Neutral Citation Number: [2025] EAT 134

Case No: EA-2024-000811-AT

EMPLOYMENT APPEAL TRIBUNAL

Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 18 September 2025

His Honour Judge James Tayler

- -

Between :

Ms Elaina Cohen **Appellant**

- and -

Mr Khalid Mahmood MP **Respondent**

- -

MS ILKAY CETIN APPLICATION FOR DOCUMENTS

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JUDGMENT

His Honour Judge James Tayler:

1. Ms Cetin has applied for documents after having remotely attended a hearing held pursuant to Rule 3(10) of the **Employment Appeal Tribunal Rules 1993** (as amended) ("**EAT Rules**").

2. It is necessary to set out a little of the background. On 16 August 2025, Ms Cetin requested permission to attend the hearing remotely and asked to be provided with documents. She requested the ET1 (Employment Tribunal Claim Form), ET3 (Employment Tribunal Response Form), Notice of Appeal and Skeleton Arguments of both parties. Ms Cetin stated that she requested the documents because they "are standard public documents in appeal proceedings, necessary to understand the proceedings being observed". Ms Cetin did not provide any more detail.

3. Ms Cetin provided an address in London from which she proposed to attend. Ms Cetin has a long history of litigation in the Employment Tribunal, Employment Appeal Tribunal and Court of Appeal.

4. I understand that for some months Ms Cetin has been making similar applications on a regular basis that are taking up a considerable amount of judicial and administrative time.

5. So that the Employment Appeal Tribunal had the information necessary to consider the application for remote observation and for the provision of documents, Ms Cetin was required by an Order sealed on 19 August 2025 to provide a witness statement answering the questions set out in the Order supported by a statement of truth. The questions were:

> 1. Why do you wish to observe the hearing?
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> 2. Why do you seek permission to attend remotely?
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> 3. How many applications have you previously made to attend Employment Appeal Tribunal hearings remotely?
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> 4. How many applications have you made for documents for Employment Appeal Tribunal hearings?
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> 5. Have you deleted all copies of documents that have been provided in response to such applications and, if not, why not?
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> 6. Have you ever posted material obtained in Employment Tribunal or Employment Appeal Tribunal proceedings online; and, if so, why did you do so?

6. I gave brief reasons for making the Order:

> 1. Ms Cetin has applied to attend this hearing remotely and has sought copies of documents. The claimant has failed to comply with the requirement to make her application on Annex 2 of the **Employment Appeal Tribunal Practice Direction 2024** ("**EAT PD**"). Ms Cetin has not explained why she wishes to observe remotely.
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> 2. I have considered a number of applications that Ms Cetin has made for remote observation and to be provided with documents. I understand that she has made a large number of other such applications dealt with by other judges of the EAT. Dealing with these applications is taking up a considerable amount of administrative and judicial resources.
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> 3. Ms Cetin has not explained why she wishes to attend the hearing or why she seeks permission to attend remotely. Ms Cetin suggests that she has complied with the legal requirements under the **Remote Observation and Recording (Courts and Tribunals) Regulations 2022** ("**Remote Observations Regulations**"). She suggests that the EAT's requirements go beyond the requirements in the **Remote Observations Regulations**. Reg 3 of the **Remote Observations Regulations** requires that a court or tribunal must be satisfied that "it would be in the interests of justice to make the direction". Reg 4 of the Remote Observations Regulations requires me to take account of a number of factors, including "the safety and right to privacy of any person involved with the proceedings". It does not limit the factors that I may have regard to in assessing the interests of justice. The EAT is fully entitled to require information about matters in addition to those specific factors set out in Reg 4 of the **Remote Observations Regulations**.
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> 4. Having regard to the large number of applications for remote observation and for documents I consider it is necessary for Ms Cetin to provide the information requested in the above questions so that I can properly assess the interests of justice and seek to ensure the safety and right to privacy of any person involved with the proceedings are adequately protected.
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> 5. If there is a medical reason for the request to attend the hearing remotely Ms Cetin should explain the reason in the witness statement and provide supporting medical evidence.
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> 6. Once the questions have been answered the parties may be given an opportunity to comment if considered appropriate and practicable.

