



EMPLOYMENT TRIBUNALS

Claimant: D

Respondents: Visa Europe Limited
Featurespace Limited
Jason Blackhurst
Claire Sinden
Jasmine Smith
Adam Hawkes
Amy Reddick

FULL WRITTEN REASONS FOR JUDGMENT OF 2 SEPTEMBER 2026

Introduction

1. At the hearing on 2 September 2026 the Claimant made applications for a Restricted Reporting Order, an Anonymity Order and to introduce and rely upon a document headed 'Further and Better Particulars of Claim' (FBPoC).
2. Following the hearing, the Tribunal produced a Case Management Document, a Restricted Reporting Order and an Anonymity Order.
3. The Claimant has requested written reasons for the matters that were not determined in her favour, namely not being permitted to rely upon paragraphs 50-54 of the FBPoC, not being permitted to rely upon 'PCP 8' in the FBPoC and no order being made in respect of paragraph 6 of the application for an Anonymity Order and Restricting Reporting order.
4. Accordingly written reasons are now provided in respect of each of those matters.

Amendment / Permission to rely upon Further and Better Particulars of Claim

5. The Claimant's ET1 form was received by the Tribunal on 8 June 2025. It was accompanied by a Particulars of Claim (PoC) which was 75 pages in length.
6. A FBPoC was produced dated 10 August 2026 (although this was subject to later further amendment on 1 September 2026, such further amendment not being material to the decisions made by the Tribunal).

7. As set out in the Claimant's Skeleton Argument, produced for the Preliminary Hearing, there was agreement by the Respondent to much of the additional material included in the FBPoC.
8. Amongst the matters which were not agreed to were paragraphs 50 – 54 and PCP 8.

Amendment

9. At the Preliminary Hearing, the Claimant sought to suggest that the additional material contained in the FBPoC was not to be classed as amendments but rather that the Tribunal should proceed to give permission to the Claimant to rely upon the entirety of the FBPoC. This position was detailed in the Claimant's solicitor's letter of 10 August 2026.
10. The Tribunal noted the following matters:
 - a) Paragraphs 50-54 of the FBPoC set out claims brought under sections 111 and 112 of the Equality Act 2010. There is no reference to these sections in the Claimant's ET1 and PoC;
 - b) The information included in the ET1 and PoC did not include explicit pleading identifying, for example, who gave the instruction (section 111) or who knowingly helped whom (section 112);
 - c) PCP 8 is detailed at paragraph 38 of the FBPoC. It refers to a practice of not extending an internal appeal deadline when there is evidence that the employee is able to correspond with the employer on other matters. There is no reference to this PCP in the ET1 and PoC. No part of the detailed information in the PoC frames a PCP based on a continued ability to correspond with the employer.
11. As set out in the Presidential Guidance, amendment means 'changing the terms of the claim or response'.
12. The Tribunal considered whether the material described by the Claimant as Further and Better Particulars was properly characterised as the provision of additional information in support of an existing pleaded case, or whether it in substance sought to alter the claim itself. Further particulars are ordinarily directed towards explaining, clarifying or providing additional factual detail in relation to allegations that have already been pleaded. They may identify dates, individuals or other matters of detail which assist in understanding the existing claim.
13. However, where the proposed material introduces a new factual foundation, advances a new legal complaint, pleads a new alleged act of discrimination or detriment, introduces a materially different allegation, or significantly alters the nature or scope of the issues to be determined, the Tribunal considers that the

party is seeking to amend the claim. In such circumstances the material cannot properly be treated as mere particulars.

