Claim Number **1306130/2024**

EMPLOYMENT TRIBUNALS

Claimant		Respondents
Miss S Bi	**v**	**Matrix Academy Trust**

PRELIMINARY HEARING

(CONDUCTED IN PUBLIC IN PERSON)

Heard at: **Birmingham** On: **2 March 2026**

Before: **Employment Judge Perry**

Appearances

For the Claimant: **In person**

For the Respondents: **Mrs H Anderson (counsel)**

JUDGMENT

1. The claimant's application that I recuse myself is refused.
2. Directions will follow.

REASONS

1. This hearing stems from my judgment striking out Ms Bi's claim at a hearing on 11 December 2025. This hearing was originally listed to hear the respondent's costs application. Amongst other matters Ms Bi has made applications that I reconsider recuse myself and has also lodged an appeal against that judgment. This hearing was therefore converted to address the recusal issue. I issued an order on 30 January that refers. That order gave directions attempting to address the various problems that have arisen in the past as to the late provision of documents.
2. On Friday 27 February (the working day before the hearing) Ms Bi sought that the hearing be conducted by a full panel or laypersons because she objected to me sitting alone. In my absence that was referred to the Regional Judge who directed a response be sent :-

> *"… Panel composition in the Employment Tribunals is dealt with in accordance with Presidential Guidance – see here. As Employment Judge Perry is the judge dealing with this case and has already determined the appropriate panel for Monday's hearing, he will need to consider any further representations about this that are raised. He is not available today. The hearing will go ahead on Monday as planned therefore and at that stage any further applications relating to*

panel composition can be addressed. The claimant is respectfully encouraged to seek support in relation to her mental health from her GP or NHS 111 as necessary."

3. Ms Bi arrived at the Tribunal at 10:05; after the intended start time. Prior to the hearing starting Ms Bi repeated her objections to my sitting alone to my clerk. I asked him to explain briefly that I would deal with that at the outset. That caused a further delay.

4. At the outset Ms Bi sought to suggest as a result that I had "selected" the panel. I explained to her that as this was a recusal application that it had to be heard by the same tribunal that heard the original hearing. That is to say me sitting alone. that the hearing be heard as a sit alone was as I understand it a decision of Judge Swann (see the reasons I gave for striking out the claim.

5. Ms Bi responded stating that following a google search that she understood that was a matter for the presiding Judge. I informed her that

   5.1. there was no such thing as a "presiding judge" in the tribunal.

   5.2. There are Regional Judges, the President and the senior President. But not a presiding judge as such.

   5.3. The term "presiding judge" in England and Wales is usually for example the High Court Judge responsible for a crown/county court circuit.

6. I suggested if she could refer me to a case that supported her assertion I would review it. She could not.

7. I then explained that given she was seeking I recuse myself from further involvement it had to be me that took that decision but if she was dissatisfied with it the safeguard was that she could appeal that decision also. She did not persist in her objections at that time. She did raise the issue again later that morning. I then again addressed it as before.

THE HEARING

8. One of the respondent's complaints at the hearing in December was that the claimant has repeatedly sent documents late so that the respondent did not have time to read them or take instructions. A secondary effect of such examples is that the documents are not sent within a bundle and thus issues arise around confusion and delays identifying the document being referred to rather than being able to turn up a page. I thus sought to prevent this by the directions I gave in my order of 20 January.

9. It transpired Ms Bi had not downloaded the bundle she had been sent by the respondent. I thus gave her details how she could obtain the code for the public Wi-Fi in the building so she could download it.

10. Contrary to my directions Ms Bi sent a large numbers of documents as attachments last week that did not form part of the bundle I had directed be prepared.

11. I had to spend the best part of an hour of the three originally allocated to identifying the documents that should have been before me. That contributed, to but was not the principal reason why this hearing substantially overran.

