Case Number: 6005897/2024

EMPLOYMENT TRIBUNALS

Claimant: **Dr Mohamad Hassan**

Respondent: **ABC International Bank Plc**

JUDGMENT

1. Insofar as time for the bringing of the relevant application may by further order be extended, the Claimant's application dated 19 August 2025 for reconsideration of the judgment sent to the parties on 21 July 2025 is refused pursuant to rule 70(2) of the Employment Tribunal Procedure Rules 2024.

2. The Claimant shall pay the Respondent's costs in the sum of £5,881.80 exclusive of VAT.

REASONS

Background

(a) Reconsideration application

1. By a letter of 19 August 2025 referred to me on 19 September 2025 the Clamant indicates his wish to appeal my judgment of 17 July 2025. He sets out a number of grounds.

2. Despite the nomenclature, I treat the letter as an application for reconsideration under rule 69 and will deal with it on that basis. It appears from the record of case management hearing of 28 August 2025 that there was a discussion with EJ Keogh that it should proceed on that basis.

(b) Costs

3. Following the preliminary hearing of 6 June 2025, I indicated my finding that the Claimant had engaged in unreasonable conduct and that the threshold for mandatory consideration of a costs order against him had been reached under rule 74(2)(a). The reasons underpinning that finding are set out in Annex A and have previously been sent to the parties.

4. I issued detailed directions to the parties for written submissions on the remaining two issues arising relating to costs: whether I should exercise my discretion to make a costs order and if so, the amount of such an order. Those submissions have been received and referred to me for determination, together with the requested Schedule of Costs from the Respondent.

Findings of Fact

5. Findings of fact are substantially outwith the r.70(2) stage of a reconsideration application since this involves an evaluation of the prospects of success. I set out below some assumptions I have made for that purpose.

6. Turning to costs, by paragraph 2.2(c) of the Case Management Orders issued on 21 July 2025, the Claimant was directed to file a statement of means, accompanied by a statement of truth, if he wished for his means to be taken into account. He has not provided such a statement. He has provided no explanation for not doing so despite seeking to rely in his submissions on his financial means as a reason for not making an order for costs against him. I identify no lack of clarity in my order.

7. In those circumstances the findings of fact I make relevant to the Claimant's means are confined, as follows.

    a) The Claimant is married and has at least two dependent children;
    b) The Claimant lost a well-paid job with the Respondent with a monthly gross salary of £9128.61 and was unemployed for around 13.5 months between 14 March 2024 and around 27 May 2025;
    c) His new role pays a salary not less than his role with the Respondent; hence the notification of a revised loss figure in his letter of 27 May 2025;
    d) It is more likely than not that commensurate with his earnings level the Claimant had some savings and other assets at the time he lost employment; and
    e) Given the extended time period, it is more likely than not that the Claimant incurred some debts whilst he was out of work although ought to have qualified for relevant benefits subject to means testing.

8. Without a corroborated statement of means, I reject that the costs sought, even in their full amount of £7,675.50 exclusive of VAT, would create a level of financial hardship that would threaten the Claimant's ability to maintain employment or his housing (as he asserts). I do not find that plausible given the age and stage in life of the Claimant and the findings I have made above. I consider there is a realistic prospect of the Claimant being able to discharge a costs order of this size in, at least, the medium term.

Applicable Law and Procedure: Reconsideration of Judgments

9. The Employment Tribunal Procedure Rules 2024 came into force on 6 January 2025. Those rules apply to procedural aspects of this case from that date onwards.

10. The Tribunal has discretion to reconsider any judgment upon the application of a party where it is in the interests of justice to do so. That arises under rule 68(1). The powers available to it upon reconsideration are: to confirm the judgment, to vary the judgment or to revoke the judgment (rule 68(2)). If the Tribunal determines to revoke the judgment, it has the power to make the decision again and, if appropriate, to reach a different conclusion (rule 68(3)).

11. Unless made in the course of a hearing an application for reconsideration must be made in writing setting out why reconsideration is necessary and must be sent to the Tribunal within 14 days of the later of (a) the date on which the written record of the judgment sought to be reconsidered was sent to the parties, or (b) the date that the written reasons were sent, if these were sent separately (Rule 69).

12. In accordance with rule 70(2), if the Tribunal considers that there is no reasonable prospect of the judgment being varied or revoked, it is required to refuse the application. This has been described as *"...an important protection to the opposing party in that they should not be put to the time and expense involved in responding to an application for reconsideration if the employment judge does not consider there are "reasonable prospects of the judgment being varied or revoked""*. (Per HHJ Tayler, **TW White and Sons Ltd v White [2021] 3 WLUK 500** at paragraph 57).

13. Where there is no such refusal, steps are then mandated by which a decision is reached about whether the application should be determined with or without a hearing, there being a presumption in favour of the latter (rules 70(3) and 70(4)).

14. The principles for reconsideration set out in new rule 68 are unchanged from the predecessor rule in the 2013 Rules, with the exception that it is clarified the Tribunal taking the decision again may come to a different conclusion. Correspondingly, the authorities in relation to old rule 70 remain relevant. I summarise their effect in paragraphs 15 to 23. At the rule 70(2) stage, this jurisprudence falls to be considered alongside the material in the Claimant's application and the prospects of success duly weighed.

15. Where an application for reconsideration has not been made in time, it remains open to a Judge to determine the question of reasonable prospects *before* determining that aspect. In **TW White and Sons Ltd v White** (above), HHJ Tayler gave guidance on this point as follows (where references to rule 72(1) can be substituted with references to rule 70(2))

    60. The management of a reconsideration application is a little more complicated if there is also an issue about whether it has been submitted

in time ("the time point"). There will be a question at [sic] to whether the rule 72(1) decision should be taken before or after the time point. In some circumstances it might be necessary to consider the time point at a hearing. It would be open to an employment judge to take the rule 72(1) decision and then fix a hearing to determine the time point and, if appropriate, to take the rule 72(2) decision. Alternatively, an employment judge could determine the time point before taking the rule 72(1) decision. What is not open to an employment judge is to list a hearing to determine the time point and take the rule 72(2) decision, if the rule 72(1) decision (on the papers) has not yet been taken.

16. I would add, I do not take from that guidance that I am obliged in all circumstances to direct a hearing to determine the time point. That is especially so where a hearing does not arise under rule 70(4).

17. Examples of circumstances in which the interests of justice might allow a review are these: the decision was wrongly made as a result of an administrative error; a party did not receive notice of the proceedings leading to the decision; the decision was made in the absence of a party; new evidence has become available since the conclusion of the hearing to which the decision relates (**Outasight VB Limited v Brown [2015] ICR D11, EAT**, paragraphs 30 and 48) or there has been a procedural mishap prior to the decision being reached which prevented a party from having a fair and proper opportunity to put his case (**Trimble v Supertravel Ltd [1982] ICR 440 EAT** and **Ebury Partners UK Ltd v Acton Davis [2023] IRLR 486 EAT**).