14. If the new information would require the Respondent to investigate different facts, obtain additional evidence, call different witnesses or defend a substantially different case, that is a strong indication that an amendment is being sought.
15. Although the Claimant submitted that the relevant paragraphs merely expanded upon claims already before the Tribunal, I was not persuaded that they amounted to clarification alone. The proposed pleading introduced matters which were not apparent from the original particulars and which expanded the case the Respondents were required to meet.
16. Put another way, the disputed paragraphs do more than provide further detail about allegations already articulated in the claim. They seek to advance allegations which were not previously pleaded, or which were not apparent from a fair reading of the existing claim. In those circumstances I treated the relevant paragraphs as an application to amend and considered them accordingly.
17. Having reached that conclusion, the Tribunal had to consider the proposed additions by applying the principles relevant to amendment applications, including consideration of the nature and extent of the amendment, the timing of the application, the explanation for it, and the balance of prejudice and hardship to the parties. It is not appropriate simply to permit the allegations to be added under the guise of further particulars without undertaking that assessment.
18. Amendments may be sought to correct or clarify details of the particulars already given or to add information to a claim and, sometimes, an amendment may seek to go further and add to the claim. In summary, the leading case on the principles applicable is Selkent Bus Co Ltd v Moore [1996] IRLR 661. In relation to the Tribunal's exercise of discretion Mummery J emphasised that the Tribunal, 'should take into account all the circumstances and should balance the injustice and hardship of allowing the amendment against the injustice and hardship of refusing it'.
19. The relevant factors, also listed in the Presidential Guidance, include: the nature of the amendment, the applicability of time limits and the timing and manner of the application. When considering an amendment, the Tribunal should consider all the circumstances and carry out the balancing exercise identified in Selkent. The discretion must also be exercised in accordance with the overriding objective. In Vaughan v Modality Partnership [2021] IRLR 97, HHJ Tayler urged parties and Tribunals to focus on the real practical consequences of allowing or refusing the amendment – for example, if permitted what will be the practical problems in terms of responding (see also Chaudhry v Cerberus Service Security and Monitoring Services Ltd [2022] EAT 172).
20. In Chandhok v Tirkey [2015] IRLR 195, the EAT emphasised the importance of pleadings and that a claim must be set out in the ET1. Langstaff P stated 'The claim, as set out in the ET1, is not something just to set the ball rolling..... which is otherwise free to be augmented by whatever the parties choose to add.....'.

21. A distinction is made between amendments which add a new or different claim and those which amend the factual or legal basis of an existing claim. There is a fine line between a new claim and a claim implicit in the facts already pleaded but not expressly identified as a claim. The Presidential Guidance distinguishes amendments seeking to add or substitute a new claim arising out of the same facts as the original claim and those which add a new claim entirely unconnected with the original claim.
22. If additional facts are pleaded with a new legal label such that the 'new' claim involves a different factual enquiry, then it will be a new claim (see Reuters Ltd v Cole UKEAT/0258/17/BA). If a new claim is to be added by way of amendment, then the Tribunal must consider whether the complaint is out of time or arguably out of time (Galilee v Comr of Police of the Metropolis [2018] ICR 634 but also Chaudhry v Cerberus Service Security and Monitoring Services Ltd [2022] EAT 172 at [34]-[35]).
23. The underlying merits of the amendment is relevant if it posits an 'utterly hopeless case' (see Woodhouse v Hampshire Hospitals NHS Trust UKEAT/0132/12) however beyond this, it should be assumed that the case is arguable.

Paragraphs 50 – 54

24. The Tribunal has carefully considered the Claimant's application to amend the claim by the addition of claims under sections 111 and 112 of the Equality Act 2010. The Claimant's position, advanced by Mr Liberti, was that the proposed amendments amounted to no more than a relabelling of facts already pleaded and did not introduce any substantially new area of factual enquiry. It was submitted that the claims were effectively "shouted out" from the existing Particulars of Claim, with reference being made to the line of authorities referencing that phrasing, and that the balance of hardship and prejudice strongly favoured permitting the amendments.
25. The Tribunal did not accept that submission. Having considered the terms of the proposed amendments and the pleaded case as originally advanced, I am satisfied that paragraphs 50 to 54 of the FBPoC introduce new causes of action rather than merely providing a different legal characterisation of facts already before the Tribunal. Those paragraphs contain additional factual assertions and seek to attach to those assertions distinct statutory causes of action which were not previously pleaded.
26. Sections 111 and 112 of the Equality Act 2010 create separate and distinct statutory liabilities. Each requires proof of particular factual elements. Section 111 concerns causing or inducing another to commit an unlawful act, whereas section 112 concerns knowingly helping another to commit such an act. The factual components necessary to establish liability under those provisions are specific and materially distinct from the elements of the claims already pleaded. Accordingly, in my judgment, the claims under sections 111 and 112 cannot be

properly characterised as having been present in the proceedings from the outset nor am I satisfied that the original Particulars of Claim set out a sufficient factual basis from which such allegations could reasonably be said to arise.

