



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Whiting

**Respondent:** Scrivens Limited

## RECORD OF A PRELIMINARY HEARING

**Considered at:** Birmingham (by video) **On:** 13 August 2025

**Before:** Employment Judge Robin Broughton

## RELIEF FROM SANCTION / RECONSIDERATION JUDGMENT

1. At a hearing on 4 March 2025 I made the following orders:
2. **Unless** the claimant provides **all** of the following by **3 April 2025**, in relation to his alleged pre dismissal disclosures, the details of each alleged disclosure relied on including
  1. The specific disclosed “information”
  2. What was said to whom
  3. Why he believed it tended to show that a person had failed, was failing or was likely to fail to comply with any legal obligation?
  4. What obligation?
  5. Why he considers that belief was reasonable?
  6. Why he says it was made in the public interest?

He will be debarred from relying on that particular alleged disclosure and, if they all remain unparticularised (as required above) his claim of automatically unfair (whistleblowing) dismissal will stand dismissed without further order.

3. **Unless** the claimant provides **all** of the following, by 3 April 2025, in relation to his alleged disclosure on 24 December 2024 the details of each alleged disclosure relied on within that correspondence including

1. The disclosed information
2. Why he believed it tended to show that a person had failed, was failing or was likely to fail to comply with any legal obligation?
3. What obligation?
4. Why he considers that belief was reasonable?
5. Why he says it was made in the public interest?

His claim of whistleblowing detriment will stand dismissed without further order.

4. **Unless** the claimant provides by **3 April 2025** full disclosure of his mitigation documents, including all documentation regarding his various jobs since leaving the respondent (applications, offers, contracts, payslips etc) and, at least, summary sheets from recruiters (not generated by him) of all other applications, his claim of unfair dismissal will stand dismissed without further order.
5. The claimant is required to pay a **£200 deposit by no later than 30 April 2025** in order to proceed with his automatically unfair dismissal complaint.
6. The claimant is ordered to pay a **£200 deposit by no later than 30 April 2025** in order to proceed with his whistleblowing detriment complaint.
7. The claimant failed to comply with any of the above.
8. As a result, his claims for protected disclosure detriment and dismissal stood dismissed on 3 April 2025 for failure to comply with the unless orders.  
**Unfortunately, it appears that the parties were not given specific notice of this under rule 39, so this judgment constitutes such notice.**
9. For the avoidance of doubt, his claim in relation to 3 weeks' unpaid notice pay remains.
10. I have considered the claimant's various correspondences over the intervening months, which I have only recently received, and treated them as an application for relief from sanction.
11. However, I do not grant such relief.
12. The claimant had repeatedly been ordered to provide the information required, by myself and 2 other judges, with a full explanation, over 4 preliminary hearings, yet had repeatedly failed to do so, despite considerable assistance from myself.
13. I remind myself of my previous orders and concerns that the claimant either didn't know what his claims were and/or appeared to be making them up as he went along.
14. I was aware of the claimant's holiday when making the order, having originally considered 2 weeks for compliance and granted an extension accordingly.

15. Moreover, whilst it appears that the claimant subsequently requested an additional week, he did not provide the requested information within that timeframe, nor, to the best of my knowledge, has he done so since. Accordingly, it would not be in the interests of justice to grant such relief and would seriously prejudice the respondent who has been requesting the information for over a year.
16. Even if I were wrong on that and there was some genuine confusion on the part of the claimant, despite him being of considerable intelligence and ability, having been the Head of HR for a large national opticians, he failed to pay the deposits ordered.
17. The suggestion that this was because he genuinely believed that he could get government help to pay this under the “Help with Fees” scheme, I do not accept because
  - a. The help with fees scheme does not apply to employment tribunals
  - b. It certainly does not apply to deposit orders
  - c. It would utterly defeat the purpose of a deposit order, of which the claimant was aware, were such help available
  - d. My order and the notes attached made it very clear that the payment had to be made by the claimant, the only ways to make it, and the consequences of not doing so.
18. The claimant was well aware of the need to pay the deposits, the reasons for them and the resulting risk on costs of pursuing his claims. I considered his alleged means, despite the lack of evidential support and extended the time for payment, as he was in alternative work, was expecting a significant pay rise and would have had the funds by the end of April 2025.
19. Considering the whole history of this matter it seems to me more likely that the claimant’s actions were obfuscation, deliberate or otherwise, rather than any genuine misunderstanding. They were, at the very least, an attempt to undermine the warning and deterrent effect of a deposit order.
20. In those circumstances, I do not consider that there is a reasonable prospect of the dismissal of the whistleblowing proceedings being varied or revoked, whether for failure to comply with the unless or deposit orders. As a result, the claims for detriment and dismissal because of alleged protected disclosures remain dismissed.

