EMPLOYMENT TRIBUNALS

Claimant: Mr W Anderson
Respondent Curzon Consulting Limited

Heard at Bristol (by CVP)
On: 27/2/2026
Before: Employment Judge Mr J S Burns

Representation
Claimant: In person
Respondent: Mr S Harding (Counsel)

JUDGMENT

1. The Claimant's cost's application is dismissed
2. The Claimant's preparation time application succeeds
3. The Respondent must pay the Claimant £4400 by 13/3/26
4. The Respondent's cost application is dismissed.

REASONS

1. The Claimant was dismissed on 31/8/22 and presented his claim on 4/1/23. He succeeded in his unfair dismissal, and wages claims in a liability judgment signed on 12/7/24 and was awarded about £78000 against the Respondent in a remedy judgment signed on 14/11/24 by EJ Housego (since retired) and sent to the parties on 30/12/2024. On 19/1/2025 the Claimant applied for (i) a preparation time order and (ii) a costs order, against the Respondent. On 30/4/2025 the Respondent applied for costs against the Claimant.

2. Rule 75 of the 2024 ET Procedural Rules provides :

   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).

3. The Claimant's application was made within the 28 day permitted time period which started on 31/12/24 and expired on 28/1/25.

4. The Respondent's application was made three months late. For the first time today, the Respondent applied for an extension of time under Rule 5(7), submitting that previous

judges had given directions for it to be considered today, and that there was no prejudice to the Claimant who had had sight of it for many months.

5. The Respondent has not shown any acceptable reason for submitting its application late. It is a large commercial organisation with the resources to learn about and comply with basic Tribunal rules and time limits.

6. The Respondent did not send the application to the Claimant at the time it was made, as acting reasonably it should have done, and as a result the application was forwarded to and received by the Claimant only in July 2025.

7. On 1/8/2025 REJ Pirani listed today's cost's hearing and issued directions including the following: "*On or before 30 September 2025 the Respondent shall serve upon the claimant a copy of its application for costs which shall particularise the basis upon which costs are claimed. It shall attach thereto: 1.1. a schedule of costs setting out how the sums claimed are broken down to including the grades of fee earners and hourly rates, 1.2. a paginated bundle of all documents to be referred to at the Hearing including all time cost records and vouchers for disbursements, and 1.3. a skeleton argument including an itemised list of all matters of fact and law relied upon together with copies of all Authorities."*

8. The Respondent's representative Ms Fleming received these directions and replied by email dated 6/8/26, not suggesting that the Respondent did not have to comply because they had already submitted what was necessary, (which is the excuse put forward today) but confirming that the directions would be complied with.

9. However, the Respondent did not comply with the directions pertaining to its own application at all. As a result, the Respondent's costs application (which is vague, generalised and requires particularisation) remains unparticularised, the grades of fee earners and hourly rates have not been provided and there is no skeleton argument.

10. Yesterday the Respondent unreasonably sent to the Claimant and the Tribunal a 97 page costs bundle. Last-minute service on the Claimant is particularly difficult for him as he is dyslexic, as the Respondent is well aware of.

11. For these reasons I refused to extend time for the Respondent's costs application and dismissed it as invalid.

12. Turning to the Claimants application for costs: This is for money paid out by him for legal materials in October 2022 and for ad-hoc legal advice during the period July to December 2022, prior to his presentation of his claim only. He was never represented by a legal or lay representative during his conduct of his claim.

13. Hence the costs he claims fall outside the parameters of ruile 73(1)(a) which provide that *" A costs order is an order that the paying party make a payment to—the receiving party in respect of the costs that the receiving party has incurred while represented by a legal representative or a lay representative,…)*

14. A costs order and a preparation time order may not both be made in favour of the same party in the same proceedings. (Rule 73(3). Hence, I could not award both to the Claimant in any event.