7. Ms Cetin responded objecting to the Order but answered some of the questions to an extent and provided a statement of truth. Ms Cetin answered question 1:

> I wish to observe public proceedings of the Employment Appeal Tribunal as is my constitutional right under the principle of open justice. The EAT is a public appeal court where proceedings should be accessible to all members of the public without requiring justification. As a student journalist, I have a particular interest in understanding how employment law operates in practice, especially in cases involving MPs and public officials.
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> Additionally, my interest in EAT proceedings partly stems from my own experiences as a litigant in this jurisdiction, which has given me insight into the importance of

> transparency in tribunal proceedings. I have also published articles analysing EAT decisions, including examining the reasoning and legal coherence of various judgments, which serves the public interest in judicial accountability.

8. Ms Cetin gave the following reason for her wish to attend remotely:

> Personal circumstances make physical attendance impractical.

9. Ms Cetin did not rely on any medical reason or provide any medical evidence to support her application to attend the hearing remotely.

10. In response to question 3, Ms Cetin stated:

> I have made four applications in the past fortnight. This question exceeds the statutory requirements of the 2022 Regulations. The number of lawful applications made by a member of the public to observe public proceedings is irrelevant to determining whether remote observation would be in the interests of justice for any specific hearing.
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> The characterisation of lawful applications to observe public proceedings as consuming "considerable administrative and judicial resources" is concerning. This burden is entirely self-imposed through the EAT's creation of elaborate procedures that exceed statutory requirements. Other jurisdictions, including the Court of Protection dealing with highly sensitive matters, process observation requests through simple email confirmation without consuming judicial time.

11. In response to question 4, Ms Cetin stated:

> I have made four applications for documents in the past fortnight. These applications were for documents necessary to understand proceedings I observe or intend to observe. Access to court documents is a fundamental aspect of open justice, recognised in numerous authorities including *Cape Intermediate Holdings Ltd v Dring* [2019] UKSC 38. This question similarly exceeds statutory authority and appears designed to deter legitimate document access.

12. The answers to questions 3 and 4 were partial, being limited to the previous fortnight. I understand that there have been a large number of such applications in the preceding months.

13. Ms Cetin did not state whether she had deleted documents obtained from previous hearings contending that she was under no obligation to do so.

14. In answer to question 6, Ms Cetin stated:

> I have published articles and commentary analysing EAT judgments, including critical analysis of judicial reasoning and decision-making. This includes analysis of decisions authored by Judge Tayler. This is standard journalistic practice and a fundamental aspect of open justice, press freedom, and judicial accountability.
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> The publication of analysis and commentary on judicial proceedings serves the vital public interest in transparency and accountability of the justice system. I am under no

> legal obligation to seek permission for any lawful publication about proceedings I observe or analyse.
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> This question, like the others, appears to use a specific observation application to conduct a general investigation into my journalistic activities. The 2022 Regulations provide no authority to interrogate observers about their publication history as a condition of observing future proceedings. Such interrogation creates an obvious chilling effect on court reporting and judicial accountability, particularly when directed at a journalist who has published critical analysis of the interrogating judge's decisions.

15. Ms Cetin did not state whether she had published any documents that she has obtained from previous hearings on the internet.

16. Ms Cetin has variously described herself as a journalist and student journalist but has not stated where she is studying, the publication(s) for which she writes, where her writings are published or provided any journalistic credentials, contending that there is no obligation on her to do so. Ms Cetin has referred to a Blog but not provided any details.

17. By an order sealed on 20 August 2025, I granted permission for Ms Cetin to attend remotely but refused the application for documentation:

> 5. While I permit remote attendance I refuse the application for documents.
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> 6. In the witness statement produced in response to the Order sealed on 19 August 2025 the claimant describes herself as a student journalist. She did not so describe herself in the original application. She has not stated where she is studying journalism or provided any journalistic credentials. Ms Cetin refers to having "published articles and commentary analysing EAT judgments" but does not state the publication(s) in which the articles have appeared.
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> 7. In her witness statement the claimant has not answered the question whether she has "posted material obtained in Employment Tribunal or Employment Appeal Tribunal proceedings online" (i.e. pleadings or documents). Ms Cetin has brought numerous proceedings in the Employment Tribunal and the Employment Appeal Tribunal. In an Order sealed on 24 May 2024 I certified appeals EA-2022-001012- RN & EA-2023-000271-RN as totally without merit. In my reasons I recorded that:
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> > "4. In my preparation for the four hearings listed today I have noted the written submission made by the respondent in appeal EA-2023- 000224-RN to which are attached materials that the claimant has put on the internet that make outrageous accusations against those involved in these proceedings including judges and include a photograph of a judge. I consider the apparent misuse of material from legal proceedings provides further support for my view that an in-person hearing was appropriate."
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> 8. As far as I am aware that decision was not challenged.

