



EMPLOYMENT TRIBUNALS

Claimant: Mr I Ruhaza

Respondent: Lifeways Paragon Limited

Heard at: Midlands West

On: 27 August 2026

Before: Employment Judge Faulkner

Representation: **Claimant** - in person
Respondent - Ms A Rollings (Counsel)

RESERVED COSTS JUDGMENT

The Claimant's application for a preparation time order is refused.

REASONS

Background

1. The Claimant was employed by the Respondent social care provider as a Support Worker from 18 June 2018 until on or about 19 February 2024. ACAS Early Conciliation took place from 9 August to 20 September 2023 and the Claim Form was presented on 11 October 2023.

2. The Claim Form particulars were principally focused on discussions between the parties about the Claimant's right to work under immigration legislation between December 2022 and May 2023, culminating in his suspension for two days, which the Claimant alleged amounted to race discrimination and race harassment. The Respondent resists the Claim in its entirety.

3. The first Case Management Hearing was before Employment Judge Kelly on 19 February 2024. The Claimant did not attend. In the resulting Case Management Orders, the Claimant was ordered to provide further details of his

Claim by 4.00 pm on 8 March 2024 and unless he did, his Claim would stand dismissed. He sought a variation of the Order on 13 March 2024, and provided the required particulars and an explanation for his non-compliance with the unless order on 14 April 2024. I have now seen the 14 April email, in which the Claimant stated that he had not complied with EJ Kelly's unless order because of his "ongoing struggle with depressive and anxiety disorder", that he had been 10 minutes late dialling into the Hearing, but had then been waiting for 30 minutes, subsequently trying to call the Tribunal office but without any answer. Notice of dismissal of the Claim, for non-compliance with the unless order, had been issued on 9 April 2024.

4. Employment Judge Maxwell revoked the dismissal of the Claim in correspondence sent to the parties on 22 May 2024, treating the Claimant's email of 14 April 2024 as an application to set aside the dismissal. The Respondent applied for reconsideration of that decision on 28 May 2024. It submitted that the Claimant's email of 14 April could not properly be construed as an application to set aside the dismissal as it did not say that it was, also pointing out that an application to do that had been made on 14 May 2024, which was too late. EJ Maxwell dismissed that application as having no reasonable prospect of success on 4 July 2024. He accepted that the Claimant had not said expressly that he wanted the dismissal of his Claim set aside, but giving the correspondence of 14 April a fair reading in the context that the Claimant was unrepresented, it was clear he was seeking to explain his failure to comply with the unless order and continue with the proceedings.

5. The second Hearing was before Employment Judge Wedderspoon on 8 October 2024. For the second time the Claimant did not attend, but EJ Wedderspoon refused the Respondent's application to strike out. She did however issue an unless order requiring an explanation of the Claimant's non-attendance by 15 October 2024. The Claimant appears not to have replied until 18 and 24 October 2024.

6. The Claim was dismissed, for the second time, on 7 March 2025, in correspondence sent under the direction of Employment Judge Meichen. The Claimant made an application for reconsideration on 9 March 2025, further correspondence following from the Respondent on 10 March 2025 and from the Claimant on 14 and 17 March 2025. On 8 May 2025, the Tribunal wrote to the parties to say that EJ Wedderspoon's provisional view was that the application to reconsider should be granted because correspondence explaining the Claimant's non-attendance on 8 October 2024 was not referred to EJ Meichen prior to the letter of 7 March 2025. The Respondent wrote to the Tribunal asking for the Claimant's application to be addressed at a Hearing.

7. At a Public Preliminary Hearing, again before EJ Wedderspoon, on 15 August 2025, the Claim was reinstated for the second time. EJ Wedderspoon noted that the Claimant did not produce medical evidence supporting his contention that mental health issues had affected his attendance on 8 October 2024. She nevertheless noted that there were issues with the Claimant receiving correspondence by email and that the Respondent had prepared detailed grounds of resistance such that it would not be unduly prejudiced by the Claim being allowed to progress. Accordingly she decided that it was in the interests of justice to set aside the dismissal of the Claim.

8. Also at that Hearing, EJ Wedderspoon identified the complaints of direct race discrimination, alternatively race harassment, and the issues to be determined in respect of those complaints. She also listed a further Public Preliminary Hearing for the determination of the Claimant's application to amend his Claim to add complaints about his dismissal and to consider whether any of the complaints should be struck out or made subject to a deposit order.

9. That further Hearing took place on 29 September 2025 before Employment Judge Power. Regrettably, because of issues with the Claimant's connectivity, that Hearing could not proceed beyond arranging a further Hearing in person and making Case Management Orders for it.

10. Accordingly, the case came before Employment Judge L Knowles on 24 April 2026. In or following that Hearing, she:

10.1. Granted the Claimant's application to amend.

10.2. Set out a full List of Issues to be determined at the Final Hearing.

10.3. Refused the Respondent's strike out application.

10.4. Refused its application for deposit orders.

10.5. Listed this Hearing for remaining case management issues to be addressed.

11. By the time I had dealt with all case management issues and heard the parties' submissions on the Claimant's application for a preparation time order ("PTO"), the scheduled 3 hours for the Hearing had expired, leading to my reserving judgment. This was principally because it took a considerable time to clarify the basis of the application; I record that the Claimant had not adequately prepared to make submissions about his application, leaving me to do much of the work necessary to ensure I understood what he was saying. It was also necessary for me to order both parties to provide further information relevant to the application.

Application and submissions

12. The application was set out in an email to the Tribunal of 9 June 2026. As just noted, it took a considerable time to clarify it. I take each element in turn, setting out the basis for the application and the parties' respective submissions, before turning separately to a summary of the relevant law and my conclusions. The application is based on the Respondent allegedly conducting the proceedings unreasonably.

Ground 1

13. The first ground for the application was that on 19 February 2024, that is at the Hearing before EJ Kelly, the Respondent misled the Tribunal into making an unless order. The Claimant referred me to paragraph 5 of EJ Kelly's Orders, in which he stated that an unless order had been made because:

13.1. The Claimant failed to attend the hearing without prior notice to the Tribunal.

13.2. The Respondent informed the Tribunal that it had attempted to make contact with the Claimant unsuccessfully and that it was concerned the Claimant would not engage in the proceedings.

14. The Claimant says that the Respondent “has never proved what sufficient contact was made in vain and what made them assert that they believed the claim was not going to be pursued”. As a result, he says, he had to prepare his correspondence of 14 April 2024, which he says took him 3 or 4 hours. Ms Rollings’ submission was simply that the Claimant had not engaged with the Tribunal process and did not attend the Hearing, so that there was nothing unreasonable about the Respondent’s conduct.

15. I note from correspondence sent to the Tribunal after the Hearing on 27 August 2026 that:

15.1. On 7 February 2024, the Respondent’s representatives sent the Claimant by post a proposed bundle for the Hearing scheduled for 19 February 2024, requesting his input to finalise a joint case management agenda and list of issues.

15.2. A copy of the bundle was emailed to the Tribunal on 12 February 2024.

15.3. The Respondent has no further documents to disclose relating to correspondence sent to the Claimant in the run up to the 19 February 2024 Hearing.

15.4. The Claimant has not provided any correspondence purporting to reply to the Respondent’s email of 7 February 2024.

Ground 2

16. The second ground was that on 28 May 2024 the Respondent made “a hopeless application” to revoke the decision of EJ Maxwell sent on 22 May 2024 in which he decided to reinstate the Claim after its dismissal because of the Claimant’s failure to comply with EJ Kelly’s unless order.

17. The Claimant submits that the Respondent must have known its application would fail. He says he had to read the application and reply to it. Correspondence re-sent by the Claimant to the Tribunal on 11 September 2026 demonstrates that he wrote to the Tribunal opposing the application on 28 May 2024. The Claimant has not specified how long it took him to write that correspondence.

18. Ms Rolling made no substantive submissions in respect of this aspect of the application, though the application is opposed in this as every other respect.

Ground 3

19. The third ground was that on 8 October 2024, that is at the Hearing before EJ Wedderspoon, the Respondent made a further application for an unless order “based on a deliberately misleading submission”, as it knew from reading his submissions after the Claim was first dismissed that he was not to blame for failing to attend the Hearing before EJ Kelly.

20. The Claimant referred to paragraph 14 of EJ Wedderspoon's Orders in which she stated, "The Respondent stated in the context that the Claimant had failed to attend a preliminary hearing for the second time [that] the case should be struck out". The Claimant told me that the unreasonable conduct was the Respondent telling EJ Wedderspoon that he had failed to turn up through personal fault and making reference to his non-attendance at the first Hearing. He says that as a result he had to reply to the unless order, and that this took him around 15 hours.

21. Ms Rollings drew my attention to paragraph 15 of EJ Wedderspoon's Orders, in which she stated, "The Tribunal exercised its discretion and considered that it would be just and proportionate to make an unless order in the circumstances that the Claimant had sought to engage in the process the day before the hearing and provide documentation to assist the Tribunal but had ultimately failed to attend or provide any explanation for non-attendance". Ms Rollings refuted any suggestion that the Respondent had misled the Tribunal.

Ground 4

22. The fourth ground was the Respondent seeking a hearing for the determination of the Claimant's reconsideration application dated 9 March 2025 when in her correspondence of 8 May 2025, EJ Wedderspoon had indicated a provisional view – what the Claimant called a "strong view" – that reconsideration should be granted. The Claimant says that this resulted in 10 hours of preparation time.

23. Ms Rollings submitted that the Respondent did not consent to reconsideration and reinstatement of the Claim because a hearing was legally required. As I pointed out to her, that cannot be correct given rule 39(3) of what is now The Employment Tribunal Procedure Rules 2024. She submitted that in any event EJ Wedderspoon was critical of the Claimant who said that he arrived in Birmingham for the Hearing on 8 October 2024 but had a panic attack and yet provided no medical evidence of the same.

Ground 5

24. The fifth ground was the Respondent's applications for strike out and deposit orders, which were eventually dismissed by EJ Knowles on 24 April 2026. The Claimant drew my attention in particular to EJ Knowles' conclusion that the complaint about the last act of discrimination was clearly in time and that there was no basis on which to determine without hearing evidence whether earlier alleged discrimination was part of conduct extending over a period ending with the last act. The Claimant also submitted that on 15 August 2025 EJ Wedderspoon said, in a comment not recorded in her Orders, that the Respondent did not seem to have a valid strike-out application based on time limits. The Claimant also submitted that the Respondent's applications were hopeless because even its own HR Adviser had said the return-to-work checks should not be conducted, though as I pointed out to the Claimant that is not the same as saying that what the Respondent did was tainted by discrimination.

25. Ms Rollings submitted that the focus of the Respondent's applications was on the substantive issues, not time limits. She said that the Claimant had been opaque on the nature of his race discrimination complaints until the 24 April Hearing, having not previously identified any comparator or connection to race

before then. It was only at that Hearing that he said that only Black employees were required to provide the Respondent with return-to-work documents, so that on the face of it the Respondent's application was properly made. The Claimant's retort was that the Respondent asserted that documents were required of everyone, but it could not prove that to have been the case.

26. The Claimant says he spent around 10 hours preparing for the 24 April Hearing.

Ground 6

27. The final ground was that the Respondent's representatives were "disruptive in the preparation of the bundle [for the hearing before EJ Knowles] by leaving the core of [the Claimant's] evidence (between page 218 and 302) unpaginated" and that this occasioned around 3 hours' additional work checking that they were all in the right order.

28. Ms Rollings accepted that some of the bundle for that Hearing was unpaginated, namely Facebook pages, submitted that emails between colleagues were irrelevant, and said that EJ Knowles criticised the use of photographs of service users.

Law

29. The relevant rules of procedure are rules 72 to 82 of the Rules. In respect of this application, the particularly relevant rule is rule 74 which in part reads as follows:

"(2) The Tribunal must consider making a costs order or a preparation time order where it considers that –

(a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings, or part of it, or the way that the proceedings, or part of it, have been conducted".

30. Case law provides regular reminders that such orders remain the exception not the rule in employment tribunal litigation, although that does not mean that exceptional circumstances are required, just that the relevant test is satisfied. Orders for a PTO are intended to be compensatory for the receiving party, not punitive for the paying party.

31. In summary, the first step is to consider whether rule 74(2)(a) is engaged. The Tribunal should consider the nature, gravity and effect of the conduct that is alleged to have been unreasonable, though not as though it were applying a checklist. In **Barnsley Metropolitan Borough Council v Yerrakalva [2011] EWCA Civ 1255**, the Court of Appeal made clear that it is necessary to look at the whole picture of what happened in the case and ask whether there has been unreasonable conduct. The Tribunal must identify that conduct, what was unreasonable about it and what effects it had. As to this last point, which is concerned with causation, it is not necessary to find a precise link between the unreasonable conduct and the preparation time incurred, but matters of causation must not be ignored altogether.

32. If the rule is engaged, the second step is to consider whether to make a PTO; it is not mandatory to do so and tribunals have a wide discretion in that regard. If it is decided that a PTO should be made, the third step is to consider the amount to be paid. The Respondent does not ask that the Tribunal take its financial means into account.

Analysis

33. I find that the Claimant has not established that the Respondent acted unreasonably as alleged on any of the six grounds. I take each in turn.

34. In relation to Ground 1, I cannot see any basis for saying that the Respondent misled EJ Kelly into making an unless order. The Claimant did fail to attend the Hearing on 19 February 2024 and he did not respond to the Respondent's representatives' correspondence regarding the bundle of documents for that Hearing. EJ Kelly recorded only the Respondent's concern that the Claimant would not engage with the case and clearly thought that it was appropriate to make the unless order. There is no evidence that the Respondent's representative said anything to EJ Kelly that was inaccurate. Nothing the Respondent did in this respect gets anywhere near unreasonable conduct.

35. As to Ground 2, EJ Maxwell did say that the Respondent's application of 28 May 2024 for reconsideration/review of his decision dated 22 May 2024 setting aside the dismissal of the Claim had no reasonable prospect of success. The Claimant's point, though not put in these words, is that EJ Maxwell's conclusion must mean that the application, made through the Respondent's professional representatives, amounted to unreasonable conduct.

36. In my judgment, even where a party is professionally represented, it does not automatically follow that an application held to have no reasonable prospect of success was made unreasonably. It may follow, but everything depends on the context and circumstances. Here, it is clear from EJ Maxwell's decision that he accepted the main thrust of the Respondent's argument, which was to the effect that the Claimant had not made explicit that he wanted the dismissal of the Claim set aside. That, and the further context that the Claimant's email explicitly making that application was made out of time on 14 May 2024, leads me to conclude that it was not unreasonable to request a review/reconsideration of EJ Maxwell's decision. It was held to have no reasonable prospect of success, but it can be understood why the Respondent made it; on its face, it was an application made on the merits of the situation as it appeared to the Respondent's representatives.

37. In any event, even if it had been unreasonable conduct, I would not have exercised my discretion to make a PTO, given that it was the Claimant's failure to comply with the unless order made by EJ Kelly, justified on the basis of unevidenced effects of anxiety and depression, which formed the backdrop to the Respondent's application. It would not in my view be just and equitable to award a PTO against the Respondent in those circumstances.

38. There was no unreasonable conduct under Ground 3 either for the following reasons:

38.1. What EJ Wedderspoon recorded the Respondent as having submitted on 8 October 2024 was factually accurate, namely the fact that the Claimant had failed

to attend a Hearing for the second time. She did not record the Respondent submitting that this was through his “personal fault”.

38.2. EJ Wedderspoon also referred to the Claimant not having attended the Hearing before EJ Kelly. It can be safely assumed that she was aware of the Claimant’s explanation for that non-attendance and that she knew that his Claim had been dismissed and reinstated. With knowledge of all of that background, she nevertheless plainly deemed it appropriate to exercise her discretion to make a further unless order based on the circumstances of the Claimant’s non-attendance at the second Hearing.

39. Ground 4 is also unfounded. Whilst on the face of rule 39 the Respondent was wrong to say that a Hearing to consider the Claimant’s second attempt to get his Claim reinstated was required as a matter of law:

39.1. A provisional view, at least one expressed as EJ Wedderspoon did, cannot be said to be “a strong view”.

39.2. EJ Wedderspoon did not give a view as to the likely result of the review.

39.3. The Tribunal agreed to a Hearing being listed when it was not bound to do so because the Claimant had not requested it – again see rule 39(3). I conclude that if the request for a Hearing had been deemed unreasonable, it would not have been listed, particularly in the context of considerable pressure on the Tribunal’s schedule.

39.4. Nothing in EJ Wedderspoon’s written decision indicates that she thought the Respondent should not have resisted the Claimant’s application or should not have requested a Hearing to consider it. It is clear when reading her decision as a whole that there were competing arguments for her to grapple with.

40. I reach the same conclusion on Ground 5:

40.1. EJ Wedderspoon plainly saw fit to list a preliminary hearing to consider strike out and deposit order applications.

40.2. Whilst EJ Knowles correctly identified that the Respondent was wrong in its analysis of the time limit issues, as Ms Rollings pointed out the Hearing was substantially concerned with the strike out and deposit order applications based on the substantive merits of the Claim.

40.3. Again it is evident from her Judgment that EJ Knowles grappled with the parties’ competing arguments on those applications. There is no indication that she expressed any view that they should not have been pursued. In the end, she decided that a full hearing of the evidence was necessary in order to determine the Claim.

40.4. The Hearing before EJ Knowles also dealt with the Claimant’s amendment application(s). All told therefore, the time limit point was a small fraction of what EJ Knowles had to deal with.

41. Finally, addressing Ground 6, the documents the Claimant wanted to refer to before EJ Knowles were included in the bundle for that Hearing, were all in one section and should thus have been easily identifiable. Further, even had they been

page numbered, the Claimant would still have had to check that they were all there and so would have incurred the same preparation time.

42. For all of the above reasons, it has not been established that the Respondent conducted the proceedings unreasonably in the ways alleged. The Claimant's application for a PTO therefore fails.

Employment Judge Faulkner
Approved on: 28 September 2026

Notes

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the parties in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>