18. Where a party applies to introduce fresh evidence after a case has been determined, the interests of justice will in most cases be encapsulated by the principles in **Ladd v Marshall [1954] 1 WLR 1489** (**Outasight** at paragraph 49). Those principles are essentially threefold: that the evidence could not have been obtained with reasonable diligence for use at the original hearing; that the evidence is relevant and would probably have had an important influence on the hearing; and that the evidence is apparently credible.

19. Nevertheless, it may sometimes be appropriate to allow evidence to be adduced which could reasonably have been known of or foreseen provided there is some special additional circumstance which leads to the conclusion that justice does require a review. (**Flint v Eastern Electricity Board [1975] ICR 395, [1975] 5 WLUK 87**). That could be that the evidence, though known of and foreseen, was not available. The special circumstance or mitigation must be connected with the failure to adduce the evidence in question at the hearing **(General Council of British Shipping v Deria [1985] ICR 198, EAT**).

20. The interests of justice allow for a broad discretion which must be exercised judicially. This means *"having regard not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that*

there should, so far as possible, be finality of litigation". (as per Her Honour Judge Eady QC, as she then was, in **Outasight** at paragraph 33).

21. Whilst the discretion to reconsider needs to be exercised in accordance with the overriding objective of dealing with cases justly, the principles set out in **Flint** and **Deria** remain valid, in particular on the importance of finality in litigation **(Newcastle upon Tyne City Council v Marsden [2010] ICR 743, EAT**).

22. The right to a fair hearing under article 6(1) of the ECHR may be a factor in the exercise of discretion. If a party has been ambushed at the hearing or an issue has arisen over disclosure of documents, that might amount to an additional circumstance where new evidence could be adduced despite not meeting the **Ladd v Marshall** criteria (**Outasight** at paragraph 38).

23. Procedural mishaps may be corrected under the reconsideration procedure, but the province of correcting errors of law is that of the EAT. Following **Ebury Partners UK Ltd v Acton Davis 2023 IRLR 486, EAT** (paragraph 24):

    "In general, while it may be appropriate to reconsider a decision where there has been some procedural mishap such that a party had been denied a fair and proper opportunity to present his case, the jurisdiction should not be invoked to correct a supposed error made by the ET after the parties have had a fair opportunity to present their cases on the relevant issue. This is particularly the case where the error alleged is one of law which is more appropriately corrected by the EAT".

24. What is meant by "reasonable prospect" in rule 70(2)? I have not identified case law that gives specific guidance on the term for the purposes of rule 70(2). I consider the clear use of the word *"no"* reasonable prospect must mean (as it does for strike out cases in reference to the prospect of succeeding in a claim) that the test is not whether the Claimant is likely to fail in securing a variation or revocation of the judgment nor whether it is possible the application will fail. There must be "no" reasonable prospect **(Balls v Downham Market High School [2011] IRLR 217** ,paragraph 6].

Applicable Law and Procedure: Costs

25. On the question of whether I should make an order for costs, I remind myself of the exceptional nature of costs orders. The Presidential Guidance on Case Management Guidance Note 7, paragraph 1 provides: *"the basic principle is that Employment Tribunals do not order one party to pay the costs which the other party has incurred in bringing or defending a claim. However, there are a number of important exceptions to the basic principle...".*

26. Even when one of the exceptional grounds to order costs is made out under the rules, the purpose must be compensatory and not punitive

Lodwick v Southwark LBC [2004] ICR 884 CA and the costs awarded are limited to what is reasonably and necessarily incurred by the receiving side **Barnsley Metropolitan BC v Yerrakalva [2012] IRLR 78 CA**.

27. Rule 82 provides also:

In deciding whether to make a costs order, preparation time order, or wasted costs order, and if so the amount of any such order, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay.

28. Where means are taken into account, findings of fact must be made based on evidence adduced, even if that involves drawing inferences **Oni v NHS Leicester City [2013] ICR 91 EAT**. Although a party should not be ordered to pay a sum that they have no realistic prospect of being able to pay if there is a realistic prospect that sometime in the future they may be able to afford to pay, I may take this into account **(Herry v Dudley Metropolitan Council [2017] ICR 610 EAT** and **Vaughan v Lewisham LBC [2013] IRLR 713 EAT**).

29. As for the nature and amount of the costs order, there must be a link of some kind between the costs and the conduct. That said, a precise causal link is not required and the receiving party's conduct also be a relevant consideration (**Yerrakalva**).

30. Rule 76 provides:

76.—*(1) 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;

(b)the receiving party the whole or a specified part of the costs of the receiving party, with the amount to be paid being determined—

(i)in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998, or by the Tribunal applying the same principles;

...

(c)another party or a witness, as appropriate, a specified amount in respect of necessary and reasonably incurred expenses for the purpose of, or in connection with, an individual's attendance as a witness at a hearing;

(d)an amount agreed between the paying party and the receiving party in respect of the receiving party's costs.

(3) A costs order under sub-paragraphs (b) to (d) of paragraph (1) may exceed £20,000.

31. It is established that any order for unassessed costs (which is to say costs not subject to detailed assessment) must be for a fixed sum (**Lothian Health Board v Johnstone [1981] IRLR 321 EAT**).

Analysis and Conclusions

Late reconsideration application

32. My Judgement was sent with reasons on 21 July 2025. It follows that the Claimant's application is not brought within the 14-day time limit set down in rule 69. He has not identified this in his letter, sought an extension or dealt, in terms, with the reasons for the delay. I am satisfied he knows the primary time limit is 14 days because he has referenced the cover letter of 21 July 2025 which makes that abundantly clear.

33. Having regard to HHJ Tayler's guidance in **TW White**, I shall determine the decision arising under r.70(2) now and make directions for the determination of the time point. The result is that this judgement takes effect insofar as time may be extended in the Claimant's favour.

