EMPLOYMENT TRIBUNALS

Claimant: Mr K Honour-Matulewicz

Respondent: (1) Temple Legal Protection Ltd
(2) Laurence James Pipkin
(3) Matthew James Best
(4) Matthew Stephen Pascall

Heard at: Reading **On:** 22 September 2025

Before: **Employment Judge Shastri-Hurst**

Representation
Claimant: Mr J Judd KC (counsel)
Respondent: Ms J Shephard (counsel)

JUDGMENT having been handed down to the parties on 22 September 2025 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

1. The claimant was employed by the first respondent as a technical underwriting manager: he was at all material times a practising solicitor. He commenced work on 6 November 2023 and worked until his employment was terminated on 22 August 2024.

2. Early conciliation started against all respondents on 15 August 2024 and ended on 10 September 2024. The claim form was presented on 10 October 2024. That claim form presented claims of race and disability discrimination, and wrongful dismissal. The claimant identifies as Polish of the purposes of his race claim. Regarding his disability claim, he says has various disabilities as follows:

    2.1. Depression;
    2.2. Anxiety disorder;
    2.3. Travel anxiety;
    2.4. PTSD;
    2.5. Autistic Spectrum Condition;
    2.6. Dysgraphia;
    2.7. Dyspraxia.

3. During the preliminary hearing, we finalised the List of Issues. They are attached to these Reasons. The claims are as follows:

3.1. Direct perceived disability discrimination;
3.2. Harassment related to disability;
3.3. Direct race discrimination;
3.4. Harassment related to race;
3.5. Discrimination arising from disability;
3.6. Failure to make reasonable adjustments;
3.7. Victimisation
3.8. Wrongful dismissal;
3.9. Discriminatory dismissal.

4. This case came before me for a preliminary hearing in order to deal with case management, as well as two substantive applications from the claimant:

4.1. To add Ms Lisa Fricker as a fifth respondent; and,

4.2. To require the respondents to provide further and better particulars of their Grounds of Resistance.

5. I refused both applications. These refusals are the subject of the request for Written Reasons.

6. I had the benefit of a preliminary hearing bundle of 109 pages before me. I will refer to page numbers within that bundle as [X].

Facts

7. As set out above, the claimant was employed by the first respondent from 6 November 2023 and worked until his employment was terminated on 22 August 2024.

8. The claimant went through the ACAS early conciliation process in relation to all respondents, and also as against Ms Fricker, between 15 August and 10 September 2024. He did not however list her as a respondent on his claim form, presented on 10 October 2024; neither does she appear in the header of the claimant's Grounds of Complaint as being a named respondent. Furthermore, no allegations or claims are made against her within the original Grounds of Complaint.

9. On 29 October 2024, the claimant's data subject access request was responded to by the respondents. In that disclosure were some emails from Ms Fricker regarding the claimant:

9.1. [90] - 10 May 2024 - "...so ideally it needs to go to someone else but I don't want to utilise Konrad!!!";

9.2. [91] - 17 May 2024 - "Until further notice, please can you refrain from allocating any Hart Brown referrals to Konrad";

9.3. [94] - 3 June 2024 - "Also does that mean OW can only send his referrals to DS (no-one likes sending them to Konrad!!!)";

9.4. [96] - 25 July 2024 - “I have provided the data requested below but you need to remember that Konrad was mainly shadowing attendees for training purposes and wasn’t necessarily completing forms in his name or on his own, as the other attendees may have been sat with him supporting him, so the numbers below may not provide you with a clear picture...It was at the KN and HJA audits where Konrad was going off to research Counsel, spending unnecessary time doing do. I am also aware of excessive chatting where he has been told to stop by attendees...”.

10. The claimant’s assertion is that this disclosure demonstrated that Ms Fricker was playing a significant part in not allowing the claimant to undertake work; that lack of work then being used against him.

11. By email of 28 November 2024, 7 weeks after the lodging of the ET1, and 4 weeks after receipt of the response to the data subject access request, the claimant’s representative made an application to amend the claim and add Ms Fricker as a respondent – [33-35]. The Amended Grounds of Complaint were attached to the application – [36-51].

