to two subsequent orders) and in the Claim Form in the second claim, and then pursuant to the order of 18 September 2023.
29. The Claimant responded to this by an email of 13 October 2023 [30-33]. R provided a response by letter of 25 October 2023 [43-46]. Following the hearing he provided his response to Order sent to the parties on 22 November 2023, and the ET’s letter of 24 November 2023, in an email of 30

November 2023. Following R's response of 6 December 2023, R responded further on 10 and 13 December 2023. In the latter, after setting out some responses to R's email, largely consisted of repeating verbatim the Claimant's email of 30 November 2023.

30. I return to address further below the nature of the claims in the Second Claim.

Relevant legal principles

(1) Principles relevant to applications to strike out on grounds of no reasonable prospect of success

31. The following principles are relevant in relation to whether any parts of the claim should be struck out as having no reasonable prospect of success (see **Cox v Adecco** [2021] ICR 1307 (EAT)):
- 31.1 Striking out is a draconian measure given that it deprives a party of the opportunity to have their claim or defence heard.
 - 31.2 Whilst particular caution is needed in discrimination claims, it has also been emphasised that no one gains by a truly hopeless case being pursued. The employment tribunal ("ET") should not be deterred from striking out even in a discrimination claim if satisfied that there is indeed no reasonable prospect of the facts necessary for liability being established: see **Ahir v British Airways Plc** [2017] EWCA Civ 1392.
 - 31.3 The power to strike out on the grounds of there being no reasonable prospect of success is designed to weed out claims or parts of them which are bound to fail. The issue is whether the claim or contention has a realistic as opposed to a fanciful prospect of success.
 - 31.4 The tribunal should not conduct a mini-trial of the facts and therefore would only exceptionally strike out a claim if the central or material facts are in dispute and oral evidence is required to resolve the disputed facts. There may however be cases in which the factual allegations are demonstrably false and the tribunal may be able to come to a clear view in the light of the incontrovertible evidence, such as where an allegation is conclusively disproved or is totally and inexplicably inconsistent with contemporaneous documents. Subject to that, the tribunal should take the case which is subject to the strike out application at its highest in terms of its factual basis and ask whether even on that basis it cannot succeed.
32. It is also relevant to take into account the public interest in discrimination claims being determined on their merits, and that taking this together with the fact sensitive nature of such claims, it is not ordinarily appropriate to strike out other than in the most obvious and plainest cases: **Anyanwu v South Bank Student Union** [2001] 1 WLR 638 (HL)

(2) Principles relevant to applications to strike out on grounds of abuse of process

33. Where a claim comes to an end as a result either of an adjudication on the

merits or settlement there are well-established principles, applicable both in the ET and in the ordinary courts, which limit the ability to bring a further claim. Broadly a further claim will be barred if it seeks to raise the same cause of action (cause of action estoppel) or an issue decided in the earlier claim (issue estoppel). There will also be a bar to raising a claim that could have been raised in the earlier proceedings, either initially or upon amendment if, on the basis of a broad merits approach, it is assessed that “in all the circumstances, a party is misusing or abusing the process of the court by seeking to raise before it the issue which could have been raised before”:
Johnson v Gore Wood & Co. [2002] AC 1 (HL) at 31D-E¹. I refer to this as “**Henderson** abuse of process” after the case which established the principle.²

34. Where, as here, there has been a strike out on procedural grounds without a decision on the merits there the decision does not give rise to any issue or cause of action estoppel: **Davies v Carillion Energy Services Ltd** [2018] 1 WLR 1734. It is relevant to note that whether or not a second claim is barred, there is potentially a serious consequence of striking out the first claim given the potential impact on compliance with the relatively short time limits that apply in employment tribunal claims. In addition however a second action might still be struck out on the basis of being an abuse of process. As to this, in the context of a claim in the ordinary courts, guidance was provided in **Davies** and, taking this into account, in **Revenue and Customs Commissioners v Kishore** [2022] 2 All ER 90 (CA), the following synthesis was suggested (at [27]):

“(ii) Where a civil claim has been struck out as an abuse of process on account of intentional and contumelious conduct, want of prosecution or wholesale disregard of rules of Court or, perhaps, struck out by reason of other ‘inexcusable’ procedural failure on the part of the claimant, a second claim covering the same subject matter will be struck out unless there is special reason not to do so;

...