12. The various documents i should have had before me were:-

    12.1. the bundle for this hearing of 128 pages

    12.2. two emails to members of Ms Anderson's firm Mr Medd and Mr Sutherland and a response dated

        12.2.1. Tuesday, 14 October 2025 at 13:23

        12.2.2. Thursday, 23 October 2025 at 11:03

        12.2.3. Friday, 24 October 2025 at 11:36

    12.3. an email dated 31 October 2018 15:44 referencing Judge Gaskell

    12.4. an email dated 11 January 2018 08:35 referencing Judge Perry

    12.5. a document being Ms Bi's responses to the respondent's costs application sent to the Tribunal at 10:36 on 23 February that ran to 38 pages which together with its 40 or so attachments that were spread over 4 emails (those attachments themselves ran to just under 150 pages)

    12.6. a "note regarding the recusal hearing" sent the Tribunal this morning at 08:46 that was dated yesterday (1 March) running to 23 pages.

13. The "recusal note" referred to a number of "exhibits". I clarified that exhibits 2-12 were items 2-12 in the bundle index and exhibit 21 had been re-numbered as item 13. Given the lateness of the hour that was sent Ms Anderon had not seen that prior to attending the Tribunal hearing. I indicated I would give Ms Anderson time if required for her to read it but directed Ms Bi to take me to any documents she wished to refer me to so I could be clear which was being referred to and where.

14. In the end Ms Bi did not refer me to the response to the costs application. That aside if there were issues concerning recusal in that application they should have been mentioned in the recusal application which I had directed she lodge by 6 February.

15. Having clarified those issues it was just after 12:15 when I started hearing Ms Bi's application. I took a lunch later than normal (to which no one objected) having first tried to clarify the point I refer to below. Ms Bi concluded her submissions at just before 4:00 pm.

16. By 1:30 it had become clear that Ms Bi was substantively expanding on what she had said in her 23 page "recusal note" by rehearsing the evidence in relation to the substance of the claim rather than the recusal issue. I tried to explain to her on several occasions that I had not determined the claim based on the substantive merits referring her to the judgment. I was by then concerned as the hearing had already over-run that it would not be concluded by the end of the day and the points she was making were merely repeats of

the issues I identify below under ***"I did not hear evidence"*** and ***"I formed views on the substance without hearing the evidence".***

17. Having clarified the point it transpired that on her reading my references to what the respondent "alleged" in for examples paragraphs 3 & 4 of the reasons were determinations.

18. Given my concerns that the hearing would not be concluded (at that point she had only got to paragraph 6 and page 3) and this did not seem proportionate I explained that time did not allow us to rehearse the evidence in relation to all those matters and that was not what the recusal application (as opposed to any appeal) related to. I therefore summarised the points she had raised so far, asked her to identify any additional heads and to give me examples for those heads in turn when she returned from lunch. I then adjourned.

19. Following the lunch adjournment Ms Bi asked for more time which was granted. Despite my request on the resumption Ms Bi continued as before and so I again had to explain the point to her. She continued adding several additional heads.

20. There are two additional points I need to record with regards to the conduct of the hearing

    20.1. at various points during the hearing I insisted Ms Bi pause as she appeared to be becoming upset or as it transpired needed to use her inhaler

    20.2. towards the end of the day Ms Bi complained that Ms Anderson had referenced her "monopolising" the previous hearing in the respondent's reply to the recusal application (paragraph 5) and that she considered that inappropriate. I explained if that was Ms Anderson's view, she was entitled to it, just as Ms Bi was entitled to argue otherwise. Shortly afterwards Ms Bi accused Ms Anderson of what equated to misleading the Tribunal. I attempted to interrupt to explain the seriousness of that allegation to Ms Bi but Ms Bi continued. I was eventually able to explain to her that was a professional misconduct issue, why that was serious and that if she did not prove that allegation given its seriousness the respondent may raise that on the issue of weight or other matters, if appropriate. Shortly afterwards, in my view the parties started bickering. I had to warn them about that.

