EMPLOYMENT TRIBUNALS

Claimant:	**Mr A Soyege**
Respondent:	**Solicitors Regulation Authority Limited**
Heard at:	**Birmingham**
On:	**7 February 2025**
Before:	**Employment Judge Flood** **Mrs Shenton** **Mr Schofield**

Representation

Claimant:	**No attendance or representation**
Respondent:	**Mr Kennedy (Counsel)**

RESERVED JUDGMENT ON COSTS

The unanimous judgment of the Tribunal is that the respondent's application for costs against the claimant succeeds. The respondent is awarded and the claimant is liable to pay the sum of **£20,000** towards the legal costs of the respondent.

REASONS

Background and relevant facts

1. By claim forms presented on 10 August 2020, 11 January 2021 and 8 December 2021, the claimant brought various complaints against the respondent, including direct age, race and disability discrimination; indirect disability discrimination; failure to make reasonable adjustments; age, race and disability related harassment and victimisation. The respondent presented its response to the first of those claims on 2 October 2020 and in that response contended that the Tribunal did not have jurisdiction to consider the complaints and that they had no reasonable prospects of success. The respondent submitted a response to the second claim on 12 April 2021 and on 22 April 2021, the respondent's solicitors wrote to the claimant making a complaint about the excessive amount of e mails he was sending. The respondent made an application to the Tribunal on 27 May

2021 for the claims to be struck out on the basis that the manner in which the claimant was conducting his case was vexatious, unreasonable and disruptive and/or that the claims had no reasonable prospect of success.

2. A preliminary hearing took place before Employment Judge Wedderspoon on 22 July 2021 during which the following comments were made about the claimant's conduct,

"The respondent raised concerns about the very regular voluminous correspondence sent by the claimant to the respondent's solicitor which was disproportionate and unnecessary and the serious allegations regularly made against the respondent's solicitor suggesting she was dishonest. The Employment Judge alerted the claimant to the fact that the overriding objective was at the cornerstone of all the work in the Employment Tribunal. Acting proportionally and reasonably was an expectation of Tribunal litigation. Where a party acted disproportionately it may be deemed unreasonable resulting in a strike out of a party. Further allegations of dishonesty towards a legal professional were extremely serious allegations which should not be made casually or without direct compelling evidence. Any party making such allegations without corroboration could be considered to be acting unreasonably and face the sanction of a strike out. The claimant assured the Tribunal that he did not have any further correspondence to send to the respondent and no longer wished to make allegations of dishonesty against the respondent's solicitor."

3. The respondent submitted its response to the third claim on 10 January 2022, and on 24 January 2022 wrote to the claimant stating that it considered his claims to have no reasonable prospects of success and that he was conducting then in a vexatious, unreasonable and disruptive manner. This letter stated that if the claimant was unsuccessful, that an application for costs would be made against him and referred him to the relevant provisions of the then Employment Tribunal Rules of Procedure dealing with costs and setting out what a Tribunal would take into account in determining such an application (including the financial means of the paying party). It set out in detail what the issues were with the merits of the claim and the conduct of the respondent and informed him that at that time the sum of £10,759.50 plus VAT had been incurred with a further £5,000 plus VAT likely to be incurred just to get to the next preliminary hearing. It stated that no costs application would be made if the claims were withdrawn and suggested that the claimant seek legal advice.

4. A further preliminary hearing took place on 16 February 2022 before Employment Judge Dimbylow. At the hearing, further note was made regarding the claimant's conduct as follows,

"I drew to the claimant's attention the fact that it was very unhelpful to all concerned when he made wide sweeping allegations about the conduct of his opponents and their advisers which on the face of it were unsupported by any evidence. Similarly, it was unhelpful to bombard the respondent with numerous irrelevant emails. The same applies to the number of emails that the claimant has sent recently to the tribunal office which I understand numbers over 100 since December 2021. The claimant presented as muddled and disordered, and I was very concerned about this in case it pointed to an underlying problem. I canvassed with him whether he was affected by any form of distress, including any mental distress or mental health condition; but he said that was not the case."