12. The respondents presented their ET3 and Grounds of Resistance on or around 10 January 2025 (this is the date of the Grounds of Resistance).

13. On 12 August 2025, the claimant made a request for further and better particulars regarding paragraphs 16, 18, 19, 22 and 24 of the Grounds of Resistance – [82-83]. The application is based, in the main, on the respondents “not admitting” certain matters, as opposed to expressly denying or admitting them. The respondent’s response to that application is found at [84-85].

Claimant’s submissions – adding Ms Fricker

14. It was the claimant’s position that Ms Fricker had been the subject of the ACAS early conciliation process, and on the evidence available she participated in “pretty egregious conduct”. This evidence only came to light on 29 October 2024 and the claimant made an application soon thereafter to add her.

15. The claimant submitted that there was little prejudice, as Ms Fricker would be attending the final hearing as a witness for the existing respondents. Although it was recognised that there may be a time limit point, this could be dealt with at the final hearing. Finally, the respondents will all be represented by the same legal team, and so the addition of Ms Fricker as an individual respondent would not add any additional cost.

16. It was averred that the claimant was entitled to hold those who have (allegedly) discrimination against him to account, and to seek a declaration and compensation from those individuals. If Ms Fricker is not added, then the full story of events will not be revealed. For the claimant, I was told that the liability of individual respondents was important, which is why he joined certain individuals initially, as opposed to just the corporate entity. The claimant’s position is that there would be prejudice suffered by him in refusing his application, as it would be to deny him the findings he seeks

against Ms Fricker as an individual respondent. Also, although it was understood that it is intended that Ms Fricker is to be a witness for the respondents, it is not unknown that witnesses fail to engage or attend the final hearing. If a witness is joined as a party in their own right, there is less chance of them absconding.

Respondents' submissions – adding MS Fricker

17. Firstly, it was submitted that caution should be applied to the claimant's suggestion that there was documentary evidence of "egregious" conduct. It is the respondents' position that there was a reasonable explanation for the removal of work from the claimant.

18. Secondly, in this case there was no need to add Ms Fricker as the first respondent accepts that it is vicariously liable for all respondents and any unlawful action by Ms Fricker: in other words, it is not seeking to run the defence under s109 of the Equality Act 2010. As such, the respondent argued that there was no prejudice to the claimant in refusing the application to add Ms Fricker.

19. In response to the claimant's submission that the same legal team would represent Ms Fricker as represents all respondents so far, the respondents averred that Ms Fricker would have the right to obtain independent legal advice and it would be a matter for her to do so, and to submit her own Grounds of Resistance and ET3. This would lead to delay and increase cost. The evidence that Ms Fricker can give of relevance can be given within her status as a witness at the final hearing.

Claimant's submissions – application for further and better particulars

20. The claimant narrowed his application, limiting it to seeking further and better particulars regarding paragraphs 16, 18, 19(a), 19(c), 22 and 24 of the Grounds of Resistance.

21. The claimant's overarching point was that the respondents had made no admissions on some matters that they must have knowledge of in order to properly be able to admit or deny certain facts. The claimant's position is that no admission is not an appropriate response when, for example, the issue is about the content of a meeting, and one of the individual respondents was present: they must be capable of admitting or denying the alleged content of a meeting at which they were in attendance.