> 9. Ms Cetin had sought to appeal against an earlier decision of HHJ Auerbach in the proceedings. In refusing permission to appeal Lord Justice Bean certified one of the appeals as totally without merit and recorded that:
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> > "Ms Cetin's skeleton argument of 23 October 2023 tells me that "there have been about 30 hearings at the ETs and at the EAT (in her case) and that "all of the decisions and judgments contain false information, all of which are detrimental to me". She describes her former employers as "hateful" and guilty of "lies, extreme racism and hostility" all of which "were covered up and/or justified in judgments". She is exhibiting the classic signs of a vexatious litigant."
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> 10. I have been prepared to grant remote observation even though the claimant has not asserted any medical reason why she cannot attend in person having had regard to the undertaking she has given. In the light of the limited answers that Ms Cetin has provided to the questions asked in the Order sealed on 19 August 2025 I am not prepared to order that she be provided with the documents that she has requested. If a member of the public attends a hearing they may be permitted to view documents but generally will not be permitted to take the documents away. The claimant has given an address in London from which she wishes to observe remotely. She has not provided any reason why if she wishes to view the documents she could not attend to view the documents (which she would not be permitted to retain) during the hearing.

18. The Rule 3(10) hearing proceeded on 20 August 2025. I understand that Ms Cetin observed remotely although she did not have a camera on. Ms Cetin did not take the opportunity to attend the hearing and view documents without taking copies.

19. Only two relatively brief points were advanced by the appellant at the Rule 3(10) hearing. The application was refused for the following reasons (I have directed that the Order dismissing the Rule 3(10) application be provided to Ms Cetin):

> 1. In a liability judgment, sent to the parties on 2 August 2022, the claimant succeeded in a complaint of unfair dismissal and one complaint of detriment, "marginalised and isolated in the period January 2020 until her dismissal", done on the ground that the claimant had made a protected disclosure. So far as is relevant to this appeal complaints of automatic unfair dismissal on the basis that the reason, or principal reason, for dismissal was the making of a protected disclosure and a complaint of detriment, "sustained aggressive and bullying treatment at the hands of the respondent, including threats of dismissal", done on the ground that the claimant had made a protected disclosure, were dismissed.
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> 2. The claimant appealed. HHJ Shanks held that the finding that:
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> > 311. The Claimant does not in her witness statement set out the wording of any threat of dismissal or say in clear terms that on a particular date the Respondent threatened to dismiss her. We do not find therefore [on] balance of probabilities that he threatened her with dismissal.
> >
> > was inconsistent with the finding of fact at paragraphs 42 and 43

> 42. The Claimant says that the Respondent
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> > "went ballistic and accused me of lying. He accused me of making more trouble for Saraya Hussain because I was jealous. He said he would sack me because he had enough of my lies and attacks against Saraya Hussain."
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> 43. The Tribunal accepts the Claimant's account of the telephone conversation on 26 January.

3. HHJ Shanks remitted the matter to the Employment Tribunal for reconsideration of the detriment and automatic unfair dismissal complaints. HHJ Shanks Ordered:

> 2. Appeal EA-2022-000943-AT is allowed: in the light of paras 41- 43 of the Employment Tribunal's decision, para 311 cannot stand. The matter is therefore to be remitted to the same Employment Tribunal for them to reconsider (**without further evidence being required**) the conclusions at paras 313 and 327-328 of the decision and any other consequential matters. [emphasis added]

4. A two-day hearing was fixed to deal with the reconsideration and to assess remedy.

5. On reconsideration the Employment Tribunal revoked paragraph 311. The Employment Tribunal rejected the protected disclosure detriment complaint on the basis that, while there was a threat of dismissal, in the context of the peculiar relationship between the claimant and the respondent and the direct nature of the communication between them, the specifically asserted detriment of "sustained aggressive and bullying treatment" was not established.

6. The automatic unfair dismissal complaint was dismissed on the basis that the reason, or principal reason, for dismissal was not the making of a protected disclosure.

7. The Employment Tribunal then determined remedy.

8. The claimant seeks to appeal against the reconsideration and remedy judgment. The claimant raised two broad issues in her submissions.

9. Firstly, the claimant asserts that she was not allowed to raise issues about another asserted detriment and to question the respondent about why he did not investigate her protected disclosures. She also wished to raise asserted post dismissal detriment in relation to being trolled in an account that she thought was operated by the respondent.

