EMPLOYMENT TRIBUNALS

The Claimant: Mr R Klavins

The Respondents: (1) Menzies Distribution Solutions Limited
(2) Unite the Union
(3) Philip Hopcraft
(4) Peter Blake
(5) Natalie Chadwick
(6) Alan Ford
(7) Edwin Squirrell
(8) Mark Hall
(9) Philip Hopcraft
(10) Scott Kemp
(11) Antoni Motyl
(12) Sally Somal
(13) Dave Young

Heard at: By video CVP **On:** 9 February 2026

Before: Employment Judge R Wood

Appearances
For the Claimant: In person
For the Respondents: Mr Davies for all save for Unite (R2), Mr Kemp (R10) and Mr Hopcraft (R3)
Mr Gillam for Unite (R2), Mr Kemp (R10), and Mr Hopcraft (R9)

REASONS: PRELIMINARY HEARING ON 9 FEBRUARY 2026

1. *References in this document to numbers in square brackets are to pages in the hearing bundle, unless otherwise stated. The hearing bundle comprises of 399 pages.*

BACKGROUND

2. In this case, the claimant was employed by the first respondent (R1) as a class one HGV driver in July 2018. His employment with R1 came to an end on 8 November 2023, the claimant having resigned on 2 October 2023. He asserts that he resigned as a result of certain acts of discrimination and/or

because he was treated badly because he had made certain complaints relating to his working conditions.

3. R1 is a logistics company providing delivery collection and distribution and other professional services around the UK. Respondents R3 through to R8, and R11 to R13 are all employees of R1. R2 is Unite the Union which is the recognised union at R1's workplace. R9 is the same respondent as R3 (Philip Hopcraft). He has been joined as a respondent at R3 as an employee of R1; at R9 Mr Hopcraft is also included as a workplace representative of R2. R10 is Mr Kemp who is joined as an employee (Regional Officer) of the R2.

4. At the time of his resignation, the claimant had been subject to a disciplinary procedure in relation to conduct towards a customer. On 4 October 2023, the claimant was issued with a first written warning in respect of his alleged conduct. The First and Second Respondents accept that they are variously liable for the acts of the other respondents in so far as they are their employees, and acting in that capacity.

5. The claimant has had the assistance of a Russian interpreter during hearings.

6. The claim was lodged on 1 November 2023. In the ET1, the claimant indicated that the claim was for unfair dismissal; age discrimination; race discrimination; victimisation, hate crime; and breach of the Modern Slavery Act. However, at various times, the claimant has sought to bring the following claims:

   6.1. Unfair/Constructive dismissal;

   6.2. Direct race discrimination about the following

   6.3. Direct age discrimination

   6.4. Indirect discrimination on the grounds of race

   6.5. Indirect discrimination on the grounds of age

   6.6. Harassment related to race

   6.7. Harassment related to age

   6.8. Sexual discrimination

   6.9. Sexual orientation discrimination

   6.10. Victimisation

   6.11. Health and Safety Detriment (section 44(1)(c) of the ERA 1996)

   6.12. Sections 64, 65 and 174 of TULRCA 1992

6.13. Section 57 of the EA 2010 in respect of the Union/union representatives

6.14. Unauthorised deductions from wages.

7. In addition to the above, the claimant had also commenced a county court action against R1, and made a complaint to the police about some of these matters, although he has been reluctant to say any more about this.

8. The claim had been previously listed for preliminary hearing/case management before me on 11 June 2025 and 26 September 2025 (I would refer the reader to the case management orders relating to those hearings). On 8 February 2026, I again dealt with this case for preliminary. The case was listed to decide the following:

(i) the claimant's application to amend his claim to add sex/sexual orientation direct discrimination/harassment; automatic unfair dismissal/detriment claim; unauthorised deductions from wages;

(ii) any other applications from the respondents including for strike out of parts of the claim and/or applications for deposit orders.

(iii) and to make any other case management orders.

