# EMPLOYMENT TRIBUNALS

| **Claimant** | | **Respondent** |
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| Mr L Parnell | **v** | Network Rail Ltd |

**Heard at:** Cambridge

**On:** 12 February 2026

**Before:** Employment Judge Tynan

**Appearances**
**For the Claimant:** In person
**For the Respondent:** Mr J Fireman, Counsel

## RESERVED JUDGMENT

1. The Tribunal determines that it was not reasonably practicable for the complaints of unfair dismissal and for holiday pay to be presented by the Claimant in time, and that they were presented by him within a reasonable period of time thereafter.

2. The Tribunal further determines that it cannot be said that the Claimant has no reasonable prospect of establishing that his disability discrimination complaint was presented in time, alternatively that it would not be just and equitable to extend time in the event the claim was presented out of time.

3. In the circumstances, the claim shall proceed.

## RESERVED REASONS

1. The Respondent owns, operates and develops the UK's railway infrastructure. The Claimant was employed by the Respondent as an Operator / Operator Maintainer. He was summarily dismissed in 2024 for gross misconduct after 9 years' continuous employment and has brought claims for unfair dismissal, holiday pay and disability discrimination. The claims are resisted by the Respondent, amongst other things on the grounds that they have been presented out of time.

**The issues for determination**

2. Following his initial consideration of the file, Regional Employment Judge Foxwell expressed the provisional view that the Tribunal had no jurisdiction to consider the claim and that it had no reasonable prospect of success because the claims had been presented outside the time limits in the Employment Rights Act 1996 ("ERA 1996"), Equality Act 2010 ("EqA 2010") and Working Time Regulations ("WTR"). In my view, the reference to the claim having no reasonable prospect of success most likely referred to the EqA 2010 claim since it is common practice, following Ellenbogen J's guidance in E v X, L and Z UKEAT/0079/20 (10 December 2020, unreported), for tribunal judges to deal with EqA 2010 time limitation issues at a preliminary stage under Rule 38 of the 2024 Procedure Rules rather than determine them substantively. This is because questions of whether there was a 'continuing act' for the purposes of s.123(4) of EqA 2010, the date from which time runs from where an employer is said to have failed to act (including where it has allegedly failed to make reasonable adjustments), and whether it would be just and equitable to extend time, do not readily lend themselves to determination at a preliminary hearing.

3. There is further support for my view that the Regional Employment Judge intended that the EqA 2010 time issues should be considered under Rule 38, in his subsequent direction that there should be a public preliminary hearing to determine whether the claim or any part of it should be struck out because it has no reasonable prospect of success. This direction did not obviously follow any further consideration by him of the merits of the claim. The Regional Employment Judge specifically directed that the time limitation issues in relation to the unfair dismissal and holiday pay claims should be determined in accordance with the statutory provisions applicable to such claims, namely having regard to whether it was reasonably practicable for each claim to be presented in time and, if not, whether they were presented within such further period as the tribunal considers reasonable. There was no comparable direction in relation to the EqA 2010 complaint(s) notwithstanding standard form orders were at his disposal in that regard. In his written submissions, Mr Fireman speculates whether this was due to an omission. I have been able to review the case file and note that the Regional Employment Judge emphasised to the Administration that "only" the unfair dismissal and holiday pay claims should be listed for substantive determination on the time limitation issue. He underlined the word "only" to emphasise the point.

4. Although the Claimant's mother, Mrs Parnell wrote to the Tribunal on 20 August 2025 requesting confirmation that "the question of time limits for all claims will be addressed at the same Preliminary Hearing so they can be dealt with consistently", this was in the context of her express concern that because the disability discrimination claim had not been referred to explicitly in the Notice of Hearing, the Tribunal had potentially failed to appreciate that there was such a claim. There is no indication within Mrs

Parnell's email that she understood the distinction between determining time limitation issues and considering their prospects under Rule 38. Indeed, she gave no indication that she understood that time limitation issues differ according to the type of claim. She did not articulate any such understanding at Tribunal, and no such understanding is indicated in the detailed witness statement she prepared on her son's behalf.

