Case Number: 3303311/2023

EMPLOYMENT TRIBUNALS

Claimant: Ms Chandrika Punshon

Respondent: The Royal Latin School

Heard at: Bury St Edmunds (hybrid)

On: 27 and 28 April 2026

Before: Employment Judge Graham
Mr A Hayes
Mrs S Allen

Representation
Claimant: Self representing
Respondent: Ms D Grennan, Counsel

RESERVED JUDGMENT

1. With respect to the costs order of Employment Judge Green dated 16 April 2024, the Claimant is ordered to pay the Respondent the whole of its legal costs which are attributable to the vexatious, abusive, disruptive or otherwise unreasonable conduct of proceedings as identified by Judge Green in that judgment. These costs are to be assessed by way of a detailed assessment on the indemnity basis.

2. The Respondent's second application for costs under Rules 74(2)(a) and 74(2)(b) succeeds. We make an order for costs in favour of the Respondent comprised of (i) 35% of the remainder of its total legal costs of defending the claim (after deducting the amount to be paid to satisfy the costs order of Judge Green); and (ii) 100% of the legal costs attributable to the final hearing going part heard for the period 12 October 2024 until 9 January 2025, including legal work undertaken on those dates. Those costs are to be assessed by way of detailed assessment on the indemnity basis.

REASONS

Introduction

1. This hearing was listed for the following two matters:

i. To determine the amount of the costs order made by Employment Judge Green on 16 April 2024; and

ii. To consider the Respondent's application dated 11 April 2025 for an order of costs against the Claimant. That application is brought under Rules 74(2)(a) and 74(2)(b) of the Employment Tribunal Rules of Procedure 2024.

2. The Respondent's updated schedule of costs records a total figure of £92,903.40.

3. This hearing had previously been postponed pending the Claimant's appeals against the liability judgment of this Tribunal of 3 February 2025 which have since been disposed of.

4. On 3 February 2025 I made case management directions with respect to the costs order from Judge Green, directing the Respondent to serve a schedule of costs on the Claimant, and directing the Claimant to serve on the Respondent a statement of her means, and I took care to explain what that should involve and I recommended the Claimant to take legal advice.

5. On 10 June 2025 I refused the Claimant's application to postpone the costs hearing and I extended the hearing length by one day as the Respondent had made a second costs application. I again reminded the Claimant a second time to provide evidence of her means.

6. On 25 July 2025 I then postponed the costs hearing as correspondence suggested there may be a Rule 3(10) hearing before the Employment Appeal Tribunal. I again reminded the Claimant a third time to provide evidence of her means by referring her to my previous directions of 3 February 2025.

7. On 4 November 2025 I directed the two days costs hearing to be relisted as the appeals had been fully disposed of, and I again, for a fourth time directed the Claimant to provide evidence of her means and I took care to explain what this involved.

8. On 26 January 2026 the Tribunal listed today's hearing in person at Bury St Edmunds Employment Tribunal, and the address and start time were included.

9. Since the liability hearing the Claimant has written in repeatedly asking for a transcript of the liability hearing at public expense even though it had been previously refused, and permission to appeal that case management decision was also refused.

10. The Tribunal had previously refused a transcript paid for at public expense as there was no evidence that the Claimant was disabled (her earlier claim was for race and sex discrimination), and moreover the Claimant was not vulnerable party, therefore it was not necessary in the interests of justice for her to be provided with a transcript paid for at public expense to ensure her effective participation in those proceedings.

11. The Claimant has also written in repeatedly asking Watford Employment

Tribunal if it accepted that she was disabled or vulnerable and asking if I had reserved this costs hearing to myself. The Claimant also suggested she did not know if the hearing was proceeding or where, even though it was clear from the notice of hearing, which I note the Respondent re-sent to the Claimant. I had not directed a reply as I had not been made aware of the correspondence.

12. The Claimant failed to attend the hearing in person on 27 April 2026 as I had directed. Just before the hearing was due to start the Claimant emailed and asked for a CVP link to be sent to her even though this was an in person hearing. Whereas we could have proceeded in the absence of the Claimant due to her failure to attend, I directed for a CVP link to be sent so that we could enquire why the Claimant had not attended in person. The hearing started 35 minutes late whilst we waited for the Claimant to join the hearing.

13. When we started the hearing the Claimant was sitting in an office and wearing what appeared to be a work lanyard. Further time was spent as we could not hear the Claimant but she could hear us, the Claimant was asked to remove her headset and then rejoin a couple of times but we still could not hear her. I asked the Claimant to be sent the telephone number which she was initially reluctant to call, but when she called the CVP hearing she held the telephone so far away from her face at full arm's length we could not hear her. The Claimant was repeatedly asked to hold it closer to her mouth which she did for a while before holding it away again, therefore we could not hear her. The Claimant then placed the telephone on the desk and we couldn't hear her then either as it was so far from her, and eventually the Claimant picked up the telephone but again the sound was intermittent.

14. I asked the Claimant where she was but she repeatedly refused to tell me, other than she was in another place, and later on she told me she was in a friend's place of work. The Claimant denied she was at work and she said the lanyard which appeared to have an employer's name on it, was her lanyard and had her name on it, and then she removed it.

15. The Claimant told us she had not come in person as she is disabled and does not drive this far anymore, and she then told us it would be impossible to get the time off, before subsequently correcting herself to say that it would be impossible for her daughter to get the time off to drive her here.

16. I asked the Claimant why she had not applied to either convert or postpone this hearing, to which she told me she had and which the Respondent denied, and having checked the Respondent's bundle of documents I noted an email from the Claimant of 26 January 2026 indicating she could not attend in person as she said she was disabled. This was not passed to me by the Tribunal staff, and whereas it did not specifically ask for the hearing to be converted, that appeared to be the purpose behind it.

17. Had I been passed a copy of the correspondence I would have refused to convert the hearing anyway as we have not found the Claimant to be vulnerable or disabled, and the final day of the liability hearing was listed by video which the Claimant then complained about, and then having given the Claimant the option of attending in person for a hybrid hearing the Claimant then did not attend in person and continued to complain.

18. Whereas we converted the costs hearing to a hybrid hearing because the Claimant failed to attend in person, we could not proceed as we could barely hear the Claimant. I repeatedly asked the Claimant how she invited us to proceed in this situation, whilst I reminded her of the seriousness of this situation given it was a costs hearing and we must be able to satisfy ourselves that we could hear the Claimant and she could hear us.

19. The Claimant told us she would be content to proceed even if we could not hear her as she would ask for a transcript which she would check and then respond to. I informed the Claimant that was not appropriate, we would ensure that both sides get a fair hearing in this application and to proceed in that way would not be fair to anyone – the Claimant must have the opportunity to be heard during the hearing itself.

20. I asked the Respondent how it invited us to proceed and Ms Grennan suggested that we could read in for the morning and recommence at 2pm on 27 April or even 10am on 28 April with the Claimant appearing in person.

21. After deliberating as a panel I informed the Claimant that the hearing would be adjourned until 10am on 28 April and if she failed to attend the hearing in person we would proceed in her absence. I explained again the importance of the Claimant's attendance.

22. At 11:22, shortly after the hearing was adjourned the Claimant sent a long email to the Regional Employment Judge in which she appeared to complain about the conduct of the hearing and directing her to attend in person. At the start of the email the Claimant said:

    "Judge Graham is refusing me participation on the grounds that he can't hear me, and is ordering me to attend court in person."

23. That is untrue, and the Claimant knows it to be untrue. The steps taken by the Tribunal were to ensure she could fully participate in the hearing. This is unfortunately a repeat of previous behaviour during the first liability hearing where the Claimant would write to the Regional Employment Judge and the Employment Appeal Tribunal deliberately misrepresenting things said and done by me as the judge during that hearing. The Claimant was warned about this conduct at the time and within the liability judgment. The Claimant continues to conduct herself in the costs hearing in a similar manner.

24. At the end of the email the Claimant said:

    "I see no reason why I can't attend remotely tomorrow. He is threatening to proceed without me rather than allow me to hear what happening because he claims to not be able to hear me. Surely allowing me to listen is better than proceeding without me?"

25. For the avoidance of doubt, it would have been incredibly unfair to both parties to proceed in such a way where the Claimant could not be heard. This is the case whether it is a liability hearing or a costs hearing.

26. Having directed the Claimant to attend on 28 April in person, the Claimant telephoned the Watford Employment Tribunal and was advised by a

member of the administrative staff that the hearing would be hybrid. This is not what I had directed, and therefore the Claimant did not attend in person but again joined by video. Whereas I was very concerned that my directions had not been complied with by the Claimant, and I was further disappointed they had been effectively varied by the Tribunal administration without authority, I nevertheless allowed the hearing to proceed as a hybrid with the Claimant appearing online as her sound issues had resolved.

27. We started the hearing almost forty minutes late whilst I attempted to understand what had happened with the listing and why the Claimant was again appearing online. We then heard from Ms Grennan for an hour or so where she addressed us on the Respondent's costs submissions, referring us to pages in the costs bundle and taking us through the Respondent's written submissions.

28. After a break of an hour and 15 minutes for lunch and for the Claimant to prepare, we then heard the Claimant's submissions. During the Claimant's submissions I repeatedly had to ask her to address the Respondent's costs application and submissions as she sought to bring up other matters including the handling of her Subject Access Request and Freedom of Information Act requests and a referral the Respondent allegedly made about her to the ICO for allegedly retaining data belonging to the Respondent.

29. Regrettably I had to issue the Claimant with a warning about her conduct as she told us during her oral submissions that the Respondent's former head teacher had a fetish for blonde women and that it was clever of the Respondent's counsel to have dyed her hair grey. The Tribunal found this to be an outrageous thing to say – the comment was provocative and inflammatory, it had nothing whatsoever to do with the original claim nor the issue of costs, and it was clearly said to cause upset to the Respondent's witness and to its legal team. This comment was gratuitous, and leaving aside the offence it may have caused, it showed an exceptional amount of disrespect to the Tribunal process. We found it incredible that a party who had complained of harassment related to sex, should choose to conduct themselves in such a way before us.

30. This was precisely the sort of behaviour that Judge Green had previously identified and found to be harassment and intimidation and had warned the Claimant about, and which formed part of the reasons for the first costs order. I warned the Claimant we would bar her from her giving oral submissions if she carried on in that way. Following this the Claimant started to laugh and said she did not know why anyone was offended as she had seen counsel's hair and she thought it looked great. I warned the Claimant a further time not to make personal remarks about people who were simply here to do their job and I advised her to take this hearing more seriously.

31. We were provided with a bundle of documents of 817 pages prepared by the Respondent together with a written skeleton argument. The Claimant provided additional documents by email over lunch, and we read the contents that she took us to. The Claimant took exception to my having informed her that she must refer us to the relevant pages as we would not go away and read every document provided. Nevertheless if the Claimant

referred us to a document we looked at it during the hearing.

32. The Claimant did not provide any evidence of her means despite my direction for her to do so sent on 3 February, 10 June, 25 July and 4 November 2025. I note from the Respondent's bundle the Respondent reminded the Claimant to send this information on 22 April, 7 May, 15 May, 9 June, 24 June and 16 December 2025.

33. On 26 January 2026 the Claimant confirmed she had not submitted any evidence of her means as she said she had not worked for three years. During the hearing however the Claimant told us she had submitted evidence, however it transpired this was simply her earlier EX 107 forms where she applied for a transcript of previous hearings at public expense. That is not the same as providing evidence of means, and I had taken considerable care to put into writing (including on 5 November 2025) what she must do. In the hearing the Claimant told us that she had no savings. No documentary evidence, such as bank statements were ever disclosed.

Transcript

34. The Claimant told us she had applied for a transcript of this hearing to be paid for at public expense. We had not been provided with a copy. I asked the Claimant to re-send it to us at lunch time however she failed to do so. I therefore asked our usher to look for the EX107 form however all that could be found were historic forms relating to earlier hearings, none of them concerned this hearing. The Claimant said she would send a new request, and I explained that we would consider it if it was filed in time.

Law

35. The Overriding Objective of the Employment Tribunal is set out at Rule 3 of the Employment Tribunal Rules of Procedure 2024 and is as follows:

"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."

36. Rule 74 provides:

"(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under rule 73(1)(b), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(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, or

(c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.

(3) The Tribunal may also make a costs order or a preparation time order (as appropriate) on the application of a party where a party has been in breach of any order, rule or practice direction or where a hearing has been postponed or adjourned."

37. It is clear from the wording of Rule 74 that costs remain discretionary and the word "must" only requires the Tribunal to consider whether to make a such an order in the circumstances identified. It does not follow that we must make that award.

38. Rule 76 provides:

"The amount of a costs order

(1) A costs order may order the paying party to pay—

(a) the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;

(b) the receiving party the whole or a specified part of the costs of the receiving party, with the amount to be paid being determined—

(i) *in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998, or by the Tribunal applying the same principles..."*

39. Rule 82 provides in that in deciding whether to make a costs order (and when determining the value of the order) the Tribunal may have regard to the paying party's ability to pay.