22. In terms of the specifics, I have set them out in tabular form ("GOR" means Grounds of Resistance; "GOC" means Grounds of Complaint):

Paragraph in GOR	Cross-reference to paragraph in GOC	Claimant's position
16, 18, 19(a)	4.3.1 (meeting on 13 June 2024 and its content) 4.7 (conversation 15 May	The people who were in attendance at the meeting will know whether there were there and what was discussed

	2024 and meeting on 13 June 2024, and their content)	Paragraph 18 gives a denial about the 15 May, stating that autism was not discussed The claimant is entitled to know what the respondents say did happen at that meeting
19(c)	4.3.3 (meeting on 13 June 2024, specifically the allegation is that it was discussed that "the claimant had capacity and wanted to take on more work"	Paragraph 19(c) of GOR answers a different allegation. It denies that the claimant stated that he had capacity and wanted to take on more work. However, that is not what paragraph 4.3.3 of the GOC alleges: it is simply alleged that this topic was discussed, not that the claimant raised these matters. The denial does not match the allegation
22	4.9 (an exchange on 4 July 2024)	The alleged exchange and content of that exchange is not admitted. The claimant says this is a curious stance to take, unless the detail cannot be remembered
24	4.11 (22 July 2024, the claimant told his colleague his had PTSD)	Again, "no admission" is made as to whether the claimant told a colleague about his PTSD on this date. The claimant says that it is necessary for the claimant to know what the respondents' case is. It is not good enough for these details to just come out in the evidence at a final hearing

23. The claimant's position is that it is appropriate for his request for further and better particulars as set out in his application at [83-84] to be answered. It is not sufficient for the respondents to simply make no admissions, and to expect the evidence to be included in witness statements, when their case

should be known to them (and to the claimant) at this stage of the litigation.

Respondents' submissions – application for further and better particulars

24. The respondents set out that the Employment Appeal Tribunal ("EAT") has made it clear that pleadings in the Tribunal are not meant to be the same as formal pleadings in a court case. The Grounds of Complaint/Resistance are not intended to include every detail in support of the parties' respective cases.

25. It was averred that it is entirely appropriate to "not admit" certain detail that occurred months prior to the claim form being served, particularly when there is no conclusive documentary evidence. If the parties' recollections are not clear at the time of pleading, then "no admission" is entirely appropriate.

26. The respondents submitted that it was not appropriate to "conduct trial by correspondence" and that conduct and content of a meeting are details that, to include in pleadings, would be inconsistent with the EAT's guidance.

27. The appropriate time for the level of detail sought by the claimant is within witness statements. The appropriate time for determining disputes of fact is at a final hearing when the Tribunal analyses that evidence and the oral evidence of witnesses.

Claimant's response – application for further and better particulars

28. There is some EAT authority that suggests that pleadings should be done in a more focused manner. The respondents' position appears curious, in that they (the individuals) must know their own recollections of the relevant meetings and conversations, but appear to be refusing to tell the claimant. The claimant's concern was that the respondents were hedging their bets, that they do not want to "pin their colours to the mast", and the lack of denial or admission is a deliberate step.

Respondent's response – application for further and better particulars

29. The respondents averred that it is a fallacy that memories are black and white. Memory is jogged by looking at evidence and seeing/hearing other witnesses' evidence and recollections. The context for that is the final hearing, not in pleadings. The respondents case as pleaded is "we are not admitting this, but here is what we remember...". The Grounds of Resistance are 20 pages long, so not short, and they include a summary of the respondents' case. That is sufficient, and the detail will be appropriately ventilated at the final hearing, which will no doubt be lengthy itself.

Law relevant adding a party

30. The addition of parties is provided for within rule 25 of the Employment Tribunal Procedural Rules 2024 ("the Rules"). Parties can be added if:

> "it appears that there are issues between that person and any of the existing parties falling within the jurisdiction of the Tribunal which it is in the interests of justice to have determined in the proceedings".

31. The same legal test applies to amending parties as to amending pleadings. In considering an amendment application, the Tribunal must (as always) take into account the overriding objective, in that the case must be dealt with fairly and justly – rule 3 of the Rules.

32. The power to permit an amendment stems from the Tribunal's case management powers under rule 30 of the Rules.

33. The Employment Appeal Tribunal ("EAT") has recently reviewed the case-law on amendments in the case of MacFarlane v Commissioner of Police of the Metropolis 2023 EAT 111. In that case, the EAT confirmed that the three relevant factors are:

    33.1. the nature of the amendment;
    33.2. the applicability of time limits; and,
    33.3. the timing and manner of the application.

