



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Z Nolan

**Respondent:** Brighton People's Theatre

**Heard at:** London South (by video)

**On:** 31 July 2026 and deliberations on 20 August 2026

**Before:** Employment Judge Evans

## JUDGMENT

1. The respondent's application dated 11 December 2025 to strike out the claim is refused.
2. The claimant's application dated 17 July 2026 (and augmented by subsequent correspondence) to strike out the response is refused.

## REASONS

### Preamble

1. These are my full reasons for my judgment set out above.
2. A preliminary hearing took place before me in this claim on 31 July 2026. Both the respondent and claimant had made strike out applications. I did not deal with them on the day for reasons which are set out in the case management orders sent to the parties following that hearing. Those case management orders also list the documents I had before me at the beginning of the preliminary hearing.
3. By the end of it, I also had an agreed bundle containing without prejudice materials that the claimant wished to rely on in her strike out application, in respect of which the respondent had agreed to waive privilege. The additional bundle of without prejudice materials ran to 43 pages.

4. The claimant provided further information on her own strike out application on 2 August 2026. This was accompanied by an additional bundle running to 487 pages. I had not ordered or permitted her to do this. To the extent that the claimant applied on 2 August 2026 to alter or expand the basis for her strike out application by providing these materials, her application is refused. She had already provided materials on three separate occasions providing different bases for her application and it would not be in the interests of justice to permit her to alter the basis for her application again after the hearing had concluded.
5. What I had actually ordered the claimant to do was to provide a written response to the respondent's strike out application and to the respondent's application to rely on without prejudice materials (order 1 of my case management orders of 31 July 2026) by 14 August 2026. The claimant provided further submissions in relation to the respondent's application to rely on without prejudice materials on 14 August 2026 (which ran to two pages) and in relation to the respondent's strike out application on 15 August 2026 (which ran to 19 pages and were accompanied by 587 pages of exhibits). I have exercised my discretion to extend time for compliance with case management orders with the result that I have taken into account her submissions of 15 August 2026.
6. References to page numbers are, unless stated otherwise, to the bundle prepared by the respondent prior to the preliminary hearing which contained 347 pages.
7. I should observe at this point that the claimant has made too many unnecessary and lengthy applications and submissions to the Tribunal. For example, providing over 1000 pages of materials following the preliminary hearing on 31 July 2026 in relation to the competing strike out applications was wholly disproportionate. Moving forward, she should focus instead on complying with case management orders made.

## **The respondent's applications**

### The strike out application

8. The respondent's strike out application was contained in a letter sent to the Tribunal on 11 December 2025. The application applied for the claim to be struck out:
  - 8.1. Under Rule 38(1)(b), on the basis that the manner in which the proceedings had been conducted by the claimant had been unreasonable, scandalous and vexatious;
  - 8.2. Alternatively, under Rule 38(1)(a), on the basis that the claim was scandalous or vexatious.
9. In support of its application the respondent contended that:
  - 9.1. The claimant's correspondence had been "highly inappropriate and unprofessional, rude, threatening, and coercive";

- 9.2. The claimant had applied to include individual respondents to her claims. This application had been “vexatious” (I note that this application has not yet been decided);
- 9.3. The claimant maintained a Facebook page. She had posted about her experience with the respondent and its “personnel”, her claim, and without prejudice correspondence. The contents of the Facebook page were “inappropriate”, causing damage to the respondent’s reputation and some of its contents was “subject to... these Employment Tribunal proceedings”;
- 9.4. The claimant’s conduct “in and surrounding these proceedings was intimidatory to potential witnesses”;
- 9.5. Further, these four matters showed that the claim itself was both scandalous and vexatious.

**The application in relation to without prejudice materials**

10. On 30 July 2026 the respondent applied to rely on certain without prejudice materials in its strike out application. It sought to rely on:
- 10.1. Without prejudice correspondence between the claimant and respondent on 24 February 2025 (page 260) and 17 May 2025 (page 264 and page 265);
- 10.2. Without prejudice correspondence between the claimant and respondent between 23 and 26 June 2025 (page 336 to page 345);
- 10.3. The claimant’s public Facebook post of 30 June 2025 (page 346 to 347).
11. The respondent contended that it was entitled to rely on these materials if it chose to waive privilege because:
- 11.1. The claimant had waived privilege by publishing without prejudice material on her Facebook page;
- 11.2. The claimant had been guilty of unambiguous impropriety in her without prejudice email of 24 June 2025.

**The claimant’s strike out application**

12. The claimant’s application to strike out the response was made on 17 July 2026 (page 220). It was supplemented by a further communication to the Tribunal of 29 July 2026 (page 241) and by information sent to the Tribunal on 31 July 2026 (a two page document not included in the bundle). The claimant then sent all these materials with some additional grounds for strike out to the Tribunal on 2 August 2026 in a 487 page document as described above. I have considered this but, as noted above, have not treated it as extending the scope of the claimant’s strike out application.

13. Like the respondent, the claimant relies on Rule 38(1)(a) and Rule 38(1)(b). I seek to summarise below in a proportionate fashion the contents of the claimant's wide-ranging application. I have taken the whole of it into account even though I do not refer to every detail of it here.
14. The basis for the application initially was what the claimant characterised as the respondent's vexatious and unreasonable behaviour throughout this process. In brief summary:
- 14.1. The respondent had defamed the claimant within its own organisation and also in the broader community;
  - 14.2. The claimant had been "physically assaulted by a former co-worker";
  - 14.3. The respondent had "breached the claimant's private medical information";
  - 14.4. When the above had been drawn to the attention of the respondent it had not apologised, investigated or retracted.
15. The incidents relied on by the claimant in her application of 17 July 2026 in relation to these matters were:
- 15.1. What happened when she protested at a workshop of the respondent on 10 December 2024;
  - 15.2. The conduct of the respondent at an event on 12 December 2024, including that it had hired a security guard;
  - 15.3. The conduct of an employee of the respondent on 12 December 2024 at the same event, including the way she looked at the claimant, slamming a door and driving her car at the claimant;
  - 15.4. A board member of the respondent sending a message to the participants of the respondent on 13 December 2024 advising them to leave WhatsApp groups administered by the claimant on the grounds that there were "serious concerns about her mental health". This was said to be a breach of private medical information shared in confidence with the respondent;
  - 15.5. The respondent stationing a security guard outside workshops/events since December 2024;
  - 15.6. An unnamed person being overheard referring to a venue being "in lockdown" when the claimant attended ACCA to protest a workshop (which had in fact been cancelled). The claimant does not provide the date;
  - 15.7. The respondent's CEO emailing participants en masse on 8 September 2025 telling them that workshops would not take place during the coming term and implying (albeit without naming the claimant) that this was because her presence was intimidating;

- 15.8. The fact that the respondent's lawyers have provided a photograph of one of the claimant's protest leaflets, notwithstanding these had never been provided to employees of the respondent, which demonstrated she was being discussed with participants and that participants were being encouraged to act as spies and hand over information;
- 15.9. The respondent failing to respond appropriately or at all to attempts by the claimant to "informally raise the issue of defamation" with the respondent throughout 2025;
- 15.10. Two unnamed men (one of whom the claimant believes to be the CEO of another charity) harassing the claimant and saying that the respondent "had a restraining order" against her when she engaged in a "peaceful, lawful protest" outside a show of the respondent on 28 and 29 March 2026; the respondent calling the police on the same occasion; two other people associated with the respondent harassing the claimant on the same occasion;
- 15.11. The respondent engaging in "double standards of behaviour";
- 15.12. The respondent's solicitors continuing to contact her although she had agreed to refrain from direct contact with the respondent itself;
- 15.13. The conduct of the respondent's solicitors as set out at pages 229 and 230.
16. The claimant finally complained about the respondent misusing court processes (in relation to a defamation claim she intended to bring) and "lying" about basic facts relevant to her Tribunal claim (particularly in relation to the dates of her employment and her disability status).
17. The further incidents relied on by the claimant in her email of 29 July 2026 were alleged harassment by a participant of the respondent between 22 and 26 July 2026. The claimant states that this person suffers from a mental illness and has learning challenges. The claimant suggests that the timing of the alleged harassment suggests that it was encouraged by the respondent. (I note at this point that the respondent had no objection to these matters being considered in the context of the claimant's strike out application despite them being raised only on 29 July 2026.)
18. The matters relevant to strike out with the claimant included in the two page document she uploaded on 31 July 2026 were the respondent:
  - 18.1. Behaving in an overly aggressive way in recent settlement negotiations including in the terms of settlement sought;
  - 18.2. Making the application to permit it to rely on without prejudice materials on 31 July 2026.

19. Again, the respondent had no objection to these points being considered in the context of the claimant's strike out application despite them not having been raised until 31 July 2026.

20. The claimant concluded that the above matters resulted in a fair trial being impossible.

## **The Law relating to strike out under Rule 38(1)(a) and (b)**

### Strike out generally

21. Rule 38(1) of the Employment Tribunal's Rules of Procedure provides where relevant:

*(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;*

*(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;*

...

*(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.*

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

*(4) Where a reply is struck out, 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).*

22. When deciding whether to strike out a claim, a Tribunal must:

22.1. First consider whether any of the grounds set out in Rule 38(1)(a) to (e) have been established;

22.2. Secondly decide whether to exercise its discretion to strike-out.

23. A Tribunal should bear in mind the overriding objective of dealing with cases 'fairly and justly' when considering whether to strike out. This includes, among other things, ensuring so far as practicable that the parties are on an equal footing, dealing with cases in ways that are proportionate to their complexity and importance, and avoiding delay. The overriding objective means that the proportionality of the sanction must be at the forefront of the Tribunal's mind,

having regard to the relevant default, its effect on the other side, and whether a lesser sanction is available and appropriate.

24. The question of whether a fair trial remains possible will also generally be relevant to strike-out applications under Rule 38(1)(b), (c), (d) and (e): Leeks v University College London Hospitals NHS Foundation Trust [2025] ICR 87 at [22]–[23]. HHJ Tayler in Leeks said, considering what was then Rule 37, the predecessor of the current Rule 38, that:

*...the test of whether there is a significant risk that a fair trial cannot take place is applicable to cases within r 37(1)(b), (c), and (d) and might be thought to be a lesser test than that provided for by r 37(1)(e) which requires that “it is no longer possible to have a fair hearing in respect of the claim or response.” It might be said that strike out under r 37(1)(b)(c) and/or (d) generally only requires that there is a “significant risk” that a fair trial could not take place whereas r 37(1)(e) requires that has been established that it is not “possible” to have a fair hearing. There would be some logic to having a lower threshold for the impact of default on the possibility of a fair trial under r 37(1)(b)(c) and/or (d) than under r 37(1)(e) because the former provisions require that serious default has been established which diminishes any unfairness in the claim or response being struck out. However, the questions of whether a fair trial is impossible and whether there is a significant risk that a fair trial could not take place appear to be treated as interchangeable in many of the authorities. The point does not arise for final determination in this appeal because the Employment Tribunal struck out under r 37(1)(d) so that on any view it was sufficient for the Employment Tribunal to determine that there was a significant risk that a fair trial could not take place before exercising the discretion to strike out.*

Scandalous, vexatious or unreasonable

25. The principle underlying rule 38(1)(a) may reasonably be identified as that claims or responses that amount to an abuse of process of the Tribunal may be struck out.
26. In this context, “Scandalous” means irrelevant or abusive of the Tribunal (Bennett v Southwark London Borough Council [2002] ICR 881). Sedley LJ explained the term as follows at [27]:

*The trinity of epithets “scandalous, frivolous or vexatious” has a very long history which has not been examined in this appeal, but I am confident that the relevant meaning is not the colloquial one. Without seeking to be prescriptive, the word “scandalous” in its present context seems to me to embrace two somewhat narrower meanings: **one is the misuse of the privilege of legal process in order to vilify others; the other is giving gratuitous insult to the court in the course of such process.** [Emphasis added.]*

27. A “vexatious” claim is one that is pursued not with the expectation of success but to harass the other party or out of some improper motive. The Employment Appeal Tribunal held as follows in ET Marler Ltd v Robertson [1974] NIRC 72 in the context of an application for costs:

*... If an employee brings a hopeless claim not with any expectation of recovering compensation but out of spite to harass his employers or for some other improper motive, he acts vexatiously, and likewise abuses the procedure. In such cases the tribunal may and doubtless usually will award costs against the employee. The exercise of the discretion by tribunals along these lines is illustrated in a number of decisions to which the court was referred during the course of argument*

28. Subsequently, in Attorney General v Barker [2000] 1 FLR 759 Lord Chief Justice Bingham said that the hallmarks of a vexatious proceeding were that it had:

*...little or no basis in law (or at least no discernible basis); that whatever the intention of the proceeding 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.*

29. A Tribunal may only strike out a claim in its entirety on the ground that it is scandalous or vexatious if the relevant test is satisfied in respect of each element of the claim.

30. “Scandalous” and “vexatious” have, in the context of Rule 38(1)(b) the same meaning as in the context of rule 38(1)(a).

31. A Tribunal may strike out for “unreasonable” conduct where the party’s conduct has, for example, involved deliberate and persistent disregard of procedural requirements or has made a fair trial impossible.

#### Without prejudice communications

32. Without prejudice communications are inadmissible in evidence. The public policy behind this rule is that it is desirable to encourage parties to settle their disputes by agreement rather than litigate them to the end. To this end, without prejudice privilege ensures that parties may negotiate without fear that what is said during those negotiations will be used in evidence.

33. Many “without prejudice” communications are labelled as such. However it is not essential that the words are used. Without prejudice privilege will still apply if it is clear from the surrounding circumstances that the parties were seeking to settle their dispute.

34. For the without prejudice rule to apply:

34.1. There must be an existing dispute between the parties at the time the alleged “without prejudice” communication is made; and



34.2. There must be a genuine attempt to settle the dispute.

The loss of without prejudice privilege

35. However, even if those conditions are both satisfied, there are limitations to the application of the without prejudice rule. This is to prevent it being abused.

**Unambiguous impropriety**

36. Without prejudice privilege may not therefore be relied on to make evidence inadmissible if to do so would act “as a cloak” for perjury, blackmail or other “unambiguous impropriety”. Nevertheless, this exception to the without prejudice rule will only be applied in the clearest cases of abuse because otherwise the rule would be too readily eroded. It is as such clear that “unambiguous impropriety” is not to be interpreted widely but is to be reserved for behaviour showing a serious abuse of the privilege.

**Waiver of privilege**

37. Without prejudice privilege may be waived only if both parties agree by words or conduct to open up their otherwise privileged discussions. That agreement must be unequivocal. However parties cannot cherry pick particular parts of the discussion for disclosure whilst seeking to exclude the remainder.

38. Waiver may be express or implied. If both parties refer to the “without prejudice” discussions in their pleadings, this will amount to express waiver, though either party may apply to amend his pleading to delete the reference, and if he is allowed to do so, the waiver will no longer be mutual; in this context there is no difference between pleading in the tribunal and in the County Court. Where the parties had referred to without prejudice discussions in their Claim and Response respectively the respondent had implicitly waived the privilege.

39. Conduct inconsistent with the maintenance of the confidentiality which the privilege is intended to protect may give rise to implied waiver.

**Conclusions**

The respondent’s application to rely on without prejudice materials and its strike out application

40. The claimant objected to my hearing this application because “the deadline for submitting their application to strike out was 17/7/26”. In fact, the strike out application pursued by the respondent was that sent to the Tribunal on 11 December 2025. It has not submitted a further or different strike out application. Further and separately, I considered that any disadvantage suffered by the claimant by the timing of this application and the skeleton argument in support of

this and the strike out application was eliminated by giving the claimant two weeks to send in written submissions. I therefore decided to hear the application.

41. Turning to the respondent's application to rely on without prejudice materials, the materials in respect of which the respondent states the claimant has waived privilege (or which are no longer covered by without prejudice privilege because to permit this would be allow the correspondence to hide unambiguous impropriety) is a course of correspondence between 24 February and 31 July 2025.

42. The course of correspondence shows an offer, a counter offer and then a further offer by the respondent on 23 June 2025 of £2500 (page 343). The claimant rejected that offer by her email of 24 June 2025 (page 336). On 30 June 2025, the claimant posted about the offer on a Facebook page she had created named "Exposing Brighton People's Theatre". Her post of 30 June 2025 had the headline "BPT Offered me £2.5k to Buy My Silence... I said No. #MyVoiceisNotForSale". She went on to write:

*There is no amount of money BPT could offer me that would make me give up my right to speak. Some of us have principles and can't be bought.*

*However, the offer is rather telling. Why would any organisation (and one that purports to be a small, smuggling charity no less) offer that much money to someone when they claim to have done nothing wrong towards said person?*

43. The claimant quite clearly publicly disclosed the offer made to her and part of the negotiation leading to it. Her conduct was entirely inconsistent with maintaining confidentiality. Given the respondent has chosen to rely on the without prejudice materials, confidentiality has been lost. The result of this is that without prejudice privilege can no longer be maintained in respect of the course of correspondence culminating in the offer and rejection of 23 and 24 June 2025. The respondent may therefore rely on that correspondence as set out above in its strike out application.

44. The claimant has not seemed to appreciate during the hearing and in her subsequent submissions that it is not realistically open to her to disclose the amount and fact of the offer and yet to argue that the correspondence leading up to the offer is without prejudice and cannot be relied upon. Explained briefly this is for reasons of fairness: the claimant cannot disclose the amount offered and invite those viewing her web page to draw conclusions from that whilst at the same time preventing the respondent from placing the offer in context by relying upon the chain of correspondence leading to it.

45. In light of this conclusion it is not necessary for me to consider the issue of unambiguous impropriety. However, if it had been, I would have concluded that the claimant's emails amounted to ill-informed and emotional settlement communications; I would not have concluded that they reached the threshold of unambiguous impropriety.

The respondent's strike out application

46. The respondent's application stated that the application was made on the basis of four factual matters. I consider these individually.

Inappropriate correspondence

47. The respondent relies on the 12 items of correspondence referred to in paragraph 2.32.1 of its skeleton argument. These items included:

47.1. Emails of 18 and 19 July 2025 sent by the claimant to the CEO and an Associate Director of the respondent calling them "fucking shameless" and, also, "morally bankrupt and evil";

47.2. A without prejudice email of 24 June 2025 (page 336) to the respondent's solicitor, the CEO of the respondent and an Associate Director of the respondent in which she explains why she thinks the respondent's settlement offer is unacceptable and which suggests that if the respondent does not produce a better settlement offer the position will be that it will:

- *Spend the next 2 years paying legal fees to you and preparing for court,*
- *Likely end up owing me a lot more than £2.5k,*
- *Engage in a court case that will be public record and so further damage BPT's reputation,*
- *I still won't agree to a non-disparagement clause,*
- *In the mean time and afterwards I will do everything in my power to publicly expose BPT for what they are.*

*Imagine what type of person you'd need to be to choose to waste thousands of pounds of a small charity's money instead of just apologising and sorting things out like an adult.*

47.3. A without prejudice email of 24 February 2025 (page 260) from the claimant which culminates as follows:

*You're incredibly privileged, self absorbed, soulless, sadistic, hypocrites, and BPT is just one big vanity project to feed your egos. Because look at how you actually treat participants, disabled people, working class people and other minorities (and not just me by the way, there are a lot of people who feel how I do). You're more than happy to use us and use our stories but we are ultimately entirely disposable, interchangeable and worthless to you if we don't do unquestioningly, exactly what you want.*

*So if you're not willing to take even a tiny bit of accountability and sort this out like adults, then I guess I'll see you in court. But I promise you I will get justice one way or another.*

- 47.4. A without prejudice email of 17 May 2025 (page 264) from the claimant which ends like this:

*But if you are not willing to engage in this process in any meaningful way. Then the only route left for me is to pursue the matter judicially and monetarily. And since you're so money oriented you were prepared to destroy my life and our relationship over £30 a week, there's a certain poetic justice in the fact that it's going to end up costing you way more than just giving me my basic workers rights in the first place would have done. Little life lesson for you there.*

- 47.5. A without prejudice email of 20 July 2025 (page 278) which includes the following:

*If you'd spoken to me in December or in January I'd have settled for a very small amount of money alongside a proper apology and restorative justice.*

*But after 8 fucking months you've clearly got no intention of or interest in doing the right thing. And you clearly couldn't care less what happens to me despite how much I've done for you over the years, and despite my mental health situation being largely down to you.*

*So now I am just going to take you for every penny I legally can, and destroy your reputation and lives as much as possible in the process. And I'm going to enjoy every second of it. Because that's what you did to me, and you don't even have the decency to hear my account much less say 'sorry.'*

*I still don't really want money. But you've made sure it's the only form of justice available to me....*

And

*... You are soulless, hypocritical, psychopathic nasty little bullies and I promise you that every single person silly enough to side with you right now will see through you eventually, because abusers aren't capable of keeping their masks on full time.*

- 47.6. A without prejudice email of 24 July 2025 (page 279) which begins:

*Due to BPT's inaction on anything I've reported, I decided to instead report my assault to Sussex police.*

Before concluding:

*I will give you until Monday to respond to this email, otherwise I will make this information public.*

- 47.7. An email of 28 July 2025 (page 280) (in response to a letter from the respondent's solicitors to the Tribunal) which read:

*Ahh boo hoo they're a bit stressed are they?*

*Don't break the fucking law then.*

- 47.8. An email of 31 July 2025 (page 281) to the respondent's solicitors and CEO which begins:

*Not sure which crappy law school you went to Lydia.*

And ends

*Naomi the fact that you're still employing someone who not only tried to run me over, but engages in behaviour like this is really fucking concerning. And imagine trying to make people think I'm the 'dangerous' one when you've got that nutcase still working for you.*

- 47.9. An email of 6 October 2025 to various people including the respondent's solicitors, CEO and an Artistic Director addressed "To the local Victorian factory" which enumerates a number of grievances that the claimant has against the respondent which makes certain demands before threatening a defamation claim against five individuals and the respondent.

- 47.10. An email of 8 November 2025 (page 288) to the hello@ email address of the respondent which includes the following:

*Isn't on your to do list but the opportunity to get your grubby little hands on a little bit of cash gets you slithering straight out.*

*Yeah I'm grand, I don't work for you cunts anymore.*

Application to add further respondents

48. On 22 July 2025, the claimant made an application to add four individual respondents to her claim (page 61). These were the CEO, her manager, the communications manager and a board member. The document is confused, but the (unparticularised) claim it seeks to add against the proposed individual

respondents which the Tribunal might have jurisdiction to hear is “discrimination”. At that point her discrimination claim against the respondent for sex, race and disability discrimination was essentially unparticularised in light of the contents of the grounds of claim (page 23).

49. She explained her application by stating that the respondent was “effectively an alter ego” of the CEO and that she and the other proposed individual respondents should also be added because she was concerned that the respondent would seek to avoid her claim by making itself “bankrupt in the next two years”.
50. The respondent resisted the application and the claimant’s response to the respondent’s solicitors letter to this effect was as recorded at paragraph [47.7] above.

*The claimant’s Facebook webpage*

51. The respondent contended that the contents of the claimant’s Facebook webpage were “inappropriate, caused damage to the Respondent’s reputation, and some of its content will likely be subject to these Employment Tribunal proceedings”. The respondent also complained of the claimant publishing without prejudice correspondence, which, it said “violate[d] the sanctity of... Without Prejudice correspondence”. In this respect the respondent referred to:

- 51.1. The title page of a Facebook webpage dated June 2025 which reads “Brighton People’s Theatre – Progressive in Public, Victorian in Private” (page 291);
- 51.2. The claimant’s account of her dispute with the respondent on the Facebook webpage dated 15 June 2025 (pages 292-293) in which the claimant complains about the respondent “breaking the law” by making her “operate under false self employment” and about what she describes as an “8 month contract negotiation”. The contents accuses the respondent of spending excessive money on various aspect of its operations whilst refusing to pay the claimant properly;
- 51.3. The claimant publishing details of the without prejudice negotiation on the Facebook webpage dated 30 June 2025 (page 346) (as summarised at paragraph [42] above);
- 51.4. The claimant publishing her account in July 2025 of how she was paid by the respondent and what hours she was required to work on the Facebook webpage (documents 78 to 80 (pages 294 to 296));
- 51.5. The claimant publishing miscellaneous materials on or before 3 September 2025 about the respondent, including complaints about its use of solicitors (page 310), complaints about the respondent, and one of its employees on the Facebook webpage (document 85, pages 309- to 315).

Intimidation of witnesses

52. The respondent's skeleton argument asserts that "the claimant's conduct in and surrounding these proceedings was intimidatory to potential witnesses".

Conduct of the claimant following the strike out application being made

53. The respondent accepts that, after Employment Judge Burge warned the claimant about her correspondence on 21 February 2026 (page 99), she stopped writing to it as in the way she had previously as set out above. It also accepts that she stopped posting on the Facebook page described above. However, it complains about a second Facebook page the claimant has created (pages 316 to 334) entitled "Exposing Brighton People's Theatre 2 Electric Boogaloo". The respondent asserts that this "continued the same campaign of public allegations against the Respondent".

54. This second webpage provides commentary from the claimant's perspective on the dispute between her and the respondent and the progress of her Tribunal claim. It also refers to an ICO complaint she made being upheld (page 320) but complains about the lack of sanction.

Conclusion on the respondent's strike out application

55. I turn first to the question of whether the manner in which the proceedings have been conducted by the claimant has been unreasonable, scandalous or vexatious in light of the matters relied upon by the respondent.

56. The claimant's contractual relationship with the respondent was not straight forward. It broke down during the course of negotiations to put it on a different footing. The claimant clearly genuinely feels that she was treated unfairly and unlawfully. However, the claimant has struggled to set out clearly the full legal basis for the claim she has brought. I made orders on 31 July 2026 requiring her to provide a variety of information in this respect. There is as yet no agreed List of Issues. The claimant has been confused both about the Tribunal process and about how to set out her claim. This reflects the fact that she is unrepresented and has no significant knowledge of the relevant law.

57. Turning to the specific matters relied upon by the respondent:

57.1. **Inappropriate correspondence:** some of the correspondence itemised above is clearly inappropriate because it includes repeated abuse, sometimes delivered in obscene language, directed at the CEO and others at the respondent. What the claimant wrote went significantly beyond what robust litigation might reasonably include. Some of the items of correspondence are "scandalous", because they amount to the misuse of the legal process to vilify others. However, I conclude that the correspondence was not "vexatious" because I do not accept that they resulted from an improper motive, namely to

harass individual employees or associates of the respondent. I also conclude that the way in which the claimant has conducted settlement negotiations is neither “scandalous” nor “vexatious”. Rather it reveals her inexperience and lack of understanding of the process she is involved in.

57.2. **The application to add further respondents:** I have summarised the claimant’s expressed reasons for seeking to add individual respondents at paragraphs [48] to [49] above. As I have noted above, the application is confused. However, in essence the claimant is contending that the proposed individual respondents are personally responsible for certain acts of discrimination and she seeks to join them because the respondent may not have the money to meet any award made against it. Taking matters in the round, whilst her undecided application to join the proposed individual respondents may fail, I conclude that she has not acted scandalously, vexatiously or unreasonably by making it.

57.3. I note that the respondent also invited me to strike out the undecided application to add further individual respondents. I do not do so: the application should be decided once the complaints which the claimant wishes to pursue against them are clear. At the moment they are not.

57.4. **The Facebook pages:** the Facebook pages have been used by the claimant to set out her dispute with the respondent from her perspective. This has included publishing the outcome of without prejudice negotiations, the claimant suggesting that the very fact of a without prejudice offer suggests guilt. I accept that this is what she thinks but it betrays a lack of understanding of the litigation process, in particular that many employers make offers to settle claims in order to avoid the expense (both in time and money) of dealing with them, irrespective of their merits. I conclude that whilst the Facebook pages contain a very one sided account of events, much of which is in any event disputed by the respondent, the claimant has not acted scandalously, vexatiously or unreasonably by doing what she has done, ill advised as it may well be. However, I conclude that the publication of without prejudice material went beyond being ill-advised and came close to being unreasonable behaviour.

57.5. **The intimidation of witnesses:** the respondent has not identified any specific witness who it says has been intimidated or sought to call witness evidence (or provide a draft witness statement) from any particular potential witness. Whilst I accept that the claimant’s conduct will have caused discomfort to potential witnesses, I do not accept that it has been such that they are likely to feel unable to give evidence. I do not therefore accept that witnesses have been “intimidated”.

58. Overall, therefore, I find that some of the claimant’s correspondence has been scandalous (and that therefore to some extent so was the manner in which



proceedings have been conducted) but that she has not acted scandalously, vexatiously or unreasonably in the other matters relied upon by the respondent.

59. So far as whether the complaints themselves are scandalous or vexatious, as things stand they remain to a considerable extent unparticularised. I made orders on 31 July 2026 requiring further information. However, I conclude that they are not scandalous or vexatious. This is because I conclude that their pursuit does not amount to a misuse of the legal process to vilify others or to give gratuitous insult to the court. Nor, I conclude, has the claim been pursued in order to harass the respondent or out of some other improper motive. The claimant has a genuine belief that she has been legally wronged and that, I conclude, is the reason she is pursuing the claim. Further, it cannot be said as things stand that the claim has little or no basis in law. I do not comment further on its merits. I am of course not considering whether the claim should be struck out on the basis that it has no reasonable prospect of success.

60. I now move on to the second stage of my analysis: having concluded that the respondent has shown that the claimant has acted scandalously in correspondence, the question arises whether I should exercise my discretion to strike-out her claim.

61. I have decided not to exercise my discretion to strike out her claim for the following reasons:

61.1. The claimant heeded Employment Judge Burge's warning and has stopped writing to the respondent/its representative as set out above. The last piece of correspondence relied on dated from November 2025;

61.2. In light of this, and taking matters in the round, I conclude that a fair trial is still possible. In reaching this conclusion I have decided that it cannot be said either that a fair trial is impossible or that there is a significant risk that a fair trial will not be possible.

62. However, if the claimant had continued to write to the respondent as she was doing up to November 2025, I might well have found that striking out her claim was a proportionate response to her conduct. This would have been because continuing such offensive and inappropriate correspondence was likely, as the claim took clearer shape, and witness statements were prepared, to have the effect of intimidating witnesses and so making a fair trial impossible.

63. I would have reached these same conclusions even if I had concluded that the publication of without prejudice materials was scandalous, vexatious or unreasonable conduct. However, the claimant should note that she will be treading a dangerous path if she continues to post about her claim on her Facebook page. Whilst I have concluded above that doing so has not amounted to scandalous, vexatious or unreasonable conduct to date, it could well do so and she may well step over the line without realising that she has done so. Given what I am saying in

this judgment, she should carefully reflect on whether it might not be wiser to avoid further public comment on her claim until it has concluded.

The claimant's strike out application

64. The claimant's application is confused. This is primarily because it refers not only to aspects of the response and the respondent's alleged conduct in defending the claim (which are relevant to the application), but to many other matters (which are not).
65. The claimant presented her claim on 13 March 2025. The matters she relies on as summarised at paragraphs [15.1] to [15.5] all clearly pre-date her beginning the claim. It is consequently difficult to understand how they could be said to be scandalous, vexatious or unreasonable conduct by the respondent in its conduct of the defence of the claim. Further and separately, they do not on their face relate to the manner in which the proceedings have been conducted in any event.
66. The matters summarised at paragraphs [15.6], [15.7], [15.10] and [15.11] also do not relate to the manner in which the proceedings have been conducted. The allegation at [15.8] is hopelessly speculative, being unsupported by any significant evidence. The allegation at [15.9] makes little sense, but in any event any claim in defamation that the claimant might have had was not one that could be pursued in the Tribunal.
67. The matter raised at paragraph [15.12] does relate to the conduct of the proceedings but reflects a misunderstanding by the claimant. The respondent's solicitors acted entirely properly by contacting the claimant after she had agreed not to contact the respondent direct. She was asked to stop contacting the respondent **because it was represented**. She is not represented. If she were, then the respondent's solicitors would write to her representative and not to her. Because she is not, the respondent's solicitors must inevitably write to her. As I explained to her, it is not the job of the Tribunal to act as a go between.
68. So far as paragraph [15.13] is concerned, that is to say the conduct of the respondent's solicitors as set out at pages 229 and 230, this point overlaps with that summarised in paragraph [15.12]. In broad terms, the claimant complains of the conduct of the respondent's solicitors in writing to her on a number of occasions. However, this represents a failure on the claimant's part to understand that the respondent's solicitors need to communicate with her throughout the litigation process. The matters of which the claimant complains reflect that. There was nothing inappropriate about the way in which they contacted her.
69. In the original application of 17 July 2026, the claimant also complained about the respondent misusing court processes in relation to a defamation claim she intended to bring. I conclude that the way in which the respondent dealt with a threatened defamation claim was not conduct of these Tribunal proceedings.

Further and separately, whilst the respondent's strike out application has failed, the respondent did not act scandalously, vexatiously or unreasonably in pursuing it.

70. Finally, in her application of 17 July 2026 the claimant complained that the respondent was "lying" in its response. This is a wholly unrealistic characterisation of the response. In fact, the position is simply that the respondent and claimant disagree about basic matters relevant to the claim.

71. Turning to the matters raised in her email of 29 July 2026, it is clear that the claimant received inappropriate messages from someone associated with the respondent who, according to the claimant, suffers from a mental illness and has learning challenges. However, the fact that such conduct took place around the time of settlement negotiations falls far short of demonstrating that the respondent was responsible for the individual's conduct and that it amounted to the respondent seeking to pressurise the claimant in relation to the litigation. This is simply speculation on the part of the claimant.

72. Turning to the matters raised by the claimant on 31 July 2026:

72.1. I conclude that the respondent had not behaved in an overly aggressive way in recent settlement negotiations including in the terms of settlement sought. (The respondent agreed that the claimant could rely on the without prejudice materials in her application so no issue arose in that respect once the claimant had confirmed that privilege was waived.) The correspondence shows the respondent's solicitors' conduct to have been entirely within the range of typical settlement negotiations. The fact that the settlement proposals put forward were not acceptable to the claimant is of limited if any relevance to the question of whether the respondent's solicitors behaved inappropriately. They did not.

72.2. I conclude that the respondent making the application to permit it to rely on without prejudice materials on 31 July 2026 did not amount to vexatious, scandalous or unreasonable conduct. Such an application was implied by its strike out application of the previous December. Further and separately, it is wholly unrealistic for the claimant to complain about such an application when she had disclosed the fact of settlement negotiations and the amount offered on her own Facebook page.

73. The matters relied upon by the claimant do not, I conclude, demonstrate that the respondent has acted scandalously, vexatiously or unreasonably in its conduct of the proceedings. Indeed, they do not come even close to doing this. Equally, the matters relied upon by the claimant do not show the respondent's response to be scandalous or vexatious.

74. The claimant's application therefore fails and is dismissed.

Approved by:  
**Employment Judge Evans**

20 August 2026