40. The approach to be followed when dealing with an application for costs was helpfully set out in ***Millin v Capsticks LLP*** **UKEAT/0093/14/RN** at paragraph 52 and also ***Robinson v Hall Gregory Recruitment Ltd*** **[2014] IRLR 761** at paragraph 15.

41. In summary there are three stages, first the tribunal must be of the opinion that the paying party has behaved in a manner referred to in the Rules, but if of that opinion, it does not have to make a costs order. It has still to decide whether, at a second stage, it is "appropriate" to do so. In reaching that decision it may take account of the ability of the paying party to pay. Having decided that there should be a costs order of some amount, the third stage is to determine what that amount should be.

42. The fact that a party is a litigant in person is a relevant consideration even at the first stage when determining whether any of the grounds for an order are made out. The EAT has cautioned tribunals not to apply professional standards to lay people and reminded tribunals that even where the thresholds are met the Tribunal still has a discretion whether to award costs - ***AQ Ltd v Holden*** **[2012] IRLR 648** (at paragraph 32). Nevertheless, a cost order can be made against an unrepresented party, including where there is no deposit order in place and even in the absence of a costs warning – ***Vaughan v London Borough of Lewisham*** **IRLR 713**. In that case the court held that *"the basis on which the costs threshold was crossed was not any conduct which could readily be attributed to the appellant's lack of experience as a litigant"* rather it was *"her fundamentally unreasonable appreciation of the behaviour of her employers and colleagues"* (paragraph 25).

Conduct – Rule 74(2)(a)

43. As regards vexatious, abusive, disruptive or otherwise unreasonable conduct, the term vexatious has been held to mean the bringing of a hopeless claim not with any expectation of recovering compensation, but brought out of spite to harass the employer or for some other improper motive – ***ET Marler Ltd v Robertson*** **[1974] ICR 72 (**paragraph 76). However, being misguided is not the same as vexatious or unreasonable – ***Holden*** (at paragraph 38).

44. In ***Scott v Russell*** **[2013] EWCA Civ 143, CA** the Court of Appeal endorsed a wider definition of vexatious as espoused by Lord Bingham in ***Attorney General v Barker*** **[2000] 1 FLR 759, QBD** as follows - *"the hallmark of a vexatious proceeding is… that it has little or no basis in law (or at least no discernible basis); that whatever the intention of the proceedings may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant, and*

that it involves an abuse of the process of the court, meaning by that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process." The implication from that definition is that it is the effect of the conduct which is key rather than the motivation behind it.

45. The term vexatious may apply to both the bringing and the conducting of the proceedings, and such a finding is rare as it is often described as unreasonable conduct even where there is shown to have been an improper motive. In ***Keskar v Governors of All Saints Church of England School*** **[1991] ICR 493** costs were awarded where the claimant had been *"motivated by resentment and spite in bringing the proceedings"* and where there was *"virtually nothing to support his allegations of race discrimination."*

46. There is no definition of abusive or disruptive conduct within the Rules, however in the case of ***Garnes v London Borough of Lambeth*** **EAT 1237/97**, the EAT upheld a costs order on this basis where it had included conduct that was frivolous and involved failure to comply with orders and delays, oppressive behaviour and seeking to ambush the other party in the hearing. Abusive conduct may include gratuitous insults or unsubstantiated slurs, and disruptive may include excessive prolixity and time wasting, unnecessarily lengthy or aggressive cross examination of witnesses or calling unnecessary witnesses, and failing to respect the Tribunal''s attempts to manage the claim and maintain an orderly hearing. Such a finding is more likely where a party has been warned about the conduct but nevertheless continues with that conduct.

47. As regards unreasonably bringing or conducting proceedings, the word unreasonable should bear its ordinary English meaning and is not to be interpreted as something similar to vexatious – ***Dyer v Secretary of State for Employment*** **EAT 183/83**. Whereas a tribunal should take into account the nature, gravity and effect of a party's unreasonable conduct, it does not mean that each should be considered separately – ***Yerrakalva v Barnsley Metropolitan Council and another*** **[2012] ICR 1398** (at paragraph 41)**.** It will be for the tribunal to look at the full picture of the conduct, identifying the specific conduct, what was unreasonable about it, and what effect that conduct had.

48. In ***Yerrakalva*** the court clarified that whereas causation is a relevant factor it is not necessary for a tribunal to determine whether there was a precise causal link between the unreasonable conduct in question and the specific costs being claimed, and as indicated above, it is not a requirement for a tribunal to dissect a case in detail and compartmentalise the relevant conduct under separate headings such as nature, gravity and effect. The tribunal's task will be to look at the whole picture of what happened and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case and in doing so to identify the conduct, what was unreasonable about it, and what affect it had. Subsequent cases have again encouraged tribunals not to go beyond an appropriate broad brush first instance assessment or to adopt an overly-analytical approach.

49. Conduct occurring outside of the bringing or the conducting of the claim may not necessarily give rise to the power to make an order for costs – there must be some relationship to the proceedings. Posting messages on social

media may have some connection to the proceedings if they were intended intimidate the witness from giving evidence or to influence what evidence they may give.

50. In ***Beynon and others v Scadden and others*** **[1999] IRLR 700** it was observed that a party's conduct may straddle one or more of descriptions used in what is now Rule 74(2) and it is not necessary to labour the distinctions between those different words.

No reasonable prospects of success – Rule 74(2)(b)

51. The test as to whether a claim had any reasonable prospects of success is an objective one, the fact that the claimant genuinely believed that she was correct is immaterial, the key question is whether the claimant had any reasonable grounds for so thinking – ***Vaughan*****.**

52. It may be a relevant factor for a tribunal to consider whether the paying party has received legal advice or is acting as a litigant in person. Costs may be awarded from the point at which it was clear that the claim had no reasonable prospects of success and this requires careful analysis of when that occurred. The Tribunal should consider the overall picture available to a claimant at the outset, for examples as regards the strengths and weaknesses for competing explanations for the conduct complained of – ***Keighley v Age UK Leeds*** **EAT 0229/19**. It might also be appropriate to consider when the documentary evidence became available to the claimant.

53. In ***Beynon*** the court held that at paragraph 8:

"A party who, despite having had an apparently conclusive opposition to his case made plain to him, persists with the case down to the hearing in the 'Micawberish' hope that something might turn up and yet who does not even take such steps open to him to see whether anything is likely to turn up, runs a risk, when nothing does turn up, that he will be regarded as having been at least unreasonable in the conduct of his litigation."

54. When determining reasonable prospects of success the tribunal must consider each cause of action separately – ***Opalkova v Acquire Care Ltd*** **EAT 0056/21** (at paragraphs 21 and 27). It may be appropriate to consider whether the claim had no reasonable prospects of success when submitted, or did it reach a stage where it had no reasonable prospect? Secondly at the stage when the claim had no reasonable prospect of success, did the claimant know that was the case? Thirdly, if not, should the claimant have known?

55. In ***Cartiers Superfoods Ltd v Laws*** **[1978] IRLR 315** the court held that in order to determine whether a party had acted friviously, it was necessary *"to look and see what that party knew or ought to have known if they had gone about the matter sensibly."* (paragraph 18)

56. The test is whether the claim had no reasonable prospects of success, judged on the basis of the information that was known or reasonably available from the start – we must consider how the prospects of success

in a trial that has yet to take place would have looked. We should consider what information was available at that time. The fact of a factual dispute which can only be resolved by hearing evidence and finding facts does not preclude a tribunal from finding that the claim had no reasonable prospects of success from the outset – ***Radia v Jefferies International Ltd*** **EAT 0007/18**. The questions to be asked are:

i. Did the complaints in fact have no reasonable prospects of success?
ii. Did the Claimant in fact know or appreciate that?
iii. Ought they reasonably to have known or appreciated that?

57. In ***Saka v Fitzroy Robinson Ltd*** **EAT 0241/00** the EAT referred to the:

"very real difficulties which face a claimant in a discrimination claim", that there is often a lack of overt evidence and so "it may be and often is very difficult for the claimant to know whether or not he has real prospects of success until the explanation of the employer's conduct which is the subject of complaint is heard, seen and tested" [10]

58. The court in ***Madu v Loughborough College*** **[2025] IRLR 497** made similar comments in the context of discrimination claims. Here HHJ Tayler encouraged tribunals to give consideration to the challenge to claimants in taking an objective view of their prospects of success (paragraph 15), although the court made it clear that this does not give any kind of immunity to discrimination claimants as regards costs orders (paragraph 21).

Stage two – exercise of the discretion

59. A tribunal has a discretion whether to make an order for costs if a ground is made out, the tribunal is not obliged to do so. It would be an error to go straight from the first stage to the third stage without considering the question of whether the Tribunal should exercise its discretion – ***Abaya v Leeds Teaching Hospital NHS Trust*** **UKEAT/0258/16.**

60. The burden rests with the party who is applying for costs to establish that the costs jurisdiction is engaged. Cost orders are fact specific and should be dealt with as summarily as possible therefore issue based costs orders are to be avoided. We must take into account all that which appears relevant and disregard that which is not.

61. In ***Yerrakalva*** the court reiterated that it remains the case that cost orders in the Tribunal are rare, they are the exception and not the rule and further:

"*41. The vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case and, in doing so, to identify the conduct, what was unreasonable about it and what effects it had ..."*

62. It was held in ***Gee v Shell UK Limited*** **[2003] IRLR 82**:

"35. It is nevertheless a very important feature of the employment jurisdiction that it is designed to be accessible to people without the need of

lawyers, and that — in sharp distinction from ordinary litigation in the United Kingdom — losing does not ordinarily mean paying the other side's costs…"

63. Moreover as per ***Lodwick v Southwark London Borough Council*** **[2004] ICR 884** (at paragraph 23) costs are compensatory for the receiving party and are not intended to be punitive on the paying party. Given their compensatory nature that will involve consideration of the loss sustained and these should be limited to those which are reasonably and necessarily incurred.

64. When determining whether to exercise our discretion we may have regard to the paying party's ability to pay. It is unnecessary for the assessment of means to be limited to the date when the order falls to be made, and the fact that the ability to pay is currently limited does not preclude a costs order being made where there is a realistic prospect that the paying party may be able to afford to pay at some point in the future – ***Vaughan*****.**

65. It may again be appropriate at this second stage to consider the position of the paying party or whether they had outside support (for example from a trade union) when considering whether to make an order.

66. The fact that a costs warning has been issued by a party is a relevant factor to take into consideration although it is not a pre-condition for an order to be made. It may be relevant factor to consider whether the party seeking costs applied for a preliminary hearing for a strike out of the claim or a deposit order in the alternative.

67. It may be a relevant factor to consider the extent to which a party has acted under legal advice – ***Brooks v Nottingham University Hospital NHS Trust*** **EAT 0246/18**. It may be appropriate to exercise the discretion in favour of a costs order where a party unreasonably fails to take legal advice and persists with a hopeless claim to a final hearing. The fact that a party is unrepresented may be a relevant factor to consider in the exercise of discretion – ***Holden***, and that a tribunal should not judge a litigant in person by the same standards of a professional representative and it was further held:

"32… lay people are likely to lack the objectivity and knowledge of law and practice brought by a professional legal adviser. Tribunals must bear this in mind when assessing the threshold tests in rule 40(3) . Further, even if the threshold tests for an order for costs are met, the Tribunal has discretion whether to make an order. This discretion will be exercised having regard to all the circumstances. It is not irrelevant that a lay person may have brought proceedings with little or no access to specialist help and advice.

33. This is not to say that lay people are immune from orders for costs: far from it, as the cases make clear. Some litigants in person are found to have behaved vexatiously or unreasonably even when proper allowance is made for their inexperience and lack of objectivity…"

68. The Tribunal Rules do not oblige tribunals to remind parties that they are at risk of costs, and the judicial sift stage under Rule 27 only considers whether there are arguable complaints and defences.

69. Again, and as per the decision in ***Fitzroy Robinson***, it may also be appropriate to consider the nature of the evidence available to the claimant and also the nature of the claim, and whether it would be reasonable for the claimant to test the evidence at a final hearing. It may only be at a final hearing that a claimant can understand whether they have any prospects of success once the employer's conduct is explained and tested. In ***Vaughan*** the claimant had made allegations of discrimination, harassment and whistleblowing which were complicated, however the costs threshold was crossed because of the claimant's fundamental unreasonable appreciation of the behaviour of her employer and colleagues rather than due to her lack of experience.

Stage three – the amount of the order

70. We remind ourselves that cost orders should be compensatory in nature not punitive. It is necessary to consider what loss has been caused to the receiving party and costs should be limited to those reasonably and necessarily incurred – ***Yarrakalva***. Even where a loss is identified, it is still necessary to take into account other factors such as the conduct of the parties, and the tribunal may take into account the means of the paying party. Means includes income, expenditure and capital or assets including property – ***Shields Automative Ltd v Grieg*** **UKEAT/0024**/10 [47].