9. Unfortunately, managing the case has proven to be quite challenging. At the outset, I accept that it is very difficult for a claimant with no legal experience to represent himself, especially as he does so with the assistance of an interpreter. I have attempted to provide guidance where it was appropriate to do so. However, the claimant finds it challenging to stay focussed on the key issues in the case. What tends to happen is that during a hearing, I will come to some sort of understanding with the claimant as to what are the important aspects of his claim. Then at the next hearing, the claimant will have lost focus, and will have added further claims and/or allegations to the proposed list of issues. More documents will have been added to the hearing bundle, which comprises hundreds of pages. The list of issues itself is extremely long. I have been unable to impress upon the claimant the mutual benefit of concentrating on a limited number of stronger points within his claim.

10. By way of illustration, on 26 September 2025, the claimant sought to add claims of sex discrimination and sexual orientation discrimination. There had been no previous mention of either of these claims. Upon discussion, the claimant stated that he compared his treatment in terms of sex discrimination to other men. It was challenging to explain to him that this made little sense in the context of a sex discrimination claim. In terms of sexual orientation, he identified as a straight man. He compared his treatment to a Mr Mirek, who it seemed was also straight, although the claimant explained that he sometimes behaved as if he was gay, and that he might be perceived in that way. The claimant was directed to provide a written application to amend his claim to include claims of sex/sexual orientation direct discrimination. This application was also to include his proposed automatic unfair dismissal (reliant on section 100 of the Employment Rights Act 1996 (ERA)); and unauthorised deductions from wages. As it transpired, this should also have included his claim of health and safety detriment pursuant to section 44 of the ERA. I allowed him to pursue this aspect of his application at the hearing.

11. On 26 September 2025, I had advised the claimant that I was looking to draw that aspect of case management to a close and that there should only be minor amendments, if any, to the proposed list of issues. Notwithstanding, on 9 February 2026, the claimant produced an extensively amended version of the proposed list of issues. In fairness, these changes were sometimes helpful. However, the claimant's approach overall is unstructured. He simply cannot concentrate on the important issues independently, making the case almost unmanageable.

12. Again, in fairness to the claimant, on 9 February 2026 he confirmed that he was no longer pursuing the claims of direct sex/sexual orientation; and sex/sexual orientation related harassment. These claims were removed from the list of issues. The claimant spent some time trying to persuade me that the claims had been withdrawn on the last occasion. However, he was mistaken about this. It was a perfect example of the claimant's failure to focus and prioritise, which had resulted in the parties and the Tribunal wasting time on irrelevant matters.

13. Over the course of a whole day on 9 February, I went through the issues to be dealt with on this occasion, as set out above. In summary, I allowed the application to amend the claim in relation to unauthorised deductions, but refused the application in relation to the section 100 automatic unfair dismissal claim, and the section 44 health and safety detriment claim. I provided reasons at the hearing.

14. I allowed application to strike out the direct age discrimination claims, the age related harassment claim, and part of the victimisation claim on the grounds that they had no reasonable prospect of success. I again provided reasons during the hearing.

15. On 30 April 2026, I was forwarded a request for a statement of reason of the above decisions from the claimant. I have set out my reasons below.

APPLICATION TO AMEND

16. First of all, I heard the claimant's application to amend the claim to add a claim of automatic unfair dismissal on the grounds of section 100 ERA 1996; a claim of health and safety detriment pursuant to section 44 of the ERA 1996; and a claim of unauthorised deductions from wages.

17. The claimant's application to amend in respect of his claim appears at [249]. It is extremely brief and lacking in detail on key aspects of his application. This is notwithstanding that I spent a significant amount of time on 26 September 2025 explaining what he should include in his application. I asked

him to include a written proposed amendment making it clear what he wished to add to his claim. I also required him to explain to me why the claims had not been included in the original ET1; why the application had been delayed; and why the balance of prejudice favoured amendment of the claim. In my judgment, these issues were not adequately addressed.