5. On 7 March 2022, the respondent applied to strike out the third claim, again on the basis of prospects of success and the claimant's conduct. At a public preliminary hearing before Employment Judge Meichen on 15 and 16 March 2022 complaints of unfair dismissal, wrongful dismissal and breach of contract were struck out under Rule 37 of the ET Rules on the basis of no reasonable prospects of success because the claimant was not (and did not allege to be) an employee of the respondent. The complaints of direct discrimination, harassment and victimisation insofar as they related to an allegation that the respondent imposed restrictions on the claimant's practicing certificate were also struck out under rule 37 on the basis that there was no reasonable prospect of the Tribunal having jurisdiction to hear them. The final list of issues to be determined was recorded and again comment was made about the way the claimant was conducting himself, namely.

   "As has been noted by myself and other Judges previously the claimant has sent an excessive number of lengthy but irrelevant emails to the Tribunal and the respondent. As an example the respondent told me they have received 175 emails from the claimant since the last hearing on 16 February and 75 in the week leading up to this hearing. This volume of correspondence is unhelpful to everyone including the claimant. I explained to the claimant that this approach must stop and he should only write to the tribunal or the respondent where he has been directed to do so by the tribunal or where it is necessary to do so to deal with a matter relevant to this claim. Any correspondence should be concise and long email chains should not be attached unless directly relevant. "

   And further:

   "Like EJ Dimbylow (see paragraph 43 of his Order) I was concerned by the claimant's presentation, both at the hearing and in writing. I often found it difficult to follow the points he was making. I enquired if there was any issue affecting the claimant which the tribunal might need to be aware of so that adjustments could be made. The claimant assured me the only adjustment he requires is large print (size 16)."

6. The respondent presented an amended grounds of response and made a further strike out application on 29 April 2022 on the basis of non-compliance with Tribunal orders and "*unreasonable, vexatious and disruptive conduct*". The matter came before Employment Judge Meichen again on 20 January 2023. The Tribunal that the claimant had failed to comply with the Tribunal's order of 18 March 2022 and that the manner in which the claimant was conducting the proceedings was unreasonable, in particular because of his e mail correspondence. He decided not to strike out the claim because there could be a fair hearing and the parties had almost completed the preparation and it would not be proportionate to do so.

7. The final hearing took place over 6 days between 6 and 13 March 2023 before this Tribunal. The bundle of documents before the Tribunal was 6 volumes in hard copy containing 5,883 pages. The claimant raised a number of issues about documents he felt had been omitted from the Bundle during the course of the hearing, which had already been extensively in correspondence. He also made applications to admit documents at various points. These were addressed as they came up with the respondent providing additional documents to try and address matters as much as they could. All the remaining complaints made by the claimant were dismissed by way of a judgment and written reasons (a

document of 115 pages) sent to the parties on 12 June 2023. The majority of the complaints before the Tribunal were dismissed because the Tribunal had no jurisdiction to hear them with the remainder being not well founded. The Tribunal made several findings of fact about the large number of e mails sent to the respondent's employees who were dealing with matters relating to the claimant. We found that the claimant sent a constant barrage of e mails during an investigation conducted in 2015/6 with some of the e mails being offensive in nature, copying large numbers of irrelevant e mail addresses and being sent from various e mail addresses.

8. On 10 July 2023, the respondent made an application for a costs order and on 21 July 2023 sent a detailed schedule of costs which at that stage totalled £96,499 plus VAT. Its application was restricted to the maximum amount of unassessed costs that could be awarded under the rules then in place.

9. Since the judgment was issued, the Tribunal also received a significant amount of e mail correspondence from the claimant. Many of the e mails were confused and incoherent at times and it was difficult to ascertain precisely what the claimant was seeking from the Tribunal in such e mails. The claimant made an application for reconsideration which was refused by way of a decision sent to the parties on 6 July 2023. There were suggestions in the correspondence that the claimant has made an appeal to the Employment Appeal Tribunal. It took some time for these very many e mails to be considered and on 6 June 2024, the Tribunal wrote to the parties and asked the respondent to confirm whether the costs application was still pursued. The claimant again sent many e mails to the Tribunal after this time the purpose of which was unclear and the Tribunal was again unable to ascertain what was being asked for. The respondent confirmed on 20 June 2024 that its costs application was still pursued.

10. The Tribunal wrote to the parties on 26 June 2024 stating that a hearing would be listed but asked for views on the mode of that hearing. The final hearing had been listed in person because the claimant at the time lived in Sweden and would not be able to give his evidence remotely from Sweden. There were also some expressed difficulties with use of the CVP system. It was suggested that it would seem to be in the interests of justice for the hearing for costs to be listed in person and the parties were asked to provide their comments on this proposal. The claimant was also asked to inform the Tribunal whether he was still living abroad and whether he intended to give evidence at the costs hearing. The respondent agreed to the matter being listed in person. The claimant does not appear to have provided any response to the question he was asked.