71. Where means are taken into account a tribunal should record its findings about the ability to pay a costs order. Where means are not taken into account a tribunal should explain why – ***Jilley v Birmingham and Solihull Mental Health NHS Trust*** **UKEAT/0584/06** (paragraph 44). There is no absolute duty on a tribunal to take ability to pay into account – ***Jilley***; and *"a tribunal has a broad and unfettered discretion whether to have regard to a paying party's ability to pay"* – ***QR v The GI Group Ltd*** **[2025] EAT 178** (paragraph 61).

72. A tribunal is not required to limit costs to an amount the paying party can afford to pay – ***Arrowsmith v Nottingham Trent University*** **[2012] ICR 159** as that party's circumstances may well improve. The likelihood of an improvement in circumstances may be a relevant factor to consider, and in ***Vaughan*** an order was upheld even though the claimant could not presently meet a substantial payment however there was a realistic prospect that she might be able to do so in the future. Whatever order is made would need to be enforced in the county court which can take into account means from time to time. In ***Vaughan*** the court stated that questions of what a party could realistically pay over a reasonable period:

"are very open-ended, and we see nothing wrong in principle in the tribunal setting the cap at a level which gives the respondents the benefit of any doubt, eve to a generous extent. It must be recalled that affordability is not, as such, the sole criterion for the exercise of the discretion: accordingly a nice estimate of what can be afforded is not essential" (paragraph 29).

73. In that case the tribunal noted that the claimant was out of work at the time the order was made and had no savings or capital assets, nevertheless the court noted there was no reason to assume the claimant would not return to their chosen career at some point in the future and the question of affordability does not have to be decided *"once and for all by reference to*

the party's means as at the moment the order falls to be made" so that "*if there is a realistic prospect that the [claimant] might at some point in the future be able to pay a substantial amount it was legitimate to make a costs order in that amount so that the respondents would be able to make some recovery when and if that occurred"* (paragraph 28). The court nevertheless said that it accepted the force of the argument that it would be pointless (and not a proper exercise of discretion) to require the appellant to pay more, even in the optimistic scenario envisaged, than she could realistically pay over a reasonable period."

74. In ***Herry v Dudley Metropolitan Council*** **[2017] ICR 610** the court held that where a tribunal has had regard to the ability to pay, it must show that it has given proper consideration to matters such as future earning capacity and where appropriate, alternatives to making a whole costs order.

75. The tribunal may make an award of unassessed costs which cannot exceed £20,000, or it may make an order for detailed assessments of costs for which there is no limit which must be determined in accordance with the Civil Procedure Rules.

76. The reference to unassessed cost does not mean that the figure should be entirely arbitrary and it should be in respect of costs incurred by the receiving party therefore the tribunal must state on what basis it is awarding any sum of costs; on what basis it arrives at the sum; and why costs are being awarded against the party in question - ***Sumukan (UK) Ltd and another v Raghavan*** **EAT 0087/09**.

77. As regards the choice between summary and detailed assessment, the court held in ***Kovacs v Queen Mary and Westfield College*** **[2002] IRLR 414** that the power to make a summary assessment within the capped amount is intended to be exercised where the tribunal both feels able to make it, and is satisfied that that it would properly compensate the other party for the costs attributable to the vexatious, abusive, disruptive or unreasonable conduct which has led to the decision to make an order for costs (paragraphs 35 and 38). The court observed that a tribunal should not use its power to make a summary assessment where this would not properly compensate the other parry for the costs incurred by reason of the culpable conduct in question.

78. The Civil Procedure Rules provide two bases for assessing costs – the standard basis which is the usual method, and also the indemnity basis – CPR 44.3(1).

79. The tribunal has the power to order costs to be assessed on the indemnity basis in an appropriate case however this should not be regarded as penal rather it is intended to be compensatory. The exercise of the discretion to order costs to be assessed on the indemnity basis is not restricted to situations where there had been deception or underhand conduct – ***Beynon***.

80. The court in ***Howman v The Queen Elizabeth Hospital Kings Lynn*** **UKEAT/0509/12** held that *"costs incurred in proceedings in employment tribunals should only be assessed on the indemnity rather than the standard basis when the conduct of the paying party has taken the situation away*

from even that very limited number of cases in the employment tribunal here it is appropriate to make orders" (paragraph 10). Accordingly, it is not enough to meet the threshold for an award of costs – the abusive or unreasonable conduct should be so extreme that it is has taken the situation way from the limited number of cases where costs orders are made, into a separate category.

81. If costs are assessed on the indemnity basis, this does not involve the application of a punishment upon the paying party. Rather it reflects the conclusion that in the circumstances of the case, where there are doubts about the reasonableness of particular costs, these should be resolved in favour of the receiving party. Conversely, where costs are awarded on the standard basis, which is the usual method of assessment, any doubt about the reasonableness of specific costs are resolved in favour of the paying party.

Respondent's Submissions

82. We received written submissions from the Respondent, and in her oral submissions Ms Grennan first addressed the second costs order that the Respondent invited us to make under Rules 74(2)(a) on the basis that the Claimant had 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; and Rule 74(2)(b) that any claim had no reasonable prospect of success.

No reasonable prospects of success – Rule 74(2)(b)

83. With respect the claim's prospects of success, Ms Grennan referred us to Issue 7.1 where the Claimant alleged that the entire drama department did not respond to her offers of help, and she had said that this amounted to direct race discrimination and harassment. We had found that there was no less favorable treatment, and no unwanted conduct related to race, and we also recorded that the Claimant failed to put the claim to the Respondent's witnesses, and her statement was silent on the matter, and these complaints were totally without merit (see liability judgment paragraphs 298-310).

84. Ms Grennan said that whereas the Claimant is a litigant in person and she is not to be held to the same standard of knowledge as a lawyer, nevertheless it should have been immediately obvious to the Claimant that based on contemporaneous documents and emails, that there was nothing amiss, let alone anything discriminatory, and this would have been apparent had the Claimant (or anyone) looked at it sensibly with any ounce of realism. The Respondent says that both Amy Jones and Ben Coleman had to be called as witnesses as a result.

85. As regards Issue 7.3 which related to alleged persistent mistakes in the spelling of the Claimant's name, Ms Grennan reminded us of our finding that there was one typo which had nothing whatsoever to do with race, and the Claimant's own name was not even linked to her race. We are reminded that the allegation was not put to the witness by the Claimant and she did not suggest any link to any protected characteristic in the hearing, and this meant a third unnecessary witness was called for a claim we found to be

totally without merit. (see liability judgment paragraphs 326-329).

86. Ms Grennan said the Respondent was again put to expenditure of legal costs preparing witness statements and preparing the witnesses themselves for the hearing, without the Claimant giving any single thought as to the time and cost to the Respondent (and the stress caused to individuals) nor to the resources of the Tribunal.

87. As regards Issue 14.1 which related to alleged flirtation by AB, Ms Grennan reminds us of our finding that the Claimant's presentation of the claim had been quite extraordinary, and that this was the clearest unarguable example of the Tribunal process being used to advance a personal agenda irrespective of the damage it caused, and we had found the allegation to be an abuse of process and brought in order to continue to harass AB.

88. Ms Grennan said the Claimant continued with this conduct even after Judge Green had found the Claimant's actions had been designed to threaten and to harass and to intimidate AB. We were reminded that we had recorded in the liability judgment that there was no evidence to support the allegation that AB had harassed the Claimant, and rather the evidence was all the other way around. Ms Grennan says that this brings the total number of unnecessary witnesses thus far to four.

89. We are further reminded that AB was so affected by his treatment by the Claimant that he could not attend the hearing in person, and did so by video, and with support in place, and Ms Grennan says that none of that should have been necessary, it was not a genuine claim and the Claimant was pursuing an alternative agenda and the costs associated with his evidence and defending that claim should not be borne by the Respondent. (see liability judgment paragraphs 359-368).

90. Ms Grennan referred us to other complaints where the Claimant failed to put the complaints to the witnesses which might on occasion be excusable, however I had intervened to assist the Claimant to remind her to do so, but she still failed to ask witnesses about the things they were accused of. We are reminded that the Claimant alleged that Jeanette Jones had discriminated against her by not responding to her emails, however in the hearing she did not put that allegation to the witness and told us that she was beyond reproach (see liability judgment paragraph 234). Ms Grennan says that this was a fifth unnecessary witness.

91. Ms Grennan reminds us that the Claimant did not put to any of the other witnesses the separate allegation about not replying to emails at Issue 7.2 (see liability judgment paragraph 324), and similarly she did not put the allegation with respect to poor communication skills and safeguarding concerns (Issue 7.4) to the relevant witnesses either (see liability judgment paragraph 339). The same is true of allegation 7.6 which was not put to the witness (see liability judgment paragraphs 341, 344).

92. As regards Issue 7.7 regarding the requirement to put safeguarding reports through Wellbeing Manager, we are reminded that we found that the Claimant had not pursued this allegation with the witness nor indicated how this was even linked to her race (see liability judgment paragraph 350).

93. As regards Issue 7.8 regarding Mr West declining to allocate the Claimant Enrichment Lessons to the Claimant, we are reminded that the Claimant had accused Mr West of this conduct and then accepted in the hearing he had not made the decision, therefore the Respondent says that he was a further unnecessary witness bringing the total to six. (see liability judgment paragraphs 351-358). Ms Grennan says that the Claimant knew everything she needed to know about the allegation at the time of the events and she had the responses from day one, and it would have been immediately obvious that the Respondent had not done anything wrong had the Claimant gone about it sensibly. We are told that evidence needed to be prepared for the witness to defend a hopeless claim, and one which, like other complaints, the Claimant failed to put the allegation to the witness.

94. Finally with respect to Issue 14.2 concerning allegations that the Respondent had informed prospective employers that the Claimant's communications were unprofessional, we are reminded yet again that this was not put to the witness and we are told that significant expense was incurred in preparing witness evidence.

95. Ms Grennan argues that all of the above came at considerable cost to the Respondent but they should not be borne by the school, and the complaints either had no reasonable prospects of success, or were not pursued in anything resembling a reasonable manner, and if a party does not put their case to a witness they cannot expect the complaints to succeed. Ms Grennan says that in addition to relying on all the above for the application under Rule 74(2(b) they are also relied upon under Rule 74(2)(a) as well. Ms Grennan argued that the Claimant had not just met the costs threshold, but she has met it by a mile.

96. Ms Grennan said that the Claimant had been warned about these complaints time and time again but the Respondent ended up having to defend them. In addition Ms Grennan says that it would be open to the Respondent to apply for its entire legal costs however it wished to take a proportionate approach and apply for a limited portion of its costs of defending the complaints, and it asks for the costs of up to 30-35% of defending the entire claim, which is roughly calculated on the basis of the six witnesses which it says were not needed as the complaints were not put to those witnesses.

Vexatious, abusive, disruptive or otherwise unreasonable conduct of proceedings – Rule 74(2)(a)

97. The Respondent relies upon the same matters under Rule 74(2)(b) for its application under Rule 74(2)(a). In addition, the Respondent refers to what it says is disruptive and unreasonable conduct on the part of the Claimant, up to and including the final hearing, including things done by her in order to harass AB which was vexatious conduct. The Respondent says that the original hearing did not complete in the original trial window due to the Claimant's conduct which caused wholly unnecessary delays through the hearing.

98. The Respondent refers to paragraphs 17-78 of the liability judgment where I set out in detail what had happened during the hearing each day, recording the amount of time lost and wasted due to (i) the Claimant's wholly

unnecessary and unmeritorious repetitive applications which took up substantial hearing time; (ii) wholly unsubstantiated allegations made during the course of the final hearing which required adjournments in order to clarify matters; and (iii) repeated failure to comply with my directions on how to conduct herself during the hearing.

99. The Respondent says that there was ample time to deal with the evidence in five days in a case concerning only five months of employment with the Respondent. The Respondent says that going part heard was for the benefit of the Claimant notwithstanding her conduct was the cause of going part heard, and this is not a benefit given routinely to those who delay, and this caused additional costs to the Respondent, comprising counsel fees and solicitor costs, as well as the additional cost of the sixth day, together with the cost of producing purely written submissions.

100. The Respondent says that the Claimant was warned about her conduct and issued with a costs warning from me during the hearing but all of these went unheeded, and every day there were more applications from the Claimant and more delays caused by her, and that the conduct identified in the liability judgment at paragraphs 17-78 easily meets the threshold of unreasonable conduct of litigation under Rule 74(2)(a).

101. As to the costs being sought, the Respondent says that it is seeking the whole of its legal costs incurred due to the fact of the final hearing going part heard after day five of the final hearing on 12 October 2024 and then being relisted for an additional sixth day on 9 January 2025.

