EMPLOYMENT TRIBUNALS

Claimant: **Ms D Baker**

Respondent: **Bar Standards Board**

Heard at: **Birmingham**

Method: **By Video**

On: **06 October 2025 to 07 October 2025**

Before: **Employment Judge Smart in public**

Appearances:

For the Claimant: Herself

For the Respondent: Mr. Tom Brown (Counsel)

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

1. The Claimant's claim listed in the list of issues at paragraph 5.1.9 is struck out under rule 38.

2. The Claimant's claims listed under paragraphs 5.1.1, 5.1.2, 5.1.3, 5.1.7 (encouraging and assisting the Claimant's neighbours to make complaint about her), 5.1.10, 5.1.11, 6.2.2 - 6.2.10 of the list of issues (inclusive) are dismissed upon withdrawal by the Claimant, but may be referred to in evidence as background information. The Claimant will be using that background information for the Tribunal to draw inferences of discrimination from.

3. The Claimant requested written reasons for the strike out Judgment of allegation 5.1.9 at the hearing.

REASONS

THE LAW:

1. Fishing expeditions have long been established as being impermissible.

2. There is a marked difference between a fishing expedition and disclosure.

3. Disclosure informs a case, with all the elements of it properly pleaded, which has at least some non-speculatory factual basis, even if it appears to be a weak factual basis.

4. A fishing expedition is where disclosure or information is requested from a Respondent or Claimant to see if the party *has* a case for either the claim or response as a whole, or one of the necessary constituent parts of a claim or response.

5. The latter effectively requires to the person of whom the information request is made, to effectively investigate a speculatory claim/allegation for their adversary, therefore, expecting the other side to essentially indulge a party's speculation, assumption, rumour or theory to its detriment, possibly implicating themselves in the process, to their own detriment, expense and disadvantage.

6. In essence, the person who wants to fish for information is seeing whether they can get information to either make a case in the first place or to strengthen their position at the pleading stage of the proceedings by filling in the gaps that they cannot plead, because they do not know what happened.

7. In ***Hennessy v Wright (No.2) (***1888) 24 QBD 445, Esher MR said at page 448:

   "In other words, the Plaintiff wishes to maintain his questions, and to insist upon answers to them, in order that he may be able to find out something of which he knows nothing now which might enable him to make a case of which he has no knowledge of at present. If that is the effect of the interrogatories, it seems to me that they come within the description of "fishing" interrogatories and on that ground cannot be allowed ... the moment it appears that questions are asked and answers are insisted upon in order to enable the party to see if it can find a case, either of complaint or defence, of which at present he knows nothing and which would be a different case from that which he now makes, the Rule against a court's "fishing" interrogatories applies."

8. Clearly, the above case could be interpreted as authority for an all or nothing approach. That is not the situation here. The Claimant in the case before me knows of bits and pieces, but doesn't have the full picture to put forward a workable pleading. However, that is not the state of the law now.

9. His Honour Judge Richard Parkes QC, sitting as a Deputy Judge of the High Court, said in **Stocker v Stocker [2014] EWHC 2402 (QB)** at paragraph 26 with my emphasis added underlined:

"…Whether the answers would enable the defendant to avoid a plea of justification is a wholly speculative question, and in my judgment it is not a sufficient pretext to justify a course which otherwise plainly amounts to fishing. It is no less fishing to seek further information to assist a party to plead a defence of which she knows something (albeit not as much as she would like) than to plead a defence of which she knows nothing, and the words of Lord Esher MR should not be regarded as limited to the latter situation (see Hennessy v Wright (No.2) (above), at p448). In my view it is stretching too far the concept of a matter in dispute to include within it attempts to find out whether or not the party can make out a defence, whether it is consent or whether it is justification. There is a clear distinction between the rationale of cases such as Dee v Telegraph and Harcourt v Griffin, where the requests were designed to fulfil a proper and constructive litigious purpose which was likely to save costs and court time, and these requests, which are primarily designed to strengthen the defendant's hand in pleading proposed defences. That is not the function of Pt 18 particulars, any more than it was the function of interrogatories. These requests are neither necessary nor proportionate to enable the applicant to prepare her case or to understand the case she has to meet."

10. That case involved pleading a defence. However, the rule on fishing has long been established to apply to both sides, whether it be pleading a claim or pleading a defence.