11. The matter was listed to be heard and on 19 September 2024 the parties were sent a notice of a costs hearing to take place on 7 February 2025. That notice informed the parties that the hearing would take place at the Midlands West Employment Tribunal at its address Centre City Tower, 5-7 Hill Street, Birmingham West Midlands, B5 4UU and would start at 10am. It informed the parties that any written representations should be sent at least 7 days before the hearing.

12. Between 17 October 2024 and 29 January 2025, the claimant sent at least 40 e mails to the Tribunal many of them forwarded e mails with very large attachments. Again the content of such e mails was confused with the claimant making reference to EAT appeals, disclosure applications, subject access requests and freedom of information applications. The claimant suggested that

his computer was being hacked and appear to be suggesting that the costs application involved fraud.

13. In addition to the claims that this Tribunal heard, the claimant presented further claim forms in 2022 and 2024 under case numbers 1307884/2022, 1308608/2022 and 1300342/2024. Those claims were struck out by a judgment of Employment Judge K Wright sent to the parties on 21 October 2024 on the basis that they had no reasonable prospects of success.

14. On 26 December 2024 the claimant e mailed the Tribunal specifically referencing the costs application but then going on to make representations about fraud and negligent misrepresentation. He sent further written representations on 28 January 2025 stating that he denied everything in the cost bundle. This e mail mentioned that he was "homeless".

15. It is clear that the claimant was also continuing to send e mails to the respondent's representative and on 6 January 2025, the respondent's representative responded to the claimant asking him to refrain from sending "unsolicited and unnecessary correspondence". Further e mails were sent on 23 January 2025 where it appears that the claimant accused the respondent's representative of accessing his e mail account and retrieving and changing documents to pretend they were from the claimant.

16. The matter came before this Tribunal today. The claimant was not in attendance at the time the hearing was due to start at 10:00 a.m. No contact had been made by the claimant explaining non attendance or indicating that he was unable to attend. The Tribunal clerk made an attempt to contact the claimant by telephone on the number shown on the file documents, but was unable to get through. The Tribunal waited for a period to see if any contact would be made and in the interim read the skeleton argument of the respondent. The hearing started at 10:50 a.m. and by this time the claimant was still not in attendance. The Tribunal heard submissions from the respondent's representative and asked some questions about this. The Tribunal then decided to adjourn the hearing for a reserved judgment and reasons to be provided to the parties in writing. The reason for this was to enable the claimant to fully understand the decision and why it would be reached, given his non-attendance. The respondent did not object to this course of action and the hearing was then adjourned at 11:20 am.

17. At approximately 11:50 am, whilst the Tribunal was still deliberating, the Tribunal clerk informed it that the claimant had just arrived and wanted to address the Tribunal. The claimant informed the clerk that he had gone to the wrong building. However as the hearing had since been concluded, and the respondent and its representative had left, it was not possible for the Tribunal to the hear from the claimant. The Tribunal clerk informed the claimant that the decision and reasons of the Tribunal would be sent to him and at that time he would be provided with information about what steps he could take if he disagreed with the decision.

18. We had before us the following:

    18.1. Bundle of documents for costs hearing running to 410 pages;

    18.2. Skeleton argument prepared by Mr Kennedy on behalf of the respondent;

The Issues

19. The issues which needed to be determined were:

19.1. Had the claimant acted vexatiously, abusively, disruptively, or otherwise unreasonably in either the bringing of the proceedings or the way the proceedings have been conducted (within rule 74 (2) (b) of the ET Rules?

19.2. Did the claims made by the claimant have "no reasonable prospects of success" (within rule 74 (2) (b) of the ET Rules?

19.3. Should, in the Tribunal's discretion, a costs order be made?

19.4. If so, how much should be awarded?

The relevant law

20. References to rules below are to rules under **the Employment Tribunal Procedure Rules 2024 ("the ET Rules")** which came into force on 6 January 2025 and largely replace the procedural rules found in the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

21. Rule 73 provides:

(1) A costs order is an order that a party ("the paying party") make a payment to—
(a) another party ("the receiving party") in respect of the costs that the receiving party has incurred while legally represented or while represented by a lay representative

22. Rule 74 provides:

(1)The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under rule 73(1)(b), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(2) The Tribunal must consider making a costs order or a preparation time order where it considers that—

(a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings, or part of it, or the way that the proceedings, or part of it, have been conducted,

(b) any claim, response or reply had no reasonable prospect of success, or

(c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.

