



EMPLOYMENT TRIBUNALS

Claimant: Malik Asim Riaz
Respondent: CMR Surgical Limited
Heard at: Bury St Edmunds (in person)
On: 23 February 2026
Before: Employment Judge Graham
Ms Durrant
Mrs Handley-Howarth

Representation

Claimant: Self representing
Respondent: Mr S Maini-Thompson

JUDGMENT

1. The claim is struck out in full.

REASONS

Introduction

1. Today had been listed as a five day liability hearing to hear the Claimant's complaints of direct race discrimination, harassment, victimisation and automatic unfair dismissal. Today is the first day of the final hearing.
2. On 26 January 2026 Employment Judge Tynan directed that the first day of the hearing would be converted to a public preliminary hearing to consider the Respondent's application for a strike out of the claim on the basis of (i) whether the Claimant's conduct of proceedings had been unreasonable; (ii) whether the Claimant had failed to comply with Tribunal orders; and (iii) whether a fair hearing was no longer possible.
3. At the start of the hearing we were provided with a hearing bundle of 886 pages.
4. The Respondent's application concerns the Claimant's approach towards disclosure and the provision of information concerning his new employment. The crux of the Respondent's application was that the Tribunal cannot have

faith in the honesty of what the Claimant tells the Tribunal.

Findings of fact

5. The ET1 was lodged on 26 October 2023. At paragraph 7 of the claim form the Claimant ticked the box to confirm he did not have another job. The boxes about when he started work or will start work and earnings, were left blank.
6. The above was untrue. The Claimant had started a new role weeks earlier at the start of September 2023 and he was earning £1,250 per week gross. At the end of November 2025, after the Respondent's two firms of lawyers had spent almost two years trying to obtain details as to the Claimant's new employment, the Claimant explained that this had been a typo on the ET1.
7. During the hearing I asked the Claimant about this. At first the Claimant maintained that it had been a typo, and I pointed out to the Claimant that he surely must have realised that it was wrong as he had been asked about earnings, and he had only just started the new role. The Claimant then told me he was suffering from trauma from the manner of his recent dismissal and he had not been paying attention and did not read the form. We found this to be unlikely, not least because of the Claimant's role which included compliance with regulatory requirements.
8. The Claimant later told me that he had been concerned about his privacy and he did not want the Respondent to know about his new role as they may sabotage things with his employer. This did not make a great deal of sense as the Claimant had provided the Respondent's details for a reference for his new employer only weeks earlier on 31 August 2023, therefore they already knew where he would likely be working. It appeared to the Tribunal that the Claimant was making up reasons on the spot before us and that he was seeking to mislead us.
9. The fact that the Claimant confirmed he had been concerned about his privacy when he completed the ET1 was suggestive to us that he had deliberately provided the Tribunal with inaccurate information.
10. By way of directions dated 2 May 2024 the Claimant was directed to provide disclosure of relevant documents, including documents relevant to his financial losses and what he had done to find another job. This was due by 27 June 2024. The Claimant did not comply as regards new employment.
11. A preliminary hearing for case management took place before Employment Judge Laidler on 4 July 2024 and it was recorded that the Claimant said that he had obtained a new role from 4 September to 30 December 2023 but he had to resign as there had been a disagreement over the need to relocate and that he has not obtained another role since then. The Claimant had in fact started and left two jobs in the period since he was dismissed by the Respondent.
12. The matter was listed for a strike out and deposit order before Employment Judge Brown on 18 October 2024. The Respondent's former solicitors were Mills and Reeve and their note of the hearing records the judge asking the Claimant about his means and he replied he had no income. The judge

pressed the Claimant how he was supporting himself and he replied he had savings of £4,000 and nothing else. This was not true as the Claimant had started a new role only weeks before at the start of September 2024 and he was earning £2,200 a week gross.