15. Turning to the Claimant's application for a preparation time order:

16. There are three stages to a Tribunal considering a preparation time order: a) Does it have jurisdiction to make a preparation time order? b) If the Tribunal does have discretion to make a preparation time order, should it do so? c) If the answer to the previous question is 'yes', what is the appropriate amount?

17. The Claimant's preparation time application is partly based on conduct of the Respondent during the Claimant's employment which ended was dismissed on 30/8/2022, some 4 months before he presented his claim.

18. The relevant part of Rule 74 provides:

74 (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,

19. Hence conduct, however unreasonable, which is not part of "*bringing or conducting the proceedings*" , (which can only be after the proceedings themselves were started on 4/1/23) cannot be relied on in support of a claim for preparation time.

20. The Claimant also relies on the Respondent's claimed response to his Data Subject Access request, which is not part of the proceedings.

21. The matters which the Claimant has relied on in his written preparation time application which fall within the ambit of rule 74(2)(a), is a complaint that the Respondent did not comply with case management directions and acted unreasonably (i) in providing general disclosure and preparing the joint bundle for the liability hearing in July 2024 and (ii) in relation to its own and the Claimant's costs/preparation time applications in 2025/2026.

22. In relation to the Respondent's conduct in providing general disclosure and preparing the joint bundle for the liability hearing, the Claimant has written the following: (the page references being to his bundle for today).

"9.4 The Respondent repeatedly failed to provide the documents and evidence requested (p.59). The position became so serious that, at the Preliminary Hearing dated 12 June 2024, Employment Judge Pirani reiterated the Respondent's obligations in relation to disclosure.

9.5 In particular, paragraph 13 of Employment Judge Pirani's Case Management Orders dated 12 June 2024 stated: "The respondent was reminded of its ongoing duty to disclose relevant documents." (p.72) Notwithstanding that reminder, the Respondent continued to fail to comply. Specifically:

(i) At the end of the first day of the Final Hearing (1 July 2024), the Respondent produced a single Excel spreadsheet, which it claimed was the HR record relevant to holiday entitlement (p.79.p.80). This was produced approximately two years after the information was first requested.

(ii) In the Respondents' Remedy Hearing bundle (pages 76 to 79), the Respondent produced a second, completely different Excel spreadsheet, again claiming it was an official record of holiday entitlement (p.86 – p.89). This was produced approximately 2.5 years after the information was first requested.

9.6 The late and inconsistent production of these purported "official" records undermined their reliability, obstructed proper preparation, and caused me to incur additional and avoidable time in analysing, cross- checking, and responding to material that should have been disclosed much earlier in accordance with the Respondent's ongoing duty and the Tribunal's case management orders.

10. Evidence Bundle Difficulties and Non-Cooperation

10.1 The Respondent was primarily responsible for creating the single joint file of documents required for the Hearing. The Claimant started sending evidence on 17 August 2023 (p.53) as per the Case Management Orders; however, the Respondent and their various representatives continually failed to engage with the Claimant, with the Tribunal being informed "The Claimant has sent 35 documents to the Respondent, but the Respondent has refused to respond" (p.68).

10.2 Despite the Case Management Orders 65.3 limiting the bundle to 500 pages(p.53), the Respondent produced a 797-page bundle to review.

10.3 During the Preliminary Hearing dated 12 June 2024 (p.70,71), paragraph 4 restated that the bundle is limited to 500 pages, stating "The parties were reminded that unless they require the tribunal to actually read the document it should not be included in the bundle. Once the witness statements have been exchanged pages not referred to, together with those which will not be referred to in cross examination, should be removed. The Respondent continued to retain 'filler' material in contravention of this order.