Costs order dated 16 April 2024

102. The Respondent draws our attention to paragraph 202 of the preliminary hearing judgment of Judge Green where the judge summarises the Claimant's behaviour:

"The claimant has not displayed these standards of expected behaviour. Having reviewed the evidence, which is voluminous, I have no doubt in finding that the claimant's conduct, taken as a whole, was scandalous and unreasonable. Her behaviour was clearly motivated by the desire to cause the respondent and a number of individuals, including key witnesses, as much inconvenience, distress, embarrassment and expense as possible. She has embarked on a multi-faceted campaign of harassment, threatening and intimidating behaviour including making unsubstantiated allegations to the police concerning Mr. AB' behaviour. The claimant has attempted to have Mr. Dart removed from his position of Chair of the Board of Governors and she has accused Mr. Hudson of threats of violence and fraud and has made very serious allegations to third parties including professional regulators. Her behaviour towards VWV has also been hostile and intimidating including reporting named individuals in that firm to the SRA in circumstances that have been motivated by her anger that VWV were not prepared to stop acting for the respondent's key witnesses rather than having any underlying merit as to the substance of an allegation of professional misconduct."

103. We are also referred to paragraph 208 of the judgment where Judge Green sets out the reasons for making a cost order against the Claimant:

"I now turn to the respondent's costs application. In so doing, I am mindful of the fact that the claimant is a litigant in person. Notwithstanding this, the overwhelming body of evidence concerning the claimant's behaviour justifies its characterisation as being abusive, disruptive and unreasonable in the manner in which the claimant has conducted these proceedings. Consequently, the costs jurisdiction is engaged. I find that given the egregious, multifaceted and sustained nature of the claimant's behaviour, it would be appropriate for the Tribunal to exercise its discretion in awarding costs against the claimant. In her closing submissions, Ms Grennan acknowledged that it would not be practicable for the Tribunal, at this hearing to determine the amount of any award. There was simply no time to do so. I agree. This is something that will have to be dealt with by the Tribunal at a later date, either at a separate costs hearing before the final hearing, at the final hearing or after the final hearing."

104. We are referred to the following sections of the preliminary hearing judgment where Judge Green based his above conclusions on the Claimant having undertaken the conduct listed below.

Conduct	Paragraph number of Judge Green's judgment
The Claimant's correspondence with employees, officers and agents of the Respondent including the Respondent's potential witnesses, ignoring requests not to contact witnesses direct – 23 incidents identified	22-24, 163
Unfounded allegations of insurance fraud, conspiracy to defraud and misappropriation of public funds; allegations of fraud against Mr. AB	26-28, 167-170
Unfounded allegations that Mr. AB threatened the Claimant with physical violence online and the suggestion that Mr. AB may be incited to violence against the Claimant	39-45, 171-175
Unfounded allegations of faking and modifying evidence, including accusing the Respondent's solicitors of tampering with the evidence	46,-58, 176-179

Derogatory, misleading and/or defamatory comments to third parties	59-61, 180-181
Allegations that the Respondent, Mr. Hudson and Mr. Dart are defying Department for Education Regulations	63-70, 182-183
Rude, aggressive and threatening communications to and/or about staff	71-77, 184
Abuse of the Tribunal process - claims not within jurisdiction of the Employment Tribunal	78-86, 189, 193, 195, 198
Unreasonable conduct of proceedings - Claimant's disclosure	87-100, 198
Unreasonable and vexatious conduct towards VWV	102-107, 200
Acting with malicious intent to threaten, harass and intimidate, with actions that were designed to cause stress and anxiety	44-45. 61, 70. 166, 167, 170-175, 181, 183, 202, 205

105. As to the value of the costs, the Respondent invites us to make an award of the whole of the costs incurred by the Respondent as a result of the conduct listed in the table above, subject to a detailed assessment, on the basis that there is no other possible way of adequately compensating the Respondent for the legal costs incurred due to the conduct referenced above.

106. As to the question of the Claimant's ability to pay, the Respondent says that the Claimant has had numerous opportunities to evidence her means, particularly so by the very detailed letter I directed to be sent on 4 November 2025 where I reminded the Claimant that if she does not provide evidence of her means then it cannot be taken into account. The Respondent says that the only evidence from the Claimant is the EX 107 form (for the transcript) which is two years old and out of date, and no evidence of means has been provided. The Respondent says that if we were minded to consider the Claimant's means that we should look not just at what we know of the Claimant's means now, but also look to the Claimant's future potential means – the Respondent relies upon the judgments in ***Arrowsmith*** and also ***Vaughan*** in this regard.

107. As to the method of calculation of costs, the Respondent invites us to order that they be assessed on the indemnity basis on account that the

abusive and unreasonable conduct has been so extreme that it has taken the situation away from the limited number of cases where costs orders are made, into a separate category – reliance is placed on the judgments in ***Howman*** and ***Beynon***.

Claimant's submissions

108. The Claimant delivered her oral submissions on the afternoon of 28 April 2026.

109. Much of the Claimant's oral submissions did not address the Respondent's application for costs and instead consisted of the Claimant rehearsing historic grievances against the Respondent and its lawyers, and also against previous Employment Judges. I repeatedly reminded the Claimant to focus her attention on the cost order of Judge Green and the Respondent's second cost application, however the Claimant did not heed the guidance.

110. We took into consideration that the Claimant is a litigant in person, and when she was repeating her complaints about the Respondent she was, in effect, trying to tell us that she thought that she had legitimate grounds of complaint in the first place.

111. The Claimant told us she did not have a choice but to bring the claim as she had been out of work for three years which she said was due to the Respondent's reference. The Claimant said various laws had been broken, and not just employment law but also statutory guidance for schools. I attempted to explain to the Claimant that guidance is not the law, and moreover we do not have jurisdiction over that matter, however the Claimant appeared to reject this and carried on regardless.

112. The Claimant said it was the Respondent's choice and not hers to bring the number of witnesses that it had. The Claimant then sought to distance herself from the complaints she had brought by suggesting that it was Employment Judge Tynan at an earlier preliminary hearing who had helped to put the claim together and the Claimant told me that she did not consider the conduct of the witnesses as racism but that she was illustrating the culture of the then head teacher. The Claimant agreed that the people she had accused of not responding to her emails had come to see her in person, and whereas she admitted saying in the liability hearing that Ms Jones had been above reproach, the Claimant said that she had misrepresented facts to the Tribunal.

113. The Claimant referenced her complaints to the police which she said she had not wanted to trouble them with, however she said they had told her to hold fire with some evidence, and she said that a statement produced by a police sergeant referred to in the proceedings had been riddled with errors. The Claimant complained that she had been prevented from bringing or presenting her evidence about the alleged police investigation.

114. The Claimant said it was true that she was not effective at questioning AB in the hearing which she attributed to aphasia, and she then went on to reference other matters concerning him which Judge Green had previously told her could not be pursued.

115. As regards the complaint about misspelling her name, the Claimant disagreed with the finding that this happened once as she explained that after the hearing she identified other occasions when it had happened and that it has lasting consequences upon her as it prevented her from doing her job for a month.

116. As regards the complaint about being required to file reports using Wellbeing Manager, the Claimant appeared to misunderstand her own claim as she told us she had reported risks directly to the manager.

117. The Claimant repeated that she did not think that the Respondent's witnesses were racist, rather she said her complaint was that they did not have policies in place to address unconscious bias – again this was not the claim the Claimant had pursued.

118. The Claimant argued that the Respondent should not be using its funds to pay for legal representation, and she made further criticism of Judge Tynan for removing Mr Hudson as a named Respondent. Criticisms were made of Judge Green, the Claimant accused him of over reliance on the issue of insurance as he mentioned it, she said, 33 times in his preliminary hearing judgment. The Claimant accused Judge Green of failing to deal with things she had raised such as missed deadlines and disclosure issues, she said had been prevented at the preliminary hearing from cross examining witnesses, and he did not deal with her allegations that the Respondent had tampered with evidence.

119. Whereas the Claimant criticised the Respondent for calling too many witnesses, she also told us she never agreed to a hearing estimate of five days, rather she said she was not able to say how long the case needed. The Claimant said she was accused of having a malicious intent but her goal was to try and get a job yet she had been accused of sending unprofessional communications.

120. The Claimant then made the outrageous and scandalous comment about the Respondent's counsel's hair which I directed to her withdraw, following which the Claimant burst into laughter. I directed the Claimant to take the proceedings more seriously, after which the Claimant complained that she had been named in an article by the Independent newspaper – this had absolutely no relevance either to the Respondent's cost application.

121. The Claimant accused the Respondent's solicitors of leaving out her evidence, and she alleged I had refused to allow her evidence. The Claimant referred to being asked by the Respondent's solicitors to cease contacting the Respondent's witnesses direct, and this is something which Judge Green referred to in his judgment. The Claimant denied that she had done so, she told me that when she left the Respondent she was locked out of the domain so did not have access to ways to contact them so she had not done so.

122. The Claimant then referred me to an email of 23 December 2023 which she suggested showed she was not threatening witnesses, and in doing so she drew to my attention that she had written to one of the Respondent's witnesses direct during the life of the claim. When I put this

to the Claimant, the Claimant denied that she had contacted anyone. I reminded the Claimant that this was an email from her home address to the Respondent's witness after the claim had started, and the Claimant told me that it was not contact as she had put in the email that the witness did not have to reply if she did not want to, and furthermore her emails were blocked so the witness never received it.

123. The Claimant accused Employment Judge Warren of writing up Judge Tynan's case management orders, and she complained that the Respondent had referred her to the ICO for retaining its data. The Claimant repeated allegations that the Respondent's solicitors had tampered with evidence and her evidence was disallowed, and she denied that any of her claims had been vexatious.

124. The Claimant criticised the Respondent for what she described as its cleverly orchestrated order of witnesses which prevented her from asking questions she wished to ask, and she criticised me for not recalling one witness. The Claimant repeated a third time that she did not think that the Respondent's witnesses carried out acts of "direct racism" rather she said that the complaint was that the Respondent did not enforce good communication.

125. I raised with the Claimant that she had in fact pursued allegations of direct race discrimination, the Claimant replied that she only accused Mr Hudson of direct bias and she did not know the mindset of the other 13 witnesses. I asked the Claimant if she was saying that there was a problem with the list of issues which she had previously agreed, to which the Claimant criticised me and previous judges of refusing her amendments to the claim and forcing her to stick to the list of issues.

126. The Claimant started to repeat complaints of delays with witness statements and evidence being left out, and that the Respondent would not agree facts with her.

127. The Claimant concluded that she was just a person trying to understand the process; being able to type does not mean that she is not disabled; it was absurd to apply for costs against her and the sums claimed were also absurd; and this was about a grievance process not being followed.

Conclusions

128. We will start with the Respondent's second application for costs (dated 11 April 2025) and go through the three stage test.

Stage one – are the grounds made out?

129. We start with whether the claim or parts of it had no reasonable prospects of success under Rule 74(2)(b).

130. Within issue 7.1 the Claimant had alleged that the entire drama department, including Amy Jones and Ben Coleman, had not responded to her offers to help with the drama department at the outset of her employment. This was alleged to have been direct race discrimination as

well as harassment related to race. The factual premise of that complaint was not established as those individuals had either replied to emails or spoke to the Claimant in person or the emails did not necessitate a response. We found the complaint to be totally without merit and in the costs hearing the Claimant accepted people had spoken to her in person.

131. This is a claim the Claimant would have known from the start was going to fail as she knew that she had received responses, and the Claimant did not even put the discrimination allegation to the witnesses. It is a claim which should never have been brought in the first place, and it is a claim which has materially increased the Respondent's legal costs, and whereas two witnesses were called to deal with it, a number of the other witnesses also had to provide disclosure and address the complaint in their statements together with their other evidence to us.

132. Within issue 7.3 the Claimant alleged that there had been persistent mistakes in the spelling of the Claimant's name by the Examination Department in the first half term of her period of employment with the Respondent. This too was alleged to have been direct race discrimination and harassment related to race. This is another claim where the factual premise had not been made out. There was one typo on one occasion, and it had nothing whatsoever to do with race, and moreover the Claimant's surname had nothing whatsoever to do with her own race. This is a complaint which was not put to the witness as an act of discrimination or harassment, and it was a wholly unreasonable and disproportionate response to accuse someone in the Employment Tribunal of discrimination and harassment due to one simple typing error. The Respondent was put to legal expenditure of preparing a witness and providing evidence for a complaint which was not even properly pursued before us, and again we marked this complaint as being totally without merit.

133. Within issue 14.1 the Claimant accused AB of flirting with her, for example suggesting that she should teach him salsa, and on her sending a text message making clear that she rejected his advances, AB thereafter avoided her. This was alleged to have been harassment related to sex and direct sex discrimination. We recorded in the liability judgment that the Claimant's presentation of the complaint had been quite extraordinary.