11. From the case above, it is clear that a request for information or disclosure based on a speculatory issue is not sufficient to overcome the ban on fishing.

12. It is also clear from the above, that the ban on fishing is not limited to cases where a person is fishing to see whether they have a claim or defence at all, but also applies to situations where the person is fishing to fill a gap in one of the requisite parts of a claim or defence being pleaded, for example, the name of the person responsible, pinpointing the date of the cause of action or to check whether the person did the right or wrong thing in the first place when the person seeking information doesn't know what actually happened.

13. For a claim of direct race discrimination or victimisation to succeed, the following information must be pleaded and identified before any analysis of the case can take place:

    13.1. The name of the individual person said to have committed discriminatory or victimising treatment.

    13.2. What it is they were said to have done that is alleged to have been the discriminatory or victimising treatment.

    13.3. The precise date (or as precise as you can get it), upon which the alleged decision to act or failure to act took place.

14. If the alleged perpetrator is unknown, the Tribunal cannot analyse the mental processes of the perpetrator to enable it to confirm what the real reason was for why that person did the alleged mistreatment of the Claimant because of her race or because of the protected act relied upon, which is essential for both direct

discrimination and victimisation complaints after the case of **Khan v Chief Constable of West Yorkshire Police v Khan [2001] UKHL 48**.

15. It is also essential for analysing what they knew about the Claimant and her circumstances at the time, for example her race or the content and nature of the protected act relied upon.

16. Knowledge of individuals cannot be imputed in direct discrimination and victimisation claims, after the case of **CLFIS (UK) Ltd v Reynolds [2015] IRLR 562.**

17. Group decisions can, however, be tainted by discriminatory motivation but the group then needs to be identified in the same way as an individual does.

18. Inherent discrimination needs no analysis of the mental processes of the perpetrators at all.

19. The ratio of **Reynolds** was very clearly summarised by Kerr J in **Commissioner of Police of the Metropolis v Denby UKEAT/0314/16** at paragraph 52:

"52. The ratio of CLFIS is simple: where the case is not one of inherently discriminatory treatment or of joint decision making by more than one person acting with discriminatory motivation, only a participant in the decision acting with discriminatory motivation is liable; an innocent agent acting without discriminatory motivation is not. Thus, where the innocent agent acts on 'tainted information' (per Underhill LJ at paragraph 34), i.e. 'information supplied, or views expressed, by another employee whose motivation is, or is said to have been, discriminatory', the discrimination is the supplying of the tainted information, not the acting upon it by its innocent recipient".

20. The date of the offending decision is needed precisely, or at least within a reasonable estimated time frame, such as at worst within a month or at best within a few days for example, so that the jurisdiction of the tribunal can be determined and indeed to allow the respondent to properly raise that issue.

21. If the date of an incident is entirely unknown and/or cannot be estimated within a reasonable timeframe, then the respondent is robbed of its ability to challenge jurisdiction and the tribunal is robbed of its ability to safely and/or properly determine jurisdiction or indeed determine any extensions of time.

22. The "what they did" is also needed. For example, if a person is accused of accessing and distributing information and in so doing was committing direct discrimination or victimisation, simply pleading accessing and distributing are clearly not sufficient particulars. For example, how did the "accessing" take place? It could mean logging into a computer to locate and read the electronic file, walking into a room where you know the documents will be open or freely accessible. It could mean getting your way into a secure filing area and rifling through files that would otherwise be locked away.

23. Similarly, distributing information – how was that done? It could be scanning things in and sending by email. It could be a hand delivery to people either inside the

workplace or outside of it, in the open or in secret. It could be posting the information, faxing it or indeed leaving it deliberately unsecured knowing that other would be able to find it, read it and spread it about.

24. If any of the above took place who is responsible, how did they do it and what was in their minds when they did are crucial to direct discrimination and victimisation claims.

25. What is said to have happened is crucial to the mindset of the individual whether something was deliberately done or not, whether there was an honest mistake or dishonesty involved. Such information is necessary to the tribunal's task of deciding the primary facts and what inferences of discrimination can be drawn from those and what those inferences indeed are.

26. Of course, at pleading stage, we are looking simply at the essence of the case, not a pleading akin to a witness statement with absolutely every detail considered and stated. However, the fundamentals of who did what, where, when, how and why must be pleaded.