Grounds of the reconsideration application

34. For the purposes of this application, I confirm I have considered, the Claimant's 6-page letter of 19 August 2025, the letter of the Financial Conduct Authority (FCA) described further below and the Claimant's "Chronology: Relationship between Dr Hassan's Concerns and Regulatory Investigations"

35. The Claimant's grounds for reconsideration can be summarised as follows. Since the publication of the reserved Judgement on or around 21 July 2025, the Claimant has received two documents and a communication of great significance to key decisions I made. These should be admitted, and regard had to them on the basis they satisfy the **Ladd v Marshall** criteria. Their combined effect, the Claimant says, is to demonstrate:

    (a) That the Claimant has a protected philosophical belief in rigorous regulatory compliance and ethical financial practice. Consequently, what is referred to as the "bare belief complaint" should not have been struck out, and the application to amend that complaint to plead the philosophical belief should be permitted. **Paragraph 2 of my judgment should therefore be revoked and paragraph 6 varied.**

    (b) That it is just and equitable to extend time. Logically, this argument must relate to the philosophical belief claim for which, I have found, time would need to be extended for it to proceed (see paragraph 177 of the Reserved Judgment)

    (c) That there were ongoing serious regulatory investigations into the disclosures he had made to the Respondent. This was during the period he delayed in presenting his claim. This means it was not

reasonably practicable for him to present his complaints of whistleblowing detriment and of automatic dismissal in the necessary time period. **Paragraphs 3 and 4 of my judgment should therefore be revoked, and orders made that time should be extended.**

The "new evidence"

36. There are two strands of new evidence which the Claimant seeks to rely upon.

37. First, the Claimant advances a letter of FCA dated 25 July 2025 written to an unidentified person in reference to a whistleblowing disclosure made by the addressee about Paul Kennedy/ the Respondent on 18 July 2024. The letter confirms that" a review" and "assessment" had taken place and FCA had made enquiries of the Respondent in relation to or arising from the concerns expressed. I find it contains no other material evidence. It says nothing about the conclusion of the assessment.

38. For the purposes of considering the prospects of the reconsideration application, I proceed on the basis that this is a copy of a genuine letter and it was received by the Claimant only after 25 July 2025.

39. Second, the Claimant has *described* information which he claims evidences that the PRU-BoE Head of Intelligence has identified systematic financial misconduct at the Respondent.

40. There are two components to the information: (i) a document sent to the Claimant setting out the specific misconduct allegedly identified (the Alleged Misconduct List) and (ii) an accompanying message received by the Claimant in the following terms:

    "I and many within share your stance against discrimination and the commitment to tackle fraud and misconduct".

41. The information is described by the Claimant as being received *"anonymously after the public hearing publication"*. The implication is that the author of the accompanying message has leaked the Alleged Misconduct List, rather than it being provided by PRA –BoE Head of Intelligence to the Claimant, direct. The Claimant has said that the production of the document and message is reserved until the final hearing, unless directed sooner. The reason he gives is one of sensitivity.

42. It is not necessary for me to rehearse the Alleged Misconduct List which extends across four domains. I can identify some apparent resonance between it and the regulatory concerns the Claimant in his application to amend his whistleblowing complaint, claimed to have expressed (e.g. in respect of capital allocation). The complete dovetailing – which is what the Claimant asserts (p.2 of his chronology) - is not wholly obvious. Nevertheless, I am prepared to assume this in the Claimant's favour for the purposes of r.70(2).

43. The Claimant also appears to assert PRA-BoE's Head of Intelligence identified a list of criminal acts and breaches of other regulations and fiduciary duties which the Alleged Misconduct List may potentially constitute (see p.4 of the Claimant's chronology).

44. The question arises as to whether I should direct production of the Alleged Misconduct List. I have concluded that it is an unnecessary step for two reasons. First, it is only logical the Claimant will have highlighted the parts of the document that most advantage his application. Second, if I assume in the Claimant's favour, matters liable to be determined by sight of the document (i.e. that the it is genuine, it evidences all that he says it does and it was received only after the hearing), it would not alter my negative evaluation under r.70(2). Shortly put, seeing the document/knowing its date of receipt would make absolutely no difference.

45. I proceed straight to the merits making the further assumption (again since it is not liable to alter the outcome) that at a substantive reconsideration hearing, it would be deemed appropriate having regard to the authorities I have referred to above, to admit and have regard to the new evidence.

Prospects of Success: Reconsideration of Paragraphs 2 and 6 – the bare belief complaint

46. The Claimant contends that the new evidence places a different complexion on the claim he seeks to bring for direct discrimination on grounds of philosophical belief.

47. The Claimant argues the fact he raised concerns which warranted regulatory investigation and were the same as the Alleged Misconduct List mean :(a) he consistently manifested his belief; (b) his belief was a comprehensive framework for identifying financial misconduct and not basic FCA rule-following; (c) his belief is weighty; (d) his behaviour was not random ethical behaviour but a systematic belief framework; and (e) his belief is validated and therefore worthy of respect in a democratic society committed to financial system integrity. Here, the Claimant relies on the comment of the person who gave the Alleged Misconduct List to him as an endorsement.

48. On the question of knowledge, the Claimant argues that since his disclosures (I surmise, those in AAv1 and AAv2 – for which see paragraph 9 of the Reserved Judgment) were at the same high threshold which sparked investigations, they must have been recognisable by the Respondent as exceeding normal expectations and therefore flowing from his philosophical belief.

49. None of these arguments have any prospect of changing my judgment that amendment of the pleading should not be permitted to include this claim. The Claimant's arguments do not realistically undermine what is said in paragraph 176 of my judgment about the proposed claim:

*The merits are conspicuously poor. I consider the belief asserted profoundly unlikely to satisfy the requirements set out in **Grainger plc v Nicholson [2010] IRLR 4**. Mr Davidon's pithy description is correct: the philosophy appears to be no more than that "people should do what they are supposed to do". From the cross-examination I was satisfied the Claimant does not assert he ever shared with his colleagues or superiors that he held this specific belief. I further accept that given the regulatory requirements imposed by the FCA Conduct Rules, whatever actions of the Claimant may have been observed by the Respondent's other employees, they would not have stood as any independent marker of his alleged belief; ethical behaviour, and even highly visible and outstanding ethical behaviour I consider, dovetails with the well-understood expectations already placed upon him. Without the knowledge of the belief – which the Claimant will need to prove - the decision makers at the Respondent could not have treated him less favourably because of it. It is a claim therefore with vanishingly small prospects of success.*

In addition, even dating it back to AAv1 (10/2/25), it is significantly out of time. The sheer scale of the amendment and the cursory nature of the intimated claim mean this cannot fairly characterised as just further particulars. No belief or religion was ever previously identified by the Claimant in the ET1.

50. The fact that the Claimant's disclosures may have predicted or aligned with the irregularities supposedly found does not mean the belief is other than "people should do what they are supposed to do". The Regulators are there to ensure just that. All that this new material, if true, points to is the Regulators having found things which precisely fit that bill e.g. breaches of published statutory and other well-established duties. There is nothing to show they have unearthed infractions which are only discoverable or identifiable to those with the Claimant's claimed philosophical belief. Afterall, the Regulators could hardly hold people in the financial sector to account for breaches of standards that could only be discerned by those holding a distinct philosophical belief. I note the Claimant does not maintain that his belief has any published, unifying principles or any organised following.