Employment Judge Broughton  
13 August 2025

## **NOTE ACCOMPANYING DEPOSIT ORDER**

1. The Tribunal has made an order (a “deposit order”) requiring a party to pay a deposit as a condition of being permitted to continue to advance the allegations or arguments specified in the order.
2. If that party pays the deposit and continues to advance the allegations or arguments specified in the order, but the Tribunal decides those allegations or arguments against that party for substantially the reasons given in the order, that party would then lose their deposit. In addition, the Tribunal might make an award of costs or preparation time against that party for unreasonably pursuing those allegations or arguments.

### **What happens if you do not pay the deposit?**

3. If the deposit is not paid the complaint or response to which the order relates will be struck out on the date specified in the order.

### **When to pay the deposit?**

4. The party against whom the deposit order has been made must pay the deposit by the date specified in the order.
5. If the deposit is not paid within that time, the complaint or response to which the order relates will be struck out.

### **What happens to the deposit?**

6. If the Tribunal later decides the specific allegation or argument against the party which paid the deposit for substantially the reasons given in the deposit order, that party shall be treated as having acted unreasonably, unless the contrary is shown, and the deposit shall be paid to the other party (or, if there is more than one, to such party or parties as the Tribunal orders). If a costs or preparation time order is made against the party which paid the deposit, the deposit will go towards the payment of that order. Otherwise, the deposit will be refunded.

### **How to pay the deposit?**

7. Payment of the deposit must be made by cheque or postal order only, made payable to HMCTS. Payments CANNOT be made in cash.
8. Payment should be accompanied by the tear-off slip below or should identify the Case Number and the name of the party paying the deposit.
9. Payment must be made to the address on the tear-off slip below.
10. An acknowledgment of payment will not be issued, unless requested.

### **Enquiries**

11. Enquiries relating to the case should be made to the Tribunal office dealing with the case.
12. Enquiries relating to the deposit should be referred to the address on the tear-off slip below or by telephone on 0117 976 3033. The PHR Administration Team will only discuss the deposit with the party that has been ordered to pay the deposit. If you are not the party that has been ordered to pay the deposit you will need to contact the Tribunal office dealing with the case.
13. You have the right to appeal against the decision to make a deposit order if you consider that the decision, or the amount ordered, is wrong in law. The time for appealing is 42 days from the date on which the deposit order was sent out in writing by the Tribunal. Details of how to appeal can be found here:

HMCTS Booklet T440:

<https://www.gov.uk/government/publications/how-to-appeal-to-the-employment-appeal-tribunal-t440>

The website of the Employment Appeal Tribunal:

<https://www.judiciary.uk/courts-and-tribunals/tribunals/employment-appeal-tribunal/>

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## **DEPOSIT ORDER**

**To:       Judicial Fees, Expenses and Payroll (JFEPs) Team  
             Magistrates' Court & Tribunal Hearing Centre  
             Marlborough Street  
             Bristol  
             BS1 3NU**

Case Number       \_\_\_\_\_

Name of party       \_\_\_\_\_

I enclose a cheque/postal order (*delete as appropriate*) for £\_\_\_\_\_