



EMPLOYMENT TRIBUNALS

Claimant: Molly Craigie

Respondent: East Anglia Home Improvements Limited

COSTS JUDGMENT

The respondent's application for a costs order was not presented within the applicable time limit and discretion is not exercised to extend the time limit. The application is therefore refused.

REASONS

Background

1. A final hearing of the claimant's claims took place on 24 to 27 June 2025. The hearing took place as a remote hearing by way of CVP.
2. At the outset of the final hearing on 24 June 2025, I considered the claimant's application for anonymisation as a preliminary issue, as directed by EJ Warren. I note the application was initially made in writing in November 2024. I gave oral decision and reasons refusing the claimant's application on 24 June 2025.
3. In relation to the substantive issues for determination before me at the hearing, I reserved judgment and the written record of my decision and reasons dated 20 August 2025 was sent to the parties on 21 August 2025. The judgment included dismissal of the claimant's complaints of harassment and that the respondent shall pay the claimant £4,775.92. The decision was published on 27 August 2025.
4. On 30 September 2025, the respondent wrote to the tribunal ("the First Letter"). The correspondence was not copied to the claimant. The respondent's letter was headed 'Application for Costs – failed application for anonymity' and made submissions in support of an application for a costs order. Paragraph 9 of the letter stated, 'This application includes evidence as follows:...d. Newspaper articles confirming the applicant willingly providing all details publicly.' There was a single news article exhibited. The respondent claimed costs in the amount of £7,500. The respondent requested the tribunal 'to find the costs as applied or for a remedy hearing to be set to hear the application in full.'
5. On 16 October 2025, the tribunal copied the respondent's application to the claimant noting that absent other information, the application would appear to be out of time. The claimant was invited to make any representations by 6 November 2025 noting that Rule 75(2) of the Employment Tribunal Procedure Rules 2024 provides that a costs order must not be made against a party unless that party has

had a reasonable opportunity to make representations.

6. On 21 October 2025, the respondent wrote to the tribunal ("the Second Letter"). The respondent's letter was headed 'Application for Costs' and the introduction set out that, 'Following my costs order application under Rule 76(1) of the Employment Tribunals Rules of Procedure 2013. I write ...seeking permission to an extension of time under Rule 5(3)(a) on the basis that it is just and equitable to do so.' The letter referred to grounds 'within the meaning of Rule 76(1): pursuing a claim with no reasonable prospect of success; and withdrawing the claim at a late stage after significant costs incurred; 10. ...withdrew her claim for victimisation on the first day of the trial.' The respondent requested that the tribunal extend time and make a costs order in the sum of £7,500 or such other sum as the tribunal considers appropriate.
7. On 5 November 2025, the claimant filed and served a response to the First and Second Letters accompanied by a claimant's witness statement signed and dated 5 November 2025. The claimant's submissions are comprehensive but in summary, as per paragraph 4 of the submissions, opposed the application on the basis that: the application was made out of time; there was no good reason for the delay and the balance of prejudice favoured refusal; if an extension of time is permitted in relation the bringing of the anonymity application, it should not be permitted for the different grounds disclosed in the Second Letter; and the application did not disclose grounds for the making of any costs order. The tribunal was asked to dismiss the application without a hearing.
8. I have taken account of the overriding objective and that dealing with a case fairly and justly includes dealing with cases in ways that are proportionate, avoiding delay, so far as compatible with proper consideration of the issues and saving expense. The respondent has had the opportunity to set out their application in the First Letter and to make additional submissions including as regards the respondent's position on time limits in the Second Letter. The claimant has had the opportunity to make representations. Each party is represented by Counsel. In all the circumstances including the positions of the parties whereby the respondent's Second Letter does not maintain any request for a hearing and the claimant asks the tribunal to proceed without a hearing, I am satisfied that it is fair and just to determine the respondent's application for a costs order without a hearing.
9. In this decision, I will refer to the Employment Tribunal Procedure Rules 2024 (the Rules) which came into force on 6 January 2024. Accordingly, I do not refer to the predecessor provisions cited by the respondent but rather to equivalent provisions in the Rules.

The Respondent's First Letter

10. The First Letter does not state that the application for a costs order is out of time or enclose any request for any extension of time. Paragraph 8 does refer, 'Due to various holidays and annual leave, I have now been able to take instructions from my client who seeks their costs in application.'
11. Paragraph 7 sets out that 'After hearing the application and deliberating, Tribunal Judge Peer, acting as Employment Judge, refused not only anonymity, but a reporting restriction and a privacy order. At the conclusion of the matter being dismissed and before the trial resumed the following day, I applied for costs to be recovered and was directed to apply at the end of the trial. At the end of the trial, I was granted permission to apply for costs in a separate hearing following receipt of the written Judgment.'
12. The application is stated to be for the costs incurred in dealing with the claimant's application for anonymity. Paragraph 6 sets out that 'the application was

unnecessary not only because case law was against it, but because the claimant was always extremely comfortable telling any member of the public what she says happened to her, in very specific detail.'

13. Paragraph 11 sets out, 'The actions of the claimant calls into question not only her original motivation to bring the claim, but the application for a reporting restriction. The costs incurred by my client in order to defend its reputation and values has been extremely burdensome...should, it is averred, lead to the Tribunal awarding costs that have been reserved.'
14. Paragraph 13 of the letter sets out, 'The Claimant was warned about potential costs exposure in my skeleton argument, but insisted in the matter being heard. The whole matter took a full day of the Tribunal time, including deliberation. The costs associated to this application are limited to £7,500, which includes the correspondence, reviewing the application, providing the response and the advocacy on the day. This amount is significantly lower than the claim in the Ajao case.'

The Respondent's Second Letter

15. The Second Letter contained an application for an extension of time on the basis that it is just and equitable. The respondent set out that the 28-day period expired on 18 September 2025 and as such the application was made 12 days out of time 'due to either myself being away until mid-September and the Respondent also being on annual leave, preventing instructions being taken sooner.' The delay is referred to as 'minimal, given parties were away' and that the application was filed 'as soon as practicable thereafter'. Further explanation is 'As judgment was sent without the parties knowing when it was coming out, it was not possible to plan annual leave around it. In order for the Respondent to ensure the cost application was made, a conference was required to review the case, the work over the period involved, together with a discussion over the revealing publicity the Claimant had recently pursued through various newspapers. It was peculiar for the Claimant to endorse a public announcement of her case. The cost application needed to consider how there was an original application for anonymity and then contrast it with the willingness to provide support in public news articles 10 days after judgment.'
16. The Second Letter refers to the claimant's withdrawal of a victimisation complaint on the first day of the trial. The letter includes a section headed 'Legal Basis' which erroneously refers to the 2013 Procedure Rules. The legal basis is stated to be that there is provision to extend time 'where it is just and equitable to do so' and the ground for making a costs order is referred to as 'a party...has acted vexatiously, abusively, disruptively, or otherwise unreasonably in the bringing or conduct of the proceedings'. The Second Letter then sets out that 'The Respondent relies on the following conduct...as unreasonable...pursuing a claim with no reasonable prospect of success; and withdrawing the claim at a late stage after significant costs incurred'.
17. The Second Letter sets out 'that the Claimant from the outset has tried to manipulate the Tribunal into hearing a fanciful case' and that time should be extended to 'send a message to others who choose to bring fanciful applications'. That the 'short delay' was 'inadvertent due to annual leave of the Respondent and the complexity of the case needing to be fully reviewed after a substantial period of months between the trial and the application'; the respondent sets out that there is no injustice caused by the delay to the claimant and there would be clear injustice to the respondent who 'incurred substantial and unnecessary costs due to the other party's conduct'.

The Law

1. Rule 3 of the Rules provides:

Overriding objective

3.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes, so far as practicable—

- (a) ensuring that the parties are on an equal footing,
- (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,
- (c) avoiding unnecessary formality and seeking flexibility in the proceedings,
- (d) avoiding delay, so far as compatible with proper consideration of the issues, and
- (e) saving expense.

(3) The Tribunal must seek to give effect to the overriding objective when it—

- (a) exercises any power under these Rules, or
- (b) interprets any rule or practice direction.

(4) The parties and their representatives must—

- (a) assist the Tribunal to further the overriding objective, and
- (b) co-operate generally with each other and with the Tribunal.

2. Rule 5(7) of the Rules provides:

(7) The Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in these Rules or in any decision, whether or not (in the case of an extension) it has expired.

3. Rules 73 to 76 of the Employment Tribunal Procedure Rules 2024 (“the Procedure Rules”) deal with costs as follows:

Costs orders and preparation time orders

73.—(1) A costs order is an order that the paying party make a payment to—

- (a) the receiving party in respect of the costs that the receiving party has incurred while represented by a legal representative or a lay representative, or
- (b) another party or witness in respect of expenses incurred, or to be incurred, for the purpose of, or in connection with, an individual's attendance as a witness at a hearing.

(2) A preparation time order is an order that the paying party make a payment to the receiving party in respect of the receiving party's preparation time while not represented by a legal representative.

(3) A costs order under paragraph (1)(a) and a preparation time order may not both be made in favour of the same party in the same proceedings.

(4) The Tribunal may decide in the course of the proceedings that a party is entitled to either a costs order or a preparation time order but may defer its decision on the kind of order to make until a later stage in the proceedings.

When a costs order or a preparation time order may or must be made

74.—(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under rule 73(1)(b), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(2) The Tribunal must consider making a costs order or a preparation time order where it considers that—

- (a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings, or part of it, or the way that the proceedings, or part of it, have been conducted,
- (b) any claim, response or reply had no reasonable prospect of success, or
- (c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.

(3) The Tribunal may also make a costs order or a preparation time order (as appropriate) on the application of a party where a party has been in breach of any order, rule or practice direction or where a hearing has been postponed or adjourned.

(4) Where in proceedings for unfair dismissal a final hearing is postponed or adjourned, the Tribunal must order the respondent to pay the costs incurred as a result of the

postponement or adjournment if—

- (a) the claimant has expressed a wish to be reinstated or re-engaged which has been communicated to the respondent not less than 7 days before the hearing, and
- (b) the postponement or adjournment of that hearing has been caused by the respondent's failure, without a special reason, to adduce reasonable evidence as to the availability of the job from which the claimant was dismissed or of comparable or suitable employment.

Procedure

75.—(1) A party may apply for a costs order or a preparation time order at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

(2) The Tribunal must not make a costs order or a preparation time order against a party unless that party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order).

The amount of a costs order

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(33), or by the Tribunal applying the same principles;
 - (ii) in Scotland, by way of taxation carried out either by the auditor of court in accordance with the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019(34), 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.
- (2) Where the costs order includes an amount in respect of fees charged by a lay representative, for the purposes of the calculation of the order, the hourly rate applicable for the fees of the lay representative must not exceed the rate under rule 77(2) (the amount of a preparation time order).
- (3) A costs order under sub-paragraphs (b) to (d) of paragraph (1) may exceed £20,000.

4. Rule 82 of the Procedure Rules provides as follows:

Ability to pay

82. 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.

- 5. A structured three stage approach must be adopted by the Tribunal as follows: (1) a Rule 74(2) ground or 'gateway' must be established; (2) if so, the Tribunal must consider whether to exercise discretion to make an award; and (3) if so, the Tribunal must consider the amount and form of the award.
- 6. Where reliance is placed on the ground at Procedure Rule 74(2)(a), the Tribunal must look at the totality of the "nature, gravity and effect" of the conduct in the round, McPherson v BNP Paribas [2004] ICR 1398 CA; Barnsley Metropolitan Borough Council v Yerrakalva [2012] IRLR 78 CA.
- 7. In this context, "unreasonable" carries its ordinary everyday objective meaning, Dyer v Secretary of State for Employment EAT 183/73 and can include pursuing an unmeritorious claim and the Tribunal can have regard to what the paying party knew or ought to have known, Keskar v Governors of All Saints CoE School [1991] ICR 493. The question is whether the paying party's approach was a reasonable one and this is an objective question bearing in mind that different approaches may be reasonable, Vaughan v Lewisham LBC [2013] IRLR 713 EAT.

8. In Lake v Arco Grating (UK) Ltd EAT 0511/04, the EAT held that a failure to accept an offer not to pursue costs if proceedings were withdrawn could not of itself constitute action in bringing or conducting the proceedings. A tribunal may take account of a refusal of such an offer if considering whether to award costs.
9. Where reliance is placed on the ground at Procedure Rule 74(2)(b) that any claim had no reasonable prospect of success, an objective assessment is required as to whether the party had reasonable grounds for thinking they were in the right when they brought the claim. In Radia v Jefferies International Ltd UKEAT/0007/18 EAT guidance was provided as to how the Tribunal should approach the assessment of whether this ground applies. The EAT explained that the test was whether the claim or defence had no reasonable prospect of success based on the information that was known or reasonably available at the start and to determine how the prospects of success looked to the paying party at the start (and when the hearing was yet to take place). As such, the Tribunal to consider information or evidence available that casts light on that question and to ignore information or evidence not available at that earlier point in time.
10. An award of costs is the exception rather than the rule in Employment Tribunal proceedings, Gee v Shell UK Ltd [2003] IRLR 82, CA. Costs orders are compensatory and not punitive, Lodwick v Southwark LBC [2004] ICR 884 CA. The award can only cover costs that are 'reasonably and necessarily' incurred, Barnsley Metropolitan Borough Council v Yerrakalva [2012] IRLR 78 CA. There must be a link between the costs incurred and the conduct although this does not require a precise causal link to be identified given the Tribunal's broad discretion.
11. Other relevant factors may be whether a party has been warned but continues and as such was aware what might happen, Oko-Jaja v Lewisham LBC UKEAT/0417/00 or whether a party failed to apply for strike out on the grounds that the paying party's case has no reasonable prospect of success although this may not of itself evidence that the claims had any reasonable prospect of success.
12. Any order for unassessed costs must be for a fixed sum, Lothian Health Board v Johnstone [1981] IRLR 321 EAT.
13. Paragraph 1 of Guidance Note 7: Costs attached to the General Case Management Presidential Guidance dated 22 January 2018 provides that, "The basic principle is that the 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, as explained below." Paragraph 13 refers to a party acting unreasonably in the bringing or conduct of proceedings or where the claim had no reasonable prospect of success and at paragraph 14 that "The circumstances described at paragraph 13 require a Tribunal to consider first whether the criteria for an order are met. Each case will turn on its own facts. Examples from decided cases include that it could be unreasonable where a party has based the claim or defence on something which is untrue. That is not the same as something which they have simply failed to prove. Nor does it mean something they reasonably misunderstood. Abusive or disruptive conduct would include insulting the other party or its representative or sending numerous unnecessary emails."
14. Paragraph 15 of the Presidential Guidance on Panel Composition provides that "Save where the Employment Appeal Tribunal has ordered otherwise in respect of a remitted case, it is likely to further the interests of justice and accord with the overriding objective to retain the same panel composition throughout, such that subsequent applications are considered by the tribunal that made the original decision on liability."

Discussion and Conclusions

Application to extend time

15. Rule 75(1) sets out that applications for costs orders may be made 'at any stage up to 28 days after the date on which judgment finally determining the proceedings in respect of that party was sent'.
16. A party need not wait until judgment finally determining proceedings is sent and can apply 'at any stage'. Additionally, it may be that the 28-day period after the 'judgment finally determining the proceedings' occurs after an appeal stage.
17. I note that the respondent was aware of the outcome of the anonymity application on 24 June 2025 when oral decision and reasons refusing that application were given. I note that the claimant indicated there was then no intention to appeal that decision. I refer to paragraph 7 of the First Letter as cited above. The respondent did raise the issue of costs on 24 June 2025. There was reference to 'costs reserved' by the respondent, a concept from ordinary civil litigation. I declined to deal with any costs application at that stage. The respondent again raised the issue of costs related to the anonymity application at the end of the hearing on 27 June 2025. I declined to deal with costs at that stage; any costs application could be made in due course in writing.
18. The respondent accepts in the Second Letter that the respondent's application for a costs order is out of time as made 12 days after judgment finally determining proceedings was sent on 21 August 2025. The respondent requests permission for an extension of time on a just and equitable basis. Rule 5(7) does not refer to just and equitable as the basis for exercising discretion to extend time beyond the ordinary limits laid down in the legislation. The tribunal must however give effect to the overriding objective to deal with cases fairly and justly when interpreting or exercising any power given to it by the Rules.
19. At paragraph 10 of her submissions, the claimant cites the decision in Baisley v South Lanarkshire Council [2017] ICR 365, EAT which addressed the exercise of the power under what is now Rule 5(7) to extend time. In that decision, Lady Wise referred to the 'balance of prejudice' as a key factor noting she was 'fortified' in her conclusion by reference to a decision of Lady Simler, now Justice of the Supreme Court, then President of the Employment Appeal Tribunal. Paragraph 32 of Lady Wise's decision explains that "The importance of addressing the balance of prejudice is, as the expression demands, to balance the relative fairness and unfairness, convenience and inconvenience and consequences to each party of the decision to be made in the exercise of the Tribunal's discretion.
20. In considering whether to exercise discretion to permit an extension of time for the making of the respondent's application for a costs order, I have had full regard to the balance of prejudice as explained in the case law.
21. I turn first to consider the reason for the delay. In so far as the respondent seeks a costs order in relation to the making of the anonymity application, this is raised in the First Letter 12 days late without any accompanying application for an extension of time. It is only by way of the Second Letter, the respondent seeks an extension of time. I note in so far as the Second Letter seeks a costs order in relation to the withdrawal of the victimisation complaint that is made on 21 October 2025 and accordingly 33 days late and no reason is advanced as to why this was not raised earlier than 21 October 2025 particularly in a context where reference is made to holding a conference to take instructions at some point prior to 30 September 2025. I do not consider 12 days a minimal delay or short delay in the context of the 28-day period after the judgment was sent. As the respondent submits 12 days is an additional period of time which is around 50% of the 28-day time period after the judgment was sent provided for in the Rules. The legally represented respondent also provides no explanation as to why it was not possible to make any application for an extension of time before the 28-day period expired in relation either any

application for costs due the anonymity application or due the withdrawal of the victimisation complaint.

18. The respondent provides two reasons for the timing of the application: (i) that the respondent's barrister and/or respondent was on annual leave; and (ii) that the respondent needed to consider and contrast the anonymity application 'with the willingness to provide support in public news articles 10 days after judgment.'
22. The facts are far from those before Lady Wise in Baisley where solicitors attempted to file on time but due to fax machine issue were unaware of non-receipt.
23. That the respondent's legal representative and/or the respondent was on annual leave does not provide a sufficient reason for not complying with time limits. If personal leave arrangements always prevailed, parties would control any procedural timetable irrespective of time limits laid down by statute or tribunal orders. The respondent has not provided any real details as to the circumstances in that no details are provided as to when they had actual sight or knowledge of the judgment and thus applicable time limits and no details are provided as to the dates when annual leave of all relevant persons took place. There are no details provided as to when the respondent was aware of public news articles. There is no real explanation as to when, how or why the respondent formed the view that there was a 'willingness to provide support' from the claimant.
24. The respondent exhibited a single news article to the First Letter and referred to this as evidence 'confirming the applicant willingly providing all details publicly'. The existence of a news article does not of itself confirm that the applicant willingly provided all details publicly. There is nothing in the article exhibited that refers to the applicant having provided support or any details. The content does not confirm that the applicant willingly provided details. I do not consider that it would be reasonable to draw the inference from the content of the article that the applicant willingly provided details publicly. The article refers to 'in evidence' and 'told the hearing' and was published after the judgment was published on the register on 27 August 2025. The respondent does not point to any detail in the news article that does not derive from the published decision.
25. The respondent indicated it wished to seek costs in relation the anonymity application on 24 June 2025 at the hearing and as such instructions in relation to seeking and/or drafting an application for a costs order in relation to the merits of the anonymity application could have been progressed at any point thereafter. I fully acknowledge that the respondent need not disclose any legal advice or alterations in thinking. But either the respondent was in a position to prepare a costs application from 24 or 27 June 2025 or was motivated to make one further to news articles. Even if the driving factor in making the application for a costs order was the reporting, the respondent sets out that this was 10 days after judgment was sent and accordingly a period of 18 days before the 28-day period expired. In any event, at best if the claimant willingly provided details or support to the media, this served to potentially strengthen the application in the circumstances not to suggest or be determinative of any such application.
26. I have concluded that the respondent has not provided any good or sufficient reason for the delay in making the application for a costs order as requested in the First Letter or the further delay in relation the Second Letter. The lack of any good or sufficient explanation for the delay is not fatal to the application for an extension of time but it is a factor of relevance in considering the balance of prejudice and whether an extension of time ought to be permitted.
27. I consider that the respondent's submission that the application ought to proceed 'to send a message to others who choose to bring fanciful applications' does not fully explain how this relates to the costs jurisdiction in the tribunal or prejudice to

the respondent. The respondent contends they incurred costs unnecessarily but that is a matter for assessment on substantive consideration and a demonstration that costs incurred are sufficiently linked to any finding of relevant conduct. I consider that I can take account of the potential merits as is permissible when considering whether to exercise discretion in relation to, for example, extending time to bring discrimination complaints as a component of considering the balance of prejudice. But the respondent's application is not one which sets out any clear far less incontrovertible basis on which the gateway to the making of a costs order is established. I note that whilst the claimant's complaints of harassment were dismissed that of itself does not mean they were 'fanciful' complaints from the outset and that word is not used in the judgment.

28. In so far as the respondent contends that there is a gateway in relation to the making of the anonymity application as acting unreasonably in the way the proceedings (or part) have been conducted (Rule 74(2)(a)), this is not demonstrated. I refer to my finding above that the news article is not evidence that the claimant willingly provided details or sought publicity and as such does not evidence that in making the anonymity application at the stage it was made she did not act in good faith. In any event, in the context of her complaints of sexual harassment, that she wished to protect sensitive personal information, that there were different EAT decisions and that a fact sensitive balancing exercise was required it was not unreasonable to make the application.
29. In so far as the respondent seeks a costs order in relation to the withdrawal of the victimisation complaint, that the claimant narrowed the issues for determination in withdrawing one of her discrimination complaints continuing to focus on her harassment complaints is not unreasonable in and of itself. Even were a gateway established, the respondent does not seek any amount of costs in addition to the amount claimed due to the making of the anonymity application.
30. I take account of the fact that the context for costs in the tribunal is that they are the exception rather than the rule. The costs jurisdiction is not 'costs in the case' akin to the ordinary civil litigation context. The prejudice to the respondent if an extension of time is refused is that the respondent loses the chance to seek an order for costs in that context and in the circumstances in which no good or sufficient reason has been advanced for the delay. This is different from losing the ability to litigate, either as claimant or respondent, an important matter such as a discrimination complaint.
31. If an extension of time is permitted, the claimant is subject to the prejudice of having to defend an application which is brought outside of the time limits laid down by statute; time limits are underpinned by the principle of certainty. The respondent also refers to the prejudice of having to prepare written submissions and file evidence to address the un-evidenced assertion that she informed newspapers about the proceedings. That the claimant has been able to produce comprehensive submissions which address the application for an extension of time and the substantive application for an order for costs does not mean that she has not been put to prejudice by having to take that step. The claimant is prejudiced if the application proceeds in facing the risk of an adverse costs order which she would not otherwise have faced.
32. The respondent also submits that the claimant is prejudiced on the basis that the respondent has decided not to pay the amount it was ordered to pay pending resolution of the costs award although it acknowledges that this is not an inevitable consequence of the application to extend time. For the avoidance of doubt, these circumstances have not been weighed in considering whether to exercise discretion to extend time. As this point is raised, I note that an email sent by the respondent to the tribunal on 10 October 2025 is supportive of the claimant's information that she has not yet received the amount awarded to her by the tribunal

from the respondent. This email was again not copied to the claimant contrary to the Rules. The email refers to being informed that 'the Claimant will be looking to enforce part of her order for costs.' The email then refers to the respondent being entitled to apply for costs and 'There cannot be a situation where the Claimant is able to enforce payment before costs are considered for my client, otherwise that is an unfair position for the Claimant to be in' and asks the tribunal to 'avoid an unusual situation whereby the Claimant is able to enforce a judgment without the full matter being concluded'.

33. There is no order for costs in the Claimant's favour as far as I am aware. The respondent's email, read in its entirety, is reasonably inferred to refer to the judgment made on 20 August 2025 that the respondent shall pay the claimant £4,775.92. There is no indication the matter is not concluded bar the respondent's late costs application and if there were any outstanding appeal, it would be surprising if that had not been drawn to the tribunal's attention given the relevance to the time limits applicable to costs.
34. Having considered all the circumstances and taken account of the overriding objective and the balance of prejudice, I have concluded that the balance of prejudice does not favour extending time for the respondent to seek a costs order either in relation to the making of the anonymity application or the withdrawal of the victimisation complaint.
35. Accordingly, the respondent's application for a costs order was not presented within the applicable time limit and discretion is not exercised to extend the time limit. The application is therefore refused.
36. For completeness, I refer to my findings and conclusions above at paragraphs 28 and 29 which identify that even if discretion was exercised so as to extend time for the applications seeking costs orders, discretion neither could nor would be exercised so as to make any award for costs and the application would be dismissed.

Approved by:
Tribunal Judge Peer acting as an Employment Judge

12 December 2025

JUDGMENT SENT TO THE PARTIES ON

9 January 2026

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FOR THE TRIBUNAL OFFICE

Notes

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.