51. At best in my view, the alignment simply points to the Claimant's proficiency in understanding the operation and requirements of regulatory regime. That may be laudable, it may have some relevance in a whistleblowing claim but it does not advance this intended claim.

52. The Claimant's arguments are equally not apt to change my assessment of the prospects of success for variation of the judgment, having regard to the state of knowledge of the Respondent. The Claimant is still openly relying on constructive knowledge, having articulated the belief for the first time in AAv1 filed in the ET on 10 February 2025. This makes it intrinsically harder for him to show that the unfavourable treatment was because of the belief, the more so when the actions said to found that knowledge are compatible with (or at the very least, not incompatible with)

the Claimant acting through professional rather than philosophical conscientiousness.

53. I have identified already the fact the intended claim is so far out of time, also points away from amendment being appropriate. The new evidence has no real prospect of altering that analysis. An extension of time to 10 February 2025 (see paragraph 177 of the judgment) would not realistically be justifiable on the basis of the new evidence. The public interest arguments are not relevant to the exercise of discretion. The ET's jurisdiction does not include upholding standards in the financial sector. The Claimant's explanation for the delay are essentially unaltered and the Claimant has not accounted in any way convincingly for why he delayed in this claim until February 2025.

Prospects of Success: Reconsideration of paragraphs 3 and 4 – whistleblowing time limits

54. The Claimant says the fact there were two ongoing regulatory investigations changes the fundamental context for assessing whether it was reasonably practicable to present his claims within the primary time limit.

55. I reject that argument, paying close regard to the description of the test in **Asda Stores** : *"the relevant test is not simply a matter of looking at what was possible but to ask whether, on the facts of the case as found, it was reasonable to expect that which was possible to have been done.*

56. First, taken at its very highest the new evidence would not be apt in any way to materially change the factual conclusions I reached as to what was occurring in the relevant period and how proceedings came to be issued outside of the primary limitation period. Of note, the Claimant has not previously ever asserted, and does not assert now, that at the time he was actively waiting confirmation of any underlying regulatory investigation in order to be in a position to bring his claim.

57. The only information the Claimant identified was lacking and which contributed to the delay was information about appeal rights or complaints procedures and meeting minutes (see p.117 and p.120 PH bundle). I dealt with this in my judgment. This did not tell on the reasonably practicability of bringing proceedings.

58. The issue then becomes whether the sheer fact of being ignorant of the third-party investigations somehow makes it less reasonably practicable for the Claimant to have issued proceedings. There is no prospect of my reaching that conclusion. The evidence advanced does not put in doubt my conclusion that Claimant was aware he had personal legal rights to challenge the Respondent's treatment of him and that it was well within his ability to undertake research which would have alerted him to the 3-month deadline. As I also found, the Claimant raised whistleblowing and "doing the right thing" victimisation with the Respondent as early as 10 May 2024

(see paragraph 43 of my judgment). It was within the Claimant's own knowledge during the primary limitation period, the connection and causation he relied on between blowing the whistle and the Respondent's treatment of him. The knowledge of third-party investigations was in no way a prerequisite for the Claimant to pursue his rights. I accept that on a practical level, had the Claimant known of the investigations he may have felt encouraged in the pursuit of his claims, but that is not to the point.

59. It follows that the application for reconsideration must be refused under r.70(2).

60. I shall arrange for directions to be issued to the parties in order that I may determine the time point for the reconsideration application. In essence, the first step will be for the Respondent to indicate whether it objects to time being extended. If so, further directions will then take effect. I take that course, despite their being no express explanation from the Claimant at this stage reflecting that:

    a) The Claimant does not bear any specific burden in order for the Tribunal to extend time; the discretion is not akin to the "reasonably practicable" test or "just and equitable" discretion. Rule 5(7) by which a time limit under the rules can be extended, falls to be exercised in a way which avoids delay, saves expense and deals with cases in ways which are proportionate to the complexity. These are all aspects of dealing with cases fairly and justly;

    b) It follows the reasons for the delay have relevance but are not determinative;

    c) The application discloses some information suggestive that additional time may reasonably have been needed. In particular, it is clear that a cornerstone of the application is a document that was in Claimant's possession, at the earliest,4 days into the 14-day window for making the application. The time of receipt of the other document (PRA-BoE Head of Intelligence Communication) is currently withheld but receipt is equally said to have been precipitated by publication of the judgment;

    d) It seems to me highly probable that, if explored, this will be the basis for the Claimant seeking an extension of time of 15 days (4 to 19 August 2025). Provisionally, my assessment is that is not a significant extension;

    e) Detailed exploration of this issue will consume further resources and time of the parties and of the Tribunal;

    f) Allowing the late reconsideration application may obviate or narrow an appeal; and

    g) Having received this r.70(2) judgment with Reasons, the Respondent can assess the relative prejudice to it of any extension of time being granted.

61. None of these comments should, however, be read as any predetermination of the issue. I share my provisional analysis in the interests of efficiency and proportionality.

Costs decision

62. Despite the exceptional nature of costs orders in the ET, it is just that the Claimant should pay the Respondent's costs as set out in its Schedule, **less** the following:

    a) Those at Point 1. Whilst Penningtons' letter of 13 August 2025 states that the Respondent does not intend to make a wider application for costs than envisaged at Annex A, the costs at Point 1 are not within the scope of my findings. I set out in paragraph 5 of the Reasons at Annex A, the conduct I consider to be unreasonable. The "Point 1 Costs" reflect costs incurred in reference to errant citations in AAv2. This document was lodged at a time before the Claimant understood his actions carried significant risks of misleading the Tribunal. That understanding came (as I found in paragraphs 15 to 17 of the same Reasons) with the service of Respondent's skeleton argument for the preliminary hearing in which the errant citations in AAv2 were highlighted.

    b) A reduction to £2500 for Point 4 Costs. I understand from the description that these are Counsel's fees for 6 June in reference to the errant citation issues. It will, I accept, have added to his case preparation and indeed there was, quite properly, cross-examination on the issue. Having regard to the overall time devoted, I consider £2500 only, to be reasonably incurred in respect of this aspect

    c) A reduction of 0.5 of an hour at £250 per hour for "Point 6 Costs". Not all of the costs have ultimately been awarded and the submissions draw upon/redirect points already made in the letter of 4 June for which full costs have been awarded;

