



EMPLOYMENT TRIBUNALS

Claimant: Dr K Zayyan

Respondent: General Medical Council

Heard at: London Central (by CVP)

On: 30 October 2025

Before: Employment Judge Heydon

REPRESENTATION:

Claimant: Represented himself

Respondent: Mr N Grundy (Counsel)

PRELIMINARY HEARING IN PUBLIC RESERVED JUDGMENT

The judgment of the Tribunal is as follows:

Strike out of claim

1. The complaints set out below are struck out under Employment Tribunal Rule 38(1)(a), on grounds that they have no reasonable prospect of success:
 - a. the complaints of race discrimination relating to the allegations set out in sub-paragraphs 3.1.1 to 3.1.11 inclusive in paragraph 32 of the Case Management Order dated 22 April 2025.
2. The application to strike out the complaints of race discrimination relating to the allegations set out in sub-paragraphs 3.1.12 and 3.1.13 is refused.

REASONS

1. The Respondent applied to strike out the whole Claim on the grounds that it has no reasonable prospect of success.

The claim

2. The Claimant is a consultant surgeon. He brings complaints of direct discrimination on grounds of race. The Respondent has never been his employer but the claim relies upon section 53 of the Equality Act 2010 which provides that a qualifications body must not discriminate against a person on whom it has conferred a relevant qualification by withdrawing the qualification, varying the terms on which the person holds the qualification or by subjecting the person to any other detriment. The Respondent is a qualifications body and (using the language of the statute) had awarded a qualification to the Claimant.
3. The claim (as amended) alleges 13 instances of detriment suffered. These instances were listed in paragraph 32 of a case management order given by Tribunal Judge Peer, following a case management hearing on 22 April 2025.
4. A further preliminary hearing in public took place before me on 30 October 2025. The purpose of the hearing was primarily to hear two applications by the claimant to amend the claim, and to hear the respondent's application to strike out the claim, or alternatively for a deposit order.
5. Having heard the applications to amend, I agreed to several relatively minor amendments, expressed as amendments to the 13 allegations of detriment listed out in Judge Peer's order. These are set out in a further case management order.
6. Having determined the applications to amend, I went on to hear the application to strike out or for a deposit order. I reserved judgment on these applications.

The strike out application

7. The respondent applied for strike out on grounds that the claim had no reasonable prospect of success. In particular, the Respondent argued that:
 - a. Allegations 1 – 11 inclusive (which took place between 9 March 2020 and 24 June 2021) are all out of time. The claim was presented on 6 November 2024. Given the date the claim form was presented and the dates of early conciliation,

- any complaint about something that happened before 3 July 2024 were on the face of it out of time. They argue there is no reasonable prospect of the Tribunal finding that the time limit should be extended.
- b. Allegation 12 is stated to have occurred on 1 August 2024 so is in time, but the Employment Tribunal has no jurisdiction to hear the complaint. The alleged detriment is stated to be the respondent's dismissal of a complaint against other doctors. The Respondent argued that this does not fall within any potential unlawful discriminatory act under section 53 of the Equality Act 2010, and there is no reasonable prospect of the Tribunal finding that it does.
 - c. Allegation 13, refers to an allegation occurring on 25 July 2024. The Respondent says that there are no facts stated which could form the basis of a discrimination claim.
8. In order to determine this question, the Tribunal must first determine whether the claim does, in fact, have no reasonable prospect of success. If it decides that it does, it must then decide whether to exercise its discretion to strike out.
9. In order to decide the first question, the Tribunal must avoid a mini-trial of the facts. The facts pleaded by the Claimant must be taken at their highest. It is a high threshold for the respondent to cross, particularly in a case which is fact-sensitive. However, the threshold will be met if there is a fanciful – as opposed to realistic – prospect of success.
10. Allegations 1 to 11 relate to a fitness to practise investigation which the Respondent carried out into the Claimant which began in 2020 and ended in 2022. Allegations 12 and 13 relate to the Respondent's conduct when dealing with matters which the Claimant referred to it between July 2023 and 2024.

The Law

11. Rule 38(1)(a) provides that:

“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
.....”*

12. There has been much guidance from the Employment Appeal Tribunal and superior courts on the test to be applied when considering whether to strike out a discrimination case on grounds that it has no reasonable prospect of success. This was recently helpfully summarised by the EAT in *Wangtian Xie v E'quipe Japan Ltd [2024] EAT 176* in which HHJ James Tayler summarised “some of the core components of the guidance”. For the purposes of this case, I consider that this contains a good summary of the relevant points that I must consider in this case:

“4.1 Rule [38] of the [Employment Tribunal Procedure Rules 2024] provides a discretion to strike out a claim if it has no reasonable prospect of success

4.2. Strike out is a draconian step to be taken only in clearcut cases

4.3. There is a public interest in discrimination cases being heard on the merits

4.4. Care should be taken when an application for strike out is made against a litigant in person

4.5. That said, there is not an absolute prohibition on strike out in discrimination cases, particularly if the claim is contrary to undisputed documentary evidence

4.6. Where there is a core of disputed fact strike out is generally inappropriate

4.7. When assessing strike out the case of the party against whom the application is made should generally be taken at its highest.”