34. The overarching principle is the balance of injustice and hardship of allowing the amendment against the injustice and hardship of refusing it. The EAT highlighted that the focus must be on the substance of the amendment, not its legal form. In terms of time limits, these should not be determinative, however the further away in substance the new claim is from the original claim, the more weight a tribunal may attach to the issue of time limits.

Nature of application

35. The case of Selkent Bus Co Ltd v Moore [1996] IRLR 661 set out a non-exhaustive list of factors (not to be treated as a checklist, but as guidance) to consider in relation to an amendment application: the first being the nature of the amendment. The EAT held:

> "Applications to amend are of any different kinds, ranging, on the one hand, from the correction of clerical and typing errors, the additions of factual details to existing allegations and the addition or substitution of other labels for facts already pleaded to, on the other hand, the making of entirely new factual allegations which change the basis of the existing claim. The Tribunal have to decide whether the amendment sought is one of the minor matters or is a substantial alteration pleading a new cause of action".

36. There are therefore broadly three types of amendments:

    36.1. Clerical errors;
    36.2. Relabelling or adding facts to existing claims; and,
    36.3. New factual allegations altering the basis of the legal claim.

Time limits

37. Once the nature of the amendment has been determined, the Tribunal must also consider the applicability of time limits. Only in a case of new factual allegations altering the basis of the claim are time limits relevant.

38. An application to amend must be considered on the facts and circumstances as they stood as at the date of the application - Selkent. In

turn, this means that the question of time limits must be considered with reference to the date of the application, as opposed to the date of the original claim form.

39. If the date of the application leads to the conclusion that the amended claim is, on the face of it, out of time, the Tribunal may need to consider whether the relevant extension provisions apply. In the case of Galilee v Commissioner of Police of the Metropolis [2018] ICR 634, it was held that the Tribunal need not decide whether time limits should be extended at this stage of proceedings (as part of the amendment application). It is possible to permit an amendment, subject to the time limits issue which can be determined at a final hearing – Galilee, followed by Reuters Ltd v Cole UKEAT/0258/17 and Szymoniak v Advanced Supply Chain (BFD) Ltd EAT 0126/20.

Timing and manner of application

40. The Tribunal need then thirdly to consider the timing and manner of the application, and, in particular, why the application was not made earlier. In Martin v Microgen Wealth Management Systems Ltd EAT 0505/06, the EAT held that the longer the delay in making the application, the greater the likelihood that the balance of injustice and hardship will weigh in favour of rejecting the application. However, case-law makes it very clear that there will be cases in which amendment applications will be delayed, and yet should be permitted to proceed – for example, Ahuja v Inghams 2002 ICR 1485 CA.

41. The EAT in Ladbrokes Racing Ltd v Traynor EATS 0067/06 set out factors for the Tribunal's consideration regarding the timing and manner of amendment applications – paragraph 20:

    41.1. The reason why the application was made when it was, and not earlier;

    41.2. Whether the timing of the application means that there will be delay in the litigation and whether additional costs are likely to be incurred due to that delay, or due to the need for a longer final hearing. The risk of additional costs is particularly relevant if a party is unlikely to recover them;

    41.3. Whether any delay would impact the ability of the respondent to obtain the relevant evidence to defend the new claim, or the quality of that evidence.

Balance of injustice and hardship

42. Ultimately, the key issue is the balance of injustice and hardship. In Vaughan v Modality Partnership [2021] IRLR 97, EAT, the EAT gave detailed guidance on the correct procedure to adopt when considering applications to amend Tribunal pleadings. It confirmed that the core test in considering applications to amend is the balance of injustice and hardship in allowing or refusing the application – paragraph 21:

> "Representatives would be well advised to start by considering,…, what the real practical consequences of allowing or refusing the amendment. If the application to amend is refused how severe will the consequences be, in terms of the prospects of success of the claim or defence; if permitted, what will be the practical problems in responding".