63. The reasons I consider it appropriate to exercise my discretion in this way, and why I have not found the Claimant's arguments against making an order (or an order for any lower amount) persuasive are these:

    a) I did not make any finding that the Claimant's errors reflected the challenges faced by a litigant in person rather than any intention to mislead. I identified this as *his* explanation for his past actions. My clear finding was that despite his understanding of the status of caselaw (the vying academics model), his conduct in serving his original skeleton argument was both inappropriate and unreasonable. Specifically, by that stage, it was not distinguishable from advancing a piece of documentary evidence as an honest record when there was a

known risk it may not be honest at all (see paragraphs 15 to 17 in Annex A).

b) The Claimant did not "immediately acknowledge his errors and demonstrate his commitment to proper legal practice". Far from it. This is, I regret, revisionist history. Hence my criticism of the Claimant's conduct after 6 June hearing. He served an amended skeleton containing assertions about cases that are not supportable or reasonably arguable. He had no permission to provide that document and was brought, only belatedly, to give a direct answer to whether the citation table was accepted or not i.e., to do the thing requested of him.

c) My own written directions went to the trouble of cautioning the Claimant against any unreasonable proliferation of work and reminding him that he was exposed to the risk of costs. Whilst I gave the Claimant some credit for changes made (see Annex B), that does not mean his behaviour overall was reasonable. He caused the Respondent avoidable expense for which it should be compensated, if that can be achieved fairly.

d) The new evidence referred to by the Claimant respectfully has no relationship to or other bearing upon the issue of his unreasonable conduct and the related costs. It would not be otherwise even if I had reflected favourably on his reconsideration application. His actions, quite irrespective of the merits of his claim, discretely caused time and expense to be incurred which are simply not part and parcel of a Respondent dealing with an Employment Tribunal claim.

e) The Claimant argues that the Respondent spent too much money on the correction of his mis-citations and should have approached the issue collaboratively with him. With the exception of the reductions I have made above, I find the costs were reasonably and necessarily incurred. The Claimant's arguments oversimplify what his repeated actions set in motion. They also assume an unjustified degree of indulgence which was not due to him by the Respondent. It has to be remembered, the Claimant repeated the very behaviour for which he had been criticised so openly in the Respondent's skeleton of 30 May (and which it could therefore be reasonably expected would not be deliberately repeated) with a document served in reply, only three days before the hearing. The Respondent's solicitors and Counsel needed to appraise the situation and to respond quickly. The mis-cited cases were not straightforwardly all fake (only 9 of 46 were) but misrepresented actual cases. That required the careful unpicking of the asserted principle of the case from what the case in fact established. The fact the bogus citations may have been created by a few keystrokes does not denote they could be undone by a trained lawyer and appropriately presented to the Tribunal with anything like the same effort and speed. Of course, I have some understanding of the task, having later worked through the Claimant's Amended Skeleton myself.

f) The Claimant's actions added to the scope of the hearing and beyond. It was vital to bring these matters comprehensively to the Tribunal's attention in order that it was not misled. It was also appropriate to make the strike out application. The Claimant had done nothing to warrant the Respondent treading lightly in the face of his unreasonable conduct.

g) The Claimant's means, based on my findings above, are not such that the order I propose to make would be oppressive, unfair or without prospect of payment.

64. In all of the circumstances the Claimant must pay the Respondent's costs in the sum of £5,881.80 excluding VAT.

Approved by:

Tribunal Judge Miller-Varey Acting as a Judge of the Employment Tribunal

13 October 2025

JUDGMENT SENT TO THE PARTIES ON

24 October 2025

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FOR THE TRIBUNAL OFFICE

Annex A

Errant case citation, unreasonable conduct and costs

1. The Claimant cited case law derived from using AI as a legal research tool in both his AAv2 and in his skeleton. The Respondent has criticised the resulting outputs as amounting to scandalous, unreasonable or vexatious conduct. The Respondent also intimated a claim for costs.

2. On the question of costs, the Tribunal Rules provide that I must consider making a costs order where I consider that a party has acted vexatiously, abusively, disruptively or otherwise unreasonably in the way that the proceedings or part of them have been conducted (rule 74(2)(a)).

3. The threshold for mandatory consideration of a costs order by me is satisfied. It is right that I record that now, with reasons. This is discrete from (and is not intended to prejudice) any application the Respondent seeks to bring for a wider costs order. That is a matter for them. I strongly suggest the findings I make should be reflected on if/when they consider such a course; expensive satellite litigation (incurring costs about costs) is to be deprecated in a jurisdiction where costs are the exception and not the rule.

4. I stress at this point too that just because the threshold for consideration has been attained, it does not follow that an order for the Claimant to pay costs in any amount will follow. There are two additional considerations in an essentially three-stage process. The remaining two are whether I should exercise my discretion to make an award and the amount and form of the award. I remain entirely open minded about those matters. The parties each have the opportunity to comment on this by complying with directions that will follow. The means of the Claimant may be relevant to both additional stages.

5. The conduct I consider to be unreasonable is in reference to the inclusion of inaccurate and misleading citations of case law in the Claimant's original skeleton argument and the service of, and defective citations within, the amended skeleton argument.

6. It is necessary to go back a little, beginning with two findings derived from the evidence taken at the hearing.

7. I find that at the time of preparing AAv2 and his original skeleton, the Claimant had an understanding derived from watching You Tube videos that his case would benefit if could put forward case law references which tended to support his arguments. He obtained these references from using AI. It is my strong suspicion - but not a necessary or integral finding – that he also used AI to construct at least some of the narrative sections of his skeleton.

8. I also find the Claimant regarded case law as akin to a range of academic opinion in other disciplines, such as economics or science, whereby research or findings in one paper or work may always be challenged by the production of a body of opinion going the other way. He spoke about

there being argument and counter-argument, for example, in relation to interest rates. Essentially, in the Claimant's mind, the individual Judge was able to follow whichever cases they found persuasive and most appealed to them.

9. Counsel first identified, at length, in his skeleton [pp. 203-205] 7 instances of inaccurate or misleading citation of cases in AAv2. He submitted this was scandalous. One of the cases ("Jordi v London Business School [2022]"), is entirely fictitious. The other inaccuracies were, I find, material, serious and had significant potential to mislead the Tribunal in a way that would prefer the Claimant's interests in the applications before me.

10. The Claimant then filed a skeleton which, as he now admits, contains all of the misinformation shown in the Citation Table. The misinformation comprises 46 inaccurate and misleading citations of cases; 9 references to and reliance upon wholly fictitious cases; and 37 misrepresentations of real cases. I find there was increased, not decreased, deployment of AI-derived case law by the Claimant in comparison with his use in AAv2.

11. Within the very same skeleton, the Claimant acknowledged there were errors of citations in AAv2 [p. 217, paragraph 49]. In making that concession I am satisfied that he must have been content that the Respondent had properly represented the true position to the Tribunal in its skeleton.