(iv) Where a point was not raised in a set of proceedings but could have been, it may be an abuse of process for the party to raise it in later proceedings. When deciding whether that is the case, the Court takes a ‘broad, merits-based’ approach in accordance with *Johnson v Gore Wood & Co.*”

35. In relation to **Henderson** abuse of process, a broad merits based approach is required as to the whether this involves misusing or abusing the process of the Tribunal by seeking to raise before it the issue which could have been raised before. That is likely to require weighing amongst other matters the public interest in finality of litigation, the public interest in litigants having the opportunity to have an adjudication on claims, including in particular the public interest in discrimination claims being determined on their merits, and the stage and circumstances in which the claim was struck out, any excuse

¹ Referred to in **Revenue and Customs Commissioners v Kishore** [2022] 2 All ER 90 (CA) to which I referred the parties, at [18].

² **Henderson v Henderson** (1843) 3 Hare 100.

put forward for the failings that led to the claim being struck out, the nature of the subsequent claim and whether it is the same as or should have been brought in the previous proceedings and all the circumstances of the case.

36. Although the summary in **Kishore** may suggest that **Henderson** abuse might apply even though there was no adjudication on the merits, that may need to be treated with a degree of caution. It was not necessary for the decision in **Kishore** (see at [50, 51]), and in **Davies**, it was emphasised that **Henderson** abuse of process applied where there had been an adjudication or settlement on the merits. In that context it provides an extension to the scope of cause of action or issue estoppel, to matters which were not raised but could have been in the first proceedings either initially or by amendment. At minimum it seems to me that if **Henderson** abuse applies where there has been no adjudication on the merits, the fact that there has been no such adjudication is a material factor when carrying out the broad merits assessment required as to whether the claim should have been raised in the First Claim if it was to be raised at all (**Kishore** at [50]) and whether it is an abuse of process to pursue it in the Second Claim. In the present case that context includes my findings that there was a genuine reason for bringing the second claim, that the Claimant was entitled to elect to proceed by way of a second claim rather than amendment, and that EJ Alliot rather than striking out the Second Claim gave the Claimant a further opportunity to particularise it, and consideration of the particulars that have been provided.
37. It was also noted in **Davies** that a single failure to comply with an unless order would not of itself be sufficient to conclude that the second action was an abuse of process. Further in the ordinary courts the overriding objective expressly includes allocating an appropriate share of the Courts resources. That is not expressly included in the formulation of the overriding objective in the ET. In those circumstances I consider that some caution is needed. The approach in the ordinary courts is helpful guidance at least in that the approach in the ET should not be stricter than that in the ordinary courts. It also helpfully points to the substantive issue as being whether the second claim amounts to an abuse of process, but keeping in mind the need to seek to give effect to the overriding objective as it is formulated in the ET (which I set out in the Reasons sent to the parties on 22 November 2023).
38. I add that the grounds for striking out in the Rule 37 are not framed in terms of whether proceedings are an abuse of process. However bringing of further proceedings in circumstances which amount to or which follow from striking out the same matter as an abuse may be regarded as vexatious: see **Ashmore v British Coal Corporation** [1990] ICR 485 (CA).

Effect on the second claim of strike out of the first claim: overview

39. I turn to the issue as to whether all or part of the Second Claim should be struck out by reason of seeking to raise again issues there were or could have been raised in the First Claim.
40. Although the First Claim was struck out following repeated failures

adequately to particularise the claim, it is relevant to have regard to the particular circumstances. I have found that in relation to the particulars provided on 17 March 2023 there was a genuine, though inadequate, attempt to comply. In relation to the response to the particulars ordered at the hearing on 20 June 2023, contrary to the case advanced by the Claimant on 18 September 2023, he did not genuinely consider that he had provided an adequate response to the requirement to provide particulars. I accept however that there was reasonable mitigation for awaiting the Order so as to have certainty as to what he needed to provide, given that he is a litigant in person whose first language is not English.