Allegations 1 to 11

13. It is undisputed that allegations 1 to 11 all took place on or before 24 June 2021. This makes the claim 3 years out of time. The claim could only succeed if the claimant could show that it formed part of a course of conduct, which extended beyond 3 July 2024; or that it is just and equitable that the time limit should be extended.

Course of conduct / just and equitable extension

14. Allegations 1 to 11 relate to a fitness to practise investigation which the respondent carried out into the claimant. By themselves, they could be said to form a course of conduct. Allegations 12 and 13 are alleged to have taken place on 1 August 2024 and 25 July 2024 respectively, a little over 3 years after the last of allegations 1 to

11. The claimant says that they are connected and can be said to be a course of conduct. Allegations 12 and 13 are about a complaint that the claimant himself made to the respondent in respect of 6 doctors who were in some way involved in his own fitness to practice referral. The Claimant this complaint on 28 July 2023, about a year after the last of allegations 1-11, and around 10 months after hearing the outcome of his own referral.
15. Given the difference in nature between allegations 1 to 11 on the one hand, and allegation 12 and 13 on the other; and of the significant time which elapsed between them, I find that there is no reasonable prospect that a Tribunal would find that they formed part of a single course of conduct.
16. I note that between 20 September and 15 November 2022, the Claimant was in correspondence with the GMC to find out more about how his referral came to take place. He followed it up again early in January 2023, and again in February. He also explained that the whole episode caused him significant stress and he was depressed. Nonetheless, the delay in bringing the claim is very significant and I find that there is no reasonable prospect that a Tribunal might decide that it is just and equitable in all the circumstances to grant an extension to allow the claim to be presented nearly 3 and a half years later.
17. I must then turn to whether to exercise my discretion to strike out allegations 1 to 11. Taking into account all of the relevant factors, including those set out in *Wangtian Xie*, and despite the caution I must take before taking such a draconian step, I find that it is very clear that the claims based on these allegations cannot succeed. That conclusion is based on undisputed facts. The Claimant is a litigant in person, but he has pleaded his case clearly, and thanks both to the case management hearing before Judge Peer, and the amendment application that I heard today, the issues in question are very clear. It is not in the interests of justice to let a large number of hopeless allegations take up the time and resources of both parties and the Tribunal. I therefore strike out allegations 1 to 11.

Allegation 12

18. Allegation 12 is that :

“On 1 August 2024, the respondent dismissed the claimant’s complaint made on 18 February 2024 against six doctors and rejected the claimant’s evidence as insufficient”

19. The Respondent says that section 53 of the Equality Act 2010 is not wide enough to encompass a complaint that a qualifications body failed to take regulatory action against a third party. They say that in this context, the claimant should be treated as any complainant, not a person who has themselves had a qualification conferred upon them.

20. Section 53(2) provides as follows:

“A qualifications body (A) must not discriminate against a person (B) upon whom A has conferred a relevant qualification—

(a) by withdrawing the qualification from B;

(b) by varying the terms on which B holds the qualification;

(c) by subjecting B to any other detriment.”

21. In my judgment, while the Respondent’s point is arguable, it is also arguable that the allegation could in certain contexts fall within paragraph (c) as “any other detriment”. It is in the interests of justice that that should be decided after full argument and based upon the facts which are found by the Tribunal based upon evidence.

22. I therefore cannot find that allegation 12 has no (or even little) reasonable prospects of success, and so I refuse the application to strike out the complaint relating to this allegation.

Allegation 13

23. Allegation 13 (as amended) alleges the following detriment:

“The respondent’s Triage Manager Rachel Morris informed the Claimant on 25.7.24 that an Assistant Registrar (unnamed) had informed the Claimant’s employer that the claimant had made a complaint against Dr Narayanan when the claimant had raised the complaint in confidence, putting the claimant at risk of reprisals from those who protected Dr Narayan locally. “

24. The Respondent says that this allegation consists of a mere assertion that a doctor of a different race would have been treated differently and that no viable comparison has been put forward.

25. I find that this is exactly the sort of allegation about which the authorities advise great caution before striking out. This sort of complaint which can only be assessed having

found the facts. I cannot say that the complaint has no (or even little) reasonable prospect of success and so I refuse the application to strike it out.

**Employment Judge Heydon
20 January 2026**

Judgment sent to the parties on:

18 February 2026

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For the Tribunal:

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