12. The Claimant described the errors as *"honest"* and *"inadvertent"*. Startlingly, within the next paragraph he then relied on a case ("Remploy Ltd v Abbott [2014] ICR 1114") which he maintained recognised that difficulties such as family medical emergencies affecting litigants in person could be relevant to the exercise of case management power [p.217 paragraph 50]. A case with those parties and that citation does not exist. The same parties were named in a real case (**Remploy Ltd v Abbott [2015] 4 WLUK 492)** a year later. It concerns amendment principles in the context of unfair dismissal claims following mass redundancies.

13. The Respondent's solicitors then prepared and submitted the Citation Table. It details all of the many and varied inaccuracies contained in the Claimant's skeleton. It has been a matter of great importance that the Respondent's solicitors and Counsel undertook this task.

14. By the time of filing his skeleton, I am prepared to assume the Claimant's understanding of case law remained the misplaced "academic model". The doctrine of precedent is quite nuanced. I do also understand that Judges and lawyers inhabit a particular fishbowl. It is easy for us to forget the operation of the doctrine is not universally understood or easily intuited. The importance of not recklessly misleading the Tribunal about facts or law is not in the same camp.

15. The aspect in the Claimant's conduct that cannot be overlooked is his knowledge when submitting his skeleton that the cases AI had previously come up for him with were not real in one instance, and the summaries it gave for a good number of others were seriously wrong. He acknowledged this [see paragraph 190 above].

16. Taking the analogy of vying academics, the Claimant was supporting his thesis with a host of research papers whilst knowing there was a significant risk the researchers relied upon may not exist, the underlying research may never have been done and/or the researcher's conclusions did not support him. It does not take an understanding of precedent for the Claimant to have known his actions were inappropriate.

17. The explanation from the Claimant as to why he persisted in relying on AI generated case law after the Respondent's skeleton had been received was because he had no means of knowing whether the cases existed or provided the wrong argument. In response to my question, he said that he continued to use AI in spite of its demonstrated unreliability because it was the only tool he had. That overlooks that he was under no obligation to field case law at all. The Claimant quite simply prized putting forward a winning argument as more important than whether or not he may be misleading. It may be that he thought the Judge would simply set him right if AI had failed him again. However, aside from the likelihood a Judge may have the independent knowledge to debunk any obviously bogus citations, the Claimant's behaviour cannot realistically be distinguished from advancing a piece of documentary evidence as an honest record when it is known there is some risk it may not be honest at all. His citations were never expressed openly as being derived from AI. There was no disclaimer that they may contain unintended errors. This left the Respondent's solicitors needing to put matters right, both in defence of their client's position and in order to protect the integrity of the Tribunal process.

18. The Claimant's conduct was reckless, unheeding and unreasonable.

19. I turn then to the amended skeleton.

20. At the conclusion of the hearing there remained still a lack of clarity on whether the Claimant accepted the commentary in the Citation Table. His final communication before the hearing on the subject advanced a contradictory position in my view [pp.233- 236]. He appeared to acknowledge there were errors in his recent submission for which he took full responsibility and rightly apologised. However, he then appended a table described as *"analysis of sample cases accuracy"*. This made reference to six cases (out of eight cases) he said had been accurately cited.

21. I explained to the Claimant the crucial importance of the Tribunal being able to review his written arguments with a clear understanding of what is or is not now being relied on as a legal proposition. The Claimant had previously offered to submit a revised skeleton removing all case citations and relying solely on factual arguments and established legal principles without specific case references [p.234]. I declined this because, with respect to the Claimant, I felt the reformulated material might well include new or revised material which the Respondent inevitably had not seen and which would serve to proliferate matters further. That would introduce possible unfairness and would not be proportionate to the issues before me.

22. On the other hand, given (i) the Claimant appeared still to think he, and not the Respondent might be right about some of the cases, (ii) that even lawyers make mistakes and (iii)by that stage I had not had the time to independently check, it was fair he be given some chance to express the points of difference. That was on condition that he did so after reading the cases from authentic reports and understanding the risks to him of any unreasonable conduct. I was clear at the hearing that I did not want a further submission from the Claimant.

23. I accordingly made the directions in Annex C. These were given in outline orally. Owing to communication difficulties within HMCTS I am aware the written directions were unfortunately not dispatched until Tuesday 10 June 2025.

24. What has happened since has confirmed as well-founded my reasons for declining a new document from the Claimant.

25. These are my findings.

26. I accept, the Claimant when penning his email of 10 June (16.32) had not had sight of the written direction. I accept it was in his junk email folder. I accept he was concerned to prepare himself to comply with and even get ahead of my deadline. So far, so reasonable.

27. He attached to that email however, that which had been rejected by me as an option at the hearing, an amended skeleton and a 2 page letter described as post-preliminary hearing submissions and missing documents. I did not give permission orally for the Claimant to adduce these documents.

28. In a spectacularly euphemistic description, the Claimant - when dealing with the single point arising for his attention - acknowledged that there were some *"technical inaccuracies"* in his skeleton. He claimed to have prepared an updated skeleton with corrected citations. The exact changes made were not shown on the face of the document.

29. Once the lack of compliance with the written direction at Annex C was highlighted by the Respondent's solicitors, the Claimant, before the deadline, wrote to confirm that he now had the written direction. He did agree with the contents of the citation table and that he accepted Penningtons' clarifications regarding cases where he *"incorrectly attributed quotes or mischaracterised holdings"*. This step (or notice of genuine, material difference) was all that was ever required of the Claimant.

30. The Claimant also expressed that his previous errors reflected the challenges faced by a litigant in person rather than any intention to mislead the Tribunal. He claimed that his amended skeleton demonstrated a commitment to proper legal citation practices and respect for the Tribunal requirements. He styled the revisions in his skeleton as flowing from a wish to provide the direct reference to the authorities bundle (where possible) and that any new citations were individually verified by him.

31. That may have been his motive but I can only partly reconcile this with what the Claimant has done.

32. Annex B sets out my findings in relation to amended skeleton which I have spent some time working through to ensure fairness to the Claimant. I find the Respondent is correct that (as set out in Penningtons' letter of 19 June) the Claimant has continued to make assertions about cases that are not supportable or even reasonably arguable to any intelligent person reading them. I include in this category, those cases mentioned in paragraphs 23(b), 23(f), 42, 46 and 51.

33. With proper care this should not have happened. The Claimant is quite clever enough to have avoided these errors and the attendant costs to the Respondent of correcting an amended argument he was never granted the right to make.

34. I am also somewhat disturbed that the comparison between the original and amended skeleton shows that the Claimant has awarded himself the opportunity not only to add a new case (at paragraph 49) but to supplement his argument in a way that was never permitted (at paragraph 20 – see Annex B).

