EMPLOYMENT TRIBUNALS

Claimant: Mr A Thompson

Respondent: Quiver Delivery Ltd

Heard at: London South Employment Tribunal, Croydon (by video)

On: 24 April 2026

Before: Employment Judge Abbott

Representation
Claimant: representing himself
Respondent: Mr M Barrie, director

JUDGMENT

The claim is struck-out pursuant to Rule 38(1)(a) of the Employment Tribunal Procedure Rules 2024.

REASONS

Procedural background

1. This claim came before the Tribunal today (24 April 2026) having been listed for a final hearing at the direction of EJ Corrigan further to Rule 22, in circumstances where the response had been rejected by the Tribunal (per the Tribunal's letter of 4 October 2025) but EJ Corrigan did not consider a determination could properly be made of the claim (per the Tribunal's letter of 10 December 2025).

2. The notice of hearing was sent on 19 December 2025. It referred to the need for the parties to "*make sure any witness who will be giving evidence for you at the hearing knows when it is and how to join it*" and noted that parties "*may produce written representations even if you do not attend the hearing*". The respondent had been notified in the Tribunal's letter of 10 December 2025 of the effect of the rejection of the response, that being it would be provided with notice of any hearing or decision of the Tribunal but could only participate in any hearing to the extent permitted by the Tribunal

(Rule 22(3)).

3. On 10 April 2026, the respondent filed an application for strike-out of the claim, alternatively for a deposit order. On 17 April 2026, REJ Khalil directed that the application be considered at the outset of today's hearing.

4. Having regard to the balance of prejudice and the principles outlined in *Limoine v Sharma* [2020] ICR 389, EAT, I permitted the respondent's director, Mr Barrie, to make oral submissions in support of the respondent's application and considered the written materials he had provided. I heard submissions also from the claimant and considered the written materials he provided.

The legal framework

5. The power for the Tribunal to strike out a claim appears in Rule 38(1) of the Employment Tribunal Procedure Rules 2024. One such ground is that a claim has "*no reasonable prospect of success*".

6. In *Malik v Birmingham City Council and anor EAT 0027/19*, Mr Justice Choudhury, then President of the Employment Appeal Tribunal (***EAT***), confirmed the Tribunal's obligation to take the claimant's case at its highest for the purposes of a strike-out application, particularly where a litigant in person is involved, and noted that requires the Tribunal to do more than simply ask the claimant to be taken to the relevant material. The Tribunal should carefully consider the claim as pleaded and as set out in relevant supporting documentation before concluding that there is nothing of substance behind it.

7. A claim can only be struck-out if the claimant has first been afforded a reasonable opportunity to make representations in writing or at a hearing (Rule 38(2)) – an opportunity the claimant has been afforded today.

8. The present claim involves a single complaint brought under section 19 of the Equality Act 2010 (***EqA***). That section reads as follows:

> "(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.
>
> (2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—
>
> (a) A applies, or would apply, it to persons with whom B does not share the characteristic,
>
> (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
>
> (c) it puts, or would put, B at that disadvantage, and
>
> (d) A cannot show it to be a proportionate means of achieving a legitimate aim."

9. Also relevant are the burden of proof provisions in section 136 EqA, the

relevant parts of which are as follows:

"(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision."

10. The relationship between the four elements of an indirect discrimination claim (which I will describe, in shorthand, as (1) PCP, (2) group disadvantage, (3) individual disadvantage and (4) justification) and the burden of proof provisions was considered by the EAT in *Dziedziak v Future Electronics Ltd* EAT 0271/11, a claim of indirect sex discrimination. In that case, Mr Justice Langstaff, then President of the EAT, stated:

"In this case the matters that would have to be established before there could be any reversal of the burden of proof would be, first, that there was a provision, criterion or practice, secondly, that it disadvantaged women generally, and thirdly, that what was a disadvantage to the general created a particular disadvantage to the individual who was claiming. Only then would the employer be required to justify the provision, criterion or practice…"

11. In other words, the burden is on the claimant to prove the first three elements (PCP, group disadvantage and individual disadvantage). Only then does the burden shift to the respondent to prove the fourth element (justification).

The present case

12. This complaint in this case is based on facts that are undisputed. The claimant applied online for a courier role with the respondent. The respondent asked him to submit a self-introductory video to assist them "…*to see if you're the type of person that can communicate well with our clients and customers*". The claimant did not provide a video, instead responding "*As per GDPR, one is not comfortable with the practice of sharing information nor likeness via such practices.*" The respondent responded: "*No worries then! Probably not the role for you…*".