10. In circumstances in which the remission was on such limited grounds and it was directed that no further evidence was required I cannot see any arguable error of law on the part of the Employment Tribunal. While a case management order was made that permitted the provision of witness statements their primary relevance was to remedy and such a direction could not alter the specific terms of the remission. I cannot see any arguable error of law in the grounds of appeal in respect of the specific matters that were remitted to the Employment Tribunal.

11. Secondly, the claimant contends that she believed that the remedy hearing would be on the second day of the two day listing and that she did not have a proper opportunity to prepare for the remedy hearing. A letter was sent to the parties on 26 March 2024 stating:

Employment Judge Adkin has acknowledged the slightly unconventional listing on a

> Friday and following Wednesday for this 2 day Reconsideration and Remedy Hearing on Friday 3 & Wednesday 8 May 2024. This is due to the very extensive dates to avoid provided by the Respondent and the need to avoid an unacceptable delay. **Employment Judge Adkin is hopeful that evidence and submissions can be concluded on Friday 3 May and therefore Wednesday 8 May is likely to be deliberation only.** [emphasis added]
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> 12. In the light of this direction there was no reasonable basis upon which the claimant could have assumed that the remedy hearing would be dealt with on the second day. Furthermore, the claimant has not set out what matters she would have raised if she had more time to prepare or how it would have made a difference to the remedy decision. I can see no arguable error of law in the decision of the Employment Tribunal.
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> 13. There are no reasonable grounds for bringing the appeal. The Rule 3(10) application is refused and the appeal dismissed.

20. After the hearing, Ms Cetin applied again for documents on 21 August 2025. She sought the ET1 and ET3 forms, the Notice of Appeal, the Answer, any skeleton arguments and the bundle index. The application largely consists of a criticism of my Order sealed on 20 August 2025 which Ms Cetin contends was unlawful and improper. Such challenges should properly be made by way of an appeal to the Court of Appeal. I do not consider that there is any material change of circumstances that would permit or require a variation to my Order sealed on 20 August 2025. That is a sufficient reason to refuse the application. In case I am wrong in that initial conclusion, I have also considered the application on the merits.

21. As requested by Ms Cetin the application and supporting documents were copied to the parties. By email dated 22 August 2025 the appellant agreed to Ms Cetin being provided with the documents, stating:

> Please give Ms Cetin any documents she wants . It was a public hearing and anything
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> I put in my bundles should be made available to the press. …
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> Once a judge has given an opinion. Even though based on lies nothing can change it .
>
> A journalist must be able to question why the law failed me as a whistleblower and victims of crime with the documents from a public hearing
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> Transparency in justice is everything . But where the law fails a public voice must be heard.

22. By email dated 11 September 2025, the respondent to the appeal objected:

> We can confirm the Respondent's instructions are to object to Ms Cetin's application for provision of documents used in the Hearing. It is noted that Ms Cetin was not refused access to the documents, and was in fact given the opportunity to attend to view the documents. She elected to attend remotely.
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> Further, whilst Ms Cetin has set out various reasons as to why the documents should be disclosed to her, and her criticism of the decision made, it is not clear (and not clearly explained) how granting access to the documents will advance the open justice principle. It is also unclear for what purpose Ms Cetin requires the documents.
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> For the reasons set out above, the Respondent objects to Ms Cetin's application.

23. I have considered **Dring v Cape Intermediate Holdings Ltd** [2019] UKSC 38; [2020] AC 629 and **Guardian News & Media Ltd and another v EFG Private Bank Ltd** [2022] EAT 12, [2022] ICR 973. I appreciate the great importance of the open justice principle. But it does not mean that there is a right to be provided with documents after hearings in all cases. In **Dring** Baroness Hale stated in respect of provision of documents after a hearing:

> 45. However, **although the court has the power to allow access, the applicant has no right to be granted it** (save to the extent that the rules grant such a right). **It is for the person seeking access to explain why he seeks it and how granting him access will advance the open justice principle**. In this respect **it may well be that the media are better placed than others to demonstrate a good reason for seeking access**. But there are others who may be able to show a legitimate interest in doing so. As was said in both *Kennedy* [2015] AC 455 , at para 113, and *A v British Broadcasting Corpn* [2015] AC 588, at para 41, **the court has to carry out a fact-specific balancing exercise**. On the one hand will be "the purpose of the open justice principle" and "the potential value of the information in question in advancing that purpose".
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> 46. **On the other hand will be "any risk of harm which its disclosure may cause to the maintenance of an effective judicial process or to the legitimate interests of others". There may be very good reasons for denying access.** The most obvious ones are national security, the protection of the interests of children or mentally disabled adults, the protection of privacy interests more generally, and the protection of trade secrets and commercial confidentiality. In civil cases, a party may be compelled to disclose documents to the other side which remain confidential unless and until they are deployed for the purpose of the proceedings. But even then there may be good reasons for preserving their confidentiality, for example, in a patent case.
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> 47. **Also relevant must be the practicalities and the proportionality of granting the request. It is highly desirable that the application is made during the trial** when the material is still readily available, the parties are before the court and the trial judge is in day-to-day control of the court process. The non-party who seeks