35. The Claimant, I am satisfied, just could not resist gilding the lily.

36. This behaviour also comes on the back of other conduct which I am satisfied shows a similar pattern. That behaviour is not at the threshold for costs but is relevant for context.

37. Here I turn to the unless order. Although the issues in relation to the non-compliance did not require determination in the light of findings about time limits, the parties have comprehensively addressed me in writing about the point. The Claimant, I find, manifestly did not comply with the unless order in time instead furnishing a very prolix document that did not do what was asked. When challenged by the Respondent's solicitors with a renewed strike out application, he sought to suggest that he had provided all relevant information whilst providing a wholly new document. If his first proposition was right (and objectively, it was not), of course, this would be needless.

38. I note a pattern by the Claimant in these proceedings of unco-operative defensiveness, poor insight and claiming to act (or have acted) in one way whilst betraying that with future, or indeed, concurrent actions. That mode of proceeding has been thrown into acute relief in relation to the case citation matters.

39. Litigants in person are entitled to some latitude and acknowledgement that Tribunal etiquette is unfamiliar to them. Indeed, that is a refrain invoked with striking frequency by the Claimant but it only goes so far. It must not be mis-used to avoid the consequences of unreasonable conduct.

40. In reaching my decision about the Claimant's conduct and that the costs threshold has been met in the respects indicated, I have had specific further regard to the following.

41. On the use of AI in general, I happily accept that the internet is a resource many of us tend to rely on as providing expertise and knowledge where

we lack it. Indeed, the facility for using a search engine has even been relied on in the EAT a reason for not granting an extension of time. I accept that AI is now at the forefront of internet searches. It might also be said that more intelligent and proficient users of the internet, like the Claimant, are more apt to use it in the way that the Claimant has i.e. to help construct arguments. I should not, and do not, approach the Claimant's use of AI as in any way inherently negative.

42. I further note Guidance for Judicial Office Holders on Artificial Intelligence (14 April 2025) which says this:

AI chatbots are now being used by unrepresented litigants. They may be the only source of advice or assistance some litigants receive. ***Litigants rarely have the skills independently to verify legal information provided by AI chatbots and may not be aware that they are prone to error.*** *If it appears an AI chatbot may have been used to prepare submissions or other documents, it is appropriate to inquire about this, ask what checks for accuracy have been undertaken (if any), and* ***inform the litigant that they are responsible for what they put to the court/tribunal.*** *Examples of indications that text has been produced this way are shown below. AI tools are now being used to produce fake material, including text, images and video. Courts and tribunals have always had to handle forgeries, and allegations of forgery, involving varying levels of sophistication. Judges should be awar*e of this new possibility and potential challenges posed by deepfake technology. [my emphasis]

43. In respect of the use of AI generated materials, I had regard to the available authorities and comment upon their relevance to this case as follows:

44. **Ayinde v London Borough of Harringey and others [2025] EWHC 1383** is a case which acknowledges the important role of AI in the conduct of litigation but stresses the risks that it carries. It is, however, concerned chiefly with the responsibilities of those in regulated legal professions who come before the Court. Specifically, it is noted *"the administration of justice depends upon the court being able to rely without question on the integrity of those who appear before it"* [Dame Victoria Sharp at paragraphs 5]. The single lay person identified as having advanced fake cases was accepted not to have any intention to mislead and to have had complete confidence in the authenticity of the material he advanced (paragraphs 76 and 79).

45. **Harber v HMRC [2023] UKFTT 1007**. Harber is not on point because (paragraph 22 refers) Ms Harber was found expressly to be unaware that the cases in her response were fabricated. From the time of the service of the Respondent's skeleton, the Claimant knew there was a substantial risk he was advancing unreliable case law.

46. **Bandla v SRA [2025] EWHC 1167 (Admin)** . This was a case where, as a result of citing fake cases, grounds of appeal were struck out as an abuse of process. A material finding was that the Appellant was someone who was a previously practising solicitor and had never withdrawn the citations. There is a clear difference with the Claimant here who I would

not hold to the same standard given he has not got a legal qualification and there is now some belated insight.

47. **Zzaman v Commissioners for His Majesty's Revenue and Customs [2025] UKFTT 00539.** This was a case in which the litigant in person advancing fake cases was found to be *"straightforward"*, that it was *"logical and reasonable to use AI"*. That is not the position I have found applied when the Claimant served his skeleton and amended skeleton.

48. **Olsen v Finansiel Stabilitet A/S [2025] EWHC 42(KB).** This is a case where the Court narrowly came to conclude that a summons for contempt would not be appropriate where a suspicion was raised that the Appellants had knowingly advanced a fake case. However, it was found the Appellant's right to recover costs (to which they were provisionally entitled) was potentially impaired by their conduct. The case is recent. I have not been able to establish whether costs were agreed between the parties or the Court has acted upon the indication it gave. This seems to me to be nearer to the Claimant's situation with the distinction of reckless disregard (in Dr Hassan's case) for authenticity rather than knowledge of falsity.

49. I have also considered on the question of costs **AQ Limited v Holden [2012] IRLR 648 EAT** and **Baton v Wright Hassall LLP [2018] 1WLR 1119**.

50. Having regard to **Holden** I do not consider this is simply a case of lost objectivity and poor knowledge of the law. It is quite distinct. The majority of the Supreme Court in **Barton** held a litigant's lack of representation will often justify making allowances but will not usually justify applying to litigants in person a lower standard of compliance with rules or orders of the Court. The Claimant here went outside of my clear direction by resubmitting the amended skeleton. There was no order in respect of the content of the first skeleton but for the reasons I have given, the service of a document replete with so many dangerously misleading references was, given the history, unreasonable.

Annex B
(EJ Miller-Varey's Review of the Claimant's Amended Skeleton)

Paragraph 11 The Claimant has provided me with a reference to the authorities bundle (at p.416) to the case of **Cavendish Munro Professional Risks.** The material is otherwise unchanged from the original skeleton of the Claimant. The case was previously highlighted in the Citation Table and was available for the Claimant to read. The case does not endorse *"measured and professional correspondence seeking to resolve compliance concerns"*.

Paragraphs 13 and 49 The reference to **Drysdale** has been left in as establishing that tribunals should make reasonable allowances for litigants in person who may not be familiar with procedural requirements and specifically because they not be familiar with legal citation practices. As was pointed out in the Citation Table, the former principle may be sound in general but it is not what the case establishes. **Drysdale** says nothing about case citation at all, contrary to the Claimant's paragraph 49 The case says that that the Tribunal may provide such assistance as is appropriate (see paragraph 49 of the judgment - in which the apparent level of competence and understanding of the litigant is relevant). The case was available for the Claimant to read in the authorities bundle.