41. It was then however wholly unreasonable and irrational to fail to provide a substantive response once he was in receipt of the Order, without even seeking clarification as to what he should do given that the time for compliance had passed. Whilst I accept that his thinking in not providing a further response was that this was because the time for doing so had passed by the time the written order was received, I do not accept that even as a litigant in person it was reasonable or rational for him to adopt that approach. Even as a litigant in person it was wholly unreasonable simply to fail to provide the particulars or to seek clarification. That was all the more so given that it followed the warning on 20 June 2023, and recorded in the Case Management Summary, that he was being given a second chance and the emphasis that it was vital that he provided the information. It was obvious that he had not complied with the requirement to provide the particulars and he would have been well aware that he had not done so. To the extent that he was influenced by his annoyance that it was the ET's mistake in sending the Order late, I do not regard that as providing any reasonable mitigation given his failure to seek any clarification from the ET as to what he should do if he did not take the obvious course of simply providing a response and explaining when doing so why it was late.
42. Given my findings in relation to the particulars of 17 March 2023, and the attempt to send the particulars in relation to orders on 2 August 2023, it may not be appropriate to refer to there as having been a wholesale disregard of the ET rules. However the case was struck out because of a repeated failure to provide adequate particulars of the case, despite the need for this having been carefully explained on 20 June 2023 and the repeated opportunity to provide the particulars, culminating in the failure to provide particulars ordered on 20 June 2023 in circumstances that I have concluded were wholly unreasonable. I am satisfied that this amounts to inexcusable and serious procedural failure. I consider that the better approach is to focus on this, which reflects the substance of my findings, rather than on whether the non-compliance is to be categorised as "intentional and contumelious". On the basis that his thinking, however unreasonable and irrational, was that time for compliance had passed, I incline to the view that his conduct is not properly categorised as "contumelious". The substance however is that he was aware that he had not complied with the Order and acted wholly unreasonably and irrationally in relying on the fact that the time for compliance had passed by the time he received the written Order as the reason for not providing the particulars required without even seeking

clarification as to what he should do, and in maintaining that stance even in the face of the strike out application, and then arguing at the hearing on 18 September 2023 that he had responded to the particulars, which I have found was not his genuine belief.

43. I also keep in mind the stage of the proceedings at which the First Claim was struck out. The proceedings were not well advanced in the sense that there had not yet been disclosure, R had been put to the cost of attending two preliminary hearings as well as considering the correspondence in relation to attempts to clarify the issues.
44. As against that, I have concluded that the Claimant had a genuine reason for bringing the Second Claim, namely in his mind it was appropriate because he had now moved to live in a new location. Whilst that reason relates only to part of the claim (his contention as to being made homeless) I accept that it was a genuine factor operating on his mind. I take into account that he is a litigant in person. There is no necessary priority between bringing a new claim in relation to events subsequent to a prior claim and seeking to amend the first claim. The Claimant was entitled to elect to proceed by bringing a second claim rather than amendment. Further, in declining to strike out the Second Claim, EJ Alliot noted that there appeared to be a continuing relationship and concluded that the Claimant should be given a further opportunity to explain that claim, and in particular that there may be new aspects of that claim not covered by the first claim. I regard each of those matters as pointing against the Second Claim being an abuse of process at least in so far as covering matters that were not already covered by the First Claim, in circumstances where there was no an adjudication or settlement such as to give rise to an issue or cause of action estoppel, and they are relevant in balancing the competing public interests in finality of litigation and in the claims being adjudicated.
45. Against that context I return to turn to consider the issue of abuse of process further in the context of the individual heads of complaint and whether the Claimant should be barred from pursuing them either on the basis of abuse of process or whether they should be struck out in any event on the basis of having no reasonable prospect of success or whether amendment is required and if so whether it should be allowed or refused.

Unlawful Deduction of Wages

46. I refer to the Reasons in relation to the application to amend, where I addressed the nature of the unlawful deduction of wages claim and issue of whether permission to amend was required. I address below the issues material to the strike out application relating to this claim.

(1) Worker status?

(a) Relevant legal principles

47. Under section 230(3)(a) ERA the requirement for a worker relationship are that:

- 47.1 There is a contract between the parties (whether express or implied or in writing or oral).
- 47.2 Under the contract the individual undertakes “to do or perform personally any work or services” for R. I refer to this by way of shorthand as the obligation of personal service.
- 47.3 The status of R under the contract was not that of a client or customer of any profession or business undertaking carried on by the individual. I refer to this, by way of shorthand only as the client or customer exception.

(b) Is there a reasonable prospect of success as to worker status?

