



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr I MacFarlane

**Respondent:** GMB Trade Union

**HELD AT:** Manchester (in person)                      **ON:** 27 January 2026

**BEFORE:** Employment Judge Peck (sitting alone)

**REPRESENTATION:**

**Claimant:** For himself

**Respondent:** Mr L Bronze (Counsel)

## JUDGMENT

1. The claimant's claim that he was unjustifiably disciplined under section 64 of the Trade Union and Labour Relations (Consolidation) Act 1992 is struck out under rule 38(1)(a) of the Employment Tribunal Procedure Rules 2024 because it has no reasonable prospects of success, having been brought out of time.
2. The preliminary hearing (case management) listed for 5 October 2026 is therefore vacated.

# REASONS

## Introduction and Background

1. This was an in person preliminary hearing on 27 January 2026.
2. By a claim form presented on 27 November 2024 the claimant seeks to pursue a claim against the respondent under section 64 of the Trade Union and Labour Relations (Consolidation) Act 1992 (**TULRCA**), alleging that he was unjustifiably disciplined. He relies on section 64(2)(d), alleging that a determination was made that *“he should be deprived to any extent of, or of access to, any benefits, services or facilities which would otherwise be provided or made available to him by virtue of his membership of the union, or a branch or section of the union”*.
3. The claimant is not employed by the respondent. He has been employed by Asda Stores Limited for 22 years. He has been a member of the respondent since 22 March 2020.
4. In broad terms, the claimant is critical of (and highly dissatisfied with) the respondent for not supporting him in litigation against his employer (relating to an alleged whistleblowing claim).
5. In his claim form, he states that issues started in November 2022 (when he first requested help from the respondent with the employment matter), following which he made numerous approaches to the respondent for advice and support.
6. He alleges that these issues continued up to and including 4 July 2024 and that the events of this date are *“the event for which ‘3 months less 1 day’ be calculated”*. The event of 4 July 2024 is stated as being the *“continued and deliberate failure by the GMB to respond to a formal request for Trade Union Help, Support, Advice and Guidance”*.
7. The claimant alleges that an officer of the respondent had a personal vendetta against him and this conduct was covered up by the respondent’s Regional Head Office and professional advisors. He says that any other member of the respondent would have had the same request for help dealt with differently.
8. The claimant’s ET1 form states that *“A copy of the initial correspondence between myself and Oliver Housley: ACAS Conciliator, in enclosed”*.
9. As was identified during the hearing, accompanying the claimant’s claim form was a document entitled “Documents 1.” (R57-63) and a comprehensive document titled “Documents 2.” (R64-100).
10. Prior to presenting his claim, on 24 September 2024 (day A), the claimant initiated the ACAS Early Conciliation process, which concluded on 28 October 2024 (day B).

11. By a response form of 10 March 2025, the respondent denies that the claimant was disciplined and further, denies that any discipline was unjustified.
12. The respondent acknowledges that the claimant has made multiple requests for legal assistance and that on two occasions he has been referred to Unionline. Its position is that there was a determination by Unionline on each occasion that the matters raised by the claimant did not qualify for legal assistance, the relevant eligibility criteria having not been met. The respondent therefore accepts that it did not provide the claimant with the requested legal assistance.
13. In its response, the respondent also sets out a “Jurisdictional Challenge”, stating that it considers the claimant’s claim to have been presented out of time.
14. Specifically, it refers to a complaint of being unjustifiably disciplined being subject to a time limit of 3 months minus one day (save for any extension on account of ACAS Early Conciliation). It also identifies the claimant’s belief – as referred to in his pleaded case – that on 15 August 2023, he made what he describes as “*numerous efforts to obtain any ownership or direction from the GMB with regards to this matter*” and that this signalled “*the end of the road in [his] efforts to obtain support...with regards to the issues raised with the GMB on 2 November 2022*”.
15. The respondent’s pleaded position is, therefore, that the events complained of are “*flagrantly out of time*”. It states that the final act complained of took place in August 2023 and that time ran from that date.
16. A preliminary hearing for case management purposes took place before Employment Judge Ainscough on 19 September 2025, at which this preliminary hearing was listed to determine (a) any application to amend the claim; (b) the respondent’s application to strike out the claim or for a deposit order, (c) the List of Issues, and (d) any case management orders. It was clarified and recorded that the claimant was not pursuing claims for breach of contract, bad faith and/or professional negligence, as referred to in his claim form.
17. As was accepted by Mr Bronze, the respondent no longer seeks to argue that an application to amend by the claimant is required, it having been established that Document 2 formed part of the claimant’s original claim submission.