(3) The Tribunal may also make a costs order or a preparation time order (as appropriate) on the application of a party where a party has been in breach of any order, rule or practice direction or where a hearing has been postponed or adjourned.

23. Rule 75 provides:

(1) A party may apply for a costs order or a preparation time order at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

(2) The Tribunal must not make a costs order or a preparation time order against a party unless that party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order).

24. The relevant part of rule 76 provides:

"*A costs order may order the paying party to pay-*
(a) the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;…."

25. A Tribunal must ask whether a party's conduct falls within rule 76(1)(a) or (b) (now rules 74 (2) or (3)). If so, the Tribunal must then go onto ask whether it is appropriate to exercise the discretion in favour of awarding costs against that party. It is only when these two stages have been completed that the tribunal may proceed to the third stage, which is to consider the amount of any award payable.

26. **Gee v Shell UK Limited [2003] IRLR 82.** The Court of Appeal confirmed that that costs are the exception rather than the rule and that costs do not follow the event in Employment Tribunals.

27. Litigants in person usually should be judged less harshly in terms of their own conduct than those who are professionally represented: **AQ Ltd v Holden [2012] IRLR 648 EAT**. However see **Barton v Wright Hassall LLP [2018] 1 WLR 1119 UKSC**

28. **Scott v Russell [2013] EWCA Civ 1432**, approved the definition of "vexatious" in **Attorney General v Barker [2000] 1 FLR 759**, as having no basis in law (or at least no discernible basis) and:

"*that whatever the intention of the proceedings may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any likely gain to accrue to the claimant, and that it involves an abuse of the process of the court, meaning that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process"*

29. **Barnsley Metropolitan Borough Council v Yerrakalva [2012] ICR 420** - "*The vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case, and in doing so to identify the conduct, what was unreasonable about it and what effects it had.*"

30. **Dyer v Secretary of State for Employment** -whether conduct is unreasonable is a matter of fact for the tribunal; unreasonableness has its ordinary meaning and should not be taken by tribunals to be the equivalent of vexatious. This was accepted by the Employment Appeal Tribunal in **National Oil Well Varco v Van**

der Ruit UKEATS/0006/14/JW.

31. **McPherson v BNP Paribas [2004] ICR 1398 [40], [41**] – The Court of Appeal held that (the then) r14(1) did not require a party to prove that unreasonable conduct caused particular costs to be incurred, but required the tribunal to have regard to the nature, gravity, and effect of the unreasonable conduct when determine whether to exercise their discretion to award costs. The Court of Appeal further held, it is not punitive or impermissible for a tribunal to order costs without confining them to the costs attributable to the unreasonable conduct. In **Sunuva Ltd v Martin UKEAT/0174/17** at [22] the Employment Appeal Tribunal expressed the view that this is still the position under the ET Rules.

32. **Scott v Inland Revenue Commissioners [2004] ICR 1410, CA** in addressing rule 76 (1) (b) the focus should be on whether claims had a "reasonable prospect of success" and whether the Claimant had reasonable grounds for believing that they did and a genuine belief in wrongdoing is irrelevant

33. **Radia v Jefferies International Ltd EAT 0007/18**, the test as to whether the claim had no reasonable prospects of success must be judged on the basis of the information that was known or reasonably available at the start of proceedings.

34. **Hamilton-Jones v Black [2004] UKEATS/0047/04 –** the test on determining whether a claim had any reasonable prospect of success is an objective one.

35. **Kovacs v Queen Mary & Westfield College [2002]IRLR 414 –** the EAT quoted with approval the judgment of the Tribunal,

    "It does not appear, on the face of the relevant Regulations, that it was intended that poor litigants may misbehave with impunity and without fearing that any significant costs order will be made against them, whereas wealthy ones must behave themselves otherwise an order will be made."