Legal Framework

18. It is clear from the case of *Chandhok v Tirkey [2015] ICR 527* that: "*The claim, as set out in the ET1, is not something just to set the ball rolling, as an initial document necessary to comply with time limits but which is otherwise free to be augmented by whatever the parties choose to add or subtract merely on their say so. Instead, it serves not only a useful but a necessary function. It sets out the essential case. It is that to which a respondent is required to respond.".*

19. The approach to be adopted when considering applications to amend has been recently considered in the matter of *Vaughan v Modality Partnership Limited [2020] UK EAT 0147/20*. Here it was noted that the Tribunal has a broad discretion when considering applications to amend and it was noted that the key test for considering amendments has its origin in the decision of *Cocking v Sandhurst (Stationers) Ltd [1974] ICR 650*: "*In deciding whether or not to exercise their discretion to allow an amendment, the tribunal should in every case have regard to all the circumstances of the case. In particular they should consider any injustice or hardship which may be caused to any of the parties, including those proposed to be added, if the proposed amendment were allowed or, as the case may be, refused.*".

20. Moreover in *Selkent Bus Co Limited v Moore [1996] ICR 836* it was said: "*Whenever the discretion to grant an amendment is invoked, the tribunal should take into account all the circumstances and should balance the injustice and hardship of allowing the amendment against the injustice and hardship of refusing it."* It was also observed in *Vaughan* that the court noted that that on a correct reading of *Selkent* the fact that an amendment would introduce a claim that was out of time was not decisive against allowing the amendment, but was a factor to be taken into account in the balancing exercise.

21. The list of factors espoused by Mummery J in *Selkent* as examples of factors that may be relevant to an application to amend ("the Selkent factors") should not be taken as a checklist to be ticked off to determine the application (per Underhill LJ in *Abercrombie v Aga Rangemaster Limited [2014] ICR 209 [47]*), but are factors to take into account in conducting the fundamental exercise of balancing the injustice or hardship of allowing or refusing the amendment.

22. Further in *Abercrombie* Underhill LJ stated: "*Consistently with that way of putting it, the approach of both the Employment Appeal Tribunal and this court in considering applications to amend which arguably raise new causes of action has been to focus not on questions of formal classification but on*

the extent to which the new pleading is likely to involve substantially different areas of inquiry than the old: the greater the difference between the factual and legal issues raised by the new claim and by the old, the less likely it is that it will be permitted." [48]

23. It is necessary to focus upon the practical consequences of allowing an amendment when conducting the balancing exercise – what will be the effect if the application is approved or rejected? Refusal of an amendment will self-evidently always cause some perceived prejudice to the person applying to amend. They will have been refused permission to do something that they wanted to do, presumably for what they thought was a good reason. Submissions in favour of an application to amend should not rely only on the fact that a refusal will mean that the applying party does not get what they want; <u>the real question is will they be prevented from getting what they need.</u> This requires an explanation of why the amendment is of practical importance because, for example, it is necessary to advance an important part of a claim or defence.

24. The *<u>Selkent</u>* factors are: i. the nature of the amendment ii. the applicability of time limits iii. the timing and manner of the application.

Decision on Amendment

25. I allowed the application to amend in relation to the claim for unauthorised deductions from wages. I am not asked to provide reasons for this decision.

26. The automatic unfair dismissal claim and the claim for health and safety detriment under section 44 of the ERA are brought on a related basis. Section 100(1)(c) provides that an employee who is dismissed shall be regarded as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that being an employee at a place where—(i) there was no such representative or safety committee, or (ii) there was such a representative or safety committee but it was not reasonably practicable for the employee to raise the matter by those means, he brought to his employer's attention, by reasonable means, circumstances connected with his work which he reasonably believed were harmful or potentially harmful to health or safety. Section 44(1)(c) is in very similar terms.

27. In other words, both provisions have important pre-conditions to their application, namely that there was no health and safety representative or safety committee, or that it was not reasonably practicable for the claimant to have raised the matter with such a representative or committee.

28. The proposed amendment, to the extent that it is set out in the list of issues [255-256] does not address any of these issues. It was apparent when I asked him at the hearing that the claimant had given no thought at all to these problems with his claim, and appeared to have little, if any, understanding of either sections 44 or 100 of the ERA. He was not aware, one way or the other, whether there was a safety representative or committee. As an aside, Mr Gillam indicated that Unite was recognised by Menzies. As such, he thought

it highly likely that there would be a safety representative and/or a safety committee.