### **Issues and Information Considered**

18. No witness evidence was presented or considered at this preliminary hearing.
19. Documentary evidence was presented in the form of the claimant’s bundle (running to 122 pages) and the respondent’s bundle (running to 176 pages), which included the respondent’s application for strike out, dated 19 December

2025 (R148-156) and the claimant's response (R157-176). Mr Bronze apologised at the outset of the hearing that there was not an agreed bundle, which it was accepted was a fault on the part of the respondent.

20. I also had sight of the claimant's claim form and the respondent's response, including its grounds of resistance.
21. At the outset of this hearing, the issues to be determined were identified, as follows:

**Issue 1:** Was the claimant's claim that he was unjustifiably disciplined contrary to section 64 of TULCRA made within the time limit in section 66 TULCRA?

- Was the claim made to the Tribunal within three months (allowing for any early conciliation extension) of the making of the determination claimed to infringe the right?
- If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?
- If not, was any delay in making the complaint wholly or partly attributable to a reasonable attempt to appeal against the determination or to have it reconsidered or reviewed?
- If not, was the claim made within such further period as the Tribunal considers reasonable?

**Issue 2:** Considering the above, should the Tribunal strike out the claim under rule 38(1)(a) of the Employment Tribunal Procedure Rules 2024 because it has no reasonable prospects of success?

**Issue 3 (potentially):** Should the Tribunal make an order rule 40 of the Employment Tribunal Procedure Rules 2024 requiring the claimant to pay a deposit as a condition of continuing to advance his claim (or a specific allegation or argument in his claim)?

22. I explained to the parties that, subject to determination of these issues, I would go on to consider any further case management matters as may be required.
23. I also emphasised to the parties that the purpose of this preliminary hearing was to determine these preliminary issues only. Whilst the claimant is clearly aggrieved about the decisions made by the respondent and believes he has been unjustifiably disciplined; I would not be making such a determination today.
24. During the hearing, both parties were able to make detailed submissions, to respond to each other's submissions and invited to draw my attention to relevant documents and their respective pleaded positions.

## Relevant Chronology

25. The following chronology (taken from the information before me) can be noted:
- a. On 15 November 2022, according to the claimant's ET1, the "issues start".
  - b. On 15 August 2023, the claimant asserts that he made "*numerous efforts to obtain any ownership or direction from the GMB with regards to this matter*" and that it was on this date that the Respondent "*metaphorically, slammed the door in [his] face, and refused to correspond with regards to the matter*", this, it is said, signalled "*the end of the road in [his] efforts to obtain support ... with regards to the issues raised with the GMB on 2<sup>nd</sup> November 2022*". (R83)
  - c. On 15 August 2023, Denise Walker (Regional Secretary) of the respondent sent an email to the claimant in the following terms: "*We will not be providing you with legal assistance, nor are we obligated to do so. That matter is now closed and you have been advised on multiple occasions, by multiple people that we will not support a case for you...Your emails are now tantamount to harassment and I will not be responding or communicating further with you on this matter*".
  - d. On 23 August 2023, the claimant received a formal written response to the complaint he raised regarding the respondent's (as opposed to his employer's) conduct in correspondence. The claimant states that "*at this stage, my Region Head Office and the Regional Secretary slammed the door in my face.*" (R89).
  - e. The claimant asserts that there was "*Continued and deliberate failure by the GMB to respond to formal request for Trade Union Help, Support, Advice and Guidance*" on 4 July 2024. Examples provided by the claimant in support of this assertion include him reaching out to the respondent on 11 February 2024 regarding the whistleblowing investigation conclusions of his employer and requesting a legal referral, such request which was refused; approaching the respondent on 20 February 2024 for a legal referral, which was denied; and making a similar request to the respondent on 27 February 2024, to be informed that the process had been exhausted (R66, R168).
  - f. The claimant initiated the ACAS Early Conciliation process on 24 September 2024.
  - g. ACAS issued the Early Conciliation certificate, bringing this process to a close, on 28 October 2024.
  - h. The claimant presented his claim on 27 November 2024.