5. In all the circumstances, I have concluded that I should approach the EqA 2010 complaint(s) by asking myself whether there is no reasonable prospect of the Claimant establishing that it/they were presented in time, alternatively whether there is no reasonable prospect of him persuading the Tribunal to extend time because it would be just and equitable to do so.

**Law**

6. Mr Fireman has set out the law and applicable legal principles in some detail in his written submissions. I do not therefore rehearse them at length here. The Dedman 'principle' was revisited and clarified by the Court of Appeal in Wall's Meat Co Ltd v Khan 1979 ICR 52, CA. in the course of his judgment, Lord Justice Brandon observed:

> "The performance of an act, in this case the presentation of a complaint, is not reasonably practicable if there is some impediment which reasonably prevents, or interferes with, or inhibits, such performance. The impediment may be physical, for instance the illness of the complainant or a postal strike; or the impediment may be mental, namely, the state of mind of the complainant in the form of ignorance of, or mistaken belief with regard to, essential matters. Such states of mind can, however, only be regarded as impediments making it not reasonably practicable to present a complaint within the period of three months, if the ignorance on the one hand, or the mistaken belief on the other, is itself reasonable. Either state of mind will, further, not be reasonable if it arises from the fault of the complainant in not making such inquiries as he should reasonably in all the circumstances have made, or from the fault of his solicitors or other professional advisers in not giving him such information as they should reasonably in all the circumstances have given him."

I shall come back to this.

7. An issue that arose in the course of the hearing, which is not addressed within the written submissions, is what the Claimant's effective date of termination of employment was. Both parties had proceeded on the basis that time in respect of the unfair dismissal complaint ran from 30 July 2024, being the date the Respondent purported to terminate the Claimant's employment. However, the effective date of termination ("EDT") is a statutory construct, which is to be determined in accordance

with s.97 of ERA 1996. In the case of dismissal without notice, the EDT is the date on which the termination "takes effect".

8. In Brown v Southall and Knight 1980 ICR 617, EAT, a summary dismissal communicated to an employee for the first time in a letter addressed to their home was said not to take effect until the letter reached the employee or until they had a reasonable opportunity to read it. This decision was approved by the Supreme Court in Gisda Cyf v Barrett 2010 ICR 1475, SC. The reasoning in Gisda Cyf has been applied in a case where dismissal was communicated via a third party - see Robinson v Bowskill and ors 2014 ICR D7, EAT. Ms Robinson was summarily dismissed for gross misconduct while absent on sick leave. Her employer informed her solicitor of the dismissal on 6 July 2011, who in turn informed Ms Robinson of the decision by phone the following day. On 8 July 2011, Ms Robinson received a dismissal letter from her employer. The date of dismissal became relevant when Ms Robinson presented an unfair dismissal claim on 7 October 2011. The EAT upheld the tribunal's decision that the EDT was 7 July 2011, when the solicitor informed Ms Robinson of the dismissal, with the result that her claim was one day out of time.

9. As to whether the Claimant's discrimination complaint(s) should be struck out, it is worth repeating His Honour Judge Tayler's important guidance in Cox v Adecco UKEAT/0339/29 [2021] ICR 1307 in which he offered the following summary at paragraph of his judgment:

> "(1) No one gains by truly hopeless cases being pursued to a hearing.
>
> (2) Strike out is not prohibited in discrimination or whistleblowing cases; but especial care must be taken in such cases as it is very rarely appropriate.
>
> (3) If the question of whether a claim has reasonable prospects of success turns on factual issues that are disputed, it is highly unlikely that strike out will be appropriate.
>
> (4) The claimant's case must ordinarily be taken at its highest.
>
> (5) It is necessary to consider, in reasonable detail, what the claims and issues are. Put bluntly, you can't decide whether a claim has reasonable prospects of success if you don't know what it is.
>
> (6) This does not necessarily require the agreement of a formal list of issues, although that may assist greatly, but does require a fair assessment of the claims and issues on the basis of the pleadings and any other documents in which the claimant seeks to set out the claim.
>
> (7) In the case of a litigant in person, the claim should not be ascertained only by requiring the claimant to explain it while under the stresses of a hearing; reasonable care must be taken to read the

pleadings (including additional information) and any key documents in which the claimant sets out the case. When pushed by a judge to explain the claim, a litigant in person may become like a rabbit in the headlights and fail to explain the case they have set out in writing.