10.4 During the Preliminary Hearing, the Respondent informed the judge that they only required 50 pages, whereas I indicated the need for 100 pages, resulting in a combined bundle of 150 pages (p.75). However, the Respondent overloaded the bundle with duplicate and triplicate documents, lengthy email chains, irrelevant presentations, and even included the entire employee handbook at one point (p.69). Despite repeated requests, the Respondent refused to include the Claimants evidence (p.75). Each of the four bundles required the Claimant to create detailed spreadsheets (e.g., page 73, sent on 27 May 2024) to track unauthorised changes and restore excluded evidence. The Respondent's ongoing management and failure to provide notice before releasing each bundle resulted in significant additional preparation time.

Withholding the Bundle for the Claimant Despite Being in Existence

10.5 The only witness statement referencing the bundle was that belonging to Catherine Fleming, referencing 36 pages; nowhere near the 100 pages claimed by the Respondents' representative.

10.6 The witness statement belonging to Catherine Fleming was dated 10 April 2024 (p.63), well before the 1 July 2024 Hearing. And yet it clearly references 36 pages of the bundle. To reference these pages, it must have been in existence and completed to such a level that it was referenced before this date. Douglas Badham and David Bailey's witness statements were also dated around this date. However, the Respondent and the Respondent's representative failed to provide this to the Claimant until the end of June 2024."

23. On 17/8/2023 EJ Housego had issued directions including the following:

- R to provide disclosure by the end of October 2023
- C to provide disclosure by the end of December 2023
- Parties to agree index by the end of January 2023
- R to finalise bundle not exceeding 500 pages by end of February 2023
- WS to be exchanged by the end of March 2023.

24. The ADR on 13/12/2023 was ineffective and converted into another case management hearing. EJ Livesey noted that "*The Respondent's solicitors had only recently been instructed (6 December) and the Respondent had not been complying with case management directions. Notably, the disclosure order had not been complied with and Ms Jennings had little argument to resist an 'unless' order being made in that respect going forward. Further slippages in the timetable would not be tolerated, particularly from the Respondent in light of its lack of achievement thus far.*"

25. EJ Livesey made an unless order against the Respondent in the following terms

"10.7.1The parties are ordered to give mutual disclosure of documents relevant to the issues identified below providing a list and copies of all documents within it, so as to arrive

on or before 24 January 2024. This includes, from the Claimant, documents relevant to all aspects of any remedy sought.

10.7.2 Unless the Respondent complies with paragraph 10.7.1 by the date specified, its response shall be struck out;"

26. He also re-dated the direction for the finalisation of the trial bundle, requiring it to be done by the Respondent by 14 March 2024.

27. The subsequent history of the matter between December 2023 and June 2024 is summarised in a case management note of REJ Pirani dated 12/6/24. By 12/6/24 the bundle had not been finalised. The Claimant had not been able to serve his witness statement because the Respondent had not agreed to include in it material which he wanted to refer to.

28. The Claimant told me today that in the months running up to the liability hearing in July 2025 the Respondent sent him 4 different iterations of the bundle, none of which he had agreed and which were all missing the documents he wanted to include. The last version arrived in paper form 48 hrs before the FMH was due to start, which caused him considerable difficulties with his trial preparation.

29. The Claimant's application for preparation time is based secondly on the Respondent's conduct of the cost/preparation-time applications.

30. I have already commented (in paragraphs 4 to 11 above) on the manner in which the Respondent conducted its own cost's application, which manner was unreasonable.

31. In relation to the Claimant's costs/preparation time application, REJ Pirani issued the following direction: "*On or before 8 January 2026 the Respondent shall set out its response to the claimant's cost application".*

32. The Respondent failed to comply with this. The excuse offered today is that it did not have to or did not think it had to because it had already done so on 26/3/25.

33. However, that is not what the direction was about. The Claimant had been directed to serve and file his preparation time application on the Respondent by 8/12/25, and he had done

so on 2/12/25. This is an updated and different document from the PT application he had sent in sent in on 19/1/25. It was to the document dated 2/12/25 which the Respondent was supposed to set out its written response, but it never has, even today.

34. I find that the Claimants complaint that the Respondent has conducted the above aspects of the case management unreasonably, is well-founded.