Law relevant to application for further particulars

43. The claimant relied on a High Court case within their application for further particulars, namely SPI North Ltd v Swiss Post International (UK _ ltd and another [2019] EWCA Civ 7. That matter appeared before the Court of Appeal on appeal from the High Court.

44. The claimant within the application at [82] alleges that this case is authority for the principle that a respondent can only make "no admissions" about allegations of which they have no personal knowledge. The decision relates to proceedings governed by the Civil Procedural Rules 1996 ("CPR"), rather than the Employment Tribunal Procedural Rules 2024.

45. That case simply underlines that, in proceedings subject to the CPR, no admission can only be used when CPR rule 16.5(1)(b) can be properly said to apply, namely it can be used in response to allegations:

> "which ... he is unable to admit or deny, but which he requires the claimant to prove".

46. The Court covers the scope for use of "no admission" in paragraph 3:

> "Plainly, a defendant is able to admit or deny facts which are within his own actual knowledge, or which he is able to verify without undue delay, difficulty or inconvenience, by reference to records and other sources of information which are under his control or otherwise at his ready disposal. Furthermore, in the case of a corporate defendant, which can only act through human agents and has no mind of its own, its actual knowledge must clearly be understood as that of its individual officers, employees or other agents whose knowledge is for the purposes of applying rule 16.5 to be attributed to it, in accordance with the relevant rules of attribution: see the well-known observations of Lord Hoffmann in Meridian Global Funds Management Asia Limited v Securities Commission [1995] 2 AC [1995] 2 AC 500 (PC) at paragraphs 506-507".

47. I remind myself that the Tribunal is a different beast to the Court, and although there are many similarities and cross-overs, the rules to which we must adhere are different. I therefore find that the case of SPI North Ltd is not binding on this Tribunal.

48. The respondent's submissions included reference to Employment Appeal Tribunal decisions that give guidance on the formality (or otherwise) of pleadings. The two cases that occurred to me to be relevant to amendments and pleadings are set out below.

49. First is the case of Chandhok v Tirkey [2015] ICR 527 in which the EAT held at paragraph 17:

> "However, all that said, the starting point is that the parties must set out the essence of their respective cases on paper in respectively the ET1 and the answer to it. If it

> were not so, then there would be no obvious principle by which reference to any further document (witness statement, or the like) could be restricted".

50. Second is the case of C v D UKEAT/0132/19/RN, heard by HHJ Tucker, in which (at paragraphs 11 and 12) she discouraged parties:

> "to engage in ... "narrative" pleading. I would encourage legal representatives, in particular, to adopt a more succinct and clear drafting style. ...
>
> ...Ideally, in a Claim Form, the author should seek to set out a *brief* statement of relevant facts, and the cause of action relied upon by the Claimant. The purpose of doing so is to allow the other side to understand what it is that they have done or not done which is said to be unlawful".

51. The same purpose and logic must be applied to the Grounds of Resistance. The purpose is to ensure that the claimant understands the basis of the defence to the claim.

Conclusions on adding Ms Fricker

52. In terms of the wording of rule 35, I considered that the issues between Ms Fricker and the claimant are issues that have been accepted by way of an agreed amendment to exist in the claim between the first respondent and the claimant.

53. In other words, there are no outstanding issues that are not now (following the agreed amendment) excluded from this litigation between Ms Fricker and the claimant. The issues that the claimant wanted to raise against Ms Fricker are now squarely issues within the litigation as between the claimant and the first respondent.

54. In terms of the "Selkent factors", I found as follows. The nature of the amendment was to add a new party, and so could be said to be minor. I understood that the factual allegations sought to be brought against Ms Fricker are factual allegations against the first respondent (following agreement on an amendment). Therefore, the allegations are now within the remit of the claim. However, the addition of another party would create possible new liability.

55. Regarding time limits, the claim against Ms Fricker would be out of time. However, that is an issue that could be appropriately left to determination at the final merits hearing.

56. In relation to the timing and manner of the application, it was made 6 weeks or so after the claim form was presented, and 4 weeks or so after the new information leading to the amendment application was made.