27. I accept the Respondents submission that the proposed claims are founded substantially upon inference rather than upon pleaded primary facts – this much is clear from the content of paragraphs 50-54. The proposed paragraphs identify conclusions which the Claimant invites the Tribunal to draw without a detailed factual foundation. Put another way, the proposed pleading asserts that persons within the Respondent's organisation must have caused, induced or knowingly assisted unlawful conduct.
28. The lack of further particularisation is significant when considering the practical consequences of allowing the amendments. Were the amendments permitted, the First Respondent would be required to undertake a substantial new investigation. Given the nature of the allegations, the enquiry could not be confined to matters already investigated in relation to the existing claims. Rather, it would be necessary to conduct a broad investigation directed at identifying whether any individual or individuals might arguably have been involved in conduct capable of engaging sections 111 or 112, and to obtain evidence from those individuals. The scope of that exercise would be extensive and materially different from the investigation required to defend the claims as originally pleaded.
29. I also took into account the timing of the application. The claims under sections 111 and 112 were not formulated until the FBPoC, served more than a year after the presentation of the claim. Whilst delay is not determinative, it is a relevant factor when assessing whether to permit a significant amendment in circumstances where wholly new statutory claims are sought to be introduced at a later stage of the proceedings.
30. I accepted Mr Sammour's submission that the First Respondent would be prejudiced by continuing to be involved in this case on such a basis and I was not persuaded that the balance of hardship favoured the Claimant. Whilst refusal of the amendment will prevent the Claimant from pursuing claims under sections 111 and 112 of the Equality Act 2010 in these proceedings, I bear in mind the nature of the case as a whole. The claim already contains a substantial number of allegations against multiple Respondents and raises a broad range of issues for determination. The proposed claims under sections 111 and 112 are additional allegations which sit alongside, rather than at the core of, the Claimant's pleaded case. By contrast, permitting the amendments would impose a significant burden upon the First Respondent, who would be required to undertake extensive further investigations into new allegations involving potentially numerous individuals and events not previously identified as forming part of the claim. In those circumstances, the prejudice and hardship to the First Respondent in allowing the amendments substantially outweighs the prejudice to the Claimant in refusing

them. I therefore conclude that the balance of hardship does not favour the granting of permission to amend.

31. Accordingly, weighing all relevant circumstances, including the nature of the proposed amendments, the basis of the claims put forward in paragraphs 50-54, the extensive investigation that would be required and the timing of the application, I was not satisfied that it was appropriate to permit the amendments.

PCP 8

32. The Claimant also sought permission to amend the claim by adding a further alleged provision, criterion or practice ("PCP"), namely:

"A practice of not extending an internal appeal deadline when there is evidence that the employee is able to correspond with the employer on other matters."

33. The proposed amendment was advanced as a new, and one of nine, PCPs relied upon for the reasonable adjustments claim. I accepted that the amendment does not seek to introduce a wholly new cause of action. However, that is not determinative of the application. The question remains whether, having regard to all the circumstances, including the nature of the amendment, the timing of the application, the prejudice to the respective parties and the balance of hardship, it is just to permit the amendment.
34. Having considered the parties' submissions, I was not persuaded that PCP 8 should be added to the claim. I accepted the Respondents' submission that the proposed PCP derives from an individual decision allegedly affecting the Claimant and seeks to characterise that decision as evidence of a wider organisational practice. In doing so, it seeks to introduce a new factual and legal issue which was not part of the originally pleaded case.
35. The proposed PCP appears to be inferred from the treatment of the Claimant rather than founded upon identified facts capable of demonstrating the existence of a practice operating more generally. The Respondent would therefore be required to investigate not merely the circumstances surrounding the Claimant's appeal deadline but whether there existed, during the relevant period, a wider practice of refusing extensions where employees were simultaneously corresponding with the employer about other matters. That would necessitate enquiries extending beyond the facts currently in issue and would potentially require consideration of how similar situations had been handled in other cases.
36. Accordingly, whilst the amendment is sought in support of an existing reasonable adjustments claim, I accepted that permitting it would nevertheless give rise to additional factual enquiries and require the Respondent to address a materially different and evolving case from that originally pleaded. The prejudice arising from that additional investigation was a relevant consideration, as were the principles of the overriding objective including dealing with cases proportionately.

