EMPLOYMENT TRIBUNALS

CLAIMANT		RESPONDENT
PAUL FARTHING	V	HM LAND REGISTRY

ORDER OF THE EMPLOYMENT TRIBUNAL

HELD BY VIDEO AT SWANSEA ON: 8 MAY 2026

BEFORE: EMPLOYMENT JUDGE S POVEY

REPRESENTATION:
FOR THE CLAIMANT: IN PERSON
FOR THE RESPONDENT: MS TUCK KC

THE COSTS ORDER having been sent to the parties and written reasons having been requested in accordance with Rule 60(4) of The Employment Tribunal Procedure Rules 2024, the following reasons are provided

REASONS

Introduction

1. By a reserved judgment and reasons sent to the parties on 2 October 2025, the Tribunal dismissed all of the complaints brought by the Claimant ('the reserved judgment & reasons').

2. On 22 October 2025, the Respondent applied for an