



EMPLOYMENT TRIBUNALS

Claimant: Mr Ousman Ahmad

Respondent: The Metanoia Institute

RECORD OF A PRELIMINARY HEARING

Heard at: London Central (in private and in public; by cvp)

On: 11 August 2025

Before: Employment Judge Emery

Appearances

For the claimant: In person

For the respondent: Ms Z Hussain (consultant)

PUBLIC PRELIMINARY HEARING JUDGMENT

1. The following allegations set out in the claimant's "Draft List of Issues" are struck out on the basis that they stand no reasonable prospects of success.
 - 1.1 That the claimant made a s.27(1) Equality Act 2010 protected act on 27 February 2024 (alleged protected act 3)
 - 1.2 All allegations of indirect religious discrimination
 - 1.3 That the claimant made a s.43B(1) Employment Rights Act 1996 protected disclosure in an email dated 13 July 2023
 - 1.4 That the claimant suffered an unlawful deduction from his wages by way of the failure of the respondent to pay him for sending emails, including those relating to his appeal.
2. The following claim is withdrawn by the claimant and is dismissed on withdrawal:
 - 2.1 The allegation that the claimant made a protected in his 17 November 2024 email to Marc Ramsbottom at Peninsula.

REASONS

3. This public hearing started at 2.00 pm (see the Case Management Order for further details) and it followed a Case Management Discussion which took place that morning. During the discussion that morning about the legal claims being made, I expressed my concern that many of the claims appeared hopeless on their merit. For example, the wording of two of the alleged protected acts could not, in my view, meet the legal test required in s.27 Equality Act 2010; similarly, with allegations of indirect religious belief discrimination; similarly, with the allegation that the claimant made a protected disclosure; similarly with allegations of unpaid wages.
4. As a result, and having discussed this with the parties, and given the claimant's apparent knowledge of the legal tests involved in strike-out (see the cases he cites below), at around 11.30 I informed the parties that we would convert the afternoon's hearing into a public preliminary hearing to determine whether some or all of the allegations mentioned above should be struck-out or a deposit ordered.
5. During the discussion with the claimant, we discussed in detail the legal requirements the claimant would have to prove and, taking his case at its highest, whether these allegations stood any reasonable prospects of success. We discussed the wording of the relevant legislation and its meaning.
6. The claimant provided links to several legal cases in support of his arguments, referred to below. The claimant also forwarded documents for clarification, for example the wording of the emails which he says contain protected acts and/or protected disclosures.

The law

7. Employment Rights Act 1996 s.43B - disclosures qualifying for protection

(1) In this Part a "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or

(f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

8. Equality Act 2010 s.19 - indirect discrimination

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

- (a) A applies, or would apply, it to persons with whom B does not share the characteristic,
- (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
- (c) it puts, or would put, B at that disadvantage, and
- (d) A cannot show it to be a proportionate means of achieving a legitimate aim.

9. Equality Act 2010: ss.27 - Victimisation

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

- (a) B does a protected act, or
- (b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

- (a) bringing proceedings under this Act;
- (b) giving evidence or information in connection with proceedings under this Act;
- (c) doing any other thing for the purposes of or in connection with this Act;
- (d) making an allegation (whether or not express) that A or another person has contravened this Act.

10. The Employment Tribunal Procedure Rules 2024 Rule 38 – Striking out

38(1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;

....

(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

11. Case law on striking out claims

11.1 *Ezsias v North Glamorgan NHS Trust* [2007] EWCA Civ 330: The threshold for striking out a claim or response for having no reasonable prospect of success is high. Where there are facts in dispute, it would only be "very exceptionally" that a case should be struck out without the evidence being tested.

11.2 *Balls v Downham Market High School & College* UKEAT/0343/10: *Strike-out is a power* which should be exercised only after a careful consideration of all the available material, including the evidence put forward by the parties and the documentation on the employment tribunal's file. 'No reasonable prospect of success' does not mean the claimant's claim is likely to fail, or it is possible the claim will fail, and it is not a test that can be determined by considering whether the other party's version of disputed events is more likely to be believed. It is a high test: there must be *no* reasonable prospects of success.

