EMPLOYMENT TRIBUNALS

BETWEEN

Claimant **Respondent**
MS P TODOROVA **AND** **WGC LTD**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: BRISTOL ON: 12TH MARCH 2026

EMPLOYMENT JUDGE MR P CADNEY
(SITTING ALONE)

APPEARANCES:-

FOR THE CLAIMANT:- **IN PERSON**

FOR THE RESPONDENT:- **MR M PALMER (COUNSEL)**

JUDGMENT

The judgment of the tribunal is that:-

That the claimant's claims are struck out as:

i) They have no reasonable prospect of success (ET Rules of Procedure 2024 r38(1) (a));

ii) Non-compliance with case management orders and/or the unreasonable conduct of proceedings in the failure to comply with case management orders and/or that the claims have not been actively pursued in the failure to comply with the case management orders(ET Rules of Procedure 2024 38(1) (b) and (c) and (d));

iii) A fair hearing is no longer possible (ET Rules of Procedure 2024 38(1) (e)).

Reasons

1. The claim form was submitted on 4th October 2024; and the case came before EJ Volkmer on 2nd September 2025. She identified the claims as:

   i) Unfair Dismissal – As the claimant did not have two years continuous service and this claim was dismissed.

   ii) Discrimination on the grounds of race and/or religion and belief;

   iii) Public Interest disclosure (whistleblowing) detriment;

   iv) Automatic unfair dismissal (s103A ERA 1996 - public interest disclosure).

2. She listed the case for Final Hearing for 3 days commencing 29th June 2026 and gave case management directions for that hearing (see below)

3. However an issue arose as to the List of Issues in the TCMPH. EJ Volkmer recorded that the claims as set out in the List of Issues were significantly different from those included in the ET1/Claim form:

   *71. The List of Issues includes significantly different facts to those pleaded in the ET1. The Respondent did not have legal representation present at the hearing. We agreed that the List of Issues would stand, unless the Respondent wrote in to object to the amendments within **14 days** of the order being sent to the parties, otherwise the claim would be considered amended by consent. If the Respondent writes in to object, it is anticipated that a further hearing will be listed to consider the amendment application*.

4. She gave directions specifically to assist the claimant setting out (para 13) the test for considering an application to amend (as set in Vaughan v Modality Partnership 2021 ICR 535):

   "*Representatives would be well advised to start by considering, possibly putting the Selkent factors to one side for a moment, what will be the real practical consequences of allowing or refusing the amendment. If the application to amend is refused how severe will the consequences be, in terms of the prospects of success of the claim or defence; if permitted what will be the practical problems in responding. This requires a focus on reality rather than assumptions. It requires representatives to take instructions, where possible, about matters such as whether witnesses remember the events and/or have records relevant to the matters raised in the proposed amendment. Representatives have a duty to advance arguments about prejudice on the basis [of] instructions rather than supposition. They should not allege prejudice that does not really exist. It will often be appropriate to consent to an amendment that causes no real prejudice. This will save time*

and money and allow the parties and tribunal to get on with the job of determining the claim."

5. On 9th October 2025 the respondent lodged its objections in the following terms.

We agree with Employment Judge Volkmer that the claim, as now framed, is significantly different from that pleaded in the original ET1. The claim has fundamentally changed in both scope and substance.

The Claimant's claim of unfair dismissal has already been withdrawn and dismissed because the Claimant did not have the requisite length of service and the claim was entirely misconceived. However, the Claimant's attempts to amend the claim now are also fundamentally flawed. At paragraph 73 of the Case Management Order, Employment Judge Volkmer records that the Claimant expressly admitted she has no evidence at all to support her allegations of discrimination or whistleblowing.

On that basis, we respectfully submit that the remaining claims have no reasonable prospect of success and continuing proceedings would constitute a waste of time and resources for all parties, including the Tribunal, as well as being contrary to the Tribunal's overriding objective.

