



EMPLOYMENT TRIBUNALS

Claimant: Adrian Wixcey

Respondent: Vanguard Learning Trust

Heard at: Norwich Employment Tribunal
(by video)

On: 24 October 2025

Before: Employment Judge Taft

REPRESENTATION:

Claimant: Represented himself

Respondent: Mr Green, Counsel

JUDGMENT

1. The claimant's application (dated 21 November 2025) for a preparation time order is dismissed.

REASONS

Introduction

1. This application is made by the claimant in respect of preparation time for the preliminary hearing that took place on 24 October 2025. My decision in respect of this application does not bind the Tribunal at final hearing. It is in respect of preparation time for the preliminary hearing only.
2. The respondent made an application to strike out the claimant's claims under Section 47B and 103A Employment Rights Act 1996 on the basis that they were said to have no reasonable prospects of success because it was said there are no reasonable prospects of success of establishing that the claimant made qualifying disclosures. In the alternative, the respondent applied for a deposit order on the basis that there is little prospect of success in establishing that the claimant made qualifying disclosures.

3. At the time of making the application, the respondent further sought to establish that disclosures relied upon by the claimant in an email to the Tribunal on 14 February 2025 were not contained within his claim and so could not be relied upon without an amendment. During the course of the hearing, the claimant clarified that he was not seeking to expand upon the disclosures identified in his claim form and discussed at a Case Management Preliminary Hearing on 10 February 2025.
4. My decision was reserved, with judgment communicated to the parties on 9 December 2025. Prior to communication of that decision, on 21 November 2025, the claimant made an application for a preparation time order on the basis that he says the respondent's applications had no reasonable prospect of success, because the respondent had not complied with an order for disclosure and to produce a hearing file and because he says the respondent and its lawyers have behaved vexatiously. The respondent provided its response on 28 November 2025. No further correspondence has been uploaded to the Tribunal file since promulgation of my judgment on 9 December 2025.

Law

5. Rule 74 of the Employment Tribunal Rules 2024 deals with costs and preparation time orders
 - (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.

Conclusions

6. Whilst the application was arguably premature, I consider that it is appropriate to decide the application as if it were made after my judgment. In doing so, I have taken account of the fact that if I were to refuse the application on the basis that it were premature, the claimant is likely to make a further application relying on my judgment.

No reasonable prospect of success

7. The claimant makes the application on the basis that he says that the respondent's applications had no reasonable prospect of success. However, Rule 74(2)(b) confirms that the Tribunal must consider a preparation time order only where a *claim, response or reply* has no reasonable prospect of success: it does not refer to applications.
8. That said, I am satisfied that, in principle, it is arguable that a party acts unreasonably if they make an application that has no reasonable prospect of success.
9. I am not however satisfied that the respondent did act unreasonably. At the time of making its application, the respondent reasonably understood that the claimant intended to expand his case, and much of its application referred to that expanded case. It was only at the hearing that the claimant clarified that he did not so intend, and that he intended to rely only on those disclosures previously identified by Judge Bartlett.
10. The fact that I refused both applications does not mean that it was unreasonable for the respondent to make the applications.

Breach of Tribunal orders

11. Both parties were in breach of Judge Bartlett's order to send copy documents to each other. The respondent sent a list but did not comply with the order because they did not send copy documents. The claimant sent only documents that he believed the respondent did not already have. Again, this did not comply with the order. Arguably the respondent is more culpable given that it is professionally represented and should therefore have been capable of understanding what the order required. However, that does not mean that the respondent was behaving vexatiously or otherwise unreasonably in seeking to deal with disclosure by provision of a list rather than copy documents, and by delaying production of the hearing file until it was satisfied that the claimant had fully complied with his duty of disclosure. Rule 74(2) is not therefore made out. Further, I do not consider it is appropriate to make an order under Rule 74(3).

Vexatious or otherwise unreasonable conduct

12. The claimant complains that the respondent refused freedom of information and subject access requests and made an allegedly malicious referral to the Teachers Regulatory Agency. Whether or not this is true, this cannot form the basis of a preparation time order: it is only if a party acts unreasonably in "*the way the [Employment Tribunal] proceedings, or part of it, have been conducted*" that Rule 74 is engaged.
13. I was not referred to most of the documents contained within what was a very large bundle for a 3-hour hearing. Including documents in a bundle that are not likely to be of assistance to a Judge hearing a matter is not helpful and is to be

discouraged. It is not however, by itself, evidence of vexatious or unreasonable behaviour.

14. It is not appropriate at an interim stage to consider whether a failure to negotiate or indeed the content of the response to the claim amount to vexatious or otherwise unreasonable behaviour. To do so would be to inappropriately bind the judge hearing the final merits hearing.
15. I therefore dismiss the application but do not consider that the claimant was acting disruptively, vexatiously or otherwise unreasonably merely by making this application, nor was the application misconceived.

Approved by:

Employment Judge Taft

7 February 2026

Judgment sent to the parties on:

7 February 2026

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For the Tribunal:

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Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found at www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/