27. If the basics are not pleaded fully, the Respondent cannot reasonably and fairly investigate the allegations to have a reasonable opportunity of mounting a considered defence. If it doesn't know the who, the what, the when or the how, it is totally prevented from defending the allegation properly and without being a significant disadvantage.

28. Whether documents or other information should be disclosed, depends on whether the provision of the documents and/or information is necessary for the fair disposal of the proceedings and is in furtherance of the overriding objective.

29. The party seeking disclosure does not need to show a prima facie case that they will succeed on the issue. All that is needed is that the allegation has been raised, that it is not baseless and has some reasonable prospect of success after **Dodd v UK Direct Business Solutions Ltd [2022] EAT 44 (18 March 2022, unreported).**

30. In my judgment, if a claim does not have all the requisite parts pleaded, despite multiple attempts at doing so and the only way to fill in those gaps would be for the Respondent to fish for the person suing them, then such a claim is baseless and without a proper foundation.

Strike out

79. All decisions made in accordance with the Employment Tribunal Rules must bear in mind the overriding objective in rule 3 and any relevant presidential guidance. I have considered these.

80. The Tribunal rules allow me to strike out a claim if it has no reasonable prospect of success or no fair hearing of it can take place under 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;

(b)that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

(c)for non-compliance with any of these Rules or with an order of the Tribunal;

(d)that it has not been actively pursued;

(e)that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim, response or reply (or the part to be struck out).

(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.

(3) …

(4) …"

81. In **Ezsias v North Glamorgan NHS Trust [2007] 4 All ER 940** that case stated that it is only fanciful cases that will pass the very high threshold required to strike out a case.

82. In **Cox v Adecco UKEAT/0339/29 [2021] ICR 1307** at [28] HHJ Taylor held as follows when describing the general approach to strike out:

"28 From these cases a number of general propositions emerge, some generally well understood, some not so much.

(1) No one gains by truly hopeless cases being pursued to a hearing.

(2) Strike out is not prohibited in discrimination or whistleblowing cases; but especial care must be taken in such cases as it is very rarely appropriate.

(3) If the question of whether a claim has reasonable prospects of success turns on factual issues that are disputed, it is highly unlikely that strike out will be appropriate.

(4) The claimant's case must ordinarily be taken at its highest.

(5) It is necessary to consider, in reasonable detail, what the claims and issues are. Put bluntly, you can't decide whether a claim has reasonable prospects of success if you don't know what it is.

(6) This does not necessarily require the agreement of a formal list of issues, although that may assist greatly, but does require a fair assessment of the claims

and issues on the basis of the pleadings and any other documents in which the claimant seeks to set out the claim.

(7) In the case of a litigant in person, the claim should not be ascertained only by requiring the claimant to explain it while under the stresses of a hearing; reasonable care must be taken to read the pleadings (including additional information) and any key documents in which the claimant sets out the case. When pushed by a judge to explain the claim, a litigant in person may become like a rabbit in the headlights and fail to explain the case they have set out in writing.

(8) Respondents, particularly if legally represented, in accordance with their duties to assist the tribunal to comply with the overriding objective and not to take procedural advantage of litigants in person, should assist the tribunal to identify the documents in which the claim is set out, even if it may not be explicitly pleaded in a manner that would be expected of a lawyer.

(9) If the claim would have reasonable prospects of success had it been properly pleaded, consideration should be given to the possibility of an amendment, subject to the usual test of balancing the justice of permitting or refusing the amendment, taking account of the relevant circumstances."

THE PROCEDURAL HISTORY

31. This case first came before me in September 2024 at a preliminary hearing.

32. I need not go into the full background to all the issues. I specifically refer to what was said, discussed and resulted from the consideration of allegation 5.1.9.

33. The first attempt at clarifying this issue was before Childe EJ. The second attempt before Connolly EJ.

34. By the time I first looked at the list of issues, claim 5.1.9 was worded:

"5.1.9 On unknown dates between April 2018 and August 2023, did unknown individuals acting as employees or agents of the BSB access the complaints material which the respondent had retained."