Accordingly, the Respondent objects to the amendments to the List of Issues and believes that a further hearing would be in the interests of all parties, at which the Respondent will be requesting that the Claimant's remaining claims are struck out.

6. The reference to para 73 of EJ Volkmer's CMO is to these paragraphs :

72. We discussed during the hearing that the Claimant was required to show evidence which on the face of it showed that the reason for her treatment was discriminatory and/or related to whistleblowing. The Claimant stated that she did not have any evidence at all showing this.

73. Although we did not discuss it during the hearing, I make clear in this case management order that pursuing a claim against the Respondent in relation to which, on the Claimant's own account, she has no evidence that the treatment she complains of is related to discrimination or whistleblowing may result in the Claimant being ordered to pay the Respondent's legal costs or preparation time. It would be helpful for the Claimant to take legal advice and consider the evidence she is able to present in the final hearing to support her case. There are free sources of advice such as the Citizens Advice Bureau.

7. As a result EJ Volkmer listed the case for today's hearing to determine :

1.1 the Claimant's amendment application;
1.2 whether some or all of the complaints should be struck out or a deposit order made;
1.3 consider whether any further case management orders are appropriate

8. In EJ Volkmer's original CMO she had given the following case management directions, which were for :

i) Schedule of Loss - 14th October 2025

ii) Disclosure – 12th November 2025;

iii) Agreement as to the bundle index- 1st December 2025

iv) Exchange of witness statements – 22nd January 2026

In respect of preparation for the preliminary hearing she gave the following directions:

v) By 18th November 2025 - A reply to the respondents objection to the amendment and/or strike out application

vi) By 2nd December 2025- Agreeing the bundle

vii) By 2nd December 2025 – To provide details of her means, to allow consideration of whether to make and/or as to the amount of any deposit order

9. The claimant did not comply with any of those directions; and on 19th December 2025 the respondent made a further application to strike out the claim on the basis of persistent non-compliance with tribunal directions and/or the failure actively pursue her claim.

10. Claimant's position today - The claimant today stated that she accepted that she had not complied with EJ Volkmer's case management orders because she did not know how to, and did not have any legal representation.

11. She accepted that EJ Volkmer had accurately recorded her position as to the evidence, and confirmed she did not have specific evidence that any of her complaints were in this case acts of discrimination and /or related to whistleblowing; but she placed those claims in the wider perspective of what she believes is systemic discrimination more broadly against white Christians.

Striking Out –

12. The power to make a strike out order is contained in Rule 38 (Employment Tribunal Procedure Rules 2024) :

> **38.**—(1) 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;
> (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
> (c) for non-compliance with any of these Rules or with an order of the Tribunal;
> (d) that it has not been actively pursued;
> (e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim, response or reply (or the part to be struck out).

13. Non-compliance with Case Management Orders – It is not in dispute that the claimant has failed to comply with any of the case management orders of EJ Volkmer. This in my judgement brings the case with in the ambit of rules 38(1) b) and (c) and (d) and the threshold for considering whether to strike out the claims has been met.

14. That leaves two further questions , whether a fair trial is still possible (which is both a specific basis for striking out under the rules and in any event a question the tribunal must address in relation to any strike out application); and whether striking out is a proportionate sanction.

15. Fair Trial – On one analysis a fair trial is still possible. Further case management directions could be given for the provision of a Schedule of Loss, disclosure, the agreement of the bundle and exchange of witness statements. If any such directions were complied with, even though the time is very tight, the hearing could, at least theoretically be ready for hearing on the existing dates for the final hearing commencing on 29th June 2026. The question for me is whether there is any reasonable prospect of the claimant complying given her complete failure to comply with the existing directions. If there is no such prospect it is unlikely in the extreme that the hearing could take place as currently listed. In my judgement to make that assumption or give the claimant a further chance would be the triumph of optimism over experience and I see no realistic prospect that she would comply. It follows that I am not persuaded that a fair hearing is still possible.