13. The Claimant told me that the Mills and Reeve note was a lie and that they are liars and have lied all the way through. I put it to the Claimant that they are officers of the court and it is unlikely that they would have done so. I also put it to the Claimant that the judge when considering a deposit order would likely have asked him about his means, however he denied that Judge Brown had done so, and he later told me that he could not remember if she had done so. Later on in the hearing the Claimant told me had been concerned about his privacy as above. It appeared to the Tribunal therefore that the Claimant was admitting he had given Judge Brown incorrect information about his means.
14. Judge Brown also directed the Claimant to provide disclosure of documents which included those relevant to financial losses and what he had done to find another job. The Claimant again did not comply.
15. The Respondent repeatedly sought disclosure of the Claimant's documents relating to new employment, however this was not received. We have been referred to seven occasions where this was requested.
16. On 16 June 2025 I issued the Claimant with a strike out warning due to his failure to provide the relevant disclosure he had been directed to provide. The Claimant provided an updated schedule of loss at that time but still failed to provide the relevant documents. In the updated schedule of loss the Claimant indicated that he had the following roles:
 - i. New job 1 – 4 September 2023 to 30 December 2023
 - ii. New job 2 – 10 June to 12 June 2024
 - iii. New job 3 – 9 September 2024 to 1 June 2025
17. Whereas the Claimant listed his pay he said that there were no benefits but did not provide the contractual documentation nor even the names of the employers.
18. On 9 September 2025 the Respondent again applied for an order compelling the Claimant to disclose the information he had already been directed to disclose. In addition the Respondent asked the Claimant to provide an explanation about the discrepancy within the ET1 and also what he told to Judge Brown about having no income. On 24 November 2025 I granted that application and again directed the Claimant to provide both the disclosure and an explanation.
19. On 28 November 2025 the Claimant wrote the Respondent and said the reference to not having a job in the ET1 was a typo but he made no mention of his comments to Judge Brown, and no documents were included as he had been directed.
20. On 15 December 2025 the Respondent applied for a strike out due to the repeated failure to comply. In response on 16 December 2025 the Claimant

replied objecting to the disclosure which he said was premature and unnecessary and would only be relevant for remedy.

21. On 12 January 2026 Employment Judge Tynan wrote to the Claimant to say that whereas he may disagree with my directions, he must comply with them by 18 January 2026.
22. The Respondent restated the application on 19 January 2026. The Claimant continued to resist and to oppose it.
23. On 26 January 2026 Judge Tynan again wrote to the Claimant to direct him to comply with the Tribunal directions. The Claimant was again reminded that compliance was not at his discretion. Judge Tynan then directed that the first day of the final hearing would consider a strike out of the claim on the basis of unreasonable conduct, failure to comply with directions, and whether a fair hearing is no longer possible.
24. On 27 January 2026 the Claimant disclosed some of his payslips. At some point immediately before today's hearing the Claimant provided disclosure of the employment contracts for his new roles but he had redacted all of the details save for the name of the employer, the salary, and the start date. Any details as to benefits was redacted. The Claimant says he offered the Respondent the chance to view them unredacted provided they agree not to use the data in them.

Submissions

25. The Respondent says the claim is opportunistic and arises from fictitious complaints and that the Claimant had been dismissed after conducting himself in a hostile and disrespectful manner in the workplace. The Respondent described this as the Claimant looking to abuse and weaponize the protections in the Equality Act 2010 by way of fraudulent allegations for personal enrichment. The Respondent says that the Claimant has used litigation in a manner contrary to Overriding Objective which requires cooperation, whereas it says that the Claimant's record is one of deceit and obfuscation with respect to mitigation documents.
26. The Respondent has referred us to the judgment in the matter of ***Sud v The Mayor and Burgesses and the London Borough of Hounslow*** **UKEATPA/0182/14/DA** [at 33] in which case that claimant had been found to have fabricated a medical report and the EAT upheld the dismissal of the claim on the basis that a fair trial was no longer possible as the Claimant's conduct had fatally undermined the trust that the Tribunal could have in her veracity, and the option of a strike out had been plainly open to that judge.
27. The Respondent says that there are parallels between ***Sud*** and this case as the Claimant made dishonest representations first in his ET1 and then before Judge Brown; the Claimant had shown persistent and wilful disregard for Tribunal orders such that there had been contumelious default akin to that in ***Sud*** [at 27, 28 and 29]; no mitigation had been provided for the persistent non-compliance; there is parallel with falsifying a legal claim and when filing a claim one is supposed to do so with integrity and a commitment to tell the truth; the Claimant was employed as a regulatory specialist so had expertise in legal compliance; it is not possible to have a