APPLICATION

21. I mistakenly understood that I had directed that this hearing would consider both the recusal and reconsideration applications. Having checked I noted the order solely referred to hearing the recusal application so I proceeded to only address that issue. I return to the ***"way forward"*** below.

22. Having heard at length from the claimant (see 15 above) I eventually identified some nine heads which I will deal with in turn.

I did not allow Ms Bi to make representations

23. In addition to having read Ms Bi's lengthy submissions I also heard from her at length during the last hearing. The recording of the last hearing is available if the exact length of the representations Ms Bi made remain in dispute. As I say in the reasons Ms Bi joined the hearing on 11 December shortly before 12:00. I summarised the submissions Ms Anderson had made so she could respond to them and almost all of the remaining time prior to breaking for lunch (again late) was spent hearing from Ms Bi.

24. With regards to the assertion she was prevented from making representations, during the hearing today Ms Bi complained that she was being stopped every time she wanted to input. What it transpired she meant by that was that when something was said she immediately wished to respond to it. I explained on several occasions that I had to ensure the hearing progressed in a fair and non chaotic way and allowing her to respond to every point was at odds with that and instead she was to make a note (as she was doing) and address them at a convenient point.

25. In addition to repeatedly interrupting me, Ms Bi repeatedly put her hand up, shook her head as I was talking and on one occasion rolled her eyes. I explained that was distracting, did not allow the hearing to proceed smoothly and asked her to desist.

26. Whilst I do not adopt Ms Anderson's view in its entirety she said this of Ms Bi's participation during the hearing last December in the *Respondent's Reply To Claimant's Application For Recusal, Reconsideration And Stay Of Costs Hearing*:-

> *"5. … She took a full role in the hearing; indeed, it could be suggested that she monopolised the hearing, talking over EJ Perry on many occasions despite being asked not to many times. The Claimant continued to do this even during judgment and had to be muted so that the hearing could continue."*

I did not hear evidence
I formed views on the substance without hearing the evidence
I formed a view without looking at documents

27. I deal with these three heads of unfairness together. All three were based on Ms Bi's assertion that I formed a view on the merits of the case. I tried to understand from her the basis for that taking Ms Bi repeatedly to my reasons which stated it was based on the manner in which she had conducted the proceedings that i reached the view I did and I had formed that view based on the contents f the Tribunal's file. Despite that she persisted in her view. As i say above I sought to clarify based on her assertions at paragraph 3 of her note of 1 March for the recusal hearing which referred to paragraphs 3 & 4 of the reasons what decisions she was referencing. She referenced the contents of those paragraphs as me making decisions. I asked her given I made clear I had there relayed the basis of the application and each of the paragraphs were

prefaced with the respondent *"alleged"* (or similar) how that was so. She persisted with that view.

My oral and written decisions didn't match

28. Ms Bi argued that this issue arose because of the delay sending the reasons out. Ms Bi accepted during the hearing that she disconnected while the decision was being given. Whilst that means she was unable to comment on the part of the decision she missed that that does not account for the remainder.

29. I explained to Ms Bi that the written and oral decisions do not need to accord verbatim and when giving an oral decision, matters already discussed during the hearing would not ordinarily be repeated such as the background and the law. Thus, paragraphs 1 - 19 set out the background, law and other matters discussed during the hearing. I further explained that when giving the decision I did not recite the quotes from the various emails, instead merely referencing them. So for instance in paragraph 31 I preface the quote stating *"It may be of assistance to set out what his order said (the emphasis is his)".* Similarly at paragraph 33 etc. Further the oral decision would be corrected for sense and grammar.

30. It became clear that was not Ms Bi's point. She appeared to argue that during the oral reasons I had formed a view on the merits whereas in my written decision I formed a view based on the way she had conducted the proceedings.

31. I explained that in my view the substance of the decision did marry and again the hearing had been recorded so could be checked.

32. That aside I checked Ms Anderson's recollection explaining to Ms Bi that if Ms Anderson also felt the decisions had diverged that might be an appeal point and so there would be good reasons now on her client's part (if so) for that for her to raise that now. She indicated that the written reasons did reflect the oral decision.