(8) Respondents, particularly if legally represented, in accordance with their duties to assist the tribunal to comply with the overriding objective and not to take procedural advantage of litigants in person, should assist the tribunal to identify the documents in which the claim is set out, even if it may not be explicitly pleaded in a manner that would be expected of a lawyer.

(9) If the claim would have reasonable prospects of success had it been properly pleaded, consideration should be given to the possibility of an amendment, subject to the usual test of balancing the justice of permitting or refusing the amendment, taking account of the relevant circumstances."

**Evidence**

10. The Claimant and his parents gave evidence at Tribunal. The Claimant adopted the written statement prepared by Mrs Parnell as his evidence. I invited Mrs Parnell to give evidence as I particularly wished to hear from her on the issue of the EDT. There were additionally two written statements from Mark Hall, the Claimant's trade union representative from the RMT union. Mr Hall was unable to attend Tribunal.

11. I was provided with a 1109-page preliminary hearing bundle. Any page references that follow correspond to that bundle.

**Findings and conclusions in relation to the primary time limits**

12. The Respondent purported to dismiss the Claimant with immediate effect on 30 July 2024. Its letter in that regard is at pages 193 to 195 of the bundle and was addressed to the Claimant at HMP Doncaster. He was incarcerated at the time, having been remanded into custody following his arrest on 21 May 2024. He remained in prison until 26 September 2024 though, as I shall come back to, was recalled to prison a few weeks later. It is not necessary for me to go into further detail regarding his offending save to reiterate what I said during my opening remarks at Tribunal, namely that I cannot revisit decisions taken by others within the criminal justice system. By the same token, these tribunal proceedings are not an opportunity for me to further mark society's disapproval of his offending or to impose any further punishment. He has served his time.

13. Mr and Mrs Parnell's evidence at Tribunal was that they initially withheld from the Claimant that he had been dismissed because, in the words of Mrs Parnell, they were concerned he might "do something silly". Mr Parnell thought he may have waited some weeks before breaking the news to the

Claimant during one of their approximately weekly prison calls. For the reasons below, I believe Mr Parnell is mistaken in his recollection.

14. In 2022 the Claimant was diagnosed with a mood disorder. It was not the first time he had experienced poor mental health. In 2011 he attempted to take his own life and thereafter experienced periods of addiction, poor mental health and relationship difficulties. The notes of a mental health review on 2 July 2024, whilst the Claimant was on remand, evidence reasonably good insights on his part and a seeming willingness to take ownership of the situation in which he found himself. He was assessed as not presenting with new or acute mental illness or depressive disorder, rather that he had long-standing problems associated with anxiety and possibly trauma following a sports injury which resulted in the loss of his professional rugby career.

15. The medical records are significant not just in terms of what they reveal about the Claimant's mental health but also because they confirm that the Claimant learned on 1 August 2024 that he had been dismissed. I refer in this regard to page 994 of the bundle. The Claimant appeared by video link at Sheffield Crown Court on that date, when he received a 21-month custodial sentence. He was seen by a medical practitioner the following day. They noted in the Claimant's records that he had not only been sentenced but that he had also learned the same day that he had lost his job. The Claimant reported that he had received a letter from the Respondent. This can only have been its letter of 30 July 2024. In which case, it is irrelevant that his parents may have intended to withhold the news from him or to shield him from the details. The fact is that he knew on 1 August 2024 that he had lost his job. The EDT was therefore 1 August 2024, and the Claimant accordingly had until 31 October 2024 to notify any potential claim for unfair dismissal to acas. Acas was contacted by Mr Hall on his behalf on 1 October 2024 and an early conciliation certificate was issued on 16 October 2024. By virtue of s.207B(3) of ERA 1996, this served to extend time for presenting the unfair dismissal claim to 15 November 2024. However, s.207B(4) had the further effect of extending time to 16 November 2024. The claim was not presented to the tribunals until 14 January 2025, meaning that the unfair dismissal complaint was very nearly two months out of time.