134. The Claimant never explained what this alleged flirtation as said to be; it was never even put to AB who had to attend the hearing in a very anxious condition due to the Claimant's behaviour; we found that AB had never asked the Claimant to teach him salsa; and the evidence quite clearly showed the Claimant repeatedly pursuing AB even when (i) he stopped engaging with her; and (ii) he politely but directly asked her to cease contacting him unless it was an emergency. The Claimant's response to dress up mundane and irrelevant matters as emergencies when they were nothing of the sort and when they did not concern AB in the first place.

135. The Claimant wasted the whole of the cross examination with AB asking him totally irrelevant matters, including whether he liked sushi. The Claimant's behaviour towards AB was deeply troubling, and her closing submissions referring to their relationship as a marriage, when in fact they were line manager and subordinate, was very revealing to us. This complaint was totally without merit, and again it materially increased the

Respondent's legal costs by having to address it in AB's witness statement and providing disclosure, as well as taking up tribunal time hearing cross examination on totally irrelevant matters. It was an abuse of process to have brought this claim in the first place as the Claimant pursued the complaint knowing it was untrue from the start.

136. Within issue 7.2 the Claimant alleged staff did not reply her emails, and Ms Jones was one of those people. This was alleged to have been direct race discrimination and harassment related to race. In the hearing the Claimant failed to put the allegation of discrimination to Ms Jones, and instead she told us that she had replied to emails and was beyond reproach. The Respondent was put to unnecessary legal expenditure in producing her witness evidence. The Claimant failed to put this allegation of discrimination and harassment to the other witnesses who had been named, and again legal costs were incurred to address allegations which were not even pursued at the final hearing. Ms Jones was a witness who had to be called to give evidence to deal with a complaint which was destined to fail at trial.

137. Within issue 7.4 the Claimant had alleged that Mr Hudson had accused her of having poor communication skills and that she had violated safeguarding, this was also alleged to have been direct race discrimination and harassment related to race. The factual premise of the complaint was not made out, and moreover the Claimant did not even put this to the witness as an allegation of discrimination – rather it was pursued as being unfair.

138. The Claimant would have known from the start, by reading the documents already in her possession at the material time, that she had not been accused of these things, rather the concern related to specific pieces of the Claimant's professional correspondence.

139. As regards safeguarding concerns, it would have been obvious from the start of the claim that this complaint was also destined to fail as the Claimant knew she should report safeguarding concerns on Wellbeing Manager. The Claimant knew she had not done so, and it would have been apparent to any reasonable person prior to filing the ET1 why the Respondent would have raised this an issue, and why it had nothing whatsoever to do with her race. Again, this was not put to witnesses as an allegation of discrimination.

140. With respect to Issue 7.6 where the Claimant alleged that Mr Hudson wrongly informed prospective employers during her period of notice that her communications were unprofessional, the factual premise of the complaint was not made out as it never happened, and the Claimant would or should have known from the start that there was no evidence at all of Mr Hudson having ever done anything of the sort. Again, the Respondent was put to legal expenditure defending a claim the Claimant would have known was destined to fail.

141. As regards Issue 7.7 regarding the requirement to put reports through Wellbeing Manager, the Claimant did not put this to the witness as an allegation of discrimination, rather the Claimant spent the hearing time arguing that she disagreed with the requirement - this was a totally different matter. The Claimant would have known from the start that this requirement

to put safeguarding concerns on Wellbeing Manager applied to everyone and not just her, and it had absolutely nothing whatsoever to do with her race.

142. Likewise with respect to issue 7.8 regarding Mr West declining to allocate Enrichment Lessons to the Claimant, the factual premise of the allegation was not made out as we found that Mr West gave the Claimant positive responses to each request. We found that the reason they were not pursued was because the Claimant did not take the matters further due to her resignation, having only been employed for some five months. The Claimant would have known this from the start of the claim that Mr West had not done what he was accused of, and the Claimant should have realised that this complaint was also destined to fail. I even gave the Claimant the opportunity to withdraw the complaint mid-hearing when she accepted that Mr West had not done what he was accused of, however the Claimant declined to do so, and instead now complains about the order of the Respondent's witnesses. Mr West was yet another witness who had to be called to give evidence to deal with a complaint which was destined to fail at trial.

143. The Claimant is a litigant in person and she is not to be judged as having the same knowledge and experience (or indeed the same resources) as a lawyer, however the Claimant is clearly a highly intelligent professional, and she would have or should have realised before filing her ET1 that these complaints were going to fail as she knew that the factual premise for these complaints did not exist, and moreover there was no relationship to her race, or to her sex.

144. This is not simply a case of someone being misguided, or making a few simple mistakes. The case was the subject of detailed and careful case management where the issues were discussed before a judge; the issues were produced well in advance of the final hearing; and the Claimant had ample opportunity to think about the merits of the complaints however she chose to take them all the way to trial.

145. The Respondent had no choice but to prepare the number of witnesses that it did to deal with each allegation raised by the Claimant. We agree that at least six witnesses were required to attend the hearing to give evidence to address complaints which were destined to fail, and these witnesses are:

Amy Jones (Issue 7.1)
Ben Coleman (Issue 7.1)
Jeanette Jones (Issue 7.2)
Mary Bitcliffe (Issue 7.3)
George West (Issue 7.8)
AB (Issue 14.1)

146. We therefore find that at least 35% of the claim had no reasonable prospects of success and that the Claimant should have known from the start, which is at the time of filing her ET1, that those complaints were destined to fail.

147. We will now consider whether the Claimant conducted these proceedings vexatiously, abusively, disruptively or otherwise unreasonably under Rule 74(2)(a).

148. We find that in pursuing all the above allegations, which we have found to have had no reasonable prospects of success, also amounts to conduct which was unreasonable as the Claimant pursued them in the knowledge that the factual premise would not be established at a final hearing.

149. With respect to the allegation of flirtation against AB which was alleged to be harassment related to sex, this complaint was pursued not only in the knowledge that it was untrue, but also with the purpose of continuing to harass that witness in these proceedings. This is a particularly serious matter, and it amounts to an abuse of process of the Employment Tribunal, and it was vexatious to have brought it and to have persisted with it.

150. It is a complaint which should never have been brought as there was no truth in it, and the Claimant knew that AB had never flirted with her – rather she knew that AB had asked her to stop contacting him but she persisted in doing so, and then having been asked not to contact him, she complained about him to the police (described by Judge Green as weaponising the police against him) and then pursued him and continued to harass him by way of these Tribunal proceedings in the knowledge that he had not done any of the things he was accused of.

151. The impact upon AB of this treatment by the Claimant was severe and it was plain to see – he was unable to attend the hearing in person and had to be accompanied even giving evidence online, and he appeared visibly distressed.

152. Within the liability judgment the Tribunal took the highly unusual step of setting out in careful detail the events of each hearing day because of the manner in which the Claimant chose to conduct herself, and persisted in doing so despite (i) the abundantly clear warning about her conduct from Judge Green; and (ii) the warnings I gave the Claimant throughout the hearing. This conduct was recorded at paragraphs 17 to 78 of the liability judgment which are incorporated below:

> 17. *Having read the contents of the April 2024 judgment, the warning to the Claimant by Judge Green about her conduct could not have been more clear. The Claimant could not have been in any doubt about how she should conduct herself going forward. As indicated above, the Claimant repeated that behaviour throughout this hearing. Accordingly we find it necessary to provide a summary of the conduct of the hearing not least because we have observed for ourselves the Claimant's clear propensity to provide a misleading account of matters. This inevitably increased the length of this judgment and the amount of time taken to produce it.*
>
> ***Hearing day one – 7 October ~~2023~~ 2024***
>
> 18. *At the start of the final hearing we were provided with an unagreed bundle of documents of 1137 pages from the Respondent, together with 16 witness statements, 14 of which were for the Respondent, and 2 for the Claimant. We were also provided with an electronic copy of a bundle of documents of 245 pages from the Claimant which she had sent to the Tribunal via Dropbox which is not a link which we use. The Respondent assisted us by downloading the bundle and then forwarding it on to us. I then printed that myself for the Claimant to use at public expense.*

19. *I asked the parties to confirm that the List of Issues remained as it had been identified by Employment Judge Warren. The Respondent confirmed that it was, the Claimant said that it was not. When asked in what way the list was inaccurate, the Claimant appeared to suggest that she wished to amend her claim at the start of the hearing. I attempted to explore with the Claimant what the amendment was, however after spending some time discussing this with her the Claimant appeared to be saying that there were amendment applications which had not been dealt with and she told me that Employment Judge Green had not given her the opportunity to speak at the previous hearing. Having checked the summary of that hearing that did not appear to be the case. I therefore gave the Claimant the opportunity to send the Tribunal her outstanding application(s) by 12:30pm that day and the Respondent would have until 1pm to provide a response. The hearing was adjourned before midday for the Tribunal to commence reading in.*

20. *We were provided with witness statements from the Claimant and Ann-Kathrin Latter. Ann-Kathrin Latter did not attend as a witness to give evidence and the Claimant told us that they were not in contact. We explained that we may place little or no weight on a statement if the author does not attend the hearing to be questioned which the Claimant noted. Having read the statement it was of very little relevance to the issues in this case dealing only with alleged possible flirtation but not in the context of Issue 14.1 where flirtation by AB is alleged, and the Claimant made no reference at all to the statement in evidence or her cross examination of the Respondent's witnesses. We have therefore decided to place no weight on the statement.*

21. *At the start of the hearing the Claimant sought permission to amend her statement to include an addendum which already appeared in the hearing bundle. The Respondent objected to this amendment pointing out that the addendum related to the matters which Employment Judge Green had dealt with in his judgment and Case Management Summary of 9 April 2024. The contents appeared to be part of the reason why the Claimant had been issued with a costs order (yet to be quantified). In short the addendum had no relevance to the claim which were dealing with and we therefore rejected the Claimant's application.*

22. *We were provided with witness statements for the Respondent from Amy Jones (Head of Drama and PSHE), Ben Coleman (Teacher of Drama), Carly Flanagan (Deputy Head of Sixth Form and Designated Safeguarding Lead and Teacher of Modern Languages), David Hudson (Headteacher – retired), George West (former Head of Year, and also Biology Teacher), Jason Skyrme (Head of Sixth Form, Associate Headteacher and Designated Safe Guarding Lead), Jeanette Jones (School Finance Administrator and Payroll Officer), AB (Head of Computing and Claimant's former line manager), Dr Marcella McCarthy (Deputy Headteacher and Designated Safeguarding Lead), Martin Farrell (Associate Assistant Headteacher and Designated Safeguarding Lead), Mary Biltcliffe (Exams Manager), Michelle Taylor (Assistant Headteacher), Philip Dart (Chair of Governors), and Sally Kay (Assistant Headteacher).*

23. *During this hearing the Respondent made an application to permanently anonymise the name of the Claimant's former line manager. The basis of the application was that public disclosure of unfounded allegations made by the Claimant against him has caused, and continues to risk serious harm to his reputation, career, and well-being. The Respondent argues that this harm engaged his right to privacy under Article 8 of the European Convention on Human Rights ("ECHR") and that this risk outweighs the public interest in disclosure.*

24. *The application related to the April 2024 judgment which had already appeared on the Tribunal website for a short period of time. I notified the parties that I would need to pass it to Judge Green to deal with and I indicated that if the Claimant wished to object she should write to the Tribunal. The Claimant did not object and Employment Judge Green considered the application and granted it on 16 October 2024 and provided the parties with written reasons why he had done so. These are not duplicated here.*

Hearing day two – 8 October ~~2023~~ 2024

25. *The Claimant failed to send us her outstanding applications to amend. The Claimant simply forwarded on the Respondent's letter of objections*

of 20 October 2023. This is not what the Claimant was asked to do. At the start of day two I asked the Claimant why she had not complied and she implied that the Tribunal waiting room was too noisy. In order to assist, the Respondent sent us the Claimant's applications of 5 September 2023 and 29 February 2024 which the panel reviewed.