## The Law

26. Section 64 of TULCRA sets out the right not to be unjustifiably disciplined:

*(1) An individual who is or has been a member of a trade union has the right not to be unjustifiably disciplined by the union.*

*(2) For this purpose an individual is “disciplined” by a trade union if a determination is made, or purportedly made, under the rules of the union or by an official of the union or a number of persons including an official that—*

...

*(d) he should be deprived to any extent of, or of access to, any benefits, services or facilities which would otherwise be provided or made available to him by virtue of his membership of the union, or a branch or section of the union,*

...

*(f) he should be subjected to some other detriment;*

*and whether an individual is “unjustifiably disciplined” shall be determined in accordance with section 65.*

27. Section 65 sets out the meaning of “unjustifiably disciplined”:

*(1) An individual is unjustifiably disciplined by a trade union if the actual or supposed conduct which constitutes the reason, or one of the reasons, for disciplining him is—*

*(a) conduct to which this section applies, or*

*(b) something which is believed by the union to amount to such conduct;*

*but subject to subsection (6) (cases of bad faith in relation to assertion of wrongdoing).*

*(2) This section applies to conduct which consists in—*

*(a) failing to participate in or support a strike or other industrial action (whether by members of the union or by others), or indicating opposition to or a lack of support for such action;*

*(b) failing to contravene, for a purpose connected with such a strike or other industrial action, a requirement imposed on him by or under a contract of employment;*

*(c) asserting (whether by bringing proceedings or otherwise) that the union, any official or representative of it or a trustee of its property has contravened,*

*or is proposing to contravene, a requirement which is, or is thought to be, imposed by or under the rules of the union or any other agreement or by or under any enactment (whenever passed) or any rule of law;*

*(d) encouraging or assisting a person—*

*(i) to perform an obligation imposed on him by a contract of employment, or*

*(ii) to make or attempt to vindicate any such assertion as is mentioned in paragraph (c);*

*(e) contravening a requirement imposed by or in consequence of a determination which infringes the individual's or another individual's right not to be unjustifiably disciplined.*

*(f) failing to agree, or withdrawing agreement, to the making from his wages (in accordance with arrangements between his employer and the union) of deductions representing payments to the union in respect of his membership,*

*(g) resigning or proposing to resign from the union or from another union, becoming or proposing to become a member of another union, refusing to become a member of another union, or being a member of another union,*

*(h) working with, or proposing to work with, individuals who are not members of the union or who are or are not members of another union,*

*(i) working for, or proposing to work for, an employer who employs or who has employed individuals who are not members of the union or who are or are not members of another union, or*

*(j) requiring the union to do an act which the union is, by any provision of this Act, required to do on the requisition of a member.*

*(3) This section applies to conduct which involves the Certification Officer being consulted or asked to provide advice or assistance with respect to any matter whatever, or which involves any person being consulted or asked to provide advice or assistance with respect to a matter which forms, or might form, the subject-matter of any such assertion as is mentioned in subsection (2)(c) above.*

*(4) This section also applies to conduct which consists in proposing to engage in, or doing anything preparatory or incidental to, conduct falling within subsection (2) or (3).*

*(5) This section does not apply to an act, omission or statement comprised in conduct falling within subsection (2), (3) or (4) above if it is shown that the act, omission or statement is one in respect of which individuals would be*

*disciplined by the union irrespective of whether their acts, omissions or statements were in connection with conduct within subsection (2) or (3) above.*

*(6) An individual is not unjustifiably disciplined if it is shown—*

*(a) that the reason for disciplining him, or one of them, is that he made such an assertion as is mentioned in subsection (2)(c), or encouraged or assisted another person to make or attempt to vindicate such an assertion,*