16. As regards the holiday pay complaint, the Claimant's wages were paid four-weekly. Payment in respect of any accrued but untaken leave should have been paid to the Claimant as part of the Respondent's regular payroll arrangements following his dismissal, namely on 30 August 2024. If the Respondent failed to pay the Claimant the correct sums owing to him and thereby made an unauthorised deduction from his wages, s.207B of ERA 1996 had the effect of extending time for presenting any claim in respect of holiday pay to 15 December 2024. Unlike his unfair dismissal complaint, s.207B(4) of ERA 1996 does not give rise to any further extension of time. The claim in respect of holiday pay was therefore presented one month out of time.

**Findings and conclusions on the issue of whether it was reasonably practicable for the Claimant to present his unfair dismissal and holiday pay claims in time and, if it was not, whether the claims were presented within such further period as was reasonable**

17. Copies of the Claimant's medical records are at pages 900 to 1109 of the bundle. They appear to have been generated on 6 and 20 August and 30 September 2024, most likely with a view to supporting his appeal against his dismissal which was heard by the Respondent on 2 October 2024. Whilst the records provide a useful and reasonably detailed overview of the Claimant's medical history up to 30 September 2024, they do not directly assist in an understanding of his mental health thereafter, particularly following his recall to prison on 22/23 October 2024, specifically whether any ongoing health issues may have impacted upon his ability to present his claim in time.

18. One of the key questions is when the Claimant first had sight of a letter and advice from the RMT union regarding his potential claims against the Respondent. The Claimant spoke to someone at the RMT, possibly within its legal team, on 21 October 2024, when he was informed that the union would not be taking his employment case forward and that they would be writing to him to confirm this decision. The Claimant was not asked by Mr Fireman whether time limitation issues had been discussed during this call.

19. The Claimant had applied to the RMT on 1 October 2024 for legal assistance in order to bring a claim in the tribunals. The application form, including two-page RMT guidance, runs to some 9 pages. I accept the Claimant's evidence that Mr Hall completed the form on his behalf, that there was insufficient time available on 1 October 2024 for the Claimant to read through the form, and that he did not retain a copy. The form contains a section headed "IMPORTANT: TIME LIMITS" (page 876) which advises that tribunal time limits generally run from the date of the act complained of. This advice is repeated in the guidance which also states that the time limit in most cases is three months.

20. The letter and advice I have referred to are at pages 885 to 896 of the bundle. The letter is dated 22 October 2024 and was issued in the name of Mick Lynch, the RMT's then General Secretary. It is marked as having been sent by email only. I find, on the balance of probabilities, that it was emailed during normal working hours, namely before 5pm. There is no suggestion that the RMT was aware at the time that the Claimant was at risk of being recalled to prison. The contact details which the Claimant provided to Mr Hall in connection with his application for legal assistance included his personal email address (page 876). The Claimant said at Tribunal that he was recalled to prison overnight on 22/23 October 2024. Mr Fireman did not explore the timing of these events with the Claimant, including whether his mobile device is configured in such a way that he receives 'push notifications' when emails are received, meaning that the Claimant's only evidence on the matter at Tribunal was that the letter had not been emailed to him. Since he cannot know who the letter was