fair trial where the Respondent has been denied the opportunity to scrutinise the mitigation documents, and the Claimant's disobedience undermines the trust that he is acting truthfully and in good faith; and the Claimant has started to drip feed documents to the Respondent over the past 15 hours which is an abuse of process.

28. In taking us through the chronology of this matter the Respondent referred us to seven instances where it sought disclosure of the documents the Claimant had been directed to disclose, together with the five occasions where the Tribunal had directed him to disclose them. The Respondent referred us to the Claimant's replies where he continued to obfuscate and refuse to disclose the documents, challenging the Tribunal's orders and seeking to lay the blame on the Respondent for distracting attention away from the case and alleging that it was the Respondent which was in breach instead.
29. The Respondent told us that two of their witnesses would be unavailable for the hearing. The first was currently overseas, and the second was too traumatized by her dealings with the Claimant at work and she was off sick receiving treatment which it says was due to the Claimant, and that she did not feel well enough to face him and to be cross examined by him before us.
30. In response the Claimant has argued that the documents he was directed to disclose were not relevant to the liability hearing and only of use for remedy if necessary. The Claimant said he had now disclosed the documents and offered to provide them unredacted if the Respondent agreed not to use the redacted data. The Claimant maintained he did not have to disclose the documents and he said he had been arguing with the Tribunal about not disclosing them. I put it to the Claimant that these were repeated Tribunal orders which he must comply with, however he maintained they were only necessary for remedy.
31. I explored with the Claimant where he said he was not working in his ET1 from October 2023 and he at first told me it was a typo before then telling me it was due to trauma from the manner of his dismissal, although he later changed that to say that it was due to privacy concerns that the Respondent would sabotage his new role.
32. We then explored the preliminary hearing before Judge Brown in October 2024 and the Claimant at first told me that the Mills and Reeve note of the hearing was a lie and the judge had not asked about his work. When I put it to him that was unlikely that officers of the court would lie, and it was very likely that Judge Brown would have asked about his means when dealing with a deposit, the Claimant then told me he could not remember if the judge had raised it or not. The Claimant subsequently told me that he had not wished to discuss his role as he had been worried about his privacy.
33. The Claimant told me that it was not his intention to defraud; he was not bringing the claim for the money; and he had already rejected an offer. The Claimant said he had since disclosed the jobs and offered to provide the documents without redactions if the Respondent agreed not to use the details as it contained his NI number. The Claimant said that there was no medical insurance nor any benefits with any of the three jobs. The Claimant

said he had never intended to hide anything, and his concern was for privacy.

34. The Claimant also referred to another Tribunal claim against the Respondent for race discrimination which had been upheld, and the Claimant had appeared as a witness for that claimant who was his colleague. The case was Roy v CMR Surgical Limited Case 3311334/2023 heard at Cambridge Employment Tribunal in August and October 2024. The Claimant told us the judgment referred to the Respondent having forged or fabricated documents in that matter, however upon reading the judgment it says no such thing. Rather there was a formatting difference with respect to one document, this was of no consequence, but there was no finding of forgery or fabrication. The judgment records:

“The Tribunal concluded that this was nothing more than a formatting error but nevertheless it was a source of considerable anxiety to the claimant and a distraction for the Tribunal.” [16]

35. It was misleading for the Claimant to tell us that the Respondent had been found by the Tribunal to have forged or fabricated documents. This was not a simple mistake or misinterpretation by the Claimant who is an intelligent person, and also a professional in a senior role. The Claimant would have known that document was found not to have been forged or fabricated.