- 48. R accepts that the first of these requirements are satisfied, but not the second and third. Mr Hurst points to the absence of any express stipulation that the work had to be carried out personally, the lack of control over the Claimant and his hours, that he was provided with no equipment (as the Claimant accepted), and that he was paid on a self-employed basis.
- 49. The Claimant’s contention is that there was an implicit obligation that he was to carry out the work personally. There was no suggestion that someone else could do the work and nor was it in fact the case in practice that he claimed for work done by anyone else in producing the order. He also asserts in support of this that he was told that he could not work for anyone else. That is disputed by the Claimant. Initially it was submitted on behalf of R that the Claimant’s position as to this was inconsistent with the fact that the First Claim was also brought against other respondents who were also said to be his employer. However as is set out in the Reasons for the Judgment of 20 June 2023 striking out the claims against the other respondents, in each case the employment with them was alleged to have come to an end before starting work for R in October 2021.
- 50. In those circumstances, I am satisfied that there is a reasonably arguable issue as to whether there was an instruction that the Claimant could not take up work elsewhere. There may also be an issue as to the scope of the restriction (if contrary to R’s case there was any restriction at all); whether it just applied to any other competing business or to working for anyone else. The Claimant’s case is that he was told that he could not work for any other company. The Claimant also contends that he was told to go around the whole of London and get orders from local corner pound shop retailers. That raises a reasonably arguable issue as to whether he was under an obligation to do that work, or whether it was merely a matter that if he chose to do so and obtained business he would be paid. Again, an assessment of the reality of what was objectively agreed in relation to this may be affected by whether or not it is accepted that he was told that he could not work for anyone else.
- 51. Those considerations are amongst the factors that may bear on an assessment of what was implicitly the agreement in relation to personal service in circumstances where there was no express instruction that work had to be carried out personally, nor was there any stipulation that it need

not be or any practice of having a substitute do the work. It may also be of importance in the assessment of whether the customer or client exception applies, as to which the degree of control, exclusiveness of the relationship and the degree of integration in the business and whether the Claimant was held out as representing R, might all be relevant factors. In all I consider that there are fact sensitive issues in relation to which it is likely to be necessary to test oral evidence, such that it is not the case that there is no reasonable prospect of success on the disputed issues as to worker status.

(2) Particulars as to alleged deductions/ strike out for non-compliance with order to provide particulars?

52. I turn to the information the Claimant has provided in relation to the alleged shortfall in commission. The Claimant's contention, as set out in his emails of 13 October 2023, is that R had caused the record of orders on his ipad for the period from 1 October 2021 to 20 August 2022 to be deleted. It appears that it was to this that he was referring in his email of 27 June 2023. In his second email of 13 October 2023 he provided documents relating to the period from 22 August 2022 to 14 July 2023. It appeared from what I was shown at the hearing by the Claimant (and shown to R) that this had also been sent on 2 August 2023, but not copied to R, and nor was the second email of 13 October 2023, attaching the order records, sent to R. The Claimant stated that there were orders totalling £301,687.37 in the 10 month period from 22 August 2022 to 14 July 2023. That would indicate that, on the basis of 5% commission, his claim for that period would be £15,084,37. However it was still not possible to identify what shortfall he was alleging even for this period as he did not assert what he had been paid. Nor is that apparent from the documents which he attached.

53. At the hearing the Claimant stated that he was paid in cash and does not have a record of what he was paid. However Mr Hurst indicated on behalf of R that it was believed that R did have records of the orders brought by the Claimant and what was paid to him. As such whilst it would ordinarily be for the Claimant to quantify his claim, that might be done in this case following disclosure of those records by R. In those circumstances I do not consider that it was be proportionate or consistent with the overriding objective and the interests of justice to strike out the Claimant's claim by reason of his non-compliance with the requirement to provide particulars of the commission claim at this stage prior to clarification of his case following disclosure of R's records in relation to orders and commission payments (which I have provided for in the Case Management Orders).

(3) Abuse of process?

54. I turn to whether all or part of the unlawful deduction of wages claim should be struck out on the basis of abuse of process.

55. The First Claim could only have covered the period up to the presentation of that claim on 20 July 2022 unless a claim for the latter period was subsequently added by amendment. I take into account that the Claimant

attempted unsuccessfully to send details of orders on 2 August 2023, and also that he raised with the ET a difficulty he had in providing information due to be denied access to the relevant app. I also take into account his evidence that he is not able in any event to provide the information as to commission he claims as he does not have a full record and is reliance on disclosure by R. As against this, he did not raise the latter point prior to the claim being struck out or indeed until the hearing on 20 November 2023. Further, the failure to answer the particulars of 20 June in relation to this issue also involved the failure at all to address the particulars required in relation to why he claimed that he was an employee or a worker. A consequence is that R has been put to added expense when, had that information been provided in response to the 20 June 2022 order, any issue arising from the sufficiency of it could have been addressed at the 18 September 2023 hearing.