16. Proportionate Sanction - Again on one analysis, the lesser sanction of an unless order applied to future case management directions might be considered appropriate. However if I take the view, as I do, that there is no reasonable prospect of

compliance, in my judgement the nettle must be grasped and in my judgement I cannot see that any lesser sanction would be proportionate.

17. No Reasonable Prospect of Success – In any event for the reasons given below, even I had I not struck out the claims on the basis set above I also do so on the basis that they have no reasonable prospect of success.

18. Amendment – As the claimant has not in fact made any amendment application some at least of the claims may not be formally before the tribunal in any event. I have, however made an assumption in the claimant's favour and assumed that any amendment application would be permitted; and addressed the claims on their merits.

19. Discrimination claims – Direct discrimination on the grounds of race and /or religion or belief- EJ Volkmer identified these claims as:

The Claimant describes herself as white Christian. She compares herself with people who are not white and/or Christian.

4.2 Did the Respondent do the following things:

4.2.1 Failed to provide the Claimant with an induction;

4.2.2 Required the Claimant to work without gloves;

4.2.3 On the second day the manager shouted at the Claimant that she had not done any jobs when the Claimant was required to clean a toilet without gloves;

4.2.4 Dismissed the Claimant;

4.2.5 On or around 27 September 2024, the manager who employed the Claimant asked if she wanted to be at work. The Claimant was afraid because he had brought people with him to the meeting.

20. The respondent contends that in relation to the discrimination claims that the claimant would need to provide evidence sufficient to allow the tribunal to infer discrimination, in the absence of an explanation from the respondent (stage 1 of the Igen v Wong test). On her own admission she has no such evidence (see above).

21. As set out above the claimant in today's hearing accepted that she had no specific evidence in relation to the allegations in this case but placed the claim in the wider context of her general belief that white Christians were the subject of systemic discrimination.

22. In my judgement this is insufficient, and unless there is primary evidence from which the tribunal could properly infer in the absence of an explanation from the

respondent, that the acts complained of were acts of race and/or religious discrimination specifically in the context of tis employment and this claim, the claims will not cross the stage 1 Igen v Wong threshold and are bound to fail. It follows that these claims are dismissed as having no reasonable prospect of success.

23. Public Interest Disclosure / Automatic Unfair Dismissal - The respondent submits that the claim for automatic unfair dismissal is bound to fail as the claimant accepted that she had no evidence to support the whistleblowing claims, and in any event as the alleged disclosures took place after the resignation / dismissal (EJ Volkmer LoI para 1.1.1).

24. In my judgement this must be correct on both bases, and this claim is dismissed as having no reasonable prospect of success.

25. Public Interest Disclosure / Detriment - The remaining allegations of public interest disclosure detriment are of (EJ Volkmer LoI para 2.1.1 / 2.1.2:

    i) Incorrectly stating that the claimant left work because she no longer wished to work;

    ii) Inducing job centre staff to abuse the claimant and kick the claimant out of her job centre appointment.

26. In respect of the first there is documentary evidence in the form of text/email messages which set out quite clearly that the claimant was not dismissed but refused to continue working; and that even without her own admission that she had no evidence, the documentary evidence is wholly clear. If it is correct that the respondent had made the statement alleged it is on the face of it straightforwardly factually correct, and given that as the claimant accepts there is no evidence demonstrating any causal link between the statement and any disclosure, this allegation is also bound to fail and is dismissed as having no reasonable prospect of success.

27. In respect of the second there would need to be clear primary evidence which supported the allegation that the respondent or its employees had any involvement in any interaction between the claimant and the Job Centre which the claimant, as she accepts does not have. In the circumstances this claim too will be dismissed as having no reasonable prospect of success.

Judgement Approved by EJ Cadney

EMPLOYMENT JUDGE CADNEY
Dated: 12th March 2026

Sent to parties on:
07 April 2026 By Mr J McCormick