> access will be expected to pay the reasonable costs of granting that access. People who seek access after the proceedings are over may find that it is not practicable to provide the material because the court will probably not have retained it and the parties may not have done so. Even if they have, the burdens placed on the parties in identifying and retrieving the material may be out of all proportion to benefits to the open justice principle, and the burden placed upon the trial judge in deciding what disclosure should be made may have become much harder, or more time-consuming, to discharge. On the other hand, increasing digitisation of court materials may eventually make this easier. In short, non-parties should not seek access unless they can show a good reason why this will advance the open justice principle, that there are no countervailing principles of the sort outlined earlier, which may be stronger after the proceedings have come to an end, and that granting the request will not be impracticable or disproportionate. [emphasis added]

24. The approach to the provision of documents after a hearing was considered in **"X" and "Y" (By their litigation friend, the Children's Guardian) v (1)The British Broadcasting Corporation (2) A local authority (3) "Z" "In re HMP"** [2025] EWCA Civ 824 in which the Court of Appeal held:

> 21. The court in *Dring* thus identified two main purposes of the open justice principle, namely: (i) to enable public scrutiny of the way in which the courts decide cases so as to provide public accountability and secure public confidence; and (ii) to enable public understanding of the justice system. Whilst the court recognised that its identification of these purposes might not be exhaustive, the core aim is to ensure appropriate transparency for the work of the courts and tribunals and the judges who sit in them.
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> 22. As is apparent from decisions such as *Newman v Southampton City Council* [2021] EWCA Civ 437; [2021] 1 WLR 2900 (at [48] and [49]), it is important to understand and respect the limits of the open justice principle in this context. Court files may contain a great deal of information that is commercially sensitive or confidential or (as in this case) personal and private. The open justice principle does not extend to affording third parties access to such information for reasons unconnected with examining the work of the courts and tribunals and the judges who sit in them.
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> 23. The Supreme Court in *Dring* made clear that a non-party has no right of access to the court file; the court's permission is required. It is incumbent on the person seeking access to documents under the open justice principle to explain (i) why he seeks access and (ii) "how granting him access would advance the open justice principle": see [45].

25. Ms Cetin is entitled to scrutinise the way the EAT decides cases and to be in a position to seek to understand the justice system. Ms Cetin is entitled to be critical of judgments of the EAT. However, she does not have an unlimited entitlement to obtain documents.

26. The Rule 3(10) hearing dealt with two limited points that are explained in the Order dismissing

the application, the reasons for which I have set out above. The documents that Ms Cetin seeks cover material that goes far outside the scope of the Rule 3(10) hearing. They are not necessary to understand the process and decision taken. Ms Cetin was able to attend the hearing remotely. She has not provided any reason why she could not attend the hearing and take up the opportunity to view documents without taking copies had she wished to do so. While I take full account of the open justice principle I consider that sufficient provision was made for Ms Cetin.

27. I also have to consider the risk of personal and private material being published widely when it is not necessary to do so to advance the open justice principle. It was for Ms Cetin to explain clearly why she seeks the documents and why they are necessary to advance the open justice principle. She has not done so other than suggesting that they are required to understand any appeal. Ms Cetin has not explained what it is about this straightforward Rule 3(10) hearing that she was not able to understand.

28. A court or tribunal is entitled to expect those who invoke the open justice principle to be open themselves. Ms Cetin has not stated whether she has posted documents that she has received in other matters on the internet and whether she has deleted them after they have served their purpose. Ms Cetin has not answered legitimate questions about her assertion that she is a student journalist or journalist. She has not stated where she is studying, where she is published or provided any credentials.

29. Ms Cetin has applied to attend EAT hearings remotely on repeated occasions. **Dring** makes it clear that a Court or Tribunal is entitled to take account of the administrative difficulties caused by such applications. It could be enormously time consuming to check documents to ensure that material that is confidential, personal or private is not unnecessarily provided, when such material could then be widely disseminated on the internet.

30. Even if there were some material change of circumstances since my Order sealed on 20 August 2025, I would not order the provision of the requested documents.