56. On balance however I am not persuaded that it is an abuse of process to pursue the claim for the period after 20 July 2022 by way of the second claim in circumstances where I have found that it was a permissible course to proceed by way of raising a second claim rather than amendment of the First Claim and that doing so was for what was a genuine reason and not an attempt to circumvent the order to provide particulars and that EJ Alliot opted to afford the Claimant a further opportunity to particularise his case in the Second Claim. I am satisfied that he has now sufficiently particularised the basis on which he contends that there is worker status and explained the limits of his ability to particularise the commission claim. Further, the public interest in the finality of litigation is limited in this instance by the fact that the Claimant would in any event be entitled to pursue the commission claim as a claim of breach of contract in the ordinary courts, which would lead to further duplication in having to re-commence proceedings and cause further delay. In all I consider it is outweighed by the public interest in a determination of the claims.
57. Nor do I consider that in relation to this aspect of the claim a different approach is warranted for the period prior to presentation of the First Claim. As above, the Claimant would be free then to pursue the balance of his claim in the ordinary courts, but that would cause further delay and expense compared to the matters being determined in the round in a single set of proceedings. R accepted that it is likely to have documents relating to what commission is due and did not suggest that the position would be different for any earlier period. In those circumstances I conclude that the interests of justice is in favour of allowing the deduction of wages claim to proceed for the full period.

Breach of contract

58. The contentions that there is no reasonable prospect of success in relation to a breach of contract are addressed in the Reasons for the Order permitting the application to amend to add the breach of contract claim.

Discrimination and harassment

59. Again, I refer to the Reasons for the Order dealing with amendment and directions in relation to the overview of the discrimination claims (in particular at paragraph 46). In so far as claims were sought to be added by way of amendment, any issues as to whether the claims if allowed would be struck out as an abuse of process or as having no reasonable prospect of success are dealt with in those reasons. I address below the strike out issues in relation to claims which did not require permission to amend.

(1) Discrimination/ harassment relating to underpayment or commission/expenses

60. I turn first to the allegation of discrimination/ harassment in not paying commission or expenses (on grounds of/ related to religion/ religious belief or age).

61. As to whether to strike out on the basis of breach of the ET orders to particularise the claim and/or unreasonable conduct of the proceedings, I have addressed above, in the context of the unlawful deduction of wages claim, the issue as to particularisation of the underpayment of commission (see paragraphs 52 to 53 above). In addition, albeit not specifically referring to the relevant subparagraph in the Order of 18 September 2023 requiring particulars (subparagraph 2.1.2.7), I accept that on a fair reading, the references to the repeated comments relating to age and religion or religious belief can be taken, together with the identification of the comparators at the hearing, as set out the basis on which C invites the Tribunal to infer that the treatment was because of his age or religious belief. In any event, having regard to the information provided, I do not consider that striking out is a proportionate course in relation to any failures in particularisation in this respect.

62. I am not satisfied that there is no reasonable prospect of success on this issue. At least pending particulars to be provided once there has been disclosure by R of documents bearing on the amount of commission paid, it would be premature to conclude that there is no reasonable prospect of establishing the shortfall in payment. I also consider that it is arguable (in the sense of surmounting the threshold no reasonable prospect of success), that in the event that the Claimant succeeds in establishing that there was differential treatment compared to his comparators, and also that he was subjected to disparaging comments relating to his age and religion/ religious belief, that may be sufficient to establish a prima facie case calling for an explanation and so to shift the burden of proof.

63. As to abuse of process, essentially for the same reasons as set out above in relation to the deduction of wages claim I do not consider that striking out is appropriate or in the interests of justice. So far as concerns the claim relating to the period subsequent to the First Claim, I take into account that the Claimant was entitled to proceed by bringing a new claim rather than amendment, and taking into account my conclusions as to the reason for the

second claim, I do not consider that not raising the claim by way of amendment is to be regarded as an abuse of process and I take into account also the approach of EJ Allott in allowing a further opportunity to particularise the Second Claim, the steps seeking to do so and the limits of what the Claimant could particularise.