29. I also accepted Mr Davies' submission that there were additional complexities associated with relying upon section 100 in the context of a constructive dismissal claim. Section 100 anticipates a situation where someone raises a health and a safety issue and is dismissed. If it is to work in a constructive dismissal situation, the claimant would have to satisfy the Tribunal that he had made relevant health and safety representations, and that as a direct result his employer had committed a fundamental breach of a term of the contract, which had caused the claimant to resign. This is a very specific set of circumstances. If one looks at the list of issues at [255; para.2.3], it is not how the case is pleaded at all. In other words it is a confusingly and disjointedly worded claim.

30. As such, it seems to me that the proposed amendments have little prospect of success, have been inadequately thought through, and are not properly pleaded.

31. In addition, I had regard to the fact that the written application offered no explanation for the absence of either claim from the ET1 (box 8.2), or for the delay in making the application to amend which amounted to about 16 months. No further explanation was provided at the hearing. It was my impression that the claimant viewed the application to amended as a rubber stamping exercise. This attitude clearly ran contrary to the observations made in the case of <u>*Chandok*</u>, set out above. In short, the claim was out of time, and there had been very significant delay in seeking the amendment.

32. Accordingly, I refused the application to amend the claims of automatic unfair dismissal and health and safety detriment (section 44). In my view this was an example of proposed claims which the claimant did not need. They would have added complexity to his case for no appreciable advantage. He can bring an ordinary unfair dismissal claim as he has the length of service. He is still able to argue all of the allegations as part of his other claims e.g. his constructive unfair dismissal claim. In my judgment, there is no prejudice to the claimant. This is a case which does need further complexity, but the opposite, especially if the claimant is to present this case himself at the final hearing.

<u>APPLICATION TO STRIKE OUT</u>

Legal framework

33. The application was brought under a rule 38(1)(a) of the Employment Tribunal Procedure Rules 2024 i.e. that the relevant claims have no reasonable prospect of success. The written application of the respondents is to be found at [343].

34. The Tribunal's discretion to strike out a claim is permissive. It is a draconian step and is therefore a power which should be exercise sparingly. In general

terms, accusations of discrimination and victimisation are grave, and there is a public interest in such matters being investigated thoroughly by a Tribunal.

35. There are two steps when considering an application to strike out. Firstly, the Tribunal must consider whether any of the grounds set out in rule 38(1) have been established. Secondly, and only if a ground is identified, a Tribunal must go on to decide whether to exercise its discretion to order strike out. In going through this process, I applied the guidance set out in the cases of *Cox v Adecco Group UK Limited [2021] I.C.R. 1307*. In all cases this step requires me to ask whether strike out is the proportionate response to the situation. I also consider the cases of *Blockbuster Entertainment Limited v James [2006] IRLR 630, CA*; and *Emuemukoro v Cromarty Vigilant [2022] ICR 327 EAT*.

36. In *Adecco*, HH Judge James Tayler provided some guidance to tribunals in approaching strike out applications against litigants in person:

    a. if the question of whether a claim has reasonable prospects of success turns on factual issues that are disputed, it is highly unlikely that strike-out will be appropriate.

    b. there has to be a reasonable attempt at identifying the claim and the issues before considering strike-out or making a deposit order. The claimant's case must ordinarily be taken at its highest and the tribunal must consider, in reasonable detail, what the claim(s) and issues are: 'Put bluntly, you can't decide whether a claim has reasonable prospects of success if you don't know what it is'

    c. a fair assessment of the claim(s) and issues should be carried out on the basis of the pleadings and any other documents in which the claimant seeks to set out the claim.

    d. in the case of a litigant in person, the claim should not be ascertained only by requiring the claimant to explain it while under the stresses of a hearing; reasonable care must be taken to read the pleadings (including additional information) and any key documents in which the claimant sets out the case. When pushed by a judge to explain the claim, a litigant in person 'may become like a rabbit in the headlights' and fail to explain the case he or she has set out in writing.