*(b) that the assertion was false, and*

*(c) that he made the assertion, or encouraged or assisted another person to make or attempt to vindicate it, in the belief that it was false or otherwise in bad faith,*

*and that there was no other reason for disciplining him or that the only other reasons were reasons in respect of which he does not fall to be treated as unjustifiably disciplined.*

28. To bring a complaint about an alleged infringement of section 64, the claimant must comply with section 66:

*(1) An individual who claims that he has been unjustifiably disciplined by a trade union may present a complaint against the union to an employment tribunal.*

*(2) The tribunal shall not entertain such a complaint unless it is presented—*

*(a) before the end of the period of three months beginning with the date of the making of the determination claimed to infringe the right, or*

*(b) where the tribunal is satisfied—*

*(i) that it was not reasonably practicable for the complaint to be presented before the end of that period, or*

*(ii) that any delay in making the complaint is wholly or partly attributable to a reasonable attempt to appeal against the determination or to have it reconsidered or reviewed,*

*within such further period as the tribunal considers reasonable.*

*(2A) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).*

29. Rule 52(1)(c) and 52(1)(d) of the Employment Tribunal Procedure Rules 2024 provide that:

*(1) A preliminary hearing is a hearing at which the Tribunal may do one or more of the following—*

*(c) consider whether a claim, response or reply, or any part, should be struck out under rule 38 (striking out)*

*(d) make a deposit order under rule 40 (deposit orders);*

30. Rule 38 provides that:

*(1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—*

*(a) that it is scandalous or vexatious or has no reasonable prospect of success;*

...

31. Rule 40 provides that:

*(1) Where at a preliminary hearing the Tribunal considers that any specific allegation or argument in a claim, response or reply has little reasonable prospect of success, it may make an order requiring a party ("the depositor") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument ("a deposit order").*

*(2) The Tribunal must make reasonable enquiries into the depositor's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.*

*(3) The Tribunal's reasons for making the deposit order must be provided with the order and the depositor must be notified about the potential consequences of the order.*

*(4) If the depositor fails to pay the deposit by the date specified by the deposit order, the Tribunal must strike out the specific allegation or argument to which the deposit order relates.*

*(5) Where a response is struck out under paragraph (4), the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).*

*(6) Where a reply is struck out under paragraph (4), the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer's contract claim).*

*(7) If the Tribunal following the making of a deposit order decides the specific allegation or argument against the depositor for substantially the reasons given in the deposit order—*

*(a) the depositor must be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 74 (when a costs order or a preparation time order may or must be made), unless the contrary is shown, and*

*(b) the deposit must be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders), otherwise the deposit must be refunded.*

*(8) If a deposit has been paid to a party under paragraph (7)(b) and a costs order or preparation time order has been made against the depositor in favour of the party who received the deposit, the amount of the deposit must count towards the settlement of that order.*

## Decision and Reasons

**Issue 1:** Was the claimant's claim for unjustifiable detriment made within the time limit in section 66 TULCRA?

- Was the claim made to the Tribunal within three months (allowing for any early conciliation extension) of the making of the determination claimed to infringe the right?
  - If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?
  - If not, was any delay in making the complaint wholly or partly attributable to a reasonable attempt to appeal against the determination or to have it reconsidered or reviewed?
  - If not, was the claim made within such further period as the Tribunal considers reasonable?
32. To address this issue, it is first necessary to identify when time started to run, being from "*the making of the determination claimed to infringe the right*".
33. As set out in his pleaded case and as understood from the detailed submissions of the claimant at this hearing, the claimant's "main accusation" is, essentially, that his requests for help from the GMB were not treated fairly in that they were rejected and he was not provided with support with litigation against his employer. As he described the situation at the start of the hearing, the claimant believed that he was asking for reasonable, qualified advice on his employment issues, but received nothing.
34. It is this that amounts to the alleged infringement of a right, so the question must therefore be addressed as to when this determination was made.
35. The claimant seeks to argue that there was in effect a "rolling detriment" which was continuing and that, as at 4 July 2024, there was a continued and

deliberate failure by the GMB to respond to his request for help, support, advice and guidance.