11.3 *Mbuisa v Cygnet Healthcare Ltd* UKEAT/0119/18: The Tribunal must exercise significant caution in considering a strike-out where a claimant is unrepresented, or where they may be unfamiliar with the complex issues to be addressed at such a hearing.

11.4 *Cox v Adecco and others* EAT/0339/19: Guidance to be adopted when dealing with unrepresented claimants:

- Claimants should not be expected to explain their case and take the judge to relevant materials, rather the onus is on the judge to consider the pleadings and other core documents that explain the case.
- The tribunal must take reasonable steps to identify the claims and issues; it is not possible to decide whether a claim has reasonable prospects of success if the tribunal does not know what the claim is.

11.5 *Bahad v HSBC Bank plc* [2022] EAT 83: Particularly where no notice of the strike-out hearing had been given, the Tribunal must consider if there are issues of fact to be decided, it must take the claimant's case on those allegations "at its highest" and must take into account that an unrepresented claimant may find it difficult to explain their legal case.

The Hearing

12. As mentioned in the Case Management Order, the claimant asked initially to attend this hearing by phone. I asked him to take steps to join by video, and he was able to do so. During the hearing notwithstanding his disability of a

stammer, the claimant articulated his answers, asked questions and made appropriate and well-argued submissions, including on difficult legal issues.

13. I took the claimant's case at its highest throughout this hearing

Conclusions

Victimisation – protected acts

14. I had concerns about alleged protected acts on 27 February 2024 (protected act 3) and protected act 8.
15. At 1.00pm the claimant withdrew as an allegation the alleged protected act 8; This allegation is dismissed on withdrawal.
16. The 3rd protected act is an allegation in the claimant's second tribunal claim. It is an email dated a 27 February 2024 from the claimant to Christopher Talbot:

"You do not need to respond to this email, as it is for informative purposes. "On at least one occasion, you have quickly taken Stephanie Holland's word regarding something she alleged didn't happen over the years involving myself, instead of either suspending judgment, or: asking for evidence from both sides, conducting an investigation, and then arriving to a conclusion. A person's claim of something is clearly not proof it is right. This demonstrates lack of impartiality, inconsistent with the CIPD's Code of Conduct and Ethics.

"Do not repeat this again, including during future communications and proceedings, as there are implications"

17. The claimant says that this email refers to his employment tribunal litigation, that this makes it a protected act as it is referring to the claimant is doing something else under the act.
18. The claimant also points to the wording within the ET1 – that there is context to this email in the email chain; that by referring to "proceedings" and "don't do this again" he is making a protected act.
19. The claimant says that at the very least this is a "grey area" and should be allowed to proceed. In an email following this hearing, he says he relies on *Aziz v Trinity Street Taxis Ltd* 1988 ICR 534, that the definition of a protected act means that there is "wide scope" as to what a protected act can be. The claimant also referred to the email chain of which this email is part, which he says gives context to this protected act.
20. On reading the 27 February 2024 email and the chain in context, I conclude that the claimant will not be able to show that this allegation amounts to a protected act. It does not allege or even hint, at an allegation of discrimination. It is instead a complaint that the respondent has accepted Ms Holland's argument over his own; that this is not being impartial and finishing with a 'warning' not to repeat again or there could be implications.
21. The claimant seeks to rely on s27(c) Equality Act 2010, that his acts amounted to "doing any other thing for the purposes of or in connection with the act. I do

not accept this: the claimant relies on emails he sent. But the emails can only be protected acts under s27(d) - they are doing "any other thing". To be protected acts, the emails must allege contravention of the Equality Act.