36. **Jilley v Birmingham and Solihull Mental Health NHS Trust UKEAT/0584/06/DA,** - if a Tribunal decided not to take account of the paying party's ability to pay, it should say why. If it decides to take into account ability to pay, it should set out its findings about ability to pay, say what impact this has had on its decision to award costs or on the amount of costs, and explain why. There may be cases where for good reasons ability to pay should not be taken into account: for example, if the paying party has not attended or has given unsatisfactory evidence about means. There are also circumstances, for example, where a claimant is completely unrepresented, where, in the face of an application for costs, the tribunal ought to raise the issue of means itself before making an order: **Doyle v North West London Hospitals NHS Trust [2012] All ER (D) 205 (Jun) (UKEAT/0271/110).**

37. **Sumukan (UK) Ltd v Raghavan EAT 0087/09,** in relation to 'unassessed costs' in making an award of a sum a Tribunal must state:

    (i) on what basis, and in accordance with what established principles, it is awarding any sum of costs;

(ii) on what basis it arrives at the sum; and

(iii) why costs are being awarded against the party in question.

Conclusion

38. We have started by considering whether any of the 'gateway' tests within Rules 74 (2) (a) and/or (b) had been met, before going on to consider the second and third stage of whether it was appropriate to make a costs award and if so how much that award should be.

Issue 19.2 - Did the claims have 'no reasonable prospects of success (rule 74 (2) (b))?

39. To answer this question, we had to consider how at the earlier point of bringing the claims, the prospects of success in a trial that was yet to take place would have looked to determine whether those claims had reasonable prospects of succeeding. We can consider any information gained or evidence that may cast light on that question, but must ignore information or evidence which would not have been available at that earlier time.

40. We accept the submissions of the respondent that the claims were "baseless from the outset, and doomed to fail". The claimant knew or objectively should have known that the complaints had no reasonable prospects from the outset, particularly as although a litigant in person he is also a qualified solicitor. The large majority of his claims were either struck out or dismissed for lack of jurisdiction. This was set out very clearly by the respondent to the claimant from the outset of his claims in its responses submitted (see paragraphs 1 and 3 above). The responses mentioned the possibility of a costs application being made and in January 2022 a clear costs warning letter was sent to the claimant. We acknowledge that when the respondent applied to have the claims struck out, it was only partially successful and a number survived to final hearing. However we note that given the acknowledged guidance from case law on strike out that discrimination claims often require a Tribunal to hear evidence to determine what the reason for treatment is, strike out on such matters is done on relatively infrequent occasions. The allegations made by the claimant were no more than bare assertions with nothing to support them, so objectively had no reasonable prospect of success. He was unable to raise a prima facie case of discrimination such as to cause the burden of proof to shift to the respondent to explain any of the treatment with many of the claims simply being about decisions made against the claimant and the claimant possessing protected characteristics. Indeed the claimant was unable to show that one of the protected characteristics relied upon, i.e. disability even applied to him. The claimant was in possession of clear documentary evidence explaining why decisions were made but still persisted again and again in saying that discrimination was the motive. Such complaints never had any reasonable prospect of succeeding.

Issue 19.1 - Did the claimant act vexatiously, abusively, disruptively, or otherwise unreasonably the way the proceedings have been conducted (74 (2) (a))?

41. The next question is whether the claimant acted vexatiously, disruptively or unreasonably in the conduct of the proceedings. We have considered the guidance of the authorities above and have taken the ordinary meaning of the word 'unreasonable'. We did not hesitate to find as a fact that the claimant's

conduct was unreasonable. Matters of the claimant's potentially unreasonable conduct were raised with him by Employment Judge Wedderspoon in July 2021 (see paragraph 2 above); by Employment Judge Dimbylow in February 2022 (see paragraph 4) and by Employment Judge Meichen in March 2022 (see paragraph 5). Employment Judge Meichen made an express determination that the claimant was conducting proceedings in an unreasonable manner in his judgment following the hearing on 20 January 2023 (see paragraph 6). Despite these clear warnings and express findings, the claimant persists with his practice of sending very many lengthy and difficult to follow e mails with numerous irrelevant attachments to the respondent, the Tribunal and it appears the Employment Appeal Tribunal. The time taken to sift through, try and interpret and respond to such e mails is significant and out of all proportion to what is being raised.

42. In addition, the claimant continued to make very serious unfounded allegations of misconduct against the respondent and its legal representatives. The claimant was again warned against such activities by the Judges he has appeared before, but he continues unabated. We agree with the submissions of the respondent that it is hard to think of a case so clear cut where the conduct has been so poor. The respondent suggests that this is clearly unreasonable even for a litigant in person who is given some leeway, but when viewed through the prism of the claimant being a qualified solicitor who remains on the roll and is an officer of the court, then this is even more unacceptable.