64. So far as concerns the period prior to the First Claim, I take into account that the Claimant did attempt to forward information about orders and the limit of the information he was in any event able to provide. I also take into account the overlap with issues to be considered in any event, in relation to the deduction of wages claim and whether any inference as to discrimination is to be drawn in the period subsequent to the presentation of the First Claim. In all I accept that the interests of justice is in favour of allowing this aspect of the claim for the whole period claimed.

(2) Allegation of stalking and causing police to follow the Claimant

65. I turn to the allegation that Mr Siraj and “local pound corner shop retailers” have been stalking the Claimant and sending police to follow him.
66. As the Claimant explained his case at the hearing, and supplemented in the email of 30 November 2023, in addition to providing various photographs which are said to evidence his being followed but appear merely to show pictures of various vehicles on roads, the Claimant relied on three matters in support of his allegation:
- 66.1 The Claimant’s allegation as to what he alleges Mr Siraj said to him in May 2022 as to having him deported. I do not consider that on any view that is capable of supporting an inference either that the Claimant was being followed or that Mr Siraj was responsible for this.
- 66.2 The contention that a retailer, Naveed Khan, who is based in Tottenham, and who the Claimant claims is a close friend of Mr Siraj, told the Claimant in March 2022 that Mr Siraj was sending police “behind” him.
- 66.3 The contention that Arshad Khan (Sales Rep) had told the Claimant many times (without particularising when) that Mr Siraj had sent police behind him to do stalking and to harass him because he was from India and believed in Christian religion.
67. I note first that to the extent that the Claimant is contending that Mr Siraj personally was stalking the Claimant (rather than causing police to follow him). No particulars at all have been provided of Mr Siraj himself stalking the Claimant (as opposed to the allegation of causing police to follow him). There is no indication for example of when or where this happened despite the multiple occasions on which the Claimant has had the opportunity to or been required to particularise his case.
68. Similarly the allegation in relation to local pound corner shop retailers is wholly lacking in particularity, whether in relation to identifying which shop retailers have been doing so or the basis on which R is said to be liable for

their actions. Nor has any intelligible basis been put forward for the contention that they have been causing him to be stalked. Although the Claimant relies upon what was said by Naveed Khan and Arshad Khan, in both cases the allegation was of Mr Siraj causing the Claimant to be stalked by the police rather than either of causing him to be stalked by others or others being involved in causing police or others to follow him. Nor has any understandable basis been put forward as to why they would cause him to be stalked by the police or the basis for believing that they have been doing so. Given the multiple opportunities given to the Claimant, I do not consider that there is a realistic prospect of these deficiencies being remedied. Although not necessary for my conclusion, I note that no basis has been put forward to indicate that shop retailers were agents of R or any other basis on which Mr Siraj would be responsible for their conduct.

69. In the email of 30 November 2023 the Claimant also now says that Arshad Khan also used to follow him whilst the Claimant was at work and sent police behind him to stalk him. This is not an allegation contained in the ET1 and nor has any application to amend been made to include it. Nor have any particulars been provided as to when this occurred, or any basis to explain how or why Mr Arshad would be able to cause police to follow the Claimant or any basis to indicate that this is what has happened.
70. The far-fetched nature of the allegation is further reinforced by the wide range of people the Claimant contends have been following/ stalking him, including five other former employers, the London Mayor (Sadiq Khan), a London Assembly members (Unmesh Desai). In addition London local authorities, bin collection trucks and TFL vans were said to be involved. The apparently far-fetched nature of the allegation is further indicated by the nature of the evidence the Claimant has sought to provide in support which appear to be random pictures of vehicles on the road which without any further explanation and alleged to evidence stalking. Various pictures have been appended to his emails of vehicles on roads apparently claiming to evidence being stalked by ambulances, busses, Council vans, various local authority vehicles, a local authority refuse collection van, DHL vans, a DPD van, a FedEx van and various other vehicles. In each case there is simply a picture of a vehicle on the road with nothing to indicate why it evidences stalking or following the Claimant.
71. In all I conclude that in so far as the allegation under this head is of some variation of allegation other than of Mr Siraj causing the Claimant to be stalked by police, and in so far as that is part of the current pleaded case, the allegation has no reasonable prospect of success and is to be struck out on that basis.
72. I turn to the allegation of Mr Siraj causing police to follow the Claimant. This is a repeat of the allegation made in the First Claim. A difference from the other allegations is that the Claimant has put forward the contentions as to what he says he was told about this by Naveed Khan and Arshad Khan. As I understood it the claim is advanced, by way of direct discrimination and harassment, by reference to the protected characteristics of religion/ religious

belief and race. I did not understand it to be advanced on the basis of age discrimination. If it had been, I would have concluded it had no reasonable prospect of success. The only matters said to have been mentioned by Arshad Khan upon which the Claimant relies did not relate to age, and any connection to age as a reason for having the Claimant followed is fanciful.