emailed to, as the email address to which it was sent is not indicated on the face of the letter, I understand his evidence to be that he did not see the letter at the time. I find that it was emailed to him at the personal email address he had provided to Mr Hall. However, I accept that he did not see the letter on 22 October 2024 (or for some months thereafter), most likely because he had either been arrested by the time it was emailed to him or because events were by then playing out that ultimately led to his arrest and/or recall overnight to prison. Once he was recalled to prison, possibly earlier if he was arrested, his mobile phone was confiscated, and he then had no access to his emails or the internet. I find that the letter was instead first seen by Mrs Parnell on 9 January 2024 when she went to the RMT's local office to secure copies of documents that might assist in her and her husband's efforts to understand what had happened, and in order to secure legal advice on his behalf. It is essentially irrelevant therefore that the letter was potentially misleading, or at least ambiguously worded, in so far as it said the Claimant had 3 months less one day to lodge his claim, without identifying when that time ran from. Any potential misunderstanding on the Parnell's part resulting from the letter was corrected within 24 hours of securing a copy of it as a result of further legal advice (see pages 897 and 898).

21. Mrs Parnell said at Tribunal that when she visited the RMT's local office she was not provided with a copy of the detailed advice referred to in the letter of 22 October 2024, which she believes she only saw for the first time in the course of these proceedings, when the Respondent's solicitors provided her with a preliminary hearing bundle. I conclude that she is mistaken in this regard, since there is no obvious reason why the Respondent would be in possession of confidential advice provided to the Claimant by his union. Be that as it may, even if Mrs Parnell was in possession of copies of both the letter and advice on 9 January 2025, prompted by Mr Parnell's initial telephone contact with a solicitor earlier that day, they evidently acted promptly in the matter, as Mr Parnell sought further legal advice on 10 January 2025 and thereafter Mrs Parnell submitted a claim on the Claimant's behalf to the tribunals on 14 January 2025.

22. I do not overlook that the legal assistance application form that was completed on 1 October 2024 contained relevant information about the time limits for bringing a claim, information that was reiterated within the guidance. However, as I say, I accept that the Claimant did not have an opportunity to read the application form and guidance before the application was submitted on his behalf: he and Mr Hall were focused instead on preparing for the appeal hearing the following day, and in securing and collating evidence in support of the appeal. In my judgment, it was reasonable in the circumstances for them to focus on the appeal hearing, not least because had the appeal been upheld it would likely have obviated the need for any tribunal claim.

23. I accept that the Claimant's incarceration between May and September 2024 had impeded his and Mr Hall's ability to collate documents relevant

to the appeal and prepare for the appeal hearing, with the result that they were under some pressure following the Claimant's release to ensure they were appropriately prepared for the hearing on 2 October 2024. Although Mr Hall had been able to visit the Claimant in prison seemingly in September 2024, he had not been permitted to take any paperwork or stationery into the prison with him. I accept his evidence that the Claimant's anxiety and distress were evident when they met on that occasion, and that this affected the Claimant's ability to concentrate and to fully explain the circumstances of his dismissal.

24. The legal assistance application form and accompanying guidance confirm that the RMT endeavours to alert its members to time limitation issues at the first available opportunity, namely when members are completing their application for legal assistance. I presume that this is partly to ensure that members provide relevant information on a timely basis to facilitate a considered evaluation of the merits of their case, and so that any claim can be prepared and submitted in time. Particularly given that the Claimant had only very recently been released from prison when he signed the application form, had various other pressing matters to attend to following his release (including meetings with the probation service and resolving his housing situation), and that he and Mr Hall had a limited amount of time to prepare for the appeal hearing, I do not consider Mr Hall was at fault in failing to ensure that time was set aside for the Claimant to read the legal assistance application form on 1 October 2024 or in failing to ensure that he was provided with a copy of the guidance. In my judgement it would be expecting too much of him (or the Claimant had he been researching the matter for himself), to ensure that the Claimant understood the potential time limitation issues by 1 October 2024 when the purpose of the application for legal assistance was to secure detailed advice about his potential claims, including any time limitation issues. As of 1 October 2024, there was no immediate risk of any claim being timed out, such that Mr Hall or the RMT ought reasonably to have advised the Claimant to file a protective claim pending any assessment of his prospects of success. Mr Hall took appropriate action to protect the Claimant's position by notifying acas under early conciliation. Thereafter, the union's legal team undertook a detailed assessment of the case within 21 days of receiving the Claimant's application for legal assistance. When the RMT emailed the Claimant on 22 October 2024 with its assessment, this did not include definitive advice as to when any claims might become timed out, as the union's legal team did not know whether an early conciliation certificate had by then been issued. It merely understood that a claim had been notified to acas and in those circumstances correctly advised that, in general terms, the Claimant would have one month from the date of issue of the early conciliation certificate in which to submit a claim: it signposted him in terms of how to make a claim.