43. The effect of the claimant's unreasonable and indeed vexatious and disruptive conduct is abundantly clear when the schedule of respondent's costs incurred. The sums the respondent had to spend on legal costs on dealing with one claimant are high, but we do not consider the amounts spent were excessive given the number of complaints and nature of allegations made and the way in which the claimant was conducting litigation. We conclude that the manner in which the claimant brought and pursued his claims has led to costs being incurred which amount to a sum way in excess of the £20,000 claimed for in this costs application. Many thousands of pounds of costs were incurred solely as a result of the claimant's unreasonable and vexatious conduct. The claimant has been on notice of this issue from early in the proceedings when the respondent informed it of the level of costs already incurred and which were likely to be incurred even to the stage of a preliminary hearing.

Issue 19.3 - Should a Costs Order be made?

44. Having found that the conduct of claimant fell within rules 74 (2) (a) and (b) the Tribunal had to then go onto ask whether it is appropriate to exercise the discretion in favour of awarding costs against him.

45. In considering whether a costs order should be made, we conclude that this behaviour of bombarding the respondent with irrelevant e mails and making many serious allegations about conduct caused significant unnecessary cost. The claims themselves had no reasonable prospect of succeeding and the respondent was put to significant cost and expense, including several preliminary hearings and a 6 day final hearing in defending these unmeritorious claims. Therefore, we concluded it is appropriate to exercise our discretion to award costs. We are aware of the authorities regarding costs being the exception rather than the rule, but we find that this case is indeed an exceptional case where the bringing of these claims with no reasonable prospect of succeeding and involving

conduct that was vexatious and so unreasonable as to merit an award of costs. We have considered whether there is anything to mitigate the position taking into account the observations about the way the claimant has presented and the concerns expressed by various judges about his health and wellbeing. However the claimant has been asked on a number of occasions whether he did have any health matters that required adjustments to be made, but the only one he has requested related to the font size on judgments and orders. The claimant was unable to show on the balance of probabilities that he was a disabled person at the relevant time for any health condition. Whilst the claimant is a litigant in person, he is also a solicitor. The pursuance and vexatious continuation of so many weak and repetitive allegations must have been clear to the claimant, irrespective of his status. The claimant is an intelligent and educated man who must have had some insight into the very significant challenges with the validity of his own claims. The impact on the respondent in terms of the sums spent in dealing with his unmeritorious complaints cannot be justified and requires that the respondent be compensated in some manner. It is therefore appropriate for the Tribunal to exercise its discretion to make an award of costs.

How much should be awarded?

46. In terms of how much should be awarded by way of a costs order against the respondent, we are firstly satisfied that the sums shown in the schedule of costs were validly incurred given what we have highlighted above. The fees were not excessive and the respondent has taken the measured approach of limiting its application to £20,000 when it could have made an application for a award to be made for the full amount based on a detailed assessment.

47. The claimant has provided no information at all about his means or ability to pay any costs award. He has been aware of this costs application since it was made in July 2023 (see paragraph 8 above). Since the matter was listed for hearing in September 2024, the claimant has had ample opportunity to provide information to the respondent and the Tribunal relevant to the application. The only brief reference to his situation is made in December 2024 when he says he is homeless. As far as this Tribunal is aware the claimant still resides in Sweden but his living arrangements and financial position are unknown. We take note of the guidance of the authorities above that the Tribunal may take account of ability to pay but is not obliged to do so. We also accept the submissions of the respondent that it is incumbent on the potential paying party to give some information about his means so that the Tribunal can take this into account. The claimant has engaged in some manner with the Tribunal since the costs hearing was listed including attending hearings on his other claims. He effectively chose not to provide information on means to assist the Tribunal.

48. We note that the claimant remains on the roll of Solicitors albeit he does not have a practising certificate (indeed this is the basis of his very many complaints). However the claimant has practised in the past and remains a qualified lawyer with at least the potential for earnings in this field. The claimant raised health issues throughout in relation to his partial sight although we were unable to find that he met the definition of being a disabled person under the Equality Act 2010.

49. We were therefore in conclusion unable to take any information about the claimant's means into account as we did not have any such reliable information to affect this consideration. We conclude that making an award of the amount

sought which is just under one sixth of the total spent is reasonable, proportionate and fair.

50. For those reasons, we made the Order as sought in favour of the respondent and order that the sum of £20,000 is paid by the claimant by way of costs under rule 76 (1) (a) of the ET Rules.

Employment Judge Flood

Approved on 7 February 2025

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