EMPLOYMENT TRIBUNALS

Claimant: **Mrs C Tobias**

Respondent: **TransUnion International UK Limited**

Heard at: **Leeds Employment Tribunal**

On: **26 March 2026**

Before: **Employment Judge Wilkinson**

Representation
Claimant: Mr Howard Tobias (claimant's husband)
Respondent: Miss A Ahmad (counsel)

JUDGMENT having been sent to the parties on 26 March 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

Preamble

1. These reasons are prepared following a request made by the respondent's solicitors on 26 March 2026. That request was not received by me until 7 May 2026 when a follow-up email (sent by the respondent's solicitors) was received. I did not receive the initial email.

Introduction

2. I gave a judgment at a hearing on 26 March 2026 with oral reasons. My judgment was that the claims were be struck out.

3. This is an application for a strikeout made by the respondent in ongoing Employment Tribunal proceedings brought by Mrs Caroline Tobias against Transunion International UK Limited.

4. The ET1 was issued on 29 March 2025. Shortly thereafter, the respondent filed its response and made an application in writing for strikeout, dated 29 July 2025.

5. At the hearing, the respondent was represented by Miss Ahmed of counsel. The claimant was represented by a lay representative, her husband, Mr Tobias.

The legal framework

6. The legal framework, it is not contentious, and not particularly complex.

7. Under rule 38 of the Employment Tribunal Rules of Procedure 2024 a claim may be struck out, where it has no reasonable prospects of success; and/or it is no longer possible to have a fair trial, amongst other reasons within that rule, which are not relevant to this application.

8. I bear in mind, when making this decision, that the claims brought by the claimant are for age and disability discrimination, and therefore, when one looks at the authorities, including judgments from the House of Lords, in the case of *Anyanwu v South Bank Students Union* [2001[UKHL 14, and the Court of Appeal in *Ezsias v North Glamorgan NHS Trust* [2007] EWCA Civ 330, I have got to approach such applications for strikeout, with a degree of caution, because of the often fact sensitive nature of discrimination claims, and also public policy reasons, that discrimination claims should not be struck out, prematurely, or without a full hearing.

9. However, in the earlier of those authorities from the House of Lords, it was made clear (and subsequent authorities reiterate) that strike-out can be used by the tribunal in discrimination claims where it is appropriate to do so.

The background to the claim

10. Dealing briefly with a background to this claim, the claimant commenced her employment with the respondent in September 2002. In 2003 she underwent emergency surgery for a brain tumour, which resulted in a lifelong permanent disability, including blindness. Both parties have accepted, and indeed it is not in dispute at all that the claimant is disabled as defined in the Equality Act 2010.

11. In 2004 at a meeting at which took place attended by the claimant and her husband, and a HR manager or director, Mr Worts, it was explored with the claimant at that she the respondent was considering dismissing her and that he contract was to be ended; however she was entitled to cover under health insurance, which was a contractual matter between the employer, respondent, and the insurance provider: this is described as Permanent Health Insurance, which I shall refer to as "PHI". The effect of the PHI would be that the claimant would remain employed by the respondent, then trading as Eurodirect, and would be paid 50% of her original salary.

12. At that meeting, Mr Worts explained to the claimant, as set down in an agreed note, that that arrangement would continue until retirement, or until Mrs Tobias was well enough to return to work. Pausing there, it was probably evident at the time, and it became self evident shortly thereafter, that Mrs Tobias was never going to be well enough to return to work.

13. It is encouraged upon me by Miss Ahmed to conclude that the terms of the PHI insurance, as set down in a later iteration of that policy, which I have been provided with, made it clear that the end-point of the policy would be the earliest of the following: either the claimant's returning back to work (which was never going to happen in this case); or her retirement before what is defined

as “normal retirement age”; or her reaching “normal retirement age”.

14. “Normal retirement age” is defined in the polity that I've seen and, says the respondent, has always been defined as the claimant reaching the age of 60 years, which happened in this case in January 2025.

15. Thereafter, between 2004 and the claimant reaching 60 years of age in January 2025, the claimant has received half her salary per month under the terms of the PHI. The claimant has, throughout the duration of that period, remained employed by the respondent, National insurance and income tax were paid from that income by the respondent. Any payments incurred by the respondent were recuperated from the insurance provider under the terms of the PHI.

16. It is the claimant’s case that following that conversation with Mr Worts in 2004, that she and her husband were left with a very clear understanding or assumption, that retirement age meant the state retirement age, which at that stage was over 60 years of age and has increased thereafter in the intervening period, to 67 years.