26. *At the start of the hearing on Tuesday 8 October 2024 we dealt with the Claimant's applications to amend. It was not clear if these were in reality outstanding as Employment Judge Green had dealt with an application to amend (to add two Respondents) on 9 April 2024 which he refused.*

27. *Nevertheless, and in order to satisfy ourselves that the Claimant's applications had been considered, we checked that these were the applications which the Claimant wished to make, and we confirmed that the Respondent's objections of 20 October 2023 still stood. We then considered the Claimant's applications and provided her with full oral reasons at the start of the hearing, setting out why the applications had been refused.*

28. *For the sake of completeness, we have set out the reasons for refusing those applications at Annex 1 to this judgment. We make it clear that there were grounds to conclude that the Claimant had not actively pursued those amendment applications as she could have raised all of them with Employment Judge Green on 9 April 2024. Nevertheless, we gave the Claimant the opportunity for those amendment applications to be considered fully by this Tribunal.*

29. *Throughout the hearing the Claimant made repeated complaints that the Respondent had failed to deal with her subject access request. The Claimant had already been made aware by Employment Judge Warren the difference between a subject access request and disclosure in the Employment Tribunal and the Judge recorded how the Claimant should go about obtaining missing documents, with the ultimate option of making an application for specific disclosure. The Claimant did not do so and we were satisfied that the Respondent had complied with its disclosure obligations. We note that Employment Judge Green also made the Claimant aware that we do not have jurisdiction over subject access requests, it is clearly set out in his judgment of 9 April 2024.*

30. *The Claimant made repeated allegations that the bundle had not been agreed, although having heard from both parties it was clear to us that the Respondent had tried repeatedly to agree it with the Claimant and ultimately had to finalise it without her agreement. We accepted the Claimant's 245 page bundle which she referred to as the "missing items" bundle but it transpired throughout the course of the hearing that many of the documents already appeared in the hearing bundle prepared by the Respondent and the Claimant had simply not looked for them. None of the other documents in the Claimant's "missing items" bundle had any relevance to the issues in the claim and it appeared that it had been appropriate for the Respondent not to have included them.*

31. *Throughout the hearing the Claimant appeared averse to using the hearing bundle (referring to it on one occasion as "Miss Grennan's bible") and instead relied upon her own "missing items" bundle, and the Claimant routinely failed or refused to give witnesses page numbers of documents she was questioning them on if they appeared in the bundle prepared by the Respondent. This meant that I or the Respondent (or the witnesses themselves) would have to find the page references so that witnesses could see what they were being questioned about. The Claimant also made a totally unsubstantiated allegation that the Respondent had interfered with or doctored her missing items bundle in some way – it was not explained why the Claimant believed that to be the case and in any event it was untrue.*

32. *The Claimant informed us that she had an additional bundle of documents for the hearing amounting to 1,000 pages. The Respondent objected to the provision of 1,000 pages more of documents. I explained to the Claimant that I would not have time in the hearing to read 1,000 pages but if she wished to review the bundle and to give us the documents she needed us to see which are not already in the hearing bundle we would consider them and their relevance. The Claimant complained in the hearing, and subsequently in writing, that I had told her to read a 1,000 page bundle of documents over lunch. That is not what I advised the Claimant to do and it is misleading to suggest that I did. I advised*

the Claimant that if she wanted us to see something then it would be for her to source it and to provide it to us and that it falls to her to do so.

33. *The Claimant also complained that the Respondent had provided its witness statements to her late, on or around 20 September 2024 whereas they were due on 19 January 2024. The Respondent says that the delay was the fault of the Claimant as she refused to agree a bundle with them, and then she did not engage on the exchange of statements, it therefore unilaterally sent the Claimant the Respondent's statements.*

34. *Having listened to the parties and having read the judgment of Employment Judge Green, we were satisfied that the Respondent had complied with Tribunal directions as regards the exchange of witness statements and that it was the Claimant who had failed to engage and who had caused delays.*

35. *The Respondent had already obtained permission for one of its witnesses to give evidence remotely. The parties were not made aware until late on Friday 4 October 2024 that the hearing venue had been changed from Cambridge to Bury St Edmunds which was a considerable distance from where the school is based in Buckingham. The Respondent applied for ten of its witnesses to give evidence remotely due to the distance and the impact upon the school. The Claimant consented to the application and we therefore granted it.*

36. *We asked the Claimant if she wished to give evidence remotely due to the distance. The Claimant indicated that she wished to come in to the venue in person so we proceeded on that basis with the Claimant in person together with some of the Respondent's witnesses and lawyers.*

37. *The Claimant told us at the start of the hearing that she has shoulder pain, and suffers from stress and nervousness. We therefore agreed that we would make adjustments for the Claimant. We provided the Claimant with breaks throughout the hearing, and as the Claimant said her hearing bundles were too heavy to bring to the hearing she wished to use the E-bundle on her laptop, we also arranged for an extra table to be placed next to the Claimant where the hard copy bundles could be spread out if that made it easier for the Claimant. We also provided the Claimant with a spare set of the hearing bundles which the Respondent had produced at its own expense.*

38. *The Claimant then appeared to suggest that the bundles were too hard to open, and Ms Grennan agreed to go over and open the bundles for the Claimant. We also allowed the Claimant to use her laptop whilst giving evidence so that she could type notes and also use the E-bundle. It was brought to our attention that the Claimant had gone beyond this permission and was looking up extra documents on her laptop during her oral evidence and she was politely asked not to do so. The Claimant was able to type on her laptop very proficiently during her evidence and throughout the hearing, and we noted that she produced a long typed statement which she read on Friday 11 October for 90 minutes, and again she was able to produce written submissions of 29 pages on 9 January 2025.*

39. *The Claimant offered to provide us with medical evidence which we said was unnecessary as we would accept what she told us about her shoulder pain, her stress and her nervousness as we had no reason to doubt her. Nevertheless, the Claimant insisted that she provide them to us, therefore we accepted them. The Claimant subsequently applied for a written transcript of the hearing paid for at public expense and I refused that application on 10 December 2024. The reasons for refusing that application were provided to the Claimant in writing and are not repeated here save to note that I determined that a transcript at the public expense was not necessary in the interests of justice to ensure the effective participation of a vulnerable party or witness or by way of reasonable adjustments for a person with a disability. I was not satisfied that the Claimant is a vulnerable party, nor that she would likely meet the legal definition of disabled based upon the material before me, and I did not consider that a transcript at the public expenses is required to ensure her effective participation in proceedings.*

40. *The Tribunal was very troubled with some of the statements made by the Claimant. On one occasion the Claimant informed us that she had further documents which she had chosen not to disclose because they would impact a police investigation. These were apparently messages she claimed to have received on social media from "sock puppet" accounts which we asked the Claimant to confirm meant accounts with fake names.*

41. *When it was put to the Claimant by Ms Grennan that the bundle contained a letter from the police which said that there was no investigation as the Claimant had not engaged, the Claimant sought to tell us that there was an ongoing investigation. When pressed why the Claimant had not provided disclosure of these relevant documents, the Claimant told us that they were not relevant. The Tribunal was left baffled as to why the Claimant had mentioned them in the first place.*

42. *The Claimant also told us that she was worried whether the Respondent would still survive after all the defamation there would be of the school coming out of the issues in this case and in her appeal. It appeared to the Tribunal that this was some form of threat towards the Respondent, and it suggested to us a possibility that these proceedings were being used as a means to attack the Respondent for reasons beyond the subject matter of her claim. This also fitted in with much of the Claimant's answers in her oral evidence where she said that the Respondent's witnesses were kind or beyond reproach and that she was not accusing them of racism or sexism – notwithstanding that she had accused these individuals of direct race and sex discrimination, and also harassment.*

43. *We had sought to clarify with the Claimant at the start of the hearing what was the status of her appeal against the judgment of Employment Judge Green of 9 April 2024. The Respondent told us that it was concluded, the Claimant disagreed and said that it was active. Having reviewed the permission decision of His Honour Judge Barklem of 9 August 2024, it was clear that permission to appeal had been refused. The Claimant then told us that she was awaiting written reasons, however we noted that the permission refusal decision already included reasons. We further noted that the Claimant's appeal had been marked as totally without merit and as such she was not entitled to a Rule 3(10) oral hearing. We therefore satisfied ourselves that this hearing could and should proceed before us.*

44. *The Claimant started to give her evidence at 11:27am on day two of the hearing.*

45. *During her evidence the Claimant gave exceptionally long narrative answers which seemed to avoid answering many of the questions and often entering into a dialogue about the Respondent generally. Much of the Claimant's oral evidence did not relate to the legal issues to be decided, and did not relate to the matters which the Claimant had unsuccessfully sought to include as an amendment of her claim. The Claimant was repeatedly asked by Ms Grennan, and by me, to confine her answers to the questions which had been asked so that valuable time was not wasted. Eventually it became necessary for me to warn the Claimant that her long answers (many of which did not answer the questions) would impact the amount of time she might have to spend with the Respondent's 14 witnesses and that it was being said solely to help her so that she would have sufficient time available for her cross examination. The Claimant's response was that she was content as she would be concise with her questions and did not have many for the witnesses.*

Hearing day three – ~~8 October 2023~~ 9 October 2024

46. *At the start of day three we considered the Claimant's further application to amend her claim to include the following allegations which were alleged to be victimisation and harassment:*

46.1 Failure to rectify NQT training documents;

46.2 Failure to provide a statutory right to an assessment review within 20 days;

46.3 Failure to provide an accurate reference informed by NQT assessment;

46.4 Ongoing victimisation comprising rejection from 342 job applications, having attended 63 interviews, the Claimant says the Respondent must be providing some kind of verbal or written word that none of the prospective employers are willing to share with the Claimant; the Respondent refused to provide an assessment review commissioned by Michelle Taylor completed on

19 April 2023, but when provided it contained irregularities; and other matters contained within the Claimant's long narrative which could not be understood;

46.5 Failure to prevent sexual misconduct; and

46.6 Failure to address sexual misconduct

47. *After hearing submissions from both parties we determined that the Respondent would suffer the greater hardship and injustice if the application were granted, and accordingly we refused the Claimant's application. The reasons for doing so are set out at Annex 2 to this judgment.*

48. *Following the refusal of the Claimant's amendment application at 12:10pm the Claimant became annoyed and accused Ms Grennan of having "stared daggers" at her the day before. This was untrue and the Claimant was warned by me that this was an outrageous allegation to make.*

49. *The Claimant then alleged that Ms Grennan had made a vexatious complaint about her to LADO. We understand that this may have something to do with the Claimant allegedly having retained some data from the school. Ms Grennan denied making any referral to the Local Authority Designated Officer ("LADO") about the Claimant. The Claimant was again warned by me about her conduct. It transpired later in the hearing that the Claimant accepted that Ms Grennan had not made any referrals to anyone about the Claimant but that it had been someone else who had done so.*

50. *The Claimant then complained that she only had the Respondent's witness statements since 20 September 2024. The Claimant was asked if she had applied to postpone this hearing, the Claimant replied that she had not and I directed her to continue with her oral evidence.*

51. *The Claimant then complained that her amendments had been refused and asked what remedies I would give her. I explained that we were here to hear the claim she had brought comprising of the issues she had agreed before Employment Judge Warren previously. The Claimant indicated that she would not be able to obtain the remedy she was seeking and asked what was the point of carrying on. It transpired that what the Claimant was seeking was the amendment of her training records. The Claimant made reference to whistleblowing and it was explained to her that she did not have a whistleblowing complaint and I also explained the difference between the Employment Rights Act 1996 and the Equality Act 2010. The Claimant told me that she did not understand the difference between them.*

52. *It became clear that the Claimant was under the impression that the Tribunal had the power to order to rectification of her training records. This was an error on the part of the Claimant as we have no such power. The most which the Tribunal could have done if a relevant discrimination complaint succeeded (beyond an award of compensation and making a finding of discrimination), would be to issue a recommendation to the Respondent, we do not have the power to issue an Order rectifying the records. Moreover, we have no power to make recommendations in connection with whistleblowing complaints in any event. The Claimant had more than ample time and numerous opportunities to bring a claim for whistleblowing detriment or to amend her claim to included one but she had not done so.*

53. *The Claimant was repeatedly asked what she wished to do and she instead insisted that I tell her what her options were. As the Claimant refused to tell me if she intended to proceed with her claim I informed her that if she did not proceed with her claim then it would be dismissed with consideration of an application for costs. I then asked the Claimant if she wished to proceed to which she replied "I guess so." I asked the Claimant again and received the same response. The Claimant then informed me that she needed more time to prepare and I asked her to confirm if she was seeking an adjournment, to which the Claimant indicated she was and the Respondent indicated that it would oppose the application as we were on day three, the case was brought eighteen months earlier and it needed resolution especially for AB given the stress he was under caused by the Claimant's conduct of proceedings as recorded by Judge Green.*

54. *The panel then adjourned briefly to consider the adjournment request and upon our return informed the parties that it had been refused. This was on*

the basis that the claim had been listed for some time, it was ready for hearing, and we needed to get on and hear it. I then warned the Claimant about her behaviour which we had found to be disruptive.

55. *The Respondent then raised its own concerns. Ms Grennan referred to the Claimant's amendment application which included the reference to alleged sexual misconduct by AB, and she reminded us of Employment Judge Green's judgment where he had found the Claimant's purpose in making that allegation had been to harass AB. Ms Grennan asked me to warn the Claimant to stick to the list of issues and that she must not do anything to intimidate witnesses and that if she does so Miss Grennan would apply for a strike out of the claim.*

56. *I issued the Claimant with that warning as it was clearly set out within Employment Judge Green's judgment that the purpose of the allegations about criminal acts by AB had been to intimidate him, and Judge Green had issued the Claimant with a clear warning about her future behaviour. I directed the Claimant to comply with the previous order from Judge Green about her future behaviour.*

57. *I also told the Claimant that her comments the day before that the school would be defamed in these proceedings, had been a threat on her part and that she must not make any further threats to the Respondent or its witnesses for the remainder of the hearing, failing which the Tribunal would consider a strike out of its own volition.*

58. *I informed the Claimant that I was placing on record that her behaviour this week had already met the threshold for consideration of a second costs order for unreasonable conduct of proceedings and I asked the Respondent to send to the Claimant the extract from Judge Green's judgment which Ms Grennan relied upon.*

59. *After lunch the Claimant said that she had not received the extract therefore did not know what criminal complaints were being referred to. I asked her to look at the judgment which was on Ms Grennan's screen which showed the extracts which I have summarised below which she should avoid raising again:*

59.1 Allegations that AB used a sock puppet account to contact her or made threats of physical violence or that there was or is any police report/investigation into the same; or

59.2 Any reference to AB having engaged in "sexual misconduct" when she has been very clear that she is not alleging sexual harassment.

60. *We could not start the Claimant's oral evidence until 2:14pm as we had spent the first part of the day dealing with the Claimant's applications and addressing her behaviour.*

Hearing day four – 10 October 2024

61. *Overnight the Claimant sent correspondence to the Regional Employment Judge and the Employment Appeal Tribunal about this matter. In one of her emails the Claimant alleged:*

"Also, Barrister for the Respondents sent correspondence to Judge Graham without copying Claimant, and Barrister for the Respondents was offered the direct email for the Bury St Edmunds Employment Tribunal whilst both Respondents and Judge Graham complained of the delay in getting Complainants emails."

62. *The Claimant's email was discussed with her at the start of the hearing. Ms Grennan pointed out that the Claimant had been copied in on correspondence and that the Claimant had replied to it. The Claimant said that she had been mistaken. The Respondent and its counsel were not offered an email address which was not shared with the Claimant. This was another misrepresentation by the Claimant and I again warned her about making allegations which she knows to be untrue.*

63. *The Claimant's oral evidence then continued at 10:42am. We then heard the oral evidence of AB by video whom we allowed to be accompanied by*

Michelle Taylor to sit with him during his evidence as a support due to the distress he was under. Ms Taylor took no part in AB's evidence which was completed that day. The Claimant repeatedly asked questions which did not relate to the legal issues to be decided in the case and I had to remind her on numerous occasions to focus on the issues we were here to decide, to keep her questions relevant, and to make good use of her time. The Claimant did not follow that guidance and the questions asked of AB had very little relevance.

Hearing day five – 11 October 2024

64. *We were due to continue with the Respondent's witness evidence on the start of 11 October 2024 however the Claimant asked to have a private preliminary hearing for case management. The purpose of the Claimant's request was unclear and the Claimant then read out a personal statement for up to an hour and a quarter which she had typed the night before. This personal statement of the Claimant had no relevance at all to the issues we were here to decide, and in any event the Claimant's witness evidence had already completed and we were due to continue with the Respondent's evidence. Within her personal statement the Claimant suggested she had started to suffer from early symptoms of a migraine the day before but she said it had not developed into a migraine. The Claimant said she was not long term disabled, but she wanted a closed judgment or a private judgment, that could be used elsewhere in other court proceedings, which found her either to be disabled or vulnerable. The Claimant asked for a transcript from the 9 April 2024 hearing at the public expense, although this had already been refused by Employment Judge Green.*

65. *I encouraged the Claimant on numerous occasions to resume the questioning of the Respondent however she maintained that she wished to complete her statement. During the remainder of this the Claimant conceded she had been wrong to accuse Ms Grennan of referring her to LADO and she also accepted that it was possible that Jeanette Jones did answer emails and she was someone who could be relied upon.*

66. *We resumed the Respondent's evidence shortly after 10:53am where we heard from Mr Dart, followed by Mary Biltcliffe, Sally Kay, Jason Skyrme, Jeanette Jones, and Ben Coleman. The Respondent had attempted to call David Hudson and Carly Flanagan however the Claimant objected to hearing them in that order, and whereas it was a matter for the Respondent who it calls and when, the Respondent was able to move witnesses around at short notice in order to help progress the witness evidence.*

67. *As we ran out of time to complete the Respondent's witness evidence we listed this for one further hearing date to take place on 8 January 2025 at 9:30am by video in order to give the Claimant sufficient time to question the Respondent and to minimise disruption to the Respondent school having so many staff have to travel the 86 miles to the hearing venue which would take in the region of two hours each way. The Claimant agreed this in the hearing on 11 October 2024.*

Hearing day six – 8 January 2025

68. *On 20 December 2024 the Claimant wrote to the Tribunal and changed her position as she had been refused a transcript at public expense and would need to make her own notes or have a note taker, she complained of delays with the Respondent's witnesses and suggested there was some connection issue with the video. The Claimant asked for the hearing to take place in person again, to which the Respondent objected as the arrangements had already been made at the school and it would be disruptive to the students' education to change it now, this had been agreed previously with the Claimant, and there was no reason why this would not be effective, and the Claimant had raised her objections very late for no good reason.*

69. *We refused the Claimant's application but offered to make the hearing hybrid so that the Claimant and her note taker could attend the hearing in person if she was concerned about their connection issues. The Claimant did not respond to that offer, and the hearing took place by video on 8 January 2025 as previously agreed. The Claimant arrived over 20 minutes late for the hearing and said she did not know it was due to start at 9:30am even though this had been done for her benefit and previously agreed with her. After the hearing the Claimant wrote to complain that the hearing had been by video, however we had*

made the offer of a hybrid hearing which she had not accepted. The Claimant no reference to that offer in her correspondence. The Claimant has also written to allege that her observers or notetakers were not allowed to join the hearing however that is untrue and she did not raise that during the hearing.

70. *At the start of the hearing at 9:53am the Claimant sought to rely on additional documents which she had not sent to the Respondent or the Tribunal. When asked why these had not been disclosed before the Claimant blamed the Employment Tribunal for not sending her a DUC upload link. The Claimant was repeatedly asked why these had not been disclosed during the entire life of the claim to which she again blamed the Tribunal for not sending her an upload link before changing her position to say that she was unable to do so as they related to a criminal investigation by the Police which she did not wish to prejudice.*

71. *The documents were eventually sent to us and comprised of two attachments of 47 pages each. I asked the Claimant which specific legal issue they related to. The Claimant could not tell me other than harassment generally, and she referred to the alleged threat to her on social media and her explanation for the late disclosure was that she did not wish to prejudice a criminal trial and she did not know until after the October hearing that the Police did not intend to investigate further.*

72. *The Respondent objected to their admission on the basis that they were incredibly late for no good explanation for their late disclosure, some of the documents appeared innocuous and they were all documents in the Claimant's possession, many of which were already in the hearing bundle, and the remainder were not relevant and some of which were messages sent to AB post termination of the Claimant's employment and the Respondent did not propose to seek to recall AB to give evidence again. The Respondent said it was not understood why the Claimant continued to press these matters as they were not relevant to the issues and that time continued to be wasted and inconvenience was being caused to the Respondent school.*

73. *The Tribunal considered the documents and noted that many of them were already in the hearing bundle, there was no legal issue to determine about an alleged threat to the Claimant on social media and therefore the remaining documents were not relevant, and moreover they had been disclosed far too late with no good reason as these documents were already in the Claimant's possession and she did not say she had been advised by the Police to withhold them. We also noted that Judge Green had already found the allegation about an online threat of violence was unsubstantiated, and had been raised in order to use the police as a weapon against AB and to threaten, harass, intimidate and bully him. We therefore refused to allow the documents to be admitted.*

74. *The oral evidence then recommenced at 11 am by which time one hour and a half hours of Tribunal time had been spent waiting for the Claimant to join the hearing and in dealing with her application. I then had to impose a timetable for the rest of the Respondent's witnesses as I had twice directed the parties to agree a timetable between themselves in advance of the hearing. The Respondent had complied with that direction and sought to engage with the Claimant who had failed to engage with the Respondent.*

75. *I allocated 75 minutes for Mr Hudson as his evidence was larger (and more central to the case) and then thirty minutes each for Martin Farrell, Amy Jones, Dr Marcella McCarthy, Carly Flanagan, and George West on the basis that their evidence was much shorter. I allocated one hour with Michelle Taylor from 4pm until 5pm as her evidence was slightly longer. The parties agreed with this timetable. The Claimant had full use of this time as the Respondent did not ask any re-examination. I suggested we have a half hour lunch rather than an hour in order to give the Claimant more time with the witnesses to which she agreed, and I allocated two breaks of up to fifteen minutes. The video connection worked well with no interruptions although we briefly logged out due to a minor delay on the feed.*

76. *The Claimant's questioning of the Respondent's witnesses remained unsatisfactory as she continually asked irrelevant questions of them (including how many male and female staff members have PhDs at the school), and repeatedly asking about AB's working pattern and when his hours of work changed. This was clearly an attempt to reopen earlier unsubstantiated allegations of fraud against AB which Judge Green had already been found to have been raised to bully, threaten and intimidate him, and I disallowed the*

questions. The Claimant also avoided using the hearing bundle and failed to provide witnesses with the page numbers of documents, and when asked to do so the Claimant declined and said that they could look it up later if they wished. The Tribunal found this to be unreasonable and obstructive and I issued the Claimant with a warning that I would disallow any questions about documents if she failed to give witnesses page numbers in the bundle as it was unfair on them to be questioned on historic documents without seeing them.

77. The Claimant also sought to mislead witnesses during her questioning by informing one witness (Dr McCarthy) that Mr Skyrme had admitted that he had applied an illegal policy at the school, and informing another witness that the Tribunal had already found the Respondent's other witnesses to be unreliable. Both of these statements were untrue, and I reminded the Claimant not to mislead witnesses in future. The Claimant's frequent misrepresentation of matters we had observed for ourselves did damage her credibility for us as we had seen first hand the Claimant's propensity to argue things which she knew were not true. This also did cause us to question how the Claimant may have presented at the material times during the course of her employment. Nevertheless we were mindful that the Claimant is a litigant in person, a tribunal hearing can be stressful and daunting, and it was not the Claimant's normal environment therefore her stress might be heightened.

78. The hearing ended shortly after 5pm and the Respondent was directed to provide written submissions by 12pm the following day, and we gave the Claimant until 2pm to provide hers. The Claimant complained that this was too short and that she would be saving some of her submissions for her appeal.

153. As paragraphs 17-78 of the liability judgment demonstrate, the conduct of the final hearing was incredibly challenging to manage given the manner in which the Claimant conducted herself, notwithstanding whatever assistance was provided for her, nor any warnings issued to her.

154. It is clear from the summary of the six hearing days that the Claimant wasted a considerable amount of hearing time with her long narrative answers which didn't answer the Respondent's questions and which she refused to curtail, instead informing me that she didn't need much time with the Respondent's witnesses as she would be concise.

155. Further time was wasted dealing with the Claimant's meritless applications to amend and which, in part, didn't make a great deal of sense as they appeared to relate to things we had no jurisdiction to consider in the first place.

156. The Claimant wasted further time challenging me on case management decisions the Tribunal had taken, specifically the refusal of her amendment applications, and at one stage the Claimant refused to tell me if she intended to continue with her claim, instead arguing with me and attempting to direct me to tell her what her options were.

157. The Claimant wasted further time seeking to introduce irrelevant material into the hearing bundle and referring to matters which Judge Green had told her would not form part of her case and had warned her about raising.

158. Much of the Claimant's questions to the witnesses were irrelevant, and the entirety of the cross examination of AB bore no relationship to the allegations against him, and the Claimant failed to put the allegations of direct discrimination and harassment to the witnesses. Whereas we have some sympathy with litigants in person who are unfamiliar with the process and may forget to put the case, or parts of the case, to an opponent's

witnesses, in this case I went to great lengths to remind the Claimant of the complaints she had brought and that she needed to put these allegations to the witnesses and to challenge those parts of their evidence which related to the issues, if she disagreed with it. The Claimant ignored my advice and instead continued pursuing matters not within the list of issues, usually neglecting to mention anything at all about discrimination or harassment.

159. Time was also spent, unnecessarily, addressing the Claimant's correspondence sent during the evenings to the Regional Employment Judge and the Employment Appeal Tribunal, where the Claimant made misleading allegations about the conduct of the hearing, including alleging that I had received private communications from the Respondent's counsel, or I had forced the Claimant to read a 1,000 page bundle over lunch. Further time was wasted having to repeatedly ask the Claimant to use the hearing bundle which she described as "Ms Grennan's bible" and having to find page numbers for the documents as the Claimant refused to give them to the Respondent's witnesses when questioning them.

160. In addition, further time was wasted warning the Claimant after she made a threat to defame the Respondent in the liability hearing and in her appeal(s); and also correcting the Claimant's misleading questions to witnesses where she told them that another witness had admitted breaking the law, or telling the witnesses that certain facts had already found by the Tribunal. This appeared to confuse the witnesses and it was necessary for me to spend time correcting those matters.

161. Further time was wasted listening to a mid-trial statement the Claimant insisted on reading out which, having listened to it, had nothing whatsoever to do with the issues in the claim but was intended to persuade us to produce for the Claimant some sort of judgment confirming that she was temporarily disabled which she appeared to want to use in some other litigation elsewhere.

162. Further time was unnecessarily spent on addressing whether there were any live appeals or a police investigation – in both situations the Claimant insisted that there were, however none of this was true. The appeal against Judge Green's judgment was refused permission and marked totally without merit, and there was no police investigation.

163. We therefore find that the totality of the matters summarised above, and captured in detail at paragraphs 17-78 of the liability judgment (pasted above) amounted to unreasonable and disruptive conduct of proceedings on the part of the Claimant, part of it was also vexatious, although the precise definition is immaterial – the conduct falls squarely within the meaning of Rule 74(2)(a).

164. We record for the avoidance of any doubt, there was more than sufficient time for the witness evidence to have been completed well within the five days of the hearing time, and the only reason the hearing went part heard to a sixth day (with written submissions having to be produced) was entirely due to the Claimant's unreasonable and disruptive conduct during the hearing itself.

165. We have kept clearly in mind that the Claimant is a litigant in person, but again we recall that she is a highly intelligent professional, and she was given a crystal clear warning from Judge Green before the liability hearing, and she was warned by me repeatedly during the hearing. Any reasonable litigant, notwithstanding their lack of legal training, would have understood and heeded those warnings, the Claimant did not.

166. We are left with the clear conclusion that the Claimant's conduct was intentional – it was not the sort of inadvertent error which a litigant in person may make on occasion. The Claimant's conduct within the hearing was unacceptable from the start of the hearing right up until its conclusion.

167. We further observe, as the record of this costs hearing shows, that the Claimant's conduct has not improved at all. The same pattern of behaviour is repeated now as before. The Claimant twice refused my direction to attend the hearing in person; the Claimant ignored my four directions to provide evidence of her means; the Claimant refused to tell me where she was and instead answered cryptically that she was in a place, although she later said it was an office being built in Milton Keynes; the Claimant was thoroughly rude and offensive to Ms Grennan by making personal remarks about her hair as well as the scandalous comment about the former head teacher; the Claimant sent misleading correspondence to the Regional Employment Judge during the hearing as she had done in the liability hearing; and finally the Claimant sought to blame everyone else for the present costs application – that includes the Respondent, the Respondent's solicitors (whom she still accuses of evidence tampering); and the four Employment Judges whom she has criticised.

168. We therefore find that the gateway to consideration of exercising our discretion to make a costs order has been met under both Rules 74(2)(a) and Rules 74(2)(b).

Stage two – should we exercise our discretion?

169. We remind ourselves that costs are discretionary, they are the exception and not the rule. We also remind ourselves to look at the whole picture of what happened in this case. We further remind ourselves that costs are intended to compensate – they are not intended to punish, and we have no power to punish people for their conduct – our focus is limited to compensating for wrongdoing and nothing further beyond that.

170. We have already recorded how much time was spent unnecessarily addressing complaints which had no reasonable prospects of success which would have been apparent from the start. We have also already recorded that the matter went part heard due entirely to the Claimant's conduct. The costs associated with those matters would have been significant.

171. We ask ourselves is it reasonable to expect the Respondent to bare the burden of the costs associated with those things when it was the Respondent which had complied fully with our directions, and which had complied with its duties to the tribunal including furthering the Overriding Objective. It is the Respondent, and its lawyers, which have shown

considerable patience and restraint, despite enormous provocation from the Claimant.

172. We compare and contrast the Respondent's conduct to that of the Claimant who has been unreasonable and disruptive throughout this process, not just in the liability hearing before us, but routinely throughout the entire litigation unabated. It has been near impossible to manage the Claimant's conduct as she will not comply with directions issued to her, and she ignores the clearest of warnings given to her – warnings which were designed to assist her as well as the Respondent, and to ensure that both sides had the fair hearing they were entitled to.

173. I went to great lengths on four occasions to remind the Claimant that we can take her means into account when dealing with the issue of costs. Means are something which we could take into account at this second stage of the process when deciding whether or not to exercise our discretion to award costs.

174. The Claimant has denied us the opportunity to do so. The contents of the EX 107 form which is in effect a two-year-old application for a transcript of proceedings paid for by the public purse, is not the provision of evidence of means. The Claimant's email in January 2026 that the position has not changed, is also not evidence of her means. The Claimant's comments mid hearing that she has not worked in three years and has no savings, is scant evidence of her means. No documents were provided, for instance a bank statement at the very least – this was the bare minimum that the Claimant could have done but she chose not to do so.

175. We also note that the Claimant has a propensity to mislead as we have referred to in the liability judgment. We remind ourselves of the clear and the helpful guidance of HHJ Tayler in ***Mayanja v City of Bradford Metropolitan District Council*** **[2025] EAT 160** about the danger of making an overarching assessment of credibility which is then used globally in all subsequent assessments.

176. However, we have little confidence that what the Claimant tells us is the truth in the absence of corroborating evidence where it could be easily produced but has been withheld (such as a bank statement). This is because we have seen first-hand ourselves during the hearings, the Claimant's propensity to mislead and to misrepresent. For that reason, and in accordance with ***Jilley,*** we decide not to take the Claimant's means into account. We recognise that is an unusual step and one which a Tribunal may be reluctant to take, but this is an unusual case, and it is an extreme one. The Claimant has damaged our trust in the veracity of what she tells us.

177. In any event we note that means can still be taken into account by the county court at the enforcement stage. We further record that even had we taken into account what little we have been told about the Claimant's means, the outcome would not have differed given the gravity and the extent of the Claimant's conduct. The Respondent has described this as an extreme case, and we agree with that description. In addition the Claimant

is a qualified teacher and may be able to return to her chosen profession in future.

178. Given the enormity of the unreasonable, disruptive and vexatious conduct of proceedings, combined with the volume of complaints which the Claimant would or should have known from the start had no reasonable prospects of success, we are therefore minded to exercise our discretion and to make an award of costs in favour of the Respondent to compensate it for the legal expenditure it has incurred.

Stage three – what is the value of the award?

179. We now have to determine the appropriate amount of the award. We are mindful that there is already an order for costs against this Claimant in favour of the Respondent, and we are tasked also with determining the value of that award.

180. The total amount of legal costs being pursued by the Respondent, which we understand may not even be the total legal spend on this case, amounts to £92,903.40. That is a considerable amount, but as we have noted, this is an extreme case. The claim is a large one; the number of witnesses was considerable and this was due to the number of allegations the Respondent faced.

181. We found each of the Respondent's witnesses to have given relevant evidence, we saw no duplication in their evidence; and each witness addressed the allegations concerning them fully but concisely. It is difficult to see how the Respondent could have defended all of the allegations without the witnesses identified.

182. We note that the Respondent does not seek its full legal costs for the hearing, rather it is seeking 35% of the legal costs (after a deduction for the costs to be awarded pursuant to the costs order of Judge Green). This 35% has been calculated based upon six of the Respondent's witnesses being required to give evidence in connection with complaints which had no reasonable prospects of success or which were not even put to the witnesses as allegations of discrimination.

183. The calculation of 35% is a proportionate and a pragmatic approach towards compensating the Respondent for the loss sustained due to the Claimant's conduct, and we agree with it. It appears fair in all the circumstances, taking into account everything which happened in the hearing and the work the Respondent was put to including disclosure and producing witness statements and preparing witnesses for trial, as well as the time spent during the hearing on their evidence.

184. We find that 35% is an appropriate figure as we have found that six of the Respondent's fourteen witnesses were called to give evidence in connection with complaints which had no reasonable prospects of success. Some of that witness evidence was discrete and limited to specific issues, although the evidence of AB was necessarily considerable. We have considered awarding a lower percentage, however we consider that a smaller figure would not properly and fairly compensate the Respondent for

loss it had suffered. It was particularly significant to us that AB had to be called to give evidence yet the Claimant's purpose in making complaints about him was done in order to continue to harass him and this was vexatious conduct. It was also significant that these witnesses were all accused of direct discrimination and harassment, yet the complaints were never put to them, therefore the preparation was wasted.

185. As regards the costs associated with the hearing going part heard on day five and being re-listed for an additional sixth day, and the costs of producing written as opposed to oral submissions, the Respondent seeks 100% of its costs incurred by that. Going part heard was due entirely to the Claimant and we agree that the Respondent should be fully compensated for the loss it suffered due to the Claimant's conduct in causing the matter to go part heard and to be listed for a further hearing day which should not have been necessary. This also appears fair in all the circumstances having taken into account everything which occurred during the hearing, including my warnings to the Claimant to use her time wisely.

186. These costs will likely exceed the amount we can assess summarily under the Employment Tribunal Rules of Procedure if the Respondent is to be fully and fairly compensated for the amount of loss suffered. We are therefore minded to order those costs to be assessed by way of a detailed assessment by an Employment Judge trained to undertake detailed assessment. We find that there is no other appropriate or proportionate alternative to this way forward. There is no realistic prospect of the parties ever agreeing the amount of costs to be paid; and we find that a summary assessment would be inadequate to fairly compensate the Respondent for the loss it has sustained.

187. We have considered whether costs should be assessed on the standard or indemnity basis. In this case, the manner in which the proceedings were conducted justifies a departure from the standard basis. The Claimant's conduct takes the case outside the ordinary category of costs awards in the Employment Tribunal and into the exceptional category contemplated in ***Howman***. We are minded that in order to fully and fairly compensate the Respondent for that loss, that assessment should be conducted on the indemnity basis which means that any doubt as to the reasonableness and necessity of the costs is resolved in favour of the Respondent.

188. We record for completeness that we have not taken into account the Claimant's means for the same reasons we have explained at stage two, however means can be taken into account at the enforcement stage in the county court.

Value of the costs order dated 16 April 2024

189. We are tasked with determining the level of costs to be awarded to the Respondent pursuant to the costs order of Judge Green dated 16 April 2024 as stages one and two have already been completed by Judge Green. We do not take into account the Claimant's means for the reasons we have already given above, whilst noting that the Claimant is a qualified teacher and she may return to her chosen career in future.

190. The conduct identified by Judge Green is at the extreme end of the scale, involving findings of the Claimant ignoring instructions not to contact witnesses direct; making unfounded allegations of fraud and serious criminal wrongdoing; making unfounded allegations of physical violence and faking and modifying evidence and accusing solicitors of evidence tampering; making derogatory misleading or defamatory comments to third parties; making unfounded allegations of flouting Department for Education Regulations; sending rude and aggressive and threatening communications; abusing the Tribunal process; engaging in unreasonable conduct of the litigation; engaging in unreasonable and vexatious conduct towards the Respondent's solicitors; and acting with malicious intent to threaten, harass and intimidate with actions designed to cause stress and anxiety.

191. All of the above would have put the Respondent to legal expenditure in dealing with and responding to that conduct. When we look at how the Respondent might be compensated for the loss it has suffered due to the above conduct, we find that the Respondent's loss would be significant and that the option of summary assessment by this Tribunal (up to a maximum of £20,000), would be insufficient to fairly compensate the Respondent for the loss it has suffered. There is no reasonable prospect of the parties ever reaching agreement on the costs to be paid to the Respondent.

192. In the circumstances we award the Respondent 100% of its legal costs incurred due to the Claimant's conduct identified by Judge Green in the 16 April 2024 judgment. Accordingly, we order there to be a detailed assessment of those the costs. In order for the Respondent to be fairly compensated those costs should be assessed on the indemnity basis, with any doubt as to any reasonableness and necessity of the costs to be resolved in favour of the Respondent for the same reasons we have given above.

Summary

193. With respect to the costs order of Employment Judge Green dated 16 April 2024, we award the Respondent 100% of its legal costs which are attributable to the vexatious, abusive, disruptive or otherwise unreasonable conduct of proceedings as identified by Judge Green in that judgment. These costs are to be assessed by way of a detailed assessment on the indemnity basis.

194. With respect to the Respondent's second application for costs dated 11 April 2025, we have found that the Claimant has conducted the proceedings vexatiously, abusively, disruptively or otherwise unreasonably; and we further find that the complaints identified in this judgment had no reasonable prospects of success.

195. We make an order for costs in favour of the Respondent comprised of (i) 35% of the remainder of its total legal costs of defending the claim (after deducting the amount to be paid to satisfy the costs order of Judge Green); and (ii) 100% of the legal costs attributable to the final hearing going part heard for the period 12 October 2024 until 9 January 2025, including legal work undertaken on those dates. Those costs are also to be assessed by way of detailed assessment on the indemnity basis.

196. Case management orders will follow separately as regards the process for detailed assessment of the Respondent's legal costs.

Approved by:
Employment Judge Graham
30 April 2026

JUDGMENT SENT TO THE PARTIES ON 12 May 2026

FOR THE TRIBUNAL OFFICE