I determined the witnesses were scared for their personal safety without hearing evidence

33. Whilst I accept I referenced that in my decision at paragraph 60, on a fair reading of the decision what I was recording was that that issue was not being pursued by Ms Anderson and instead the argument she was raising was based on the four strands I set out at paragraph 61.

Preconceived views

34. As I go on to say below (see "***Other***") I cannot recall having any previous dealings with Ms Bi. No evidential basis has been identified for the assertion that I did or that I determined the application based on a preconceived view. As I explained today the fact I came to different view to that Ms Bi came to is not a ground for recusal.

I called Ms Bi a liar during the hearing on 11 December

35. When I drilled down into this Ms Bi accepted I had not used the word liar and instead had said *"yeah, yeah, yeah"* and had then said that her daughter was fine (when Ms Bi had indicated otherwise). I do not accept either was so. Again the hearing was recorded.

Other

36. In addition Ms Bi raised an issue concerning two emails she sent to the tribunal that she dated to 2017 and 2018. The 2017 reference appears to be incorrect as the two emails are both dated 2018. The one referencing my name is dated 11 January 2018 08:35 and other to Judge Gaskell timed at 31 October 2018 15:44. They reference different three different case numbers. Ms Bi did not expand on the relevance of the Judge Gaskell email.

37. Having mentioned those emails at the outset Ms Bi did not elaborate on them orally. In her 23-page note dated 1 March for the hearing she said this:-

> *"[paragraph 4 page 1 (not numbered)] …I did not disclose earlier that in October 2017, Judge Perry sat in a preliminary hearing for a case against Waverly Foundation Ltd (a case about staff address and full contact details displayed on sims computer system accessible to staff and students was raised be me with leadership as safeguarding issue. This resulted in my dismissal. I had found work at another school but continued with ET claim in 2017.) Judge Perry was judge conducting the preliminary hearing whereby he supported the respondent and in front of me stated to barrister Hardy that he wants them to submit strike out claim which he will grant very quickly. He repeatedly encouraged them in that way several times and was very rude to me throughout the hearing. I had complained about his bias conduct. In that time, we settled claim as the respondent (Waverley Foundations Ltd) were inspected by Ofsted and found to be in breach of safeguarding provisions. The respondents asked my then employer Ark Boulton Academy to victimise me as soon as the case was settled. I had written to Judge Perry apologising for complaining about him and that I might return with another case. I also explained my situation that this was not desirable but was being done without choice. Two emails are attached. Judge Perry had acted with closed minds then too and ignored key evidence and fully supported the respondents.*
>
> *There is a pattern of bias and close minded behaviour towards me from Judge Perry that has been repeated in the hearing of 11 December 2025. …*
>
> *7. … I have come across Judge Perry previously in 2017 where he encouraged Counsel Hardy to make a strike out application and he persistently stated, I will support the*

application if you make a strike out, it will be granted. I had to complain at an informal level at that time too. My eyesight isn't great but I believe it's the same Judge Perry. He has supported the respondents in this case because Judge Mark Aspinall is the respondents chair of trust and they are colleagues and friends. He has also behaved with closed minds in a previous matter in 2017 and his conduct was challenged with a complaint as stated above. There is a pattern of bias behaviour towards me by Judge Perry."

38. Whilst I cannot say for definite that I have never come across Judge Aspinall (if indeed he is a judge) I am not familiar with him. We are certainly not friends. Accordingly, I do not know the basis for that assertion. So far as I recall it was not raised at the hearing in December. As I indicate in the order of 30 January at paragraph 8, Ms Bi has previously confused me with another Judge Perry. I do not intend to speculate on how she identified the names she gave for him or the business address she alleged he had.