17. The respondent says that that is an erroneous argument in any event, but notwithstanding that it points to a letter sent to the claimant by the respondent on 11 October 2010 from the then-head of HR, Andrea Beale. That letter was addressed to the claimant's husband.

18. Until that point there had been regular reviews by the claimant’s consultant neurosurgeon as to her medical prognosis but the letter confirms that there the frequency of the reviews was to be reduced to annually until January 2025 as it was accepted that the claimant was unlikely to return to work as her disability would be “long term permanent”. The letter set out in clear terms that January 2025 was the end-point because on that date the cover would cease.

19. Nothing was said by either the claimant or her husband, in response to that letter, which had made it clear, even if it hadn't been clear previously, that the PHI cover would only remain in place until January 2025 when the claimant turned 60 years old.

20. Moving forwards to 2024, and in preparation for the claimant turning 60 years old, the HR advisor for the respondent company, Jade Newband, wrote further to the claimant, addressing her letter to both the claimant and her husband. That latter invited the claimant to a welfare meeting in readiness for her 60th birthday occurring in January of the following year on the basis that the payments would end and that the respondent wanted to look both at the claimant’s current health condition and her intentions regarding her employment with the respondent following the ending of the PHI.

21. That meeting took place on 23rd December 2024 and during the course of it Miss Newband again made it clear that in January 2025 the 50% payments would cease because the PHI would end. Mr and Mrs Tobias were present and the unchallenged recorded minutes from that meeting do not suggest that they were particularly surprised by Miss Newband's comments. I'm not told by Mr Tobias that there were any particular surprises, or that those minutes are inaccurate.

22. It's against that background that the respondent says that there are no real prospects, no prospects whatsoever says Miss Ahmed, of these claims succeeding.

The claims

23. The claims, as I've said, were brought in March 2025. The claimant claims disability and/or age discrimination.

24. In her ET1 the claimant asserts the following discriminatory acts:

    a. Being aware that I was blind and had cognitive difficulties, the company sent my husband, not me, a letter in 2010, which it then failed to ensure that I had received, been able to read, been able to understand or appreciate the content of the letter and its potential significance. In fact, the letter was not in respect of any matter other than following the neurosurgeon's complaints about the frequency of their letters, requesting reviews, they would consider fewer regular reviews. Any reasonable employer being fully aware of these issues should at least have taken the opportunity to verify I was aware of the letter and understood its implications, which were contrary to the minutes of the 2004 meeting, stating I would be paid until retirement.

    b. Given the statutory change in retirement age, the company has discriminated against me on the basis of my age, in that it has failed to make provision to honour its promises, to continue payment until retirement, as set out in the minutes of the 2004 meeting and has terminated my employment without meeting the obligations it undertook.

    c. My employer failed in its duty of care to provide me with policy details that would have enabled me or any person assisting me to reasonably understand that the company did not consider, that it would only pay me until the end of the policy, contrary to the minutes of the 2004 meeting, which state I would be paid until retirement.

25. There's also a claim for failure in a duty of care to employee, which is not particularised within the ET1.

26. Pausing there, it is unclear on what basis the tribunal could determine any such claim, which refers to concepts relating to the law of negligence.

27. There is no claim for unfair dismissal and the claimant, following the meetings at the end of 2024 and into 2025, was subsequently dismissed for what the respondent asserts, and it is not disputed, was a potentially fair reason relating to capability.

The respondent’s submissions

28. In respect of the claims for discrimination, Miss Ahmed invites me to conclude that the pleaded claim demonstrates no real cause of action.

29. Miss Ahmed makes the point that the PHI contract was between the respondent and the insurers; that the terms of the contract were and always

had been clear; that even if they weren't, and even if it were relevant, those terms were made clear to the claimants by way of the letter in 2010, and again at the meeting with Miss Newband, in late 2024. Miss Ahmed says that against that background, Mr Worts had no authority to vary the contract of employment and in fact, there is no suggestion that the contract of employment between the claimant and the respondent was varied. Therefore, she says, the claims are bound to fail.