37. I have also considered the prejudice to the Claimant if the amendment is refused. The Claimant remains able to pursue the reasonable adjustments claim on the basis of the large number of other PCPs permitted by amendment and is not deprived of the opportunity to advance the central aspects of that claim. In those circumstances, I am satisfied that the balance of hardship and prejudice favours the Respondent.
38. Again, in reaching that conclusion I have taken into account the existing scope of the proceedings, the nature of the amendment, the timing of the application and the prejudice to the respective parties. Considering all relevant circumstances in the round, I am not satisfied that it is appropriate to permit the introduction of PCP 8 and therefore that part of the application to amend was refused.

Paragraph 6 of the Anonymity Application

39. The Claimant's application for an Anonymity Order and a Restricted Reporting Order was made in a letter dated 13 August 2026.
40. At paragraph 6 of that letter the following requests were made:
- a) That when any public judgment addresses questions of causation and remedy, this does not include any sexual material or intimate details;
 - b) If reference to those matters is necessary, it is linked to a neutral statement such as 'the Claimant was the victim of an incident which was linked to her psychiatric deterioration' but without any specific reference to the nature of the crimes, previous sexual trauma, sexual assaults, ongoing police investigations, engagement in survival sex work during financial crisis, or any other intimate sexual matters.
 - c) If this cannot be ordered under Rule 49, the Claimant requests it as a reasonable adjustment.
41. Having considered the application set out in paragraph 6, the Tribunal made the following determinations in respect of the issues raised.
42. By virtue of the Anonymisation Order and the Restricted Reporting Order, the identity of the Claimant and members of her family shall not be disclosed in any document entered on the register or otherwise made available as part of the public record. The Orders also prohibit the publication of any matter capable of identifying the Claimant including, but not limited to, any material of a sexual nature including but not limited to reference to previous sexual trauma, sexual assaults, police investigations into allegations of sexual assault and involvement in sex work.
43. At this stage of proceedings, the Tribunal was satisfied that these Orders appropriately addressed the necessary balance required between the principles of open justice and the Claimant's rights and matters concerning her welfare.

They represent a proportionate derogation from the principle of open justice, no greater than is necessary, in the circumstances of this case.

44. Progressing in this way ensures appropriate protection for the Claimant and her family whilst enabling the Tribunal to refer to, and make findings upon, sensitive evidence where necessary for the proper determination of the issues in dispute, without imposing artificial constraints on the content of the Tribunal's reasoning or its findings of fact.
45. In addition, the Tribunal was of the view that this part of the application was directed to the manner in which any future judgment, following the full merits hearing, might be framed and the language that might be used in recording that judgment. The Tribunal considered that such an application, if still required, could properly be renewed before the Tribunal determining the full merits hearing. At that stage, the Tribunal will understand what evidence is being produced and will have a detailed understanding of the factual issues in dispute. Accordingly, it will be better placed to assess the extent to which sensitive material must be referenced within its findings and reasons and will be in a position to evaluate, with a far greater degree of precision than is possible at the Preliminary Hearing, any proposed restrictions to the content or wording of the judgment.
46. Paragraph 6 of the application also refers to the Tribunal considering the application as a reasonable adjustment. In an appropriate case, the Tribunal may make reasonable adjustments to ensure a party's effective participation in proceedings. However, the Tribunal did not accept that the order sought was properly to be characterised as a reasonable adjustment required to secure the Claimant's effective participation in these proceedings. The Anonymisation Order and Restricted Reporting Order already provide substantial protection and address issues of privacy and the risk of identification.
47. As stated, to the extent that any further adjustments may be required in relation to the content or formulation of a future judgment, that question can more appropriately be considered by the Tribunal hearing the full merits hearing.

Employment Judge Harrington

23rd September 2026

Sent to the parties on:
30th September 2026

For the Tribunal Office