Paragraph 20 The Claimant has removed the previously misleading reliance on **Keeble**, **Adedeji** and **Evesham** but has but substituted for the sentence incorporating two of those references, the following new paragraph:

> *The balance of prejudice in just and equitable extensions must consider such employer-created expectations. The principle of estoppel by representation, recognised in employment contexts in Section 123(1)(b) of the Equality Act 2010 (and similar provisions in other legislation) to extend time if it is "just and equitable" to do so, taking into account all relevant circumstances where employer created expectations or engagement in settlement discussions can certainly be factors. supports extending time where an employer's conduct creates reasonable reliance on alternative resolution.*

This paragraph is in part something of a reworking of the principles said to be derived from the previously misleading references. However, it also introduces a new point about s.123(1)(b). I agree with the Respondent that s.123(b) does not recognise estoppel by representation. Estoppel by representation is essentially a contractual doctrine and can be used as a shield and not a sword in litigation. It is not an apposite principle in this context and the Claimant has mis-stated the position. No new point should have been made at all.

Paragraph 23(b) The Claimant has retained his reliance on the case of **Rathakrishnan** and provided a genuine reference but has repeated the assertion that this case establishes that the EAT held that attempts to resolve matters directly with the employer can justify extending time limits. This was pointed out in the Citation Table to misrepresent the position. The Claimant has had the chance to read the actual decision (having even directed me to the authorities bundle). I cannot account for the continued mis-statement.

Paragraph 23(f) the Claimant has updated the case reference for **Woodhouse** to the law report in the authorities bundle. The Claimant has then repeated the earlier argument that in the case the EAT acknowledged the complexity of identifying and formulating discrimination claims. This was pointed out, quite correctly, in the Citation Table to be wrong because the case is about victimisation for a protected act. The Claimant has had the opportunity to read the case in the authorities bundle. I cannot account for the continued mis-statement.

Paragraph 37 the Claimant retains reliance on **Burchell** (and other, unnamed authorities from the bundle) for the proposition that probationary decisions must be based on genuine belief following reasonable investigation. Granted this error was not picked up in the Citation Table previously but it is wrong. I do not follow how the Claimant has deduced from the various references to **Burchell** in the authorities bundle that it connects to probationary decisions.

Paragraph 42 –The Claimant retains the same case of **Hale v Brighton & Sussex University Hospitals NHS Trust** with a new and accurate reference which I detect has been obtained from a summary at the website "employmentcasesupdate.co.uk" which the Claimant has provided an embedded link to. It is still relied upon in support of the proposition made previously, that the timing of employer communications can be relevant to the assessment of subsequent delays. This was pointed out to be an inaccurate in the Citation Table. It is wholly inaccurate. I have read the summary at the website to which the Claimant has now referred and find it says nothing which would could have led the Claimant, with any reasonable care, into this error. In **Hale** the appeal grounds made to the EAT acknowledged that no grounds for a just and equitable extension of any kind had been advanced by the Appellant at first instance (paragraph 47); the case had been run the case on the basis of a continuing act. The decision says absolutely nothing about communications of the employer.

Paragraph 46 – There has been a correction to remove the reference to **Science Research Council** and an updated, authorities bundle reference included for **Oguoko**. However, the Claimant has retained the misleading suggestion that this case establishes omission can support adverse inferences. The case quite simply says nothing about inferences at all. This as was pointed out in the Citation Table. It concerns natural justice in reference to written submissions which the Tribunal had caused not to be cross-served. The Claimant has had the chance to read this case. I am at a loss to understand his continued mis-statement.

Paragraph 49 – The Claimant introduces a new case (**Mervyn v BW Controls Ltd**) for which the correct reference is given as "[2020] EWCACiv744". The actual neutral case reference for the case is [2020] EWCA Civ 393. The Claimant says the Court of Appeal noted judges should intervene to help parties who are acting in person without legal training to frame the right claim. He deploys this case in defence of his *"inadvertent"* case citation errors.

This case is not authority for such a wide proposition. It is concerned with permissible amendment of a list of issues where that list clearly does not properly reflect the significant issues between the parties.

Paragraph 51 – The Claimant retains the reference to **Secretary of State for Justice v Hibbert** with an updated reference from the authorities bundle. It is

nevertheless *still* advanced that the EAT held that probation extensions should be based on substantive performance concerns “not trivial matters”. The latter phrase is freshly emboldened and underscored in contrast to the original skeleton [p.218]. The case nowhere mentions probation extensions or probationary periods. The Claimant has had the chance to read this case in the authorities bundle. It is very obviously about an entirely different issue of the date of termination relevant to a resignation of immediate effect.

Aside from the above, the Claimant has otherwise substantially removed defective or misleading case citations and/or provided the appropriate authorities bundle reference for which the Claimant deserves some credit.

Annex C

(DIRECTIONS SENT TO THE PARTIES ON 10 JUNE 2025)

The Claimant shall by 4pm on Wednesday 11 June 2025 provide in writing to the Tribunal (copied to the Respondent) confirmation EITHER that:

(a) he agrees with the contents of the table (the Table) contained in the appendix to the letter of Penningtons Manches Copper LLP of 4 June 2025, specifically the commentary made in reference to the cases cited;
OR
(b) he does NOT so agree. In that event he must set out, in respect of each case, any point of material difference arising. The Claimant must only do so based on having first identified and read the case in question from the bundle of authorities prepared for the hearing or, where not contained in there, any reliable open source such as Bailii or the National Archives.

As discussed, Mr Middleton of Penningtons may be able to assist with links to/copies of genuine reports of any cases to which the Claimant may not have access, but the Claimant should reflect on the following important points:

(A)The Respondent has indicated it intends to apply for an order for costs against him on the basis of his alleged misconduct in the proceedings for citing cases that are fake and/or misrepresenting the points established by real cases he has cited.

(B)The solicitors and Counsel representing the Respondent are subject to regulatory codes and duties to the Tribunal by which they would be liable to significant professional and other sanctions if the Table was itself inaccurate or misleading.

(C) The opportunity to reflect on the Table, and provide the relevant confirmation, reflects that in his most recent letter the Claimant appears to accept only some errors; his own appendix works through only some of the cases.

(D) Any unreasonable proliferation of work or disputes related to what the legal cases in question establish, is likely to increase the amount the Respondent's seek to claim for costs. That might extend to any further help in furnishing law reports given they are only in issue because the Claimant has raised them.

(E) No decision has been made on the principle of any costs application, still less any amount, but the Claimant should be aware of his potential exposure.

(F)The Judge provides her own, independent self-direction on the law and will apply this to the facts, taking into account any relevant principles - whether from case law or statute - that she is satisfied are properly relevant to the issue.