    e. in some cases, a proper analysis of the pleadings, and of any core documents in which the claimant seeks to identify the claim, may show that there really is no claim and therefore no issues to be identified. More often, however, a careful reading of the documents will show that there is a claim, even if it might require amendment.

    f. strike-out is not a way of avoiding rolling up one's sleeves and identifying, in reasonable detail, the claims and issues; doing so is a prerequisite of considering whether the claim has reasonable prospects of success. Often it is argued that a claim is bound to fail because there is one issue that is hopeless. For example, in the whistleblowing context, it might be argued that the claimant will not be able to establish a reasonable belief in wrongdoing; however, it is generally not possible to analyse the issue of wrongdoing without considering what information the claimant contends has been disclosed and what type of wrongdoing the claimant contends the information tended to show

g. respondents, particularly if legally represented, should, in accordance with their duties to assist the tribunal to comply with the overriding objective and not to take procedural advantage of litigants in person, assist the tribunal in identifying the documents, and key passages of the documents, in which the claim is set out, even if it may not be explicitly pleaded in a manner that would be expected of a lawyer, and should take particular care if a litigant in person has applied the wrong legal label to a factual claim that, if properly pleaded, would be arguable.

h. if the claim would have reasonable prospects of success had it been properly pleaded, consideration should be given to the possibility of an amendment, subject to the usual test of balancing the justice of permitting or refusing the amendment, taking account of the relevant circumstances

i. litigants in person also have responsibilities in this context. So far as they can, they should seek to explain their claims clearly, even though they may not know the correct legal terms, focusing on core claims rather than trying to argue every conceivable point. The more prolix and convoluted the claim is, the less a litigant in person can criticise an employment tribunal for failing to get to grips with all the possible claims and issues. Litigants in person should appreciate that, usually, when a tribunal requires additional information it is with the aim of clarifying, and where possible simplifying, the claim, so that the focus is on the core contentions. The overriding objective also applies to litigants in person, who should do all they can to help the employment tribunal clarify the claim

j. the employment tribunal can only be expected to take reasonable steps to identify the claims and issues. But respondents, and tribunals, should remember that repeatedly asking for additional information and particularisation rarely assists a litigant in person to clarify the claim. Requests for additional information should be as limited and clearly focused as possible.

37. In terms of the law relating to direct discrimination, I have applied the following. The relevant legislation in respect of the allegations of direct discrimination is contained in the Equality Act 2010 (“the Act”).

38. Age is a protected characteristics as defined by section 4 of the Act. Sections 39 and 40 prohibit unlawful discrimination against employees in the field of work. Section 39(2) provides that:

> "*An employer (A) must not discriminate against an employee of A's (B) -*
>
> *(a) as to B's terms of employment;*
>
> *(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;*
>
> *(c) by dismissing B; or (d) by subjecting B to any other detriment.*"

39. Direct discrimination is defined in section 13(1) of the Act as "*A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others*".

40. Section 136 of the Act provides that:

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

41. The application of those principles was summarised Madarassy v Nomura International plc *[2007] ICR 867, which* applied Igen v Wong *[2005] 3 All ER 812* which stated:

    (a) In every case the Employment Tribunal has to determine the reason why the claimant was treated as he was. In most cases this will call for some consideration of the mental processes (conscious or subconscious) of the alleged discriminator.

    (b) If the Employment Tribunal is satisfied that the prohibited ground is one of the reasons for the treatment, that is sufficient to establish discrimination. It need not be the only or even the main reason. It is sufficient that it is significant in the sense of being more than trivial.

    (c) Direct evidence of discrimination is rare and Employment Tribunals frequently have to infer discrimination from all the material facts. The courts have adopted the two-stage test. The first stage places a burden on the claimant to establish a prima facie case of discrimination. That requires the claimant to prove facts from which inferences could be drawn that the employer has treated them less favourably on the prohibited ground. If the claimant proves such facts then the second stage is engaged. At that stage the burden shifts to the employer who can only discharge the burden by proving on the balance of probabilities that the treatment was not on the prohibited ground. If they fail to establish that, the Tribunal must find that there is discrimination.