Law

36. Rule 3 Employment Tribunal Rules of Procedure 2024 provides:

Overriding objective

3.— (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes, so far as practicable—

- (a) ensuring that the parties are on an equal footing,
- (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,
- (c) avoiding unnecessary formality and seeking flexibility in the proceedings,
- (d) avoiding delay, so far as compatible with proper consideration of the issues, and
- (e) saving expense.

(3) The Tribunal must seek to give effect to the overriding objective when it—

- (a) exercises any power under these Rules, or
- (b) interprets any rule or practice direction.

(4) The parties and their representatives must—

(a) assist the Tribunal to further the overriding objective, and

(b) co-operate generally with each other and with the Tribunal.

37. Rule 38 provides:

Strike out

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—

...

(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;

...

(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).

(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

38. A two stage test must be followed under Rule 38. A tribunal must consider whether any of the grounds under Rule 38 have been established before then deciding whether to exercise its discretion to strike out given the permissive nature of the rule.

39. The Tribunal reminded itself that there is a clear public interest in discrimination (and whistleblowing) claims being heard and not struck out before the evidence is heard unless in exceptional cases.

Rule 38(1)(b) - 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

40. The meaning of scandalous in this context has been clarified to mean not the “colloquial one” but has two more narrow meanings – (i) the misuse of the privilege of legal process in order to vilify others; (ii) the other is giving gratuitous insult to the court in the course of such process – as per Sedley LJ in ***Bennett v London Borough of Southwark* [2002] IRLR 497**.

41. In **Bolch v Chipman UKEAT/1149/02** it was held at a tribunal must be satisfied, not just that a party, or its representative had behaved in this way, but that they had conducted the proceedings themselves, scandalously, unreasonably or vexatiously. The tribunal will need to decide whether the conduct complained of amounts to conduct of the proceedings. In such a situation the question is whether a strike out would be an appropriate response to that conduct of proceedings.

42. The dicta of Elias LJ in **Abegaze v Shrewsbury College of Arts and Technology [2009] EWCA Civ 96** reminds tribunals that the questions to be considered are:

“In the case of a strike out application brought under paragraph (c), it is well established that before a claim can be struck out, it is necessary to establish that the conduct complained of was scandalous, unreasonable or vexatious conduct in the proceedings; that the result of that conduct was that there could not be a fair trial; and that the imposition of the strike out sanction was proportionate. If some lesser sanction is appropriate and consistent with a fair trial, then the strike out should not be employed.” [15]

43. The reference to paragraph (c) in the above quotation relates to an earlier version Employment Tribunal Rules of Procedure.

44. Finally the EAT in the recent case of **Smith v Tesco Stores Ltd [2023] EAT 11** upheld the tribunal decision to strike out the claim but urged caution and reminded tribunals that *“Strike out is a last resort, not a short cut”* and that this case had been exceptional because the claimant had demonstrated that he was not prepared to cooperate with the respondent and the employment tribunal to achieve a fair trial.

45. When considering a strike out of the claim on the basis of one party's conduct of proceedings it is still necessary to take account of whether a fair hearing is still possible – **De Keyser Ltd v Wilson UKEAT/1438/00**.

Rule 38(1)(c) - for non-compliance with any of these Rules or with an order of the Tribunal

46. In **Weir Valves and Control (UK) Ltd v Armitage [2004] ICR 371**, the court provided useful guidance for tribunals when dealing with cases where there has been breach of Tribunal orders. There must be consideration of whether a fair trial is still possible; the Tribunal's response must be proportionate; and whereas a tribunal should be able to apply a sanction, it does not automatically follow that the response to wilful disobedience must be a strike out.

47. Rather the Tribunal must consider the Overriding Objective to do justice between parties taking into account all the relevant circumstances, including whether a less draconian measure would be appropriate. This will involve consideration of the magnitude of default; was the default the fault of a party or their representative; what disruption, prejudice or unfairness has been caused; whether a fair hearing is still possible, and further the Tribunal must guard against allowing its indignation to lead to a miscarriage of justice.