25. In the words of Brandon LJ, I am satisfied that the RMT gave the Claimant such information as it should reasonably in all the circumstances have given him, and that it did so within a reasonable period of time. But for the fact the Claimant was recalled to prison on 22/23 October 2024, he would

have been made aware on receipt of the letter and advice, or have been able to work out for himself, that he had at least until 16 November 2024 to submit any claim. Instead, Mr and Mrs Parnell first became aware on 9 January 2025 that the claim was likely out of time, the position in this regard being confirmed to them in writing on 10 January 2025 (see again pages 897 and 898).

26. In my judgement, it was not reasonably practicable for the Claimant to present either his unfair dismissal claim or holiday pay claim in time. Putting aside any potential ongoing health issues after the Claimant was recalled to prison on 22 October 2024, as to which there is no direct evidence, the Claimant was incarcerated at the time of his dismissal. He was not permitted a mobile phone in prison and did not have access to the internet or the paperwork relating to his employment situation. He was limited in terms of communications with his parents and others. He had ongoing low mood and in early August 2024 reported being anxious and distressed. Mr Hall observed him to be distressed when he visited in in prison some weeks later. From 26 September 2024, he was out of prison for a little under four weeks and within a few days of his release was working with Mr Hall to prepare for his appeal hearing and taking preliminary steps to secure legal assistance from his union. The notes of the 2 October 2024 appeal hearing include statements by the Claimant that he was overwhelmed and that his head was "scrambled". He did not see the RMT letter and advice of 22 October 2024 as he was recalled to prison, when again he had no access to his emails or the internet, and his communications with his family and others were once again curtailed. It is difficult to see how he might have submitted a claim or to have known where and how to submit it without access to the internet or being in possession of advice from his union.

27. It seems that Mr and Mrs Parnell became involved in the second half of December 2024, most likely after the Respondent rejected the Claimant's appeal against his dismissal. It was not explored with them at Tribunal when or how they had learned the outcome of the appeal, for example whether they were in contact with Mr Hall. Mrs Parnell said that it had not been possible to find a solicitor to take the matter on before the Christmas holidays.

28. With all due respect to Mrs Parnell who, along with Mr Parnell, was evidently doing her best to support the Claimant at a time when Mr Parnell was navigating ongoing significant health issues of his own, the ET1 submitted by her on the Claimant's behalf on 14 January 2024 evidences her limited understanding and inability, for example, to advance the Claimant's disability discrimination claim in a way that identifies which of sections 13, 15, 18, 20/21, 26 and 27 of the Equality Act 2010 are relied upon. It does not really matter, since she submitted the claim within four days of Mr Parnell having been advised that the three-month time limit for bringing any claim does not run from the date that the early conciliation certificate is issued, but instead from the date of the act complained of. In the circumstances, I am satisfied that the claim was submitted on the

Claimant's behalf within such further period as was reasonable in the particular circumstances I have described, namely within five days of Mr and Mrs Parnell securing copies of documents from the RMT to enable them to take legal advice on the Claimant's behalf and within four days of that advice having been provided, at a time when, as I say, Mr Parnell was contending with significant health issues of his own.