35. After the hearing on 9 September 2024, in my Reserved Judgment sent to the parties on 16 December 2024, I said this about it:

*"127. **5.1.9:** This claim appears to be hopeless. It has no date for the cause or causes of action, the Claimant has not specified any alleged perpetrators, it cites employees or agents, but the Respondent does not know who they are or what the basis for alleging an agency relationship is. This claim was clarified by Judge Connolly at a Case Management hearing and it is still vague. It is speculatory. It is likely to cause fishing expeditions for disclosure in my judgment unless the Claimant knows of specific perpetrators or dates. Consequently, the Claimant has 14 days to fully particularise the facts of this claim including the name(s) of those involved, the date(s) involved and the grounds the Claimant relies upon including what was improperly accessed by whom and if anyone named is alleged to be an agent, the precise grounds the Claimant relies upon as the basis*

for alleging an agency relationship or it is likely to be struck out as having no reasonable prospect of success. This is the Claimant's final chance to properly particularise this complaint."

36. I caused a strike out warning to be sent to the Claimant as a result with that Judgment in compliance with the Presidential Guidance in case the issue was dealt with without a hearing. It stated:

"STRIKE OUT WARNING

Employment Tribunals Rules of Procedure 2013

Rule 37

On the application of the respondent and having considered any representations made by the parties, Employment Judge Smart is considering striking out claim 5.1.9 in the list of issues because:

• it has no reasonable prospect of success as pleaded

To avoid this part of the claim being struck out, the Claimant has 14 days to fully particularise the facts of that claim including:

• the name(s) of those involved,

• the date(s) involved,

• the grounds the Claimant relies upon including what was improperly accessed by whom and

• if anyone named is alleged to be an agent, the precise grounds the Claimant relies upon as the basis for alleging an agency relationship."

37. The Claimant alleged, during the current hearing, that this was an unless order. It is clearly not an unless order. No automatic consequences would result from it. It is clearly not labelled as an unless order, it was created under rule 37 (now rule 38) and I stated in that warning that I was *considering* striking out the claim.

38. Consequently. After the response to that warning, the claim could be struck out or, equally, it might not be struck out.

39. The Claimant is an experienced barrister. Consequently, whilst she is technically a litigant in person, she fully understood what was meant by the warning and what was required of her to "*fully particularise the facts of that claim"* meaning particularising who did what, where, when, how and why.

40. On 23 December 2024, the Claimant sent a response to the strike out warning to the Tribunal and Respondent.

41. This was now the third attempt at particularising this claim.

42. The Claimant took me to the parts of the response she relied upon as complying with the strike out warning. She relied upon paragraphs 2 – 5 of her document titled *"Amendment to paragraph 4 of the ET1 as directed by EJ Smart"*, which say:

*"**2**. 5.1.9 of the directions states as follows:*

"5.1.9 On unknown dates between April 2018 and August 2023, did unknown individuals acting as employees or agents of the BSB access the complaints material which the respondent had retained"

Paragraph 5.1.9 of the ET's Order is not what is stated in the ET1, this paraphrases part of the ET1. The Tribunal's attention is drawn to paragraph 4 of the ET 1.

3. Paragraph 5.1.9 of the ET's Order refers to paragraph 4 of the ET1 which states as follows:

"The material, which was sent by a malicious complainant, unrelated to the law and the legal profession. The complaint was treated as without merit, but the letters and documents sent to the respondent by the complainant was kept for 5 years and was accessed by hundreds of the claimant's staff, servant, agents, and associates, which includes many serving members of the judiciary and members of the bar. As a result, attending court and working as a Barrister became impossible for the claimant."

4. By way of clarification of paragraph 4 of the ET1 the Claimant says as follows:

4a. Between April 2018 to November 2023 hundreds of the respondent's servants and or agents accessed the material pleaded in paragraph 4 of the ET1. There are no legal or positive grounds for holding these documents, therefore anyone accessing them did so to the claimant's detriment and did so unlawfully. It is impossible for the claimant to name all those who accessed the material mentioned in paragraph 4 of the ET1, however and number of those individuals are listed below:

1. Maryna Rasloutseva
2. Teresa Murphy
3. Paul Pretty
4. Sara Jagger
5. Ambika Lall
6. Alfonso Tucay
7. Satpal Bansal
8. Yemi Alade
9. Maithili Sreen
10. Jeffery Chapman QC
11. Ryan Peters
12. Thomas Papa
13. Zoe White
14. Richard Wilkins
15. James Adams
16. Alka Puri
17. Diane Mastse-Orere

18. Alex Williams
19. Marina Ferrol
20. Alison Padfield QC
21. Naomi Ellenbogen QC
22. Michael Carter

5. The individual named above, worked for the respondent as their employees, legal representatives and or members of various committees."