39. As to the alleged complaint, Ms Bi did not raise that at the last hearing or last week in the mail addressed by Judge Jones. She accepted before me today that she thought she had made a complaint but could not find it and she could not be sure that the complaint was about me. I have no recall of a complaint being made about me by her. That appears to be supported by her reference to the complaint being an informal one. As she did not pursue this point orally I did not clarify what she meant by that. I can say if she had mentioned having made a complaint about me or I was aware she had made one on 11 December I would not have conducted the December hearing.

40. Absent a copy of the complaint, what that related to or its context that does not take the matter any further and no basis has been given for that assertion.

41. I have considered the recusal note lodged by Ms Bi. The matters raised there that do not appear above, are as follows:-

    41.1. (paragraph 8) her letter to the tribunal in March 2025 seeking the respondent's response be struck out because of its behaviour was dismissed without looking at the evidence. Ms Bi accuses the Tribunal of bias as a result. I am not clear how that has any relevance as she does say that I took that decision or that is a complaint a decision by me.

    41.2. (paragraph 10) my commenting that she had no rights at all as a teacher to make external referrals and that I humiliated her and made derogatory comments which made her feel very low in self-esteem. That is not my recollection of that exchange. I address what was my recollection of what was discussed at paragraphs 4 - 6 of the reasons.

    41.3. (at various points) the respondent's failure to disclose documents, witness statements and providing false information. The hearing before me was listed to address the respondent's struck out application not an equivalent application by Ms Bi. The reasons summarise the issues the

respondent raises with regard to disclosure at 9.1 and the issues that gives rise to at 38 - 42, 52, 71, 74 & 76. As I result I do not propose to repeat them here.

41.4. (paragraph 36) I do not accept I became angry at any point during the hearing on 11 December and banged my head on the table as a result as alleged. Ms Bi's other assertions in that paragraph are inconsistent with the attempts I made to allow her to participate in the hearing despite her indication she was happy to rely on her written submissions.

41.5. (paragraph 47) I do not accept I shouted at Ms Bi stating *'could you take mummy's laptop away'*

MY CONCLUSIONS

42. The test for bias was set out by Lord Hope of Craighead in *Porter v Magill* [2002] UKHL 67:-

> *'The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.'*

The fair-minded observer is to be treated as being informed of all the relevant circumstances, is not complacent but is also not unduly sensitive or suspicious.

43. Whilst I accept that Ms Bi disagrees with my decision that does not lead to a conclusion of bias. Adopting the stance I am required to adopt following *Porter* I have concluded, the fair-minded and informed observer, would not conclude that there was a real possibility that I was biased. I therefore refuse the request to recuse myself.

WAY FORWARD

44. I indicated to the parties I would send this decision within the next few weeks depending on my diary but as I will not be sitting here going forward whatever the decision I make it will not be me that addresses the reconsideration application or costs. I thus sought to clarify the approach going forward so I (or another judge) could issue directions accordingly.

45. I explained to Ms Bi the fundamental difference between an appeal (where one or more parties take issue with the outcome reached based on a procedural or substantive flaw) and a reconsideration (which normally deals with an application to reconsider the decision in the light of matters not referred to when the decision was reached as a result of those matters not being available at the time or where they were not considered to be relevant). I explained the latter would normally require an explanation why those matters were not referred to originally.

46. Whilst Ms Bi did comply with my order setting out the basis for her reconsideration application(s) by 6 February as directed, it appears that she

alleges yet further evidence has come to light that she wishes to rely upon. I reminded her that the time limit in this case is fourteen days after the reasons were sent to her and so that an additional basis would appear to be out of time and so if she intends to apply she should do so quickly giving an explanation why that is late.

47. That aside both parties agreed that the reconsideration application could not be dealt with unless and until the recusal application had been addressed by me and any costs application would necessarily have to await the decision on the reconsideration application.

48. It was also common ground that the issues in the reconsideration were not matters that could be addressed directly within the appeal thus superseding the need for the reconsideration and nor was it desirable to do so.

approved by me
Employment Judge Perry

Dated: **5 March 2026**