



EMPLOYMENT TRIBUNALS

Claimant: Mr W Hampson
Respondent: Griffin Catering Services Ltd
Heard at: London South Employment Tribunal via CVP
On: 08 July 2026
Case number: 6002843/2025
Before: Employment Judge M Da Costa sitting alone

ATTENDANCE AND REPRESENTATION

Claimant: In person, unrepresented
Respondent: In person, represented by Weightmans LLP

JUDGMENT

The judgment of the Tribunal is as follows:

Application by the respondent to strike out the entirety of the claimant's case pursuant to rule 38(1)(b) of the Employment Tribunals Rules of procedure 2024 and application for an amendment to add a further particulars of victimisation under section 27 of the Equality Act 2010 and a new head of claim of automatic unfair dismissal by reason of discrimination under the Equality Act 2010

1. The respondent's application to strike out the entirety of the claimant's case is refused.
2. The claimant's application to amend his case so as to add further particulars of victimisation and a new head of claim under automatic unfair dismissal is refused.

REASONS

The strike out application

3. The background to the respondent's strike-out application is worth repeating in full as stated in their letter of application as follows:

"A Preliminary Hearing took place between 10.00AM and 1:00PM on 28 April 2026, before Employment Judge Cawthray, and was conducted via CVP. Prior to the hearing commencing, as usual practice the parties entered into the virtual waiting room, and all were presented with a clear notice stating that "it is a criminal offence to record or transmit all or any part of the hearing" a screenshot of this notice is attached as EX1.

At the outset of the Hearing, Employment Judge Cawthray confirmed that the hearing was private and clearly outlined the meaning of this along with the course of proceedings. During the Preliminary Hearing, the Claimant's audio failed, and a number of recommendations were put to him including removing his professional microphone attachment and simply using his devices audio. He stated he needed this as was using an old tablet, and so instead he left the hearing and returned a short time later with his camera now turned off. The Claimant stated this was a limitation of his device and he would have to proceed without his camera on in order for his audio to work. The Tribunal, with agreement from the Respondent, proceeded in the interest of efficiency. Employment Judge Cawthray again outlined the nature of the private hearing and that the Claimant must inform the Tribunal should anyone enter the room. The Claimant confirmed again he was alone at home and would inform the Judge if that were to change.

Following the Hearing concluding, it was brought to the attention of the Respondent that the Claimant has appeared to:

- 1. Either through the assistance of another person, or of his own action, made a recording of himself during the course of the private Tribunal Preliminary Hearing/ or made a recording with the intention to make others believe it is him during the course of the private Tribunal Hearing.*
 - 2. Published video footage of himself on Instagram, between 10.30AM – 11.00AM on 28 April 2026 during the live private hearing, appearing to the public to be participating in the hearing on his social media platform (Instagram – @aidsthe lost voices (William Hampson), and*
 - 3. In the above post and subsequent posts that day provided commentary on the proceedings onto social media including representations of what was said by the Claimant, the Respondent's representative and Employment Judge Cawthray."*
4. In addition, the respondent contends that:
- "The [...] Claimant has previously published extracts of Tribunal correspondence on his social media platform, including material identifying the parties, claim number and details of final hearing dates along with names of Respondent's witnesses and his claim comparators. In addition, the Claimant has created and published content which represents the allegations within the list of issues of these*

proceedings in a comedic/satirical manner (EX5). Finally, the Respondent notes that the Claimant has previously posted the Tribunals letter, dated 24 June 2025, outlining the final hearing dates and providing a link to his podcast on Spotify with the caption "listen here" (EX4).

The Respondent would like it noted that the Claimant has on many occasions posted photographs and names of the Respondent HR team and employees with serious allegations, which has a sustainable impact on individuals health and employment."

5. For convenience I term the above "the recording and publication allegations".

Evidence about the recording and publication allegations

6. It is beyond argument that the hearing in question was **not** a **public** hearing, that the recording and transmitting of any part of a **private** open preliminary hearing is prohibited, and that the claimant was in terms advised of this at the start of the 28 April 2026 hearing. This is not in dispute. The screen notice shown to all participants entering a CVP (Cloud Video Platform) hearing is as follows:

"It is a criminal offence for anyone to record or transmit all of any part of this hearing.

This includes transmitting this hearing, or taking or allowing anyone else to take any screenshot or video capture; either using the device this hearing is being viewed on or with any other remote device, and this includes a phone."

7. It is not in dispute that the claimant has an Instagram account, "aidstheLostVoices" which is public (herein after "the Instagram Account").
8. In its exhibit EX2 the respondent exhibited a photograph from the Instagram account, appearing to be on a mobile telephone screen, showing the claimant sitting at a desk. He clarified at the 08 July hearing that this scene was in his home address. The same scene was evident to me from my screen view in that hearing. The photograph showed the claimant at the desk in front of a laptop device with earphones, looking at the screen, pen poised in hand over a notepad. The photograph has no date and time stamp. The claimant in the 08 July hearing did not deny that the photograph showed him at home and did not in terms deny that the post had been made on the day of the 28 April 2026 hearing. He said that it was not true that the post had been made during the "blackout" period in that hearing, referring to the time when he had left the hearing and returned a short time later with his camera turned off, as outlined in the respondent's application letter above. He said that the hearing had not "got underway" until 10:20am that day. He said that the time stamp on the metadata for that post (which was not before the Tribunal on the 08 July hearing) showed a time of 09:22 that day. He showed us on screen at the 08 July hearing an example from another post of how it was possible to access the metadata for posts showing such a time stamp. On my noticing that the metadata tab brought up on screen had a tab saying "adjust",

he conceded that it is possible to alter the metadata date and time stamp record, but said that if one does so, both the original and the altered stamps are displayed.

9. In short, the claimant denied having **recorded or screen recorded** any part of the preliminary hearing.
10. At EX3 of the respondent's strike out application there appear a series of posts from the Instagram Account. They are undated. But it is clear from their wording that they form a single chain, although printed on separate screen shots in EX3. Materially they say as follows:

"Ahead of tomorrow" and "Making a stand for just for myself but for all of them!" and "I won't go quietly and yes, I am going to do everything in my power to ensure people know that in the UK HIV/AIDS discrimination and prejudice is still prevalent in the workplace". This is "liked" by people (it is not clear how many).

"This morning I time travel to 1986 to highlight to the judge that HIV/AIDS discrimination by a major UK pub company will be challenged in the UK courts". This is followed by what appear to be parts of email addresses for the National Aids Trust, BBC News, Sky News, BG News, 10 Downing Street, Pink News and Gay Times. With this post appears the photograph of the same desk in his house that appears in exhibit EX2. Again this is "liked" by people (it is not clear how many).

The post continues: "the respondents [sic] solicitor is trying to argue yet again that I cannot refer to my legal disability as "HIV/AIDS" – they assert I can only term it as "HIV" and "to start off a hearing having to argue and defend my position as to what my disability and [sic] still to this day termed "HIV/AIDS" by scholars, medics and academics is truly mind blowing" and "I simply will not entertain lectures from someone not living in my shoes". This is followed by a response from another saying "I think it's time to protest".

Moving on, in response to the question "why is that even relevant? Are they simply trying to waste the court's time?" the claimant replies "I have no idea – it left me speechless" and "referring to my legal disability as HIV/AIDS does not enhance my claim, nor influence/change the law" and "in an attempt to educate the respondent and I must say, sadly, the court – I won't be told any different".

Another replies "that's a dam [sic] weak and pathetic argument they are trying". The claimant replies "the respondent's solicitor – and then the judge was starting to agree; I think it was my firm insistence that neither of them are qualified to tell me otherwise and it doesn't affect my claim anyway". There follows: "I said they'd have a point if I was calling it "HTVL-3" to which I was met with gormless looks – I rest my case" and "in the end they said they'd park it and revisit it later, I might suggest I use the term "gay plague" or "GRID"".

The next entry from another person asks "Is there a petition I can sign about this issue? You know that I would happily sign it to support you". The claimant replies

“we’ve been thinking or [sic] organising protests outside their pubs, maybe a ‘die in’”.

11. The next posts exhibited at EX4 of the respondent’s strike out application show a letter from the Tribunal dated 14 June 2025 exhibited on the Instagram Account. The first part of the case number is blacked out as if the address and name of the respondent. It reproduces the first paragraph of the letter which says that applications to amend will be discussed at the Preliminary Hearing, dates of which will be sent out in due course and the first link to Tribunal sources of support. The next post exhibits the Respondent’s company name and the first 2 lines of a Tribunal letter dated 24 June 2025. This post has the full case number but has the claimant’s address and the respondent’s name and address blacked out. The header of the letter shows the final hearing date of 2 December to 4 December. Below is a link to “Podcasts.Apple.Com” with the caption “don’t miss it”.
12. Then exhibited at EX5 of the respondent’s strike out application is a post from the Instagram Account which is undated shows an image (presumably AI generated) with the torso of a police officer wearing a police helmet, in handcuffs with a t-shirt showing “Deathrow [sic] meal”.
13. EX6 of the respondent’s strike out application shows the following. A post from the Instagram Account dated 06/09/2025 (the claimant confirmed that is the American arrangement of date first then month) mentioning that the claimant initiated legal proceedings against his employer, citing the employer’s name, “citing HIV discrimination”. It then says: “This was then compounded by ongoing HIV-related discrimination, including physical assault, only for the company to retaliate by levelling unsubstantiated accusations of racism, which resulted in dismissal despite their own evidence proving them to be fabricated and malicious”. A post that follows also in exhibit EX6 which is undated advertises a documentary style podcast hosted by the claimant which examines the “human stories behind the 1980s and 90s AIDS pandemic by navigating British newspaper archives to uncover narrative often overshadowed by sensationalist headlines”. The last item at EX6 is a post from the Instagram Account dated showing 2 podcasts dated 6 September 2025 advertises “Part 1 of 2: The Allegations & Investigations William Hampson” and “Part 2 of 2 The disciplinary & Dismissal William Hampson”.

Findings of fact as to the recording and publication allegations:

14. The respondent’s position is that the claimant **published live streamed video footage** of himself on the Instagram Account between 10:30am and 11:00am on 28 April 2026 at a point when the hearing was in train in the period when he had left the hearing and returned a short time later with his camera turned off. The claimant’s position is that he did not, and that the post at EX2 was a freeze frame that was taken before the hearing started. I have no evidence conclusively to say either way because there is no time stamp on EX2. The respondent has provided no audio evidence. Certainly, it is **possible** that the claimant could have done as the respondent alleges. He was using the same laptop in the hearing of 08 July 2026, which on that later occasion clearly worked as to audio. The still looks as if

the claimant's mouth is open in speech. There is a microphone symbol in the bottom right-hand corner of the screen which is crossed through. Certainly, the context of the posts at EX3 demonstrate that on the day of the hearing the claimant was posting a running commentary of proceedings. But those posts are reporting on what said, which begs the question if the hearing was being transmitted live, why did the claimant need to report (as opposed to live stream) what was being said? I find that there is insufficient evidence on the balance of probabilities that the proceedings were being live streamed. The evidence is ambivalent and could be construed either to support the claimant's account or the respondent's account. I bear in mind that, for such a potentially serious allegation, I have to exercise care before finding that activity that amounts to a potential criminal offence, even on the balance of probabilities in the civil sphere, could have occurred. The evidence in my judgment would have to be firm, and I cannot find that it is.

15. It is possible that EX2 could be a still shot, showing a gesture "acting" with mouth open for speech before the hearing started. It is also possible that it could be a still shot showing the claimant talking during the hearing. The claimant at the 08 July hearing said there was an "element of theatre posing and pretending to talk" and "I have a public platform and I am not afraid to speak about it with a bit of theatre showing attendance at the court hearing about HIV and discrimination". In my view this does not amount to a clear admission because "showing attendance" could potentially mean showing attendance before the hearing started. In my judgment there is insufficient evidence even on the balance of probabilities, to tip the balance either way. As above, I have to exercise care before finding that activity that amounts to a potential criminal offence, even on the balance of probabilities in the civil sphere, could have occurred. The evidence in my judgment would have to be firm, and I cannot find that it is.
16. As to the posts in EX3, the specific language that is used cannot be read any other way than as a commentary that was ongoing during the hearing. These are, very clearly on the language used, facts reported by the claimant during the hearing. There is no other possible way to read them. The claimant did not even attempt to deny this at the hearing of 08 July 2026. It is not in my judgment unreasonable for the word "transmitting" in the screen warning that appears for parties at the start of a video hearing (see above) to be interpreted as making a live commentary that reports details of what is being said in the hearing. Clearly, the claimant did this.
17. It is clear that the word "transmit" in the screen warning that appears for parties at the start of a video hearing (see above) includes taking any screenshot or video capture. Clearly on its face, EX2 is a screen shot showing the claimant, which would have to have been taken by another person. But since above I have found that I cannot find on the balance of probabilities that EX2 was taken after the hearing started, it would in my judgment be perverse to find that EX2 was a screen shot taken during the hearing of 08 July 2026.

18. The sum total is that **EX2 may not represent a contravention of the screen warning that appears for parties at the start of a video hearing (see above), but that EX3 does certainly represent such a breach of one takes the word “transmit” as providing a contemporaneous running commentary.**
19. As to EX4, the reproduction of parts of the Tribunal letters are clearly not **unauthorised recording** breaches. The reference in EX4 to “Podcasts.Apple.Com” and “don’t miss it” are ambivalent. They could be read to refer either to the forthcoming preliminary hearings or to the final trial which would in the absence of restrictions be a public hearing. Therefore again, in my judgment this is **insufficient** for me to **infer** that the podcast in EX4 was a prelude to unauthorised recording on 28 April 2026.
20. As to EX5, there is no explicit reference to these **proceedings** though there is reference to the **events foreshadowing** them. The claimant at the hearing of 08 July 2026 said that the material in July 2025 and October 2025 (EX5 and EX6) was disseminated on HIV stigma day on or around 21 July 2025, and that since the unfair dismissal was not brought as a part of the claim until the amendment application of 08 July 2026, at the time of dissemination EX5 and EX6 were **“about things that were not part of my claim until a preliminary hearing earlier this year - racism and sexual harassment against female colleagues, and false allegations against”** him in relation thereto. This is in my judgment an arguable position.

The respondent’s submissions as to strike out:

21. The written submissions in the respondent’s letter of application were in summary as follows:
 - (a) The claimant’s social media accounts are publicly accessible, and the respondent further notes that it is not used merely for private purposes but as a public facing account through which he promotes activities including a book, podcast and fundraising activities (including a GoFundMe and protest campaigns). The account is verified and has a material following. The claimant did not dispute this at the 08 July hearing, saying that his Instagram Account has a relatively small following of 1,319 people in comparison with his TicToc account which has 14,000 followers and that he deliberately avoided exposure on the larger TicToc account;
 - (b) the claimant has on many occasions posted photographs and names of the Respondent HR team and employees with serious allegations, which has a sustainable impact on those individuals’ health and employment;
 - (c) by acting in a scandalous, unreasonable and/or vexatious conduct in making the above posts, the Claimant has acted in a manner which undermines the integrity of the Tribunal proceedings by knowingly breaching clear rules by recording and publishing material from/alleging to be from a private hearing;

- (d) It is unknown just how much of the proceeding was recorded by the Claimant, whether or not the recordings are intended to will be used on his podcast platform (EX6), and what further comments he is likely to make of the Judge, representatives, or witnesses if this case were to proceed;
 - (e) The claimant's conduct is of such a serious character that it can amount to criminal conduct for Contempt of Court, in that he has deliberately recorded and disseminated materialised from a private hearing, in breach of clear provisions outlined in EX1. While the Respondent recognised that such matters fall outside of this Tribunal's jurisdiction, they said that this conduct demonstrates a flagrant disregard for the administration of justice;
 - (f) The claimant's actions demonstrate a disregard for Tribunal Rules and Procedures such that a fair hearing is compromised. The recording and publications of material from/created to be perceived by the public to be from a private hearing appear to have been used to generate attention and engagement with its content. The tone and nature of the Claimant's posts, which include commentary of the private proceedings and Employment Judge, published during the course of proceedings, serve to trivialise and undermine the seriousness of the process. This conduct goes beyond mere procedural non-compliance and demonstrates a deliberate and unreasonable approach to the conduct of the proceedings.
22. The respondent's oral submissions at the 08 July 2026 hearing repeated the above. In addition, the respondent said that:
- (a) The fairness of the final hearing would be compromised because the Instagram Account had many followers, the claimant had been disrespectful to the respondent's representative and to the judge in his comments in EX3, and menacing in relation to a petition and a "die in";
 - (b) The campaign that the claimant was waging was unacceptable;
 - (c) The claimant in addition in an email sent to the respondent's solicitors on 23 June 2026 had been patronising and had put up obstacles to the disclosure process;
 - (d) This in the context of the general history of the case where the claimant had supplied an unreasonable number of documents of an unreasonable length, with a further amendment application made today showed that the entire context of the case was unreasonable and vexatious on the part of the claimant, and was an abuse of process.
23. Aside from what the claimant said in reply as reported above as part of my fact finding, the claimant said that:
- (a) Nothing he had done had been done with malicious intent;

- (b) He was entitled to campaign about HIV/AIDS discrimination, and the only public effect was that people hoped the Tribunal would eventually do justice;
- (c) In relation to events leading to his dismissal the respondent had put false allegations out in the public domain about him, and he was entitled to take action to avoid his professional reputation being damaged and in order to minimise financial losses.

The law on the application of rule 38(1)(b) of the Employment Tribunals Rules of Procedure 2024

- 24. The respondent relies on this rule for strike out.
- 25. Rule 38(1) of the Rules provides as follows:

“At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response 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 respondent (as the case may be) has been scandalous, unreasonable or vexatious;

(c) for non-compliance with any of these Rules or with an order of the Tribunal;

(d) that it has not been actively pursued;

(e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).”

- 26. The legal position is summarised in the case of Rev Dr James George Hargreaves v (1) Evolve Housing and Support and (2) Mr Simon McGrath [2023] EAT 154. At paragraphs 15, 16 and 18 thereof.
- 27. Paragraph 15 of the Hargreaves case quotes the test for strike out under what is not rule 38 as follows as stated in by the EAT the case of Bolch:

“In the case of a strike-out application brought under [rule 37(1)(b)] it is well established that before a claim can be struck out, it is necessary to establish that the conduct complained of was scandalous, unreasonable or vexatious conduct in the proceedings, that the result of that conduct was that there could not be a fair trial and that the imposition of the strike-out sanction was proportionate. If some lesser sanction is appropriate and consistent with a fair trial then the strike-out should not be employed.”
- 28. Paragraph 16 of the Hargreaves case set out the observations in the case of T v Royal Bank of Scotland [2023] EAT 119 [40]:

“There are examples in the authorities of cases where the specific nature of a litigant’s impugned conduct means that the conduct has itself inherently made it impossible for there to be a fair trial. From time to time there will also be cases where, unfortunately, a litigant’s conduct is, for example, so threatening abusive or disruptive that, whatever the cause, it ought not to be tolerated and they will be done no injustice by being treated as having thereby forfeited their right to have their claim or defence tried, but outside of such cases a claim should not otherwise be struck out on account of conduct unless the conduct means or has created a real risk that the claim cannot be fairly tried. See De Keyser at [24] citing the discussion of the earlier authorities in Arrow Nominees.”

29. Paragraph 18 of the Hargreaves case reports how in Blockbuster Entertainment Limited v Jones [21], Sedley LJ emphasised the need to consider the proportionality of striking out a claim, against a backdrop of the right to a fair hearing:

“It is not only by reason of the Convention right to a fair hearing vouchsafed by Article 6 that striking out, even if otherwise warranted, must be a proportionate response. The common law, as Mr Jones has reminded us, has for a long time taken a similar stand (see Re: Jokai Tea Holdings [1992] 1 WLR 1196, especially at 1202E-H). What the jurisprudence of the European Court of Human Rights has contributed to the principle is the need for a structured examination. The particular question in a case such as the present is whether there is a less drastic means to the end for which the strike-out power exists. The answer has to take into account the fact — if it is a fact — that the Tribunal is ready to try the claims; or — as the case may be — that there is still time in which orderly preparation can be made. It must not, of course, ignore either the duration or the character of the unreasonable conduct without which the question of proportionality would not have arisen, but it must even so keep in mind the purpose for which it and its procedures exist. If a straightforward refusal to admit late material or applications will enable the hearing to go ahead or if, albeit late, they can be accommodated without unfairness, it can only be in a wholly exceptional case that a history of unreasonable conduct which has not until that point caused the claim to be struck out will now justify its summary termination. Proportionality, in other words, is not simply a corollary or function of the existence of the other conditions for striking out. It is an important check in the overall interests of justice upon their consequences.”

30. In my judgment, my reading of the Bolch principle is that rule 38(1)(b) and (e) do not operate in isolation but rather that the engagement of rule 38(1)(b) is conditional upon simultaneous engagement of rule 38(1)(e), or put another way that the former will not justify strike out unless the latter is satisfied. In my judgment the Royal Bank case says the same save for that “From time to time there will also be cases where, unfortunately, a litigant’s conduct is, for example, so threatening abusive or disruptive that, whatever the cause, it ought not to be tolerated and they will be done no injustice by being treated as having thereby forfeited their right to have their claim or defence tried” and in those **exceptional** cases rule 38(1)(b) can operate without rule 38(1)(e) being engaged.

31. It is worth pointing out that in the Hargreaves case the conduct that gave rise to strike out, which the EAT then reversed for lack of the prospect of inability of a fair trial to take place and lack of proportionality, was very egregious indeed. By way of examples:
- (a) The original Tribunal had found that the conduct was highly vindictive in that the claimant had sought in that case *“for my community, my supports and I to create a damning narrative of a racist, abusive organisation: Evolve Housing + Support the unregulated housing organisation that leads young people into harm’s way, including murder, whilst raking in millions from the taxpayer. This narrative would not only be created through protracted legal actions, including appeals to the European Court of Human Rights; but also through high profile media political campaigning in forthcoming local and national elections”*;
 - (b) The original Tribunal had also found that the claimant’s conduct squarely fell within the meaning of “vexatious” per AG v Barker because his goal was *“to subject the [Respondents] to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the Claimant”* and that his *“settlement demands [went] well beyond what he could reasonably expect to achieve even if he wins his claims ‘hands down’”*;
 - (c) The claimant in that case had sought to *“force the Respondents to accede to those demands or else he will unleash his damning narrative campaign regardless of the outcome of the proceedings”* and the original Tribunal had therefore found that acting in such a scandalous and vexatious manner was also plainly conducting the proceedings in an unreasonable manner;
 - (d) The original Tribunal had found that the claimant had clearly linked his campaign with the proceedings and sought to use the proceedings to advance his political campaign and inflict maximum damage on both respondents, and that those actions were not a pure coincidence;
 - (e) As to the possibility of a fair trial, the original Tribunal had found this: *“Of course, a mere threat of negative publicity and unwanted attention to the Respondents and their witnesses will not be sufficient to conclude that a fair hearing will not be possible. However, the Claimant’s conduct, which I found to be scandalous, vexatious and unreasonable, his openly declared intentions to continue to use the Tribunal proceedings to pursue his ‘relentless’ and ‘unstoppable campaign’ of creating the ‘damning narrative’ against the Respondents and their witnesses, and considering the extent to which the Claimant is prepared to go to inflict damage on anyone he considers has done wrong to him and irrespective [of] how the matter is viewed by the Tribunal (e.g. his perjury claim against Mr Deakin) draws me to the conclusion that in the circumstances a fair trial is not possible”*;
 - (f) Also as to the possibility of a fair trial, the original Tribunal had found this: *“Not only the Respondents’ witnesses will feel understandably intimidated of what*

the Claimant might unleash upon them if he feels dissatisfied with their evidence at the trial, the Respondents themselves will be put in the impossible position where, win, lose or draw, they will end up being further attacked by the Claimant until he achieves his stated goals of destroying or seriously damaging their business and political career, respectively”.

32. But notwithstanding, the EAT had faulted the original Tribunal on the fair trial point on the basis that:
- (a) the Tribunal had received no evidence from any prospective witness for the respondents to the effect that he or she was fearful of giving evidence, or of involvement in the claim, or intimidated by the claimant;
 - (b) The Tribunal’s reasoning proceeded on the basis of the **assumed effect** of the Claimant’s conduct;
 - (c) Although the Tribunal had found the “fundamental issue” to be that the Claimant wanted to assume the role of prosecutor and judge in relation to the respondents and their witnesses and to deal with them inside and outside the proceedings as he found appropriate, it was not clear how all of that could result in a conclusion that a fair trial is not possible;
 - (d) Although the EAT acknowledged the Tribunal’s concern at what it termed the claimant’s **weaponisation of proceedings**, it nevertheless concluded that the claimant had surmounted the high appeal hurdle in demonstrating that the Tribunal’s conclusion that a fair trial was not possible was an error of principle, or perverse on the material with which it had been provided. In those circumstances, the Tribunal had also erred in principle in proceeding to strike out the claim, irrespective of its findings as to the Claimant’s conduct.

Application of the law on rule 38(1)(b) to this case

33. I consider that the respondent here falls at the hurdle of establishing that the claimant’s conduct was such as to prevent the possibility of a fair trial being held in the future.
34. Rather like the conduct described in Hargreaves, the conduct of the claimant here too was in the nature of a public campaign, and rather similarly to Hargreaves, he has in my opinion sought to use the proceedings as a vehicle for a sustained campaign against the respondent, whether he eventually wins or loses.
35. However, also rather like the EAT’s conclusion in Hargreaves, here too in my judgment the respondent has not provided me with any evidence that any of its witnesses or representatives have expressed any fear of testifying. The mention in EX3 of a “die in”, of organising protests and of setting up a petition does not in my judgment reach the threshold of a clearly articulated threat to witnesses in these proceedings. It is not even clear what a “die in” is and who would be dying. The deliberate waging of a campaign about HIV/AIDS by the claimant does not in

my view necessarily establish such a threat, even if it has, as is clear on the facts, been highly public in nature and even if the claimant, as he clearly has, has used these proceedings as a vehicle for such a campaign. As to the allegation that the claimant has on many occasions posted photographs and names of the respondent HR team and employees with serious allegations, that is arguably true. That arguably also may have had an impact on those individuals' health and employment. But such an impact is not necessarily the same as or equivalent to those individuals being rendered unable to testify or unable to participate in the preparation of the respondent's case in the proceedings. I have not been provided with evidence as to such an equivalence. The respondent says that it is unknown what further comments the claimant is likely to make of the Judge, representatives, or witnesses if this case were to proceed. This too is speculative, based on a forward projection or guess by the respondent, instead of being based on concrete actions that have thus far been proven already to have the capability to threaten the integrity of the forthcoming trial.

36. For the reasons given immediately above, very much like with the EAT's conclusion in Hargreaves, here too in a similar vein I conclude that to **infer** a result of compromise of the fairness of the forthcoming trial in the absence of clear evidence of the same, would be an error of principle, or perverse on the material with which I have been provided. This means that in my judgment I would err in principle in proceeding to strike out the claim, irrespective of my findings as to the Claimant's conduct.
37. I find that the claimant's conduct has indeed been very reprehensible indeed. In no way do I excuse it. True it is, that he has been disrespectful of the Tribunal, the judge and the respondent's representative on 28 April 2026, and of the respondent's solicitors during the disclosure procedure. But the disrespect evinced on 28 April 2026 was centred on his disagreement with the **terminology used** for HIV/AIDS, which the claimant conceded would not change the legal position. If it would not change the legal position, disagreement about it (even if expressed in a disrespectful manner) cannot in my opinion make an eventual trial unfair. Similarly with preparation as part of the disclosure exercise, whilst the claimant was rude, insolent and disrespectful, the exchange of the disclosure list was in fact effected. Therefore, the impact on the preparation of the case was not substantial. Similarly, as to the claimant's sending in of large pleadings documents, this is a matter that can be proportionately addressed via case management. The claimant's latest amendment application is shorter than previous ones. The current list of issues is settled aside from some gaps for names. Therefore, in my opinion these shortfalls from a litigant in person are already being addressed via case management. Thus, with reference to the Blockbuster case, in terms of the proportionality of a strike-out, this case is not in my judgment one of those "wholly exceptional [cases where] a history of unreasonable conduct which has not until that point caused the claim to be struck out will now justify its summary termination".
38. The respondent claims that the claimant's conduct has undermined the integrity of the Tribunal proceedings in that he knowingly breached clear rules by recording and publishing material from/alleging to be from a private hearing and that the

claimant's conduct is of such a serious nature that it can amount to criminal conduct for Contempt of Court. I have found above that I **cannot be sure enough** that the claimant **recorded and live streamed the proceedings** on 28 April 2026 but that his **running commentary in EX3 breached the prohibition on "transmission"** of matters said in that hearing. Even if a contempt has been committed, the remedy for that lies outside of my jurisdiction. It does not therefore justify the summary termination of the claimant's case in this jurisdiction in the terms outlined in *Blockbuster*.

39. Finally, I turn to the respondent's contention that claimant's actions demonstrate a **disregard for Tribunal Rules and Procedures** such that a fair hearing is compromised, and that his posts published during the course of proceedings serve to trivialise and undermine the seriousness of the process. It is true that there has been a measure of disregard by the claimant. Again, I do not condone this. It has been highly regrettable and unsuitable. But in my judgment such disregard and trivialisation has centred around his public campaign, not necessarily around the preparation of his case for the proceedings themselves. As I said above, clearly he has used the proceedings as a vehicle for his campaign. But in my judgment, this has not prevented him from proceeding to prepare aspects of his case. Therefore, in my judgment that behaviour falls short of vitiating the possibility of the trial coming to fruition. For this reason, in my judgment this is not a case where the criteria in *T v Royal Bank of Scotland [2023] EAT 119* are satisfied. This is in my judgment not a case where the claimant's conduct has been **"so threatening abusive or disruptive that, whatever the cause, it ought not to be tolerated and they will be done no injustice by being treated as having thereby forfeited their right to have their claim or defence tried"**.
40. The respondent suggested that the claimant's conduct described above amounted to an abuse of the process of the court. Traditionally, this can include improper conduct in terms of disruptive behaviour, using the Tribunal for improper ancillary purposes, repeated and deliberate failure to comply with orders, extreme and manifestly unfair delay. My findings above demonstrate that although the claimant has been disrespectful and has brought multiple long pleadings, this does not amount to conduct deliberately calculated to misuse the court. Above I have dealt with the issue of his campaigning which I have said did not cause a risk of no possibility of a fair trial. For these reasons I decline to strike the claimant's case out for abuse of process.
41. For the above reasons, the respondent's application to strike out the claimant's case in its entirety pursuant to rules 38(1)(b) and (e) is refused.
42. The respondent drew my attention to the case of *Paczkowska v Acon Consulting Ltd* which provides the authority for this Tribunal to refer a case to the High Court for potential prosecution where there has been a finding that a contempt of court may have occurred. It is not for me to make the decision whether to refer. That is done by senior judges above my grade. I will refer the question to them.

The amendment application

43. The Order from the preliminary hearing of 28 April 2026 incorporates causes of action for direct disability discrimination, direct discrimination based on religion, direct discrimination based on race or nationality, failure to make reasonable adjustments, harassment related to disability, race and nationality, and victimisation.
44. By an amendment application dated 1 May 2026 and presented in the preliminary hearing of 1 May 2026, the claimant brought an application to amend his claim by adding:
- (a) Further instances of victimisation regarding a withdrawal of a transfer request on the ground of having to undertake trial shifts, in comparison to other colleagues who were transferred without application, and the barring of the claimant from work while the claimant was awaiting transfer in comparison with two unqualified individuals who were hired. This was said to occur on or around 13 December 2024; and
 - (b) Automatic unfair dismissal because of race, national identity and disability (HIV/AIDS). This was said to involve allegations of racism against the claimant made in bad faith, which he says were false, malicious and fabricated.
45. The respondent's submissions were:
- (a) By his document entitled "continuation of claim" dated 26 May 2025, the claimant foreshadowed this amendment application, but the document was discursive and was a narrative, and was not a proper or formal application for an amendment;
 - (b) The application made at the preliminary hearing of 08 July 2026 came over a year and 6 months later than the events complained of occurred. Hospitality sectors have a quick turnaround and memories fade. The claimant could have mitigated this problem far earlier by making a clear and formal amendment application at the time the events occurred;
 - (c) Automatic unfair dismissal was never mentioned in the claimant's ET1 and its continuation in May 2025 despite the claimant having had legal advice at that time;
 - (d) These are entirely new claims, not minor changes. They involve substantially new factual matrices and many more areas of enquiry;
 - (e) These new heads of claim if allowed would be substantially out of time;
 - (f) If I allowed the application, the result would be unfairness to the respondent because of the fading of memories. Attempting to re-locate and call witnesses so far after the time the complaints occurred suddenly now out of the blue would be very difficult because the events would not be on their radar. Had the

claimant made the application promptly in January 2025, or at the very least in May 2025, this difficulty would have been obviated;

- (g) If I were to allow the amendment, this would likely require the current final hearing to be vacated because of the additional witnesses required. This, along with the requirement to prepare ahead of the final hearing, would inevitably and substantially increase costs for the respondent. These are serious allegations that would have to be defended with care, causing substantially more cost to the respondent;
- (h) As against that, the detriment to the claimant is proportionately less. This is because he already has a remedy if he is successful in his existing discrimination claims, and as part of that can seek, as a remedy losses in respect of loss of job. In effect, he already has an equivalent remedy if he succeeds.

46. The claimant's submissions were:

- (a) The amendments were foreshadowed in his document entitled "continuation of claim" dated 26 May 2025 and so were in time;
- (b) He thought that was sufficient and that, having given notice in that way, the Tribunal would and could simply add these matters at the first preliminary hearing;
- (c) In relation to dismissal, he was not dismissed until June 2025 so could not have brought the automatic unfair dismissal claim with his ET1 form.

The law on amendment applications

47. The well-established law on this starts with the case of Selkent Bus Co v Moore [1996] IRLR 661 (EAT) which says that matters which are likely to be relevant in considering an application to amend are:

- (a) The nature of the application itself – whether it is minor or substantial. Minor amendments may be "relabelling" exercises where the existing facts initially pleaded are simply given a different legal label;
- (b) Time limits. Where the claimant proposes to add a new claim by way of amendment, the Tribunal must have regard to the relevant time limits;
- (c) The timing and manner of the application. Although delay itself should not be the sole reason for refusing an application, delay is relevant to the exercise of discretion and the Tribunal should consider why it was not made earlier and why it is now being made. Delays as a result of adjournments, and additional costs (particularly if they are unlikely to be recovered by the successful party) are also relevant.

48. The case of Vaughan v Modality Partnership [2021] IRLR 97 establishes that the Selkent factors are not a check list. Instead, what the Tribunal is required to do is to balance the hardship and injustice of allowing the amendment as against refusing the amendment. This involves assessing the prejudice to both parties and determining on which party the hardship and detriment arising from the amendment falls most.
49. In addition, the case of Chief Constable of Essex Police v Kovacevic UKEAT/0126/13 is authority that an allegation that a claimant seeks to add must be properly particularised so that the terms of the amendment are clear.

Application of the law on amendment applications to this case:

50. Taking limb 1 of Selkent, it is clear to me that the amendments sought by the claimant are substantial. They are not re-labelling. The further victimisation claims arise from entirely new factual matrices not pleaded in the claimant's ET1 form. The automatic unfair dismissal amendment is an entirely new and distinct head of claim. There is no doubt that this would require the respondent to conduct very substantial new areas of enquiry.
51. Taking limb 2 of Selkent, the new matters pleaded in the amendment application are as at the date of application on 08 July 2026 very far out of time – more than 18 months out of time not taking into account ACAS conciliation.
52. Taking limb 3 of Selkent, there is no doubt that there has been very substantial delay in the claimant bringing this application for amendment. As to the manner of his bringing it, I agree with the respondent that the claimant's document entitled "continuation of claim" dated 26 May 2025 was discursive, was a narrative, and was not a proper or formal application for an amendment. The claimant presented his ET1 form on 27 January 2025 which is after the "return to work" ongoing discriminatory acts that he now further alleges happened. I therefore see no reason why he could not have included at the very least the new victimisation allegations as part of his initial claim. Although he was not dismissed until June 2025, I see no reason why he could not have made the application to add that head of claim in of shortly after June 2025, especially given that he knew that what he called further acts of discrimination were already occurring as part of his disciplinary process. The claimant offered no explanation at all in the hearing of 08 July 2026 as to why he could not have brought these allegations at those earlier times.
53. In relation to the principle in Essex Police v Kovacevic, I note that although the claimant's factual explanation of the additional automatic unfair dismissal allegation is set out in detail, the legal basis on which he brings it is not.
54. I agree with the respondent's submissions as to detriment arising from the amendment, were I to allow it. Given my findings on Selkent limbs 1 and 2, there is no doubt that the detriment stated by the respondent would occur. This is in the form of the need to locate and track further witnesses, with fading of memories of distant memories, and obtain their evidence; and the need to investigate with care

and fully substantial new areas of inquiry. The claimant in his amendment application names at least 6 new witnesses. All of this would inevitably result in substantially increased costs in circumstances where the claimant could have avoided such extra work by making the additional allegations promptly. All of this results in a substantial unfairness to the respondent, were I to allow the amendments. In addition, it would likely require the current final hearing to be vacated because of the additional witnesses required, which in view of the claimant's own self-inflicted delay would not be in accordance with the overriding objective in rule 3 of the Employment Tribunals Rules of Procedure 2024.

55. For the reasons above, the balance of detriment would fall disproportionately upon the respondent. Therefore, I refuse the claimant's application for an amendment.

**Employment Judge M Da Costa
11 September 2026**

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