57. I have limited explanation as to the 4-week gap, other than I understand that Data Subject Access Request responses can take time to work through, and I understand that the claimant has disabilities and is neurodiverse, which also impact this process.

58. It cannot be said that there was a long delay in bringing this application to the attention of the Tribunal and the respondents: the fact that we are nearly

a year down the line is not the fault of any of the parties, and certainly not the claimant's fault.

59. The test really comes down to the balance of hardship and injustice.

60. First, I considered the prejudice to the claimant. It is said that claimants have the right to bring claims against individual respondents. This is the case, and is designed so that individual respondents must answer for the alleged wrong committed by them, and are held accountable if, ultimately, they are found liable.

61. I understand that as a point of principle, and if we were at the outset of this hearing, I would agree that it is a right for the claimant to bring a claim against individuals, and there would be little any individual respondents could say to argue against that proposition.

62. However, Ms Fricker was not named at the start of litigation in the Tribunal (although I accept she was included as an individual in the ACAS EC process). The factual claim against Ms Fricker has now been included in the claim against the first respondent; therefore, the claimant has the ability to have those factual matters dealt with and determined by a Tribunal, and have the facts around the complaints against Ms Fricker aired fully at the final hearing.

63. The first respondent does not seek to run the statutory defence under s109 of the Equality Act. Therefore, if Ms Fricker is found to have discriminated against the claimant, the remedy will fall to be paid by the first respondent. There is no suggestion that the first respondent seeks to escape that liability: evidently if that position changed, then there would be new grounds for adding Ms Fricker at that stage.

64. Ms Fricker is attending the final hearing to give evidence and so will be available for cross-examination. I note the claimant's point that parties are more likely to turn up to give evidence than someone who is "just" a witness. However, if that were to occur, that would (in all likelihood) damage the respondents' case, not the claimant's, as there would be questions left unanswered about Ms Fricker's motivation and meaning of certain of her communications.

65. I was not satisfied that there was any real prejudice to the claimant other than the loss of ability to pursue an individual: but in terms of tangible prejudice, I could not see much, if any such prejudice.

66. Turning then to the prejudice suffered by Ms Fricker if she were to be added, I agree with Ms Shepard: Ms Fricker would have the right to her own representation. Although in all likelihood she would opt for those already familiar with the case, she would be within her right to seek independent representation. This would take time and money

67. Although Ms Fricker has known of the case (and the application to add her) for the past year, she would have to undertake more work at this stage in terms of filing her own ET3 and Grounds of Resistance.

68. Although I accepted there would not be a great deal of prejudice caused by Ms Fricker's addition, I considered the balance was tipped in favour of rejecting the application due to the balance of prejudice.

Conclusions on the application for further and better particulars

69. I refused the application for further and better particulars, except for the application in relation to paragraph 19(c) of the Grounds of Resistance. That paragraph responds to the allegation set out at paragraph 4.3.3 of the Grounds of Complaint: that one of the matters discussed at a meeting on 13 June 2024 was "that the claimant had capacity and wanted to take on more work".

70. As currently drafted, paragraph 19(c) mis-stated the allegation to which it is responding, stating:

> "The allegation at paragraph 4.3.3 that the claimant stated that he had capacity and wanted to take on more work is denied. The notes in the PAD Form do not bear this out".

15. As such, I consider it appropriate that the respondents have the opportunity to redress this misapprehension of the allegation at paragraph 4.3.3 of the Grounds of Complaint and deal with the allegation accurately.

16. I rejected the other requests for further and better particulars on the basis that the claim and response are clear, and we have an agreed list of issues that contain all the pertinent matters of law and fact.

17. I was also satisfied that, if the respondents seek to add new information later on in litigation, the claimant has routes by which this could be addressed: namely, by way of supplemental written or oral evidence.

Approved by

Employment Judge Shastri-Hurst
12 December 2025

JUDGMENT SENT TO THE PARTIES ON

15 December 2025

FOR THE TRIBUNAL OFFICE