30. The respondent says that looking at these facts at their highest, it's difficult to see what discriminatory acts took place by the respondent in circumstances where the basis of the claim appears to stem from a misunderstanding of what was said at a meeting 22 years ago. Miss Ahmed invites me to conclude that the only possible cause of action, which could be discerned from the claimant's pleadings, would be a claim for a failure to make reasonable adjustments pursuant to sections 20 and 21 of the Equality Act 2010; with the reasonable adjustment being, that in circumstances where the PHI ended on the claimant's 60th birthday, the respondent ought to have continued to pay the claimant half her salary per month, and subsume or take on any losses without the benefit of the insurance thereafter. Miss Ahmed says that such an adjustment would wholly be wholly unsuitable and would inevitably be likely to fail, not only on the facts of this case, but also because of clear public policy reasons. Such a PCP would be overly onerous and would not be upheld by any Tribunal as it would place a wholly unreasonable burden, not only on this respondent, but on other respondents, and would reduce the availability of similar benefits in future cases.

31. Miss Ahmed goes on to say that taking this case at its heart, this is not a discrimination case but a contractual case in which there is dispute over the terms of the PHI policy and what was said to whom and by whom back in 2004. She makes the observation that that is not the claim before the Tribunal. Pausing there, I have considered the proposed amendments which the claimant sought to apply to make; but neither of the amendments sought to bring such a claim. So this is not a claim which is pleaded on the basis of contract, and in any event, the Tribunal's jurisdiction in respect of any such claim would be limited if at all.

32. The respondent further asserts that there is no prospect of a fair hearing in these proceedings. Miss Ahmed observes that in the intervening 22 years, the respondent company now no longer has access to a number of the key documents; most strikingly, the claimant's original contract. Additionally, if there were to be any disputes, the people who were involved have either left the respondent company and in any event have been subject to the passage of 22 or more years of time, and therefore will have faded memories. In those circumstances it is submitted that there would be no real benefit to any full hearing or any witness evidence being adduced.

33. I remind myself, of course, that I'm not here to conduct a mini trial; but it seems to me that there is some strong force in that last submission was agreed by Mr Tobias. Therefore the situation is that for today's purposes the Tribunal can and should rely on the documentary evidence, which is currently before the tribunal in the final form given the lack of any alternative or additional documentation which may be available. In those circumstances it seems to me that when considering this strike-out application the Tribunal ought to interrogate the available documents to look at the claims at their highest and

to determine whether, based upon those documents – the key evidence in the case – there are either (a) any real reasonable prospects of success; and/or (b) any opportunity for there could be a fair hearing in all the circumstances. I reach that conclusion because, put shortly, no other evidence could possibly be adduced which would assist the Tribunal in determining these claims. I am therefore wholly satisfied that I have more sufficient evidence to properly interrogate and decide these applications.

<u>The claimant's submissions</u>

34. In opposing the application for a strikeout, Mr Tobias quite properly reminds me that claimants ought to have a right to justice and that justice must be seen to be done, as well as to be done. He reminds me that the purpose of discrimination law is to ensure that those people who are unfairly treated because of a protected characteristic within the workplace have appropriate recourse to the Tribunals. I accept all of those submissions, but it seems to me I have got to look at matters through the prism, not only of the Equality Act 2010, and how those causes of action are made out; but also through the prism of the Employment Tribunals Rules of Procedure 2024 which allow in certain cases for the Tribunal to properly strike out those claims which have no reasonable prospects of success and those claims in which it could not be possible to have a fair hearing.

35. In respect of the substantive matters, Mr Tobias submits that it was reasonable for the claimant to interpret what was said by Mr Worts as meaning that the payments were to continue until she reached state retirement age. He says that Mr Worts may have had the authority to vary the contract, given his position as a director. It is accepted by the claimant that the PHI is a contract between the respondent and the insurer and was intended to cover the costs of the respondent.

36. In respect of the 2010 letter, even if I were to accept the claimant's primary case about misunderstanding, Mr Tobias says that receipt of the 2010 letter, which set out clearly the ending of the PHI in January 2025 was taken by both by him and his wife simply to be stating a fact that the company's insurance was ending and that it didn't occur to them that their initial understanding of the situation was not quite correct.

37. Pausing there I do not accept that submission. I do not accept it:

    a. Because it seems to me inherently unlikely that the claimant and Mr Tobias, upon receipt of that letter, would have thought that notwithstanding the PHI policy ending upon her 60th birthday the respondent would be likely to continue to pay without having its costs covered by the benefit of the insurance policy.

    b. Even if there had been that kernel of doubt, it seems to me more likely than not, based upon the evidence I have got, that they would have sought clarification.

    c. The submission does not sit, in my judgment, with what the claimant pleads about that letter in limb one of her discrimination claim in her ET1; where she pleads that the fact that that discrepancy was not set out, it is an element of discrimination.