22. I do not accept that these emails can amount to 'doing any other thing' and the claimant was unable to say what was that 'any other thing' he did.
23. The claimant says I should not strike out this allegation as doing so I would be conducting an impromptu mini trial to resolve a core issue of fact, something the EAT says is impermissible (*Mechkarov v Citibank NA EAT* [2016]).
24. I do not accept that the is email, in context, implies or hints at a protected act. By saying this I am not conducting a mini trial; it is clear on the wording of this email and in its context that the claimant does not allege a contravention of the Equality Act. This is not an allegation where there are disputed facts (*Ezias*); the wording of the alleged protected acts speak for themselves. I do not accept that it can amount to a protected act, considering *Aziz* as the claimant urges.

Indirect religious discrimination

25. C says that the following amount to acts of indirect discrimination based on religion:
 - 25.1 The claimant wanted to attend an OH appointment with what he terms adjustments because of his religious and philosophical views, and the respondent did not allow this. His email of 23 November 2024 states that this refusal is due to his religious views. On discussion the claimant said the "Practice" (PCP) was failing to make adjustments to the OH appointments for religious reasons. He said he was "not sure" how this practice adversely affected Muslims in comparison to non-Muslims.
 - 25.2 The claimant says that the respondent's failure to provide him with additional time to submit an appeal was a Practice of the respondent. He says that he needed more time because he had "religious duties" involving caring for someone who was very ill. Again, assuming the claimant is right in saying that this was a practice of the respondent which had an adverse impact on him, he was unable to articulate how it was that this practice adversely affected Muslim employees in comparison to non-Muslim employees.
 - 25.3 The claimant says that the respondent had a practice of failing to rearrange an appeal hearing; that this practice adversely affected him because he was ill at the time and that it is against his religious to attend meetings when unwell.

The claimant was unable to say that this was a practice which would affect Muslims generally, he accepted that this was a policy which may be detrimental to any person who was unwell who was asked to attend a hearing.

26. In our discussion on these issues, we considered the concepts of “adverse effect” and “group disadvantage”. As above, the claimant was unable to say how it was that Muslims would be particularly disadvantaged in comparison to (say) religiously observant employees of other faiths.
27. I concluded that the claimant has not shown that the allegations of indirect discrimination in relation to religion have any reasonable prospects of success. This is because the claimant will not, in my judgment, be able to provide any evidence of group disadvantage. For example, I did not consider that the claimant stands any prospect of showing that observant Muslims are more likely to be carers than observant members of any other religion. The claimant accepts he has no proof. The claims of indirect discrimination based on religion are struck out.

Protected disclosures

28. The alleged protected disclosure is an email from the claimant to Hannah Friend dated 13 July 2023. The part he relies on is:

“Also, I am advised disingenuousness at tribunals could potentially have implications under criminal law, not just employment law, underscoring the importance of investigating matters.”
29. The claimant could not confirm what legal ‘disingenuousness’ he was relying on. It appears that he is suggesting that *if* a witness told untruths during a tribunal claim, this *could potentially* have legal or criminal implications. It does not say that the respondent *has* committed a criminal act, or a criminal act *is being* committed, or that a criminal act *is likely* to be committed – the required legal test in s.43B Employment Rights Act 1996.
30. This email is at most a warning that it is advisable to have a proper investigation, otherwise telling lies at tribunal could be a serious offence.
31. This comes nowhere near to amounting to a protected act. Accordingly, this allegation is struck out on the basis that it stands no reasonable prospects of success.
32. It follows also that the claimant cannot rely on the alleged detriments as being a consequence of this protected act – being disciplined and being dismissed. This means that some of the allegations of detriments because of this protected act, as alleged in the second claim, can no longer be made (the claimant may be able to rely on these as detriments as consequence of other protected acts).

Wages act claims

33. The claimant confirmed that his claim is that he is owed wages as he wrote emails when not at work. As a Facilities Assistant he was on a zero-hour

contract; he says employees on guaranteed hours would have been paid for sending emails.

- 34. The claimant cannot point to a contractual term which suggests he should be paid for sending emails about, for example, his grievance. This claim stands no reasonable prospects of success and is struck out.

Approved by:
Employment Judge Emery

7 October 2025

Sent to the parties on:

17 October 2025

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For the Tribunal Office:

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