73. As to the reliance on the evidence of Naveed Khan and Arshad Khan, even if it is accepted, the case seems highly improbable, particularly when taken together with the apparently scattergun nature of the allegations as to the range of people and entities alleged to have been involved in causing him to be followed, the range of people and vehicles he claims he has been followed or stalked by, the absence of any credible reason why they would have done so, and the attempt to rely on photographs which do not on their face do any more than show various vehicles on the road. Even if Naveed Khan and Arshad Khan told the Claimant that Mr Siraj was having him followed, it does not follow that is what happened.
74. I have considered carefully in the light of this whether the appropriate course is to strike out this claim on the basis that any prospect of success is fanciful only and there is no reasonable prospect of the Claimant being able to establish the facts on which he relies as to being followed by the police and Mr Siraj causing them to do so. However I conclude (but only just), that given the allegations as to what was said by Naveed and Arshad Khan (which I do not consider I can reject on a strike out application), taken together with the approach to striking out particularly of discrimination claims, that I am able to say that there is no reasonable prospect of success. I add that were it to emerge that Naveed and/or Arshad Khan had made the alleged comments based on what they were told by Mr Siraj that might give rise to a claim based on what Mr Siraj told them irrespective of whether he had in fact caused police to follow the Claimant (though that would require permission to amend).
75. It remains the case that there are deficiencies in the particulars given. The Claimant has not specified when he alleged he was followed by the police. He does however appear to have given instances of when he alleges this occurred in the photographs which appear to be alleging this occurred on 25 and 28 April 2023 (attachments to email of 23.11.23), 16.11.23 (attachment to email of 17.11.23) and 29.11.23 (attachment to email of 10.12.23) – though each case it is not clear why the photographs indicate stalking. I have not ordered further particulars of the relevant dates, but it is open to R to seek these if (which at present appears to me unlikely) it requires this in order to respond to the claim.
76. Nor has he specified the dates when Arshad Khan made the alleged comments that Mr Siraj sent police to stalk him. However I do not consider that it would be proportionate to strike out on that basis rather than requiring the dates of the alleged comments by Arshad Khan to be identified so far as the Claimant can do so.
77. As to abuse of process:

77.1 in the light of my conclusions as to the circumstances leading to the strike out of the First Claim, I conclude that so far as concerns events prior to the presentation of that claim it would be an abuse of process to pursue the same claim as part of the Second Claim. The First Claim was struck out in circumstances amounting to inexcusable and serious procedural failure. I am not satisfied that there is any special reason to permit the same claim to be resurrected or that this would be consistent with the overriding objective or the interests of justice, including the interests of finality of litigation. Although not necessary for my conclusion, that is supported by the clear view I have formed as to the weakness of the claim.

77.2 I consider that different considerations apply in relation to events subsequent to the presentation of the First Claim which therefore could not, without amendment, have been part of the First Claim. I keep in mind the prejudice to Rs, including the additional costs incurred. I also take into account that the Claimant is relying in part on alleged comments by Naveed Khan that are alleged to have been made nearly 21 months ago, in March 2022, and the prejudice due to the passage of time, although the passage of time since the particulars should have been provided pursuant to the 20 June 2023 order is more limited. As against that, I again take into account that the Claimant was entitled to elect to bring a further claim to cover subsequent events rather than amending the First Claim and that he was given a further opportunity on 18 September to particularise that claim. I also take into account my conclusion that there was a genuine reason for bringing the Second Claim other than to circumvent the order for particulars. He has now identified the basis upon which he contends that Mr Siraj is responsible for this alleged conduct and, at least in the relation to the allegation as to what Arshad Khan said, why it is alleged to be by reason of race or religious belief. Further, I have (albeit only just) not been able to conclude that there is no reasonable prospect of success given the principles I am required to follow in approaching this and as such I must still have regard to the public interest in discrimination claims in particular being adjudicated upon where there has not been a decision on the merits. Taken together I do not consider that in relation to events subsequent to the presentation of the second claim strike out on the grounds of abuse of process is appropriate or in the interests of justice.