38. Mr Tobias goes on to submit that in all of the circumstances, the issues about the contractual variation and the impact of what was said in the 2004 meeting, ought to be decided by a full tribunal.

39. Mr Tobias also says that in respect of the fairness of the hearing being impacted by the passage of time and the destruction of documents, that that is the respondent's lookout and that a reasonable respondent ought to have kept all documents relating to an employee. Mr Tobias accepts that the documentary evidence in this case would be the key evidence, but says that Mrs Tobias ought not to be prejudiced because the respondent does not manage its own systems correctly.

<u>Analysis and consideration of the issues</u>

40. Taking a step back and looking at this case and dealing with each of the claims brought by the claimant in her ET1.

41. In respect of the first allegation of discrimination, that relates to the letter sent in 2010, the claimant says that the respondent sent the letter to her husband, not her, and the respondent did not follow up by clarifying that she had indeed received it or that its contents had been explained to her. She says that in doing that or failing to do that, in circumstances where that letter was of such importance, that there was disability discrimination. I don't accept that as a claim which has any prospect of success. In any event, it is something which now occurred at 15 years ago.

42. In respect of the second allegation the claimant pleads that given that statutory change in retirement age, the respondent discriminated against her on the basis of her age in that it failed to make provision to honour its promises to continue payment until retirement. Even if I were to take the claimant’s case at its highest then the claimant is essentially bringing a claim in respect of a failure to make reasonable adjustments as submitted by Miss Ahmed. In such circumstances I accept Miss Ahmed's submission that it is wholly imperceivable that a Tribunal would find that that was a reasonable adjustment which the respondent ought to have made, given the implications for the respondent, against a background in which for the previous 20-odd years, the claimant had received the benefit of half of her salary in accordance with and subject to the terms of the PHI scheme.

43. Turning to the third and final allegation of discrimination: that the respondent failed in its duty of care to provide the policy details that would have enabled the claimant, or any person assisting her, to reasonably understand that the company did not consider that it would only pay her until the end of the policy. I accept the submission by Miss Ahmed that such a failure, if any, on the respondent to ensure clarity and understanding on the claimant's behalf, could not either be said to be something which the respondent ought to do, or an act of discrimination. In any event, it seems to me that in framing and bringing the case as a duty of care case the claimant is seeking to bring a cause of action for negligence, which is not a claim which the Employment Tribunal has the jurisdiction to determine. It appears that she seeks instead to challenge the adequacy of the respondent's communications between the period at 2004 and 2024.

44. Taking all of those matters into consideratio I accept Miss Ahmed's submission that this is a case in which no reasonable cause of action, in fact no cause of action at all, under the Equality Act 2010 has been pleaded either in the written claim form or in the submissions made by Mr Tobias today.

45. Whilst there may have been a genuine misunderstanding on the part of the claimant, following the meeting in 2004 with Mr Worts; what happened subsequently, and the respondent ceasing to pay the claimant upon her reaching the age of 60 shows that the events of the 2004 meeting is not something that could, in any way, shape, or form, amount to discrimination.

46. I am not satisfied that this is a case in which oral evidence and full consideration by a Tribunal is necessary because, given the passage of time, there would be no way, it seems to me, that any oral evidence, or indeed any further evidence which may be available, could possibly change the factual background or the factual matrix of this case.

47. This is not a case in which there are fact sensitive matters which necessitate the hearing of oral evidence. To the contrary: there are real, logistical, practical, and evidential burdens that, given the passage of time since the key dating question (which was 2004), mean, it would be impossible for there to be a fair hearing in this case.

48. Therefore I have come to the conclusion that this is one of the rare cases, where notwithstanding this is a claim for discrimination, the tribunal can, and indeed must, exercise its discretion to strike out the claim.

49. Put simply, there is no cause of action at all which has been identified by the claimant, which would suggest that she has a viable claim under the Equality Act 2010. If anything this is, as Miss Ahmed observes within her written submissions, a contractual dispute dressed up as discrimination.

50. For all of those reasons I am satisfied that pursuant to Rule 38 of the Employment Tribunal Rules of Procedure 2024, that these claims have no reasonable prospects of success and that it would be no longer possible to have a fair trial.

51. Accordingly it follows that the application to strike out must succeed and I strike the claims out for both of those reasons.

52. That is my decision.

<u>On:</u>
14 May 2026

JUDGMENT SENT TO THE PARTIES
ON

15 may 2026

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FOR THE TRIBUNAL OFFICE