(d) The explanation for the less favourable treatment does not have to be a reasonable one. In the circumstances of a particular case unreasonable treatment may be evidence of discrimination such as to engage stage two and call for an explanation. If the employer fails to provide a non-discriminatory explanation for the unreasonable treatment, then the inference of discrimination must be drawn. The inference is then drawn not from the unreasonable treatment itself - or at least not simply from that fact - but from the failure to provide a non-discriminatory explanation for it. But if the employer shows that the reason for the less favourable treatment has nothing to do with the prohibited ground, the burden is discharged at the second stage, however unreasonable the treatment.

(e) It is not necessary in every case for an Employment Tribunal to go through the two-stage process. In some cases it may be appropriate simply to focus on the reason given by the employer ("the reason why") and, if the Tribunal is satisfied that this discloses no discrimination, then it need not go through the exercise of considering whether the other evidence, absent the explanation, would have been capable of amounting to a prima facie case under stage one of the *Igen* test.

(f) It is implicit in the concept of discrimination that the claimant is treated differently than the statutory comparator is or would be treated. The determination of the comparator depends upon the reason for the difference in treatment. The question whether the claimant has received less favourable treatment is often inextricably linked with the question why the claimant was treated as she was. However, as the EAT noted (in *Ladele*) although comparators may be of evidential value in determining the reason why the claimant was treated as he or she was, frequently they cast no useful light on that question at all. In some instances, comparators can be misleading because there will be unlawful discrimination where the prohibited ground contributes to an act or decision even though it is not the sole or principal reason for it. If the Employment Tribunal is able to conclude that the respondent would not have treated the comparator more favourably, then it is unnecessary to determine the characteristics of the statutory comparator.

41. The crucial question in every case will be the reason why the complainant was treated as he was. If the Tribunal is satisfied that the prohibited ground

is one of the reasons for the treatment, that will be sufficient – it need not be the only reason, provided it is significant, in the sense of being more than trivial.

42. It is not an error of law for the Tribunal not to identify a comparator of any kind, so long as it addressed the core question of 'why' the complainant was treated in the manner complained of' (*Igen Ltd v Wong* *[2005] EWCA Civ 142, CA, at para 34*).

Decision on strike out application

43. I allowed the strike out application in relation to the direct age discrimination claim, the age related harassment claim, and certain parts of the victimisation claim.

44. I turn first to the victimisation claim. The claimant explained that he wished to withdraw 12.1.7 and 12.1.8 on the basis that they did not reveal a protected act i.e. not one related to an alleged contravention of the Equality Act 2010. In my judgment, paragraphs 12.1.4 and 12.1.6 fall into the same category. The claimant could offer no cogent explanation as to how these paragraphs could, on their face, amount to protected acts as defined. I therefore struck out these paragraphs of the list of issues. There was no reasonable prospect of success, and it was proportionate to strike out these paragraphs in that it was consistent with simplifying the issues in what is already an overly complex case. The claimant remains able to argue a myriad of other, more meritorious, allegations.

45. I then addressed the age discrimination claims. I found that there was not even a prima facie case of direct age discrimination, applying the test in *Igen*. I also found that the allegations of age related harassment were similarly not adequately connected to the matters of age.

46. The application submitted that the was insufficient connection between the matters raised in paragraph 7.2 of the list of issues in terms of less favourable treatment on the grounds of age. A similar argument was raised about paragraph 10.1 in relation to acts of age related harassment.

47. Mr Davies made the point in his submissions that the claimant appeared to have taken the list of less favourable treatment from the race discrimination aspects of the list of issues and simply inserted them into the age related parts of the claim. There appeared to have been little, if any, thought given originally to whether these were genuinely age related allegations. It was noted that at some point prior to the hearing (and presumably after the claimant had been put on notice of the application to strike out) that the claimant had himself deleted and withdrawn paragraphs 7.2.4 to 7.2.10 of the list of issues, and paragraphs 7.2.12 to 7.2.14, on the basis that they were "probably not age related". He had undertaken a similar exercise in respect of paragraphs 10.1.3 to 10.1.8 of the age related harassment claim.