**Whether there is no reasonable prospect of the Claimant establishing that his disability discrimination claim was presented in time, alternatively of persuading the Tribunal to extend time because it would be just and equitable to do so**

29. Section 8.2 of the ET1 includes the following statement drafted by Mrs Parnell:

> "… nwr have … continued to pressure lp to make decisions and enter disaplinary hearings whilst in prison knowing full well he cannot attend and not being in the right frame of mind to make these type of decisions at that time making this decision unfair as lp was at a very large disadvantage."

This seems to be a s.15 and/or s.20/21 and/or s.26 EqA 2010 complaint that the Claimant was harassed and/or treated unfavourably because of something arising from his claimed disability and/or that the Respondent failed to make reasonable adjustments in respect the disadvantage(s) he experienced as a result of the Respondent's disciplinary policy, procedure and practices, including its alleged requirement that he attend an appeal hearing on 2 October 2024 when he was unfit to do so. Allowing for acas early conciliation, which had already commenced by the time of the appeal hearing and was ongoing until 16 October 2024, and which served therefore to 'stop the clock', arguably the time for presenting any claim in respect of the 2 October 2024 hearing was 15 January 2025, namely three months less one day from when the certificate was issued. As the claim was presented on 14 January 2025, it was arguably presented in time. Of course, the Respondent may say that it decided earlier than 2 October 2024 that the appeal hearing should go ahead regardless of any mental health issues being experienced by the Claimant, in other words, and having regard to the provisions of s.123(4) of EqA 2010, that when it scheduled the appeal hearing it did an act inconsistent with any s.20/21 duty of adjustment, and accordingly that the date it scheduled the appeal hearing is the date from which the three-month time limit runs. However, this was not explored at Tribunal and in my judgement is incapable of being determined without hearing evidence on the matter, as well as the parties' submissions.

30. Furthermore, and in any event, I return to His Honour Judge Tayler's guidance in Cox v Adecco, specifically to what he said at paragraphs 28(5) and (7) cited above. The ET1 was drafted by Mrs Parnell. There is no agreed or even draft List of Issues and there has been no request or order for the Claimant to provide further information about his discrimination

claim(s). In the course of his evidence at Tribunal the Claimant said that the ET1 "might as well be in Chinese to me". He endeavoured to articulate the grounds for his discrimination claim(s) in the course of his evidence at Tribunal. However, it is fair to say that however confidently he sought to advance his position, if he was not exactly the proverbial startled rabbit, neither was he able to articulate his claims with reference to the EqA 2010, which was entirely beyond his comprehension In my view, the Claimant should be afforded a reasonable opportunity to reflect upon his position and potential complaints, and to take further legal advice as appropriate before he can be expected to definitively articulate his complaint(s) with reference to the EqA 2010.

31. Even if any disability discrimination complaint(s) is (or are) potentially out of time, it (or they) may be just a few days out of time if time runs from the date that the Respondent resolved to continue with the appeal hearing. I do not think it can be said in such circumstances that the Claimant has no reasonable prospect of persuading the Tribunal that it would be just and equitable to extend time for bringing a s.15 and/or s.20/21 EqA 2010 complaint, or indeed possibly s.19 and s.26 EqA 2010 complaints, in respect of that decision or approach in circumstances where he may have been imprisoned for much of the 3-month window for presenting a claim, lacked access to the internet and had only limited contact with his parents and others. In all the circumstances I decline to strike out this part of the claim on the grounds that it is said by the Respondent to have no reasonable prospect of success.

32. I leave open the question of whether the complaints (or any allegation or argument within such complaints) have little reasonable prospect of success. In other words, this judgment will not preclude the Respondent from making an application for a deposit order, if so advised. I emphasise that I express no view in that regard. This judgment should certainly not be understood either as an invitation to the Respondent to make such an application or as offering comfort to the Claimant that a deposit order will not be made.

33. I intend to direct that the case is listed for a case management preliminary hearing, which will provide an opportunity for the Claimant to set out his disability discrimination complaint(s) with greater clarity.

Approved by:

**Employment Judge Tynan**

Date: 3 March 2026

Sent to the parties on: 9 March 2026

For the Tribunal Office

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https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/