36. He says that the actions of Denise Walker on 15 August 2023 were “no ‘End’, no ‘Closure’, no “Final Triggering Event”, just move on to the next door of the GMB, move onto the next option to explore move on again with my disclosures...”. (R173)
37. Further, he submits that the respondent’s “failures started on 22 November 2022, they have never stopped, they are continuous and ongoing”. (R173)
38. On behalf of the respondent, Mr Bronze submits that the act of discipline is the determination (or purported determination), which he says is the decision that the member be treated in a certain way, not the carrying out of the decision. Discipline occurs at the date of judgment and not at the date of execution. Mr Bronze referred me to the authors of *Harvey* who point out that “A member may therefore suffer ‘unjustifiable discipline’ without suffering any actual detriment other than the stigma of condemnation”.
39. He submits that this construction is supported by the decision in *NALGO v Killorn and Simm* [1990] IRLR 464, [1991] ICR 1, EAT whereby it was held that a determination is made on the date upon which the union makes its decision, and not on the date when the member receives notification of that decision which means that a union member may therefore suffer unjustifiable discipline without even being aware of the fact.
40. On this basis, the respondent says that time started to run when the respondent made its decision to treat the claimant in a certain way, namely when it decided not to support the claimant with litigation against his employer and that this was on August 2023, when the respondent communicated to the claimant that it considered the matter closed.
41. It is of note that the time limit provisions that apply to a claim under section 64 TULCRA do not include provisions analogous to those set out in section 123 Equality Act 2010 or section 48 Employment Rights Act. The concept of a “continuing act” is not applicable to section 64 claims.
42. Further, the situation in which the claimant found himself is one where a decision was made, which had continuing consequences for him rather than there being something of continued application to him. In other words, once a final decision was made by the respondent not to provide the claimant with support with litigation, that “one off” act had the continuing consequence of meaning the claimant needed to seek support and advice elsewhere. The claimant submits that the: “failures started on 22 November 2022, they have never stopped, they are continuous and ongoing”, whereas it is the consequences of the alleged failures that are ongoing and it cannot be right that, by repeating his request for a legal referral and legal advice and support, the respondent’s continued refusal to do amount to a new act and/or decision and/or determination.

43. As at 4 July 2024, the respondent was no longer engaging in correspondence with the claimant regarding the provision of support with litigation, as the claimant submits. But this was the ongoing consequence of the decision of the respondent, as set out in Denise Walker's communication of 15 August 2023.
44. Therefore, crucially, the decision not to provide the litigation support was made – as was communicated to the claimant at the time – in August 2023 at the latest. This may not have been a reasonable decision, which is the claimant's strongly held belief, but that is not for me to determine as already noted.
45. Time therefore started to run on 15 August 2023, being the making of the determination claimed to infringe the right.
46. On this basis, the claim was not made to the Tribunal within three months (allowing for any Early Conciliation extension) of the making of the determination. ACAS Early Conciliation was initiated by the claimant on 24 September 2024, over 12 months after time started to run on 13 August 2023.
47. The claimant therefore has the burden of proving that it was not reasonably practicable for him to have submitted his claim before then.
48. Mr Bronze directed me to several relevant authorities, including the reiteration by the EAT in *Cygnat Behavioural Health Ltd v Britton* [2022] EAT 108 of the fairly rigid approach taken the adherence to the statutory time limits: "A person who is considering bringing a claim for unfair dismissal is expected to appraise themselves of the time limits that apply; it is their responsibility to do so."
49. I have also considered the principles in *Marks & Spencer plc v Williams-Ryan* [2005] EWCA Civ 470, which provides guidance of assistance when considering time limit compliance and which can be summarised as follows:
  - S111(2) Employment Rights Act should be given a liberal interpretation in favour of the employee.
  - Regard should be had to what, if anything, the employee knew about the right to complain to a tribunal and of the time limit for doing so.
  - Regard should also be had to what knowledge the employee should have had, had they acted reasonably in the circumstances. Knowledge of the right to make a claim does not, as a matter of law, mean that ignorance of the time limits will never be reasonable. It merely makes it more difficult for the employee to prove that their ignorance was reasonable.
50. The claimant submits that he did not think about pursuing a section 64 complaint at the time of receiving the email on 13 August 2023. He refers to being a supermarket worker, with no knowledge that such a claim could be brought and with his focus remaining on getting support with the potential whistleblowing claim against his employer.

51. The claimant submitted that he was, up to the date of presenting this claim, still hoping that someone would step in and give their support with the claim against his employer.
52. However, although this may have been his hope, the respondent had made its position (whether rightly or wrongly) abundantly clear that it was not going to provide its support. The position of the respondent – and therefore the basis upon which any claim against the respondent might be pursued – was therefore clear to the claimant in August 2023.
53. The claimant knew about the right to complain to a tribunal, even if he was not aware of section 64 TULCRA.
54. The claimant had an awareness of time limits. Indeed, in his response to the respondent's application for strike out:
  - a. He highlights the respondent's advice and guidance document which states that "*In most cases employment law claims have a time limit of three months less one day*". (R158).
  - b. He provides 4 emails relating to the potential claim against his employer, dated 2 April 2023, 4 March 2023, 13 March 2023 and 30 March 2023 all referring to potential limitation / time limit issues.
  - c. He expressly states that "*I make reference to the above...to make it absolutely clear that I am fully aware of Limitation*" (R162).
55. There was nothing to prevent the claimant from making enquiries about his position and seeking legal advice. The claimant has shown himself to be articulate, analytical and able to undertake research. In these circumstances, clearly aggrieved about the conduct of the respondent, he should reasonably have been aware of the potential claim against the respondent and the applicable time limit for bringing such a claim.
56. I therefore consider that it was reasonably practicable for the claim to be made to the Tribunal within the time limit.
57. I am further satisfied that any delay by the claimant in making the complaint was not wholly or partly attributable to a reasonable attempt to appeal against the determination or to have it reconsidered or reviewed.
58. As at 15 August 2023, when time began to run, the issue in question (ie the refusal by the respondent to provide the claimant with litigation guidance and support) had been ongoing for 9 months. During this time, the claimant had already challenged the stance of the respondent and made reasonable (and numerous) efforts to "appeal" its approach. As highlighted by Mr Bronze, the claimant on his own case no longer had further avenues to explore internally with the respondent. The claimant received the complaint to his complaint regarding the respondent's conduct on 27 August 2023 (dated 23 August 2023).

59. Turning finally to whether the claim was made within such further period as might be reasonable, I find that it was not.
60. As noted above, in March / April 2023 (well in advance of the deadline to initiate Early Conciliation in his claim against the respondent) the claimant was engaged in dialogue regarding time limit points / limitation and expressly accepts having a knowledge of limitation issues. He had this knowledge at the time the limitation period expired but significantly delayed in bringing his section 64 claim.
61. The delay was not a matter of days, it was significant and although long delays can be granted, this is exceptional and no such exceptional circumstances have been put forward by the claimant.

**Issue 2:** Considering the above, should the Tribunal strike out the claim under rule 38(1)(a) of the Employment Tribunal Procedure Rules 2024 because it has no reasonable prospects of success?

62. It is therefore my decision that the claim should be struck out under rule 38(1)(a) because it has no reasonable prospects of success. Based on the above, the claimant has no reasonable prospects of establishing that he brought his claim in time.
63. In reaching this decision, I have considered the fact that strike out is a “draconian power” that should not be exercised lightly by an employment tribunal (*Blockbuster Entertainment Ltd v James [2006] EWCA Civ 6840* and that it should also be exercised after a careful consideration of all the available material (*Balls v Downham Market High School & College UKEAT/0343/10*). It is a high test: there must be *no* reasonable prospects of success and I conclude that this threshold has been met and the claimant has no reasonable prospects of success and of showing his claim was brought in time.
64. The respondent’s application therefore is granted and issue 3 need not be determined.

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Employment Judge Peck

DATE 23 April 2026

JUDGMENT SENT TO THE PARTIES ON  
13 May 2026

FOR THE TRIBUNAL OFFICE

Notes

1. Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.