(3) Allegation as to sending wrong items, broken items or not sending deliveries on time

78. This allegation was not raised initially in the First Claim but was raised in the email of 17 March 2023. In response to the Order of 20 June 2023 to particularise each alleged act of discrimination it was plainly necessary for the Claimant to particularise alleged discrimination in relation sending wrong items etc. Given that it had been included in the 17 March 2023 particulars it could hardly have been thought to be outside the scope of the Order. No

such particulars were provided. Nor was it mentioned in the particulars of 13 October 2023. It was not raised again until the email of 30 November 2023. No further particulars were provided of any instances of wrong or broken items being sent. But the Claimant's contention is that most of his deliveries were not sent and that Mr Siraj became aggressive when the Claimant asked about this, and that it was differential treatment compared to Arshad Khan.

79. In addition to the failure to particularise the claim in response to the Order of 20 June 2023, the Claimant was in breach of the Order of 18 September 2023 in failing to provide particulars of the allegation in the particulars of 13 October 2023. Further had it been raised in those particulars, even in unparticularised form, there would have been the opportunity to press for further particulars either in advance of or at the hearing on 20 November 2023.
80. In the light of my conclusions in relation to the circumstances leading to the striking out of the first claim I consider that it would be an abuse of process for him to seek to resurrect in the Second Claim the same allegation as was raised in the First Claim so far as it relates to the period up to 17 March 2023 when it was raised in that claim. It may be that strictly although raised in the 17 March 2023 particulars it required permission to amend. However I do not consider that it is appropriate for the Claimant to be regarded as in a better position by reason of not seeking permission to add the allegation contained in those particulars.
81. However so far as concerns the period after 17 March 2023, I am not satisfied that it is an abuse of process to pursue the claim. Again I take into account my conclusions as to the Claimant having been entitled to elect to bring a fresh claim rather than amending the first claim and his genuine reason for doing so. Nor do I consider that it would be proportionate to strike out that aspect of the claim on the basis of failure to comply with the particulars required. I take into account that the Claimant is a litigant in person and that English is not his first language, that I regard at least the particulars of 13 October and 30 November as a genuine attempt to provide particulars requests, and that so far as concerns the allegation of delay in sending goods he has set out his case that generally goods would only be sent after two months or in most cases not sent at all.
82. I have not provided in the Order for the Claimant to provide further particulars of the particular items which were broken, or where the wrong items were sent or where they were sent late or not at all. I incline to the view that this is not likely to be a fruitful course and may instead increase expense for R, and that it is better addressed in witness evidence, with provision for supplemental evidence in response to matters set out. However if R considers that it does require further particulars on this issue it is available for it to serve a request identifying with specificity what is required, and to apply for an Order from the Tribunal if the Claimant fails to respond adequately.

(4) Allegation as to intentionally making the Claimant homeless

83. I turn to the allegation as to Mr Siraj causing the Claimant to be made homeless. This was not an allegation raised in the First Claim, though again particulars should have been provided pursuant to the 20 June 2023 Order given the requirement to provide particulars of each alleged act of discrimination. The allegation is now that it occurred in May 2023 and previously, though the previous allegations are not particularised. The basis on which R is alleged to be responsible for the Claimant being made homeless remains obscure. The allegation appears to be that “Muslim Metropolitan Police” gave the Claimant’s visa to wherever he went to stay. However the only matter put forward as indicating that the Claimant’s involvement appears to be the comments he is alleged to have made in May 2022 as to having him deported. I do not accept that provides any proper basis for an inference that R is behind the Metropolitan Police and local authorities and/or landlords allegedly making the Claimant homeless. In all I do not consider that there is any reasonable prospect of success on this allegation (which I note was also made against several previous employers). I conclude that the appropriate course is to strike out the allegation on that basis.

Conclusion

84. Accordingly other than as set out in the Judgment, I have not struck out the Claimant’s claims. That should not be taken by the Claimant as an indication that I have found they are likely to succeed, as opposed to reflecting the limited circumstances in which it is appropriate to make a strike out order prior to a hearing on the merits. He should also aware that claims may yet be struck out should there be further non-compliance with Orders of the Tribunal or unreasonable conduct of the proceedings.

Employment Judge J Lewis KC

Date: 2 January 2024

Judgment sent to the parties on:

17 January 2024

FOR THE TRIBUNAL OFFICE: