Case Number: 6010826/2025

EMPLOYMENT TRIBUNALS

BETWEEN

Claimant	**and**	**Respondent**
Dr A Kumar		**General Medical Council**

REASONS FOR THE JUDGMENT
SENT TO THE PARTIES ON 27 NOVEMBER 2025

Introduction

1. The Respondent is an independent public body which regulates doctors and other classes of medical practitioner. For the purposes of the Equality Act 2010 ('the 2010 Act'), it has the status of a 'qualifications body' (s53). Its functions include maintaining a register of individuals authorised to practise medicine ('the Register').

2. The Claimant is a doctor of medicine. He has a long fitness to practise history resulting from his conviction in August 2014 for a sexual offence against a 15 year-old girl. He has not practised medicine since 2015.

3. In these proceedings, commenced on 29 March 2025, the Claimant brought claims against the Respondent for indirect disability discrimination, disability-related harassment, direct disability discrimination and victimisation. All claims were resisted on a variety of grounds.

4. The matter came before me on 13 November 2025 in the form of a public preliminary hearing held by CVP to determine (among other things) the Respondent's application for the claims to be struck out as having no reasonable prospect of success. The Claimant attended in person; Mr Ivan Hare KC appeared on behalf of the Respondent. At an early stage, the Claimant withdrew the direct disability discrimination claim. Having heard full argument on the surviving claims, I gave an oral judgment dismissing the withdrawn claim and striking out the remainder. The written judgment was sent out on 27 November 2025.

5. These reasons are given in writing pursuant to a written request on behalf of the Respondent made on 8 December 2025.

Background

6. The Claimant claims that he was at all relevant times disabled by a mental health condition. Disability has not been established or conceded in these proceedings.

7. The Claimant's registration to practise medicine was first suspended by the Respondent in July 2015. The suspensions were reviewed on paper and renewed without interruption in successive years.

8. In July 2024 the Respondent notified the Claimant that it intended to conduct a further review. On 18 November 2024 he requested that the review be 'on the papers' to spare him 'additional stress at this difficult time'. On 5 December 2024 the Respondent's Assistant Registrar ('AR') declined the request, directing that the review be conducted 'in person'.

9. On 22 December 2024 the Claimant wrote to the Respondent requesting the identity of the AR. On 24 December 2024, he wrote again, stating that 'as an alternative' he wished to be told the AR's 'protected characteristics'.

10. On 20 January 2025 the Respondent's Information Access Team declined the request for the AR's name. The request of 24 December 2024 did not receive a response.

11. On 28 February 2025 the hearing of the review of the Claimant's suspension commenced before the Medical Practitioners Tribunal ('MPT'). The Claimant attended remotely. It was not completed in the time allowed and was adjourned part-heard to 1 April 2025. On that date the Claimant did not attend. The MPT took the decision to erase his name from the Register on account of his 'deteriorating insight' into his own misconduct and the absence of any evidence that he had maintained his clinical skills.

12. It seems that the MPT's decision has yet to be implemented owing to a challenge brought by the Claimant in the High Court, on which judgment is awaited.

Applicable law

13. The 2010 Act, s19 defines indirect discrimination as follows:

> **(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice[1] which is discriminatory in relation to a protected characteristic of B's.**
>
> **(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if –**
>
> **(a) A applies, or would apply, it to persons with whom B does not share the characteristic,**
> **(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,**
> **(c) it puts, or would put, B at that disadvantage, and**
> **(d) A cannot show it to be a proportionate means of achieving a legitimate aim.**

[1] I will adopt the conventional abbreviation 'PCP' below.

By s23(1) it is provided that, for the purposes of both direct and indirect discrimination claims, there must be no material difference between the circumstances of the Claimant's case and that of his or her comparator.

14. The 2010 Act defines harassment in s26, the material subsections being the following:

> **(1) A person (A) harasses another (B) if –**
>
> **(a) A engages in unwanted conduct related to a relevant protected characteristic, and**
> **(b) the conduct has the purpose or effect of –**
> **(i) violating B's dignity, or**
> **(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.**
> **…**
>
> **(3) In deciding whether conduct has the effect referred to in sub-section (1)(b), each of the following must be taken into account –**
>
> **(a) the perception of B;**
> **(b) the other circumstances of the case;**
> **(c) whether it is reasonable for the conduct to have that effect.**
>
> **(4) The relevant protected characteristics are –**
> **…**
> **disability …**

15. The EHRC Code of Practice on Employment (2011), which does not claim to be an authoritative statement of the law (see para 1.13), deals with the 'related to' link in s26(1)(a) at paras 7.9 to 7.11. It states that the words bear a broad meaning and that the conduct under consideration need not be 'because of' the protected characteristic. We adopt this guidance as correct, subject to the caveat that more is required than a mere contextual (or 'but for') connection. There must be an evidential link between the act of the putative harasser and the protected characteristic of the complainant (see *Unite the Union v Nailard* [2019] ICR 28 CA).

16. Statutory protection from harassment is intended to create an important jurisdiction. Successful claims may result in very large awards and produce serious consequences for wrongdoers. Some complaints will inevitably fall short of the standard required. To quote from the judgment of Elias LJ in *Land Registry v Grant* [2011] ICR 1390 CA (para 47):

> **Furthermore, even if in fact the [treatment] was unwanted, and the Claimant was upset by it, the effect cannot amount to a violation of dignity, nor can it properly be described as creating an intimidating, hostile, degrading, humiliating or offensive environment. Tribunals must not cheapen the significance of these words.**

In determining whether actionable harassment has been made out, it may be necessary for the Tribunal to ascertain whether the conduct under challenge was intended to cause offence (*ibid*, para 13). More generally, the context in which the conduct occurred is likely to be crucial (*ibid*, para 43).

17. By the 2010 Act, s27, victimisation is defined thus:

> **(1) A person (A) victimises another person (B) if A subjects B to a detriment because –**
>
> **(a) B does a protected act, or**
> **(b) A believes that B has done, or may do, a protected act.**
>
> **(2) Each of the following is a protected act –**
>
> **…**
> **(c) doing any … thing for the purposes of or in connection with this Act;**
> **(d) making an allegation (whether or not express) that A or another person has contravened this Act.**

When considering whether a claimant has been subjected to particular treatment 'because' he or she has done a protected act, the Tribunal must focus on 'the real reason, the core reason' for the treatment; a 'but for' causal test is not appropriate: *Chief Constable of West Yorkshire v Khan* [2001] ICR 1065 HL, para 77 (*per* Lord Scott of Foscote). On the other hand, the protected act need not be the sole reason: it is enough if it contributed materially to the outcome (*Nagarajan v London Regional Transport* [1999] IRLR 572 HL).

18. Discrimination by qualifications bodies is prohibited by s53 which, so far as relevant, states:

> **(2) A qualifications body (A) must not discriminate against a person (B) upon whom A has conferred a relevant qualification –**
>
> **…**
> **(c) by subjecting B to any … detriment.**

A 'detriment' arises where, by reason of the act(s) complained of, a reasonable person would or might take the view that he or she has been disadvantaged in the workplace. An unjustified sense of grievance cannot amount to a detriment (*Shamoon v Chief Constable of the RUC* [2003] IRLR 285 HL).

19. Parallel protection against harassment and victimisation is enacted under the 2010 Act, s53(3) and s53(4) respectively.

20. The power to strike out is contained in the Employment Tribunals Rules of Procedure 2024, r38 which, so far as material, provides:

> **(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 … has no reasonable prospect of success …**

21. Numerous authorities stress that striking out is an exceptional measure and should be used only in clear cases. The need for caution is particularly great where sensitive and fact-sensitive claims such as those for discrimination or any form of victimisation are in play. Nonetheless, Parliament has placed the power in the Tribunal's armoury and, in a proper case, it is one which should be exercised (see *eg Ahir v British Airways Plc* [2017] EWCA Civ 1392, at [24]).

The claims

22. The indirect discrimination claim was, as I understood it, based on an alleged practice of holding 'in-person' review meetings and the alleged implementation of that practice through the AR's decision of 5 December 2024 to refuse the Claimant's request for a review 'on the papers'. The practice was said to be indirectly discriminatory to the Claimant and to other persons affected by a mental health disability and vulnerable to stressful situations.

23. The harassment claim was put as a parallel complaint to that of indirect discrimination.[2] The Claimant contended that the decision to decline a review on the papers amounted to unwanted conduct related to his (alleged) disability and had the effect of violating his dignity and creating an environment for him such as to satisfy the demanding language of the 2010 Act, s26(1)(b)(ii).

24. The victimisation claim rested on the assertions that the request of 24 December 2024 for details of the AR's 'protected characteristics' amounted to a 'protected act' for the purposes of the 2010 Act, s27 and that the failure to provide that information (or respond at all) was a detriment done to the Claimant 'because of' the (alleged) protected act.

Analysis and conclusions

25. Having reminded myself that complaints of discrimination and victimisation should be struck out on merits-based grounds only in the clearest of cases, I reached the firm conclusion at the end of the argument that this was one such case, and that it was overwhelmingly in accordance with the overriding objective to take the draconic step of ending the proceedings at once. It is not in the interests of justice (or of any party) to allow hopeless claims such as this to run their full course.

26. Although it was not clearly formulated, I was happy to proceed on the footing that the Claimant relied on a PCP of holding 'in-person' review meetings, certainly in cases where, by reason of extensions, a suspension has run for a significant period of time. I was also happy to assume (without deciding) that that PCP was established in fact (although I could see force in Mr Hare's argument that the relevant practice was not 'applied' by the Respondent but dictated by the statutory scheme under the General Medical Council (Fitness to Practise) Rules Order of Council 2004 ('the 2004 Rules'), r21B). But even if the Claimant succeeded thus far (I was a long way from deciding that he did), I could see no arguable case on group disadvantage or individual disadvantage (see the 2010 Act, s19(2)(b) and (c) respectively). What basis was there for supposing that it would disadvantage practitioners with mental health disabilities generally, or that it disadvantaged the Claimant in particular, to hold a review meeting at a point when the relevant suspension had run for some 10 years? How could it have benefited the notional group, or the Claimant personally, to do otherwise? It was not in dispute that, under the statutory scheme, to 'do otherwise' could only have entailed

[2] One effect of the 2010 Act, s212(1) is that a claimant cannot successfully complain of both harassment and detrimental treatment (a necessary ingredient of both direct and indirect discrimination) in respect of the same act.

holding a review on paper for the agreed purpose of deferring any decision on fitness to practice until the end of a further period of suspension of perhaps nine or 12 months.[3] Moreover, the stated disadvantage (and detriment) of being required to attend an 'in-person' person was quite unsubstantiated. There never was any obligation to attend physically and, as already noted, the Claimant attended remotely on 28 February. And it was not in dispute before me that he was at liberty to decline to participate at all, or rely on written representations only. Moreover, even if these difficulties on group and individual disadvantage were put to one side, the Claimant's position on justification (s19(2)(d)), albeit with the burden of proof favouring him, would have been unsalvageable. The Respondent has a statutory duty to protect the health, safety and well-being of the public, maintain public confidence in the medical condition and promote and maintain proper professional standards within the profession (Medical Act 1983, s1(1)(b)). In my view it would have had overwhelmingly strong prospects of showing that the practice (if established in fact) of holding a review meeting in circumstances such as applied here was manifestly a proportionate means of achieving its legitimate (indeed statutorily mandated) aims.

27. I could see no better prospect of success for the harassment claim, for the following reasons. First, there was no reasonable prospect of the Claimant showing that the 'unwanted' conduct of arranging a review meeting was 'related to' his (alleged) disability. On his case the conduct was 'unwanted' because of his stated impairment, but that does not suggest any link *in the mental processes of the actor* (the AR) between the Claimant's medical condition and the conduct (*Nailard*). Nor is there any sensible reason to infer such a link. Second, I could see no ground for the implicit argument that the relevant conduct was motivated by any 'purpose' proscribed by the 2010 s26. There seems to be no arguable reason to infer such a motivation. Common sense suggests that the sole purpose was to move the case forward in accordance with the Respondent's statutory obligations. Third, the Claimant's case on 'effect' was equally unsustainable. He may have been disappointed that the AR did not share his preference for a policy of inertia, but on the material before me he came nowhere near to making out a violation of his dignity or a an effect otherwise capable of satisfying the powerful language of s26(1)(b)(ii).

28. As to victimisation, I again considered that the claim had no reasonable prospect of success. In the first place, I see no real prospect of showing that a protected act occurred. The only protected act relied upon was the 'clarified request' of 24 December 2024 for the RA's 'protected characteristics'. I do not consider that this unspecific inquiry was sufficient to amount to an (implicit) allegation of an infringement of the Act or to doing anything for the purposes of or in connection with the Act. The case might, I suppose, have been put on the footing that the Claimant was subjected to a detriment because of a suspicion (resulting from his inquiry using the language of the 2010 Act) that he intended to make a claim or allegation under the Act. But the case was not put in that way and it is not for me to invent a case which has not been brought. If this was right, the case on victimisation failed at once. If not, the failure to respond to the 'clarified' request of 24 December 2024 could certainly be seen as an arguable detriment.

[3] In accordance with the 2004 Rules, r21B(1)

But the second question then became whether there would be a realistic prospect of the Tribunal finding that the detriment was done 'because of' the (alleged) protected act. In my view, there was no such prospect. I could see no sensible ground for inferring an adverse motivation behind a failure to respond to an obscure and unexplained inquiry which, if it attracted anyone's attention at all, was almost bound to be seen as having no bearing on the matter in hand. This reasoning disposed of this part of the case: the Respondent was right that the victimisation claim had no reasonable prospect of success. (In the circumstances I could leave to one side Mr Hare's further point, namely that, on the victimisation claim, the Tribunal was without jurisdiction in any event, by operation of the 2010 Act, s120(7). That provision disapplies the protection under s53 where the act complained of may be challenged by 'an appeal or proceedings in the nature of an appeal'. Mr Hare submitted that, since the Claimant had the right to pursue a complaint to the Information Commissioner and ultimately an appeal to the First-tier Tribunal based on the failure to provide the information requested,[4] s120(7) was engaged. Although I did not need to base my analysis on it, in light of the authorities cited (*Michalak v GMC* [2017] UKSC 71 and *Ali v OISC* [2021] IRLR 84 (EAT)), I was unable to find any flaw in the argument.)

29. For all of these reasons, I was satisfied to a high standard that the claims have no reasonable prospect of success and that it is in keeping with the overriding objective to strike them out.

Result

30. The claims persisted with were struck out, having no reasonable prospect of success.

31. Had I seen the case on strike-out differently, I would have made deposit orders requiring the Claimant to pay substantial deposits as a condition of being permitted to pursue them.

_____

EMPLOYMENT JUDGE SNELSON

Date: 12 February 2026

Reasons entered in the Register and copies sent to the parties on 12 February 2026

..... for Office of the Tribunals

[4] Freedom of Information Act 2000, ss50 and 58