35. Hence my discretion to make a preparation time order is engaged.

36. There is no obligation on a Tribunal to make a Preparation Time Order when the jurisdiction to do so is engaged (even when the Tribunal has a duty to consider making one) – it remains a matter of discretion as to whether to do so. Where the basis for the application is unreasonable conduct, the "nature, gravity and effect" of that conduct should be considered (McPherson v BNP Paribas (London Branch) 2004 ICR 1398), bearing in mind that, as per Yerrakalva v Barnsley Metropolitan Borough Council [2012] ICR 420, any causal link between the paying party's conduct and the extra preparation time spent by the receiving party is a relevant, though not a constricting factor, to considering whether an Order should be made. It is also vital to look at the whole picture, and not to lose sight of the totality of the circumstances (Yerrakalva).

37. The Respondent is a well-established company, with legal representation. Its conduct, in its dispute with a disabled litigant-in person who has been put to additional work and difficulty as a result of the Respondent's unreasonable conduct, makes it plain, in my judgment, that the discretion to make a Preparation Time Order should be exercised.

38. A Preparation Time Order is, as described in Rule 73(2) of the ET Rules: "*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.*"

39. The "preparation time" is "*time spent by the receiving party (including by any of the receiving party's employees or advisers) in working on the case, except for time spent at any final hearing"* (Rule 72).

40. Rule 77 provides that: *"(1) The Tribunal must decide the number of hours in respect of which a preparation time order should be made, on the basis of— (a) information provided by the receiving party on the preparation time spent, and (b) the Tribunal's own assessment of what it considers to be a reasonable and proportionate amount of time to spend on such preparatory work with reference to such matters as the complexity of the proceedings, the number of witnesses and documentation required. (2) The hourly rate is £44 and increases on 6 April each year by £1. (3) The amount of a preparation time order must be calculated by multiplying the number of hours assessed under paragraph (1) by the rate under paragraph (2) which is applicable to the year beginning 6 April in which the preparation time was spent."*

41. The hourly rate when most of the preparation time was spent on matters linked to the unreasonable conduct which I have found was the 2024 rate - £44 per hour.

42. The Claimant in section 11 of his PTO application has provided a list of all the preparation time he has spent on his claim including matters such as pre-litigation research, attending an internal appeal hearing provided by the Respondent, a Data Subject Access Request and other activities which are not the proper subject of a PTO and/or are not linked to the unreasonable conduct I have found.

43. There need not be a precise causal link between the preparation time that is the subject of the Order and the unreasonable conduct, but here there is plainly a division between the time spent by the Claimant on other matters which he would have done anyway, and the time since spent by him trying to respond to deal with the Respondent non-compliance.

44. On the second page of that list (page 30 of his bundle) he has set out claimed preparation time some of which appears to be linked. I exclude from that page items identified as follows: *"Preparation of 23 pages of Disciplinary Hearing transcript, Preparation of 30 pages of Appeal Hearing transcript Preparation material for second day of hearing, Preparation of Reconsideration Letter and evidence bundle Research and preparation of 82-page evidence bundle for Remedy Hearing Review Respondents Remedy Bundle*". The other items on that page account for 194 hours of claimed preparation time.

45. Even making allowance for the Claimant's disability and his detailed approach, I find that the time claimed, even on apparently linked matters, considerably exceeds a reasonable and proportionate amount of time to have spent on such preparatory work. It is likely that a significant amount of the time would have been spent anyway, or includes duplication. There is no contemporary record or diary of dates or hours spent and the list, at least in part, may have been drawn up retrospectively.

46. As Preparation Time Orders should be compensatory and not punitive, in my view a reasonable and proportionate amount of preparation time to award the Claimant in all the circumstances is 100 hours at £44 per hour = £4400.

Employment Judge J S Burns
27 February 2026

Sent to parties on
9 March 2026

Jade Lobb
For Secretary of the Tribunals