13. The claimant says in his ET1 claim form that the requirement to submit a self-introductory video was a PCP that "*disproportionately disadvantages Black African and Afro-Caribbean applicants by creating barriers linked to cultural, social and historical factors. This is supported by UK-based research and relevant legal precedent.*" Under the heading "Supporting Evidence and Case Law" he says this:

"Research demonstrates that Black African and Afro-Caribbean individuals may be disproportionately uncomfortable or disadvantaged by video interviews due to cultural communication styles, historical mistrust of surveillance and concerns about unconscious bias (Runnymede Trust reports, EHRC findings)."

14. The claimant goes on to cite and summarise the decisions of the Supreme Court in *Essop v Home Office* [2017] UKSC 27 and of the Court of Appeal in *Williams v Trustees of Swansea University Pension & Assurance*

Scheme [2017] EWCA Civ 1008[1].

15. The claimant submits in his ET1 claim form that he was disadvantaged by being unfairly excluded from the recruitment process by the (he says) unjustified PCP.

The basis for the application to strike-out

16. The respondent has advanced 3 main reasons why the claim has no reasonable prospect of success. First, a lack of evidence of any group disadvantage. Second, clear justification in any event. Third, that there was no contractual relationship between claimant and respondent and the role applied for was a self-employed role.

17. For the purposes of this decision I focus on the first reason because (1) justification would be a matter for evidence from the respondent and therefore not appropriately dealt with on a strike-out basis, and (2) I consider it at least arguable that the claimant has standing to bring an EqA claim as an applicant for a courier role with the respondent.

18. There is no dispute that the respondent had a standard practice of asking applicants to submit a short introductory video as part of its early-stage recruitment process. That is a PCP for the purposes of s.19 EqA.

19. The key question is whether the claimant has a reasonable prospect of successfully proving that practice puts, or would put, Black individuals at a particular disadvantage when compared with people of a different race (for example, Caucasian individuals).

20. In addition to the content of the ET1 claim form that I have already quoted, the claimant provided a witness statement for the purposes of today's hearing. As to group disadvantage, it says this:

> "5.1 The requirement to submit a video places applicants in a position where visible characteristics including, race, may be immediately assessed prior to any substantive interaction.
>
> 5.2 In my view, this type of requirement has the potential to disproportionately disadvantage individuals from Black African and Afro-Caribbean backgrounds."

21. During submissions he elaborated that he considered there was a qualitative difference between the judgements that someone can drawn from a video recording and from an in-person interview, and judgements were more likely to be made based on race from a video recording.

22. I asked the claimant if he could explain and direct me to the reports and findings that he referred to in his ET1 claim form. In response he sent a screenshot of a Google search for "*(Runnymede Trust reports, EHRC regarding video intrviw*", which provided nothing more than an AI summary of criticism the Runnymede Trust had made of the EHRC following the 2021 Sewell Report, accusing the commission of failing to uphold racial equality, and which included a statement that the EHRC had separately warned that

[1] The citation provided by the claimant ([2018] EWCA Civ 153) was erroneous. This decision was subsequently upheld by the Supreme Court: [2018] UKSC 65.

technical issues in video hearings could impede access to justice. He then sent a further email that read:

"**Runnymede Trust case**

Recruitment practices which expose identity (race, accent, appearance) early can disadvantage ethnic minority applicants.

Requiring a video forces early exposure of protected characteristics"

23. I carefully considered the ET1 claim form, the claimant's witness statement and all the supporting materials he sent in. The high point of his case appears to be an assertion that requiring a video early in the recruitment process exposes protected characteristics (including race) which can disadvantage ethnic minority applicants. However, no concrete evidence is provided to justify that assertion.

24. Bearing in mind today was intended to be the final hearing of his claim, if the claimant does have concrete evidence to rely on to prove the alleged group disadvantage, it is reasonable to expect that would be available to him today – but he has not provided anything beyond the materials I have referred to above.

25. Having regard to all the materials relied upon by the claimant, what he has said in his claim form and his witness statement, taken at its highest, I am of the view that the claimant has no reasonable prospect of succeeding in establishing a group disadvantage. This is because his assertions of group disadvantage are not substantiated by any reliable evidence. No statistical or expert evidence is provided, whether by reference to published materials or otherwise. It is not sufficient for the claimant to argue, on the day of the final hearing and on notice that the Tribunal would be considering strike-out of the claim for lack of evidence of group disadvantage, that he may be able to gather further evidence. Nor does the claimant's own personal evidence support the assertion made, and nor is this the kind of situation where the alleged group disadvantage is so obvious that judicial notice could be taken of it without further proof.

26. Accordingly, I find that the claimant's complaint of indirect race discrimination has no reasonable prospect of success. I am satisfied that the interests of justice and the overriding objective (Rule 3) are met by striking-out that complaint (and thus, as this is the only complaint, the whole claim) on that basis.

Approved by:

Employment Judge Abbott

Date: 24th April 2026

Judgment sent to parties on:
28th April 2026

For the Tribunal Office

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