48. Even where there have been wilful or deliberate failures, the critical question remains whether a fair trial is still possible.

Rule 38(1)(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).

49. In ***Arrow Nominees Inc v Blackledge* [2000] 2 BCLC 167** the court held that a fair trial *“is a trial conducted without undue expenditure of time and; and with a proper regard to the demands of other litigants upon the finite resources of the court.”* [55]

50. In ***Sud v London Borough of Hounslow* UKEAT/0156/14** the EAT upheld the decision to strike out a claim on discovering that the claimant had tampered with medical evidence and tried to mislead the tribunal when applying for a postponement. As per Laing J:

“it is absolutely clear that the Claimant's conduct had been such that a fair trial was no longer possible. The EJ referred in terms to the fact that the Claimant's conduct had fatally undermined the trust that the Tribunal could have in her veracity...” [33]

Conclusion and decision

51. We have been referred to various stages within the life of this claim various directions of the Tribunal concerning disclosure which the Claimant confirms he did not comply with at the time. This includes the original directions in addition to those I had issued, as well as those of Judge Tynan.
52. There is no doubt that the Claimant was in breach of Tribunal directions and he remains in breach still as the documents were provided at the last moment before the hearing, some two years or more late, but in such a heavily redacted form.
53. The Claimant's failure to disclose was deliberate and wilful. The Claimant knew what he had been directed to disclose but chose not to do so. This is not a case of being mistaken as it had been made very clear to the Claimant by the Tribunal and the Respondent what he must disclose. The Claimant's insistence that he still did not have to as they went to remedy, was unreasonable.
54. The Respondent was entitled to have that information, the Claimant had been directed to provide it, and he wilfully refused to comply, even now the information remains incomplete – the Claimant appearing to believe he is entitled to pick and choose what the Respondent and the Tribunal see, when they will see it, and how. The Respondent's approach to this matter has been measured and proportionate, initially asking for the information, then applying for an unless order, then continuing to ask, with the application for a strike out as a last resort today.
55. Whereas the Claimant was in persistent and wilful breach of Tribunal directions, this alone would not in our view have been sufficient to strike out the claim as the prejudice to the Respondent was limited, and a fair hearing may still have been possible where the documents related solely to the

issue of remedy. We would therefore not have struck the claim out on that basis alone.

56. As regards unreasonable conduct of proceedings, the Claimant's failure to comply with those directions was also unreasonable, and as we have indicated, the Claimant knew what he had to disclose but had chosen not to do so.
57. The Claimant's explanation about the incorrect information on the ET1 form changed from a mistake or a typo (as explained in his email of 28 November 2025), to trauma from his dismissal which he had not raised before, and then he said it was due to privacy concerns. In admitting that he chose to include inaccurate information within his ET1 due to privacy concerns, the Claimant is in effect confirming that he deliberately misled the Tribunal from the start of proceedings.
58. The alleged concerns about privacy do not stand up to scrutiny given that the Claimant had asked the Respondent for a reference in August 2023, and as at October 2023 (when the ET1 was issued) he was at that same new employer. The Respondent would have known full well where the Claimant was working, and the alleged privacy concerns were something new which the Claimant made up on the spot today when it became clear that this was not a simple typo.
59. The same is true as regards the October 2024 preliminary hearing before Employment Judge Brown. It is inconceivable that Mills and Reeve solicitors, an established law firm, would have sought to mislead a court by making a false note of the hearing and inventing a whole passage where the judge discussed whether the Claimant had a new role.
60. It is equally inconceivable that an experienced Employment Judge would not have asked a claimant about their means when dealing with a deposit order application as that is one of the matters which a Tribunal must raise with a party under Rule 40(2) as it is directed to make reasonable enquiries into the depositor's ability to pay and then to have regard to that when deciding upon the amount. We find it inconceivable that Judge Brown would not have done so, and we find it equally inconceivable that Mills and Reeve would then have lied about it and fabricated a note of the hearing.
61. It is far more likely that Judge Brown did ask the Claimant about his means and that he replied that he had no income, and that he misled Judge Brown then, and that he is seeking to mislead us again today. This is a matter of considerable concern to us as it causes us again to question the veracity of the Claimant's account.
62. In any event, the Claimant was equivocal about this as he later told us he was worried about privacy which strongly suggested to us that Judge Brown had asked him about his income and that he had replied he had no income which he knew to be untrue. We note that at that time, according to the Claimant's own schedule of loss, he was earning £2,200 gross per week. We are very concerned that Judge Brown had been deliberately misled by the Claimant to avoid the imposition of a deposit order with all the consequences that can flow from one.

63. We therefore find that the Claimant's conduct of the proceedings, in failing to comply with directions and in twice providing untrue accounts to the Tribunal (first in the ET1, and second to Judge Brown) was conduct which was unreasonable and scandalous.
64. We will move on to the issue of whether a fair hearing is still possible.
65. We have serious concerns about the Claimant's honesty, it is clear that he has lied at least twice to the tribunal, in the ET1 and before EJ Brown. These were not typos or simple mistakes or the result of trauma, they were intentional attempts to mislead the Tribunal. It is inescapable that this was deliberate given the ongoing failure to comply with the five directions from the Tribunal on the same matter.
66. Whereas we are not satisfied that the prejudice caused to the Respondent of itself prevented there from being a fair hearing, we are however of the view that we can have no confidence in the truth of anything the Claimant tells us hereon in.
67. In the case of ***Mayanja v City of Bradford Metropolitan District Council*** [2025] EAT 160 the EAT cautioned tribunals against making an overarching assessment of credibility that is then relied upon in all further assessments [paragraphs 38 and 39]. However, this case is unfortunately one of those very rare cases where the Claimant's account has been repeatedly so implausible and so inconsistent, that it renders his evidence unreliable generally. We no confidence in the veracity of the Claimant's account.
68. We have considered the issue proportionality and whether there are less draconian responses we could apply, including an unless order or possibly debarring the Claimant from giving evidence, or an order for costs combined with an adjournment.
69. However, in our view none of these things can remedy the damage which has been caused to our faith in the reliability of the Claimant's account. As in the case of ***Sud***, our faith in the veracity of the Claimant has been fatally undermined. We make it clear that it is the concern about honesty which presents us with the difficulties rather the wilful disregard of our orders. The damage to our belief in the Claimant's honesty is irreparable.
70. Accordingly, and as a last resort and with no other option, it is our reluctant decision to strike out the claim in full.

Addendum

71. After I had announced the Tribunal's decision, the Respondent indicated that it would make an application for costs. As I attempted to arrange the listing of the cost hearing, the Claimant was initially compliant and mentioned an appeal, however he quickly became agitated and angry, challenging the strike out, before then staring and shouting at me and accusing me of bias, and of being a Russian court, and suggesting that I would be responsible for his death.

72. The Claimant repeatedly shouted in an aggressive manner that I was not God, I am a human, and he shouted various other comments. I attempted to stop the Claimant from shouting to no avail, and ultimately I directed him to leave and security staff were called to escort the Claimant out of the hearing room and eventually off the Tribunal premises. Prior to leaving the Claimant threw his bundles across the table in an aggressive manner and he continued to shout and remonstrate on leaving the hearing room.

73. The Claimant's hostile, aggressive and disrespectful behaviour was further unreasonable conduct on his part and must not be repeated. Whereas the costs hearing had been listed in person for 13 August 2026, it is now converted to a video hearing and the parties must not attend the Tribunal in person unless directed to do so. Further case management directions will follow separately.

Approved by:

Employment Judge Graham
23 February 2026

JUDGMENT SENT TO THE PARTIES
ON
23 April 2026.....

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

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

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

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