48. In large part, it was difficult to see the distinction between those parts that the claimant had withdrawn, and those that remained. When asked about this, the claimant explained that he had been called a “little baby” by one of his managers, a Mr Blake, and that this had been in front of 20 or so other colleagues. He went on to explain that this had been a humiliating experience. In more general terms, the claimant stated that he had been treated less favourably than people of all ages. His focus was on a group of comparators who were 50 plus years old.

49. Looking carefully at the matters raised in the list of issues, the closest that the claimant comes to making an allegation which is, on its face, related to age, is at paragraph 7.2.27 (mirrored by the allegations at paragraphs 10.1.11 and 10.1.12 in relation to harassment). However, none of the allegations makes mention of him being called a “little baby”. Instead it is suggested that he was portrayed in an “infantilising manner”. In this respect, the way the claim is pleaded is inconsistent, which in my view, undermines the strength of the claim. I note that the allegation that he had been called a “little baby” does not appear in the list of issues (even after three preliminary hearings), and was not included in the claimant’s application to amend the claim which I had dealt with earlier in the day (see above).

50. Neither was I persuaded that reference to “little baby” was related to age. It seem to be more likely to be a reference to his behaviour or attitude. I remain unclear as to what the word ‘infantilising’ means in the context of this claim, above and beyond the comment about a “little baby”. It has not been explained to me, despite my best efforts.

51. The claimant seemed to suggest that he had a much younger appearance than his 45 years, and that as a result there may have been some confusion as to his age so far as his colleagues were concerned. With respect to the claimant, that did not seem to me to be a likely scenario.

52. Over three preliminary hearings, I tried hard to work out what the age related discrimination claim was about. Save for the isolated and inconsistent reference mentioned above, there was no other allegation which seemed to relate to age.

53. I reminded myself that striking out a claim is a draconian measure and should be a step taken only in rare circumstances when other options have been exhausted. In making my decision, I have taken the claimant’s case at its highest in terms of the evidence.

54. However, it is my view that this is a case which, in so far as it is a discrimination case, is about race not age. It was the claimant’s suggestion that there are in the region of 300 allegations making up this claim. Yet only one even remotely relates to the issue of the claimant’s age. This speaks volumes as to the relative importance of this aspect of the claim. Further, his proposed comparator or comparators are poorly defined. It has only latterly became apparent that he was asserting that any comparators were older than him. None are named, if there any actual comparators. If, as he suggests, a

comparator might be as young as 50 years old, it seems to me to be inherent unlikely that the difference of five years might cause a difference in treatment (the claimant being 45 years old).

55. For all of the above reasons, it is my judgment that this aspect of the claim (the age discrimination claims) have no reasonable prospect of success. in my view, they are a distraction from what the claim is really about. The claimant will be able to argue all matters as part of his race or unfair dismissal claims. There is no prejudice to him in striking out these discrimination claims, which will simplify an already unwieldy case. Accordingly, it is proportionate to strike out these claims.

Other Matters

56. The request for written reasons was itself a confusing document. It makes requests for other things. If there was a request for a reconsideration of my decisions on 9 February 2026, then it seemed to me to be premature. If the claimant wishes to seek a reconsideration after reading these reasons, then he may make a fresh application.

57. The list of issues to be used by the panel and the parties at the final hearing is the one which appears at the end of the case management order of 9 February 2026. There will be no further changes to this document. It is time to focus on preparation for the final hearing. The orders I made in the previous case management order should be complied with by all parties.

58. There has been a short delay in providing these reasons for which I apologise. This has been due to my workload. I hope that the delay has not caused any further anxiety to the parties.

Approved by:

Richard Wood

22 July 2026

Sent to the parties on:
28 July 2026
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For the Tribunal Office:

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