43. I observe the following about this response:

43.1. It was submitted on time;

43.2. It does not state who accessed the material. The perpetrators are still unclear and are left as *"hundreds of the Respondent's servants and or agents accessed the material".* This was in breach of my order.

43.3. The Claimant stated that it was impossible for her to name all those who access the material but she does then name individuals listed at 1 – 22 above.

43.4. The Claimant fails to specify any dates. She relied on a time period of April 2018 and November 2023, namely 5 years and seven months. This is in breach of providing the specific dates requested in the order.

43.5. The grounds the claimant relies upon about who accessed what are not included in the response. This is also in breach of the order.

44. Both the tribunal and the Respondent were therefore still in the dark about the case being pleaded at 5.1.9.

45. The Case then came before Maxwell EJ on 4 March 2025. He said this about the claim at paragraph 5.1.9:

"23. Looking at the other matters we might deal with today, I discussed the possibility of listing a final hearing and making the usual case management orders. Mr Brown said that was difficult give the lack of certainty as to the scope of the claim. He pointed to the claim the subject of the strike out warning letter (claim 5.1.9). In response to which the Claimant had provided a list of 22 names. He said the Respondent would need to consider calling them.

24. Mr Herbert disagreed, he said the Respondent was misconstruing the Claimant's complaint. He referred back to the original claim form particulars and said this claim (5.1.9) was a complaint about the Respondent disseminating information, rather than a complaint about the named individuals accessing it. I observed that did not appear consistent with either the list of issues or the relevant paragraph in the Claimant's particulars. After a short pause to take instructions, Mr Herbert said the Claimant was complaining about both the dissemination by the Respondent and these named individuals accessing the material."

46. Clearly, before Judge Maxwell, there was still a lot of confusion about what this claim was about and it appeared to have changed from both the ET1 and the list of issues.

47. The approach of Judge Maxwell was also not that taken to an unless order. That is because no unless order was made. No automatic consequences are discussed and he tried for a fourth time, again unsuccessfully, to clarify this claim on this occasion with the Claimant represented by Counsel despite my strike out warning saying this was the final chance for the Claimant to properly plead this claim.

48. The case was then listed before me to hear again during the current hearing.

49. We discussed the claim at 5.1.9 in detail. The Claimant said the following about it:

    49.1. She said we were under a misapprehension. The list of names provided by the Claimant to clarify the claim were not the names of the perpetrators but the people who may have been sent the information the Claimant says the Respondent unlawfully allowed access to.

    49.2. The named perpetrators were actually Ms Jagger and Mr. Pretty named as 3 and 4 in the list of names.

    49.3. The Claimant could not tell me how they were involved in this claim, other than to say they were both senior individuals in the organisation and the information was kept for people to access, so they were responsible. The Claimant couldn't tell me whether they had actually done or failed to do anything specifically themselves.

    49.4. The Claimant stated that the order I had made was impossible to comply with because the Respondent had all the information and only it knew how the information was stored, who had access to it and who was responsible for then accessing it and disseminating it. This identifies the need for the Claimant to fish and clearly indicates that this claim is in the category described in the case law cited earlier **Stocker** and **Hennessey.**

    49.5. The Claimant said her claim was akin to a file being left in Costa Coffee for anyone to see. However, she could not say how the information had been stored other than being on a system somewhere at the respondent. The allegation that this is like leaving a file in public for all to see is an assumption of the Claimant. She does not have any basis for supporting that assumption because she admitted she doesn't know how the information was stored or by whom or how it was accessed or by whom. The Claimant could not provide any reasonably precise dates.

    49.6. The deciding minds of who is alleged to have done what are entirely absent other than the names of Mr Pretty and Ms Jagger who the Claimant argues should be responsible for discrimination simply because of the job roles they inhabit, which is not the current state of the law. A person is not for example by default guilty of discrimination simply because they are a director or CEO regardless of their involvement in the situation. An organisation as a whole can be by virtue of s109 Equality Act 2010, but that's only if an individual in the correct circumstances of that section is found to have committed an act

of discrimination. The actual perpetrator still needs to be known and proven to have committed discrimination to bind an organisation.

49.7. The Claimant stated that the situation could and should be solved by the disclosure process and when the Respondent discloses all the emails and other documents relevant to the claim as currently pleaded, she would then be able to identify the individuals who did this. This was the predicted request for a fishing expedition.

50. This was now attempt number five to clarify this claim and we were still no further forward.

51. Despite a further discussion, we are without the deciding minds, we are without what it is alleged the unknown individuals actually did. We cannot identify any specific date and the only date range provided spans over 5 years. The claim is based on speculation and assumption.

52. The consequences of this are straightforward to identify. The Respondent is unable to conduct a reasonably focussed investigation into the allegation or what witnesses or documents are relevant to it.

53. It is not reasonable to expect the Respondent to go through 5 years' worth of documents in case they might find an issue and then tell the Claimant who it is that might have done something speculating about the reasons for that conduct so the Claimant can then better plead her case against it.

54. It is not fair or just that the Respondent be used in that way to essentially investigate itself, identify possible complaints against itself and deliver that potentially self-incriminating/implicating information to the Claimant to support her in properly pleading a claim against it.

55. This is a very different scenario to a properly pleaded claim where the perpetrators were known and disclosure would better inform that claim, in which case both sides would have to disclose relevant documents that might help or hinder any party's case.

56. Essentially, the respondent cannot sensibly or reasonably defend this speculatory allegation.

57. It is at a permanent disadvantage in these proceedings about this particular claim, which is, in my judgment, not capable of being remedied.

CONCLUSION

58. I understand the Claimant's case about 5.1.9. She says that the Respondent improperly stored complaints documents and assumes that it let them be accessed by hundreds of people she cannot identify. She says those unidentified individuals did access the documents although she doesn't actually know if they did, when, how or why and both the allowing access and the accessing of the information were done because of the Claimant's race and/or because she had done a protected act.

59. Nothing about the dissemination of that information is pleaded in the paragraphs of the ET1 the Claimant relied upon in support of this claim.

60. The Claim is fundamentally flawed because if the Claimant doesn't know who allowed access to the documents or who then accessed them, it is impossible for her to allege that these things happened because of her race or protected act.
61. At best, the unknown individuals *could* have done these things for an improper reason, that would be insufficient to shift the burden of proof.

62. Similarly, it is hopeless to try to lay blame at Mr Pretty and Ms Jagger's feet. After **Reynolds** as cited in **Denby,** an innocent person simply inhabiting a senior job role who had no involvement in any decisions to act or failures to act cannot be deemed to take on the improper discriminatory motivations of others, whether they are identifiable or not.

63. This is clearly a situation, albeit in reverse, akin to that described in **Stocker.** The only way the Claimant's pleadings can be fixed to make them workable as a fully pleaded claim is to expect the Respondent to fish for her, which has long been established as being impermissible.

64. The Claimant cannot say whether the unknown individuals knew of her protected act, for example, or if they knew the Claimant was black if they were unfamiliar with any of the Claimant's prior complaints, the Claimant herself or the legal proceedings before accessing the information.

65. There have been at least four detailed attempts at trying to identify the full particulars of this claim needed by the respondent to be able to properly and fairly defend it.

66. Currently, the allegation is speculatory and hopeless. It cannot have any reasonable prospect of success if the perpetrators, their methods, reasons and/or when the assumed cause of action took place are unknown.

67. It is not reasonable or proportionate to expect the respondent to undertake a disclosure exercise looking through 5 years' worth of documents in case improper access or permission to access files might have happened at some time by someone.

68. The Respondent is at a continual disadvantage about this claim. That disadvantage cannot be rectified unless the Respondent is put to further prejudice by fishing for the Claimant.

69. To order the disclosure the Claimant requests would mean an unfair disposal of the proceedings for the Respondent and it is unnecessary for them to undergo disclosure about a claim not properly pleaded. The law does not require that.

70. The Claim is, in my view, hopeless and a fair trial of it is impossible. It is one of those rare cases where a striking out a discrimination claim is appropriate. I therefore strike it out.

Judgment approved by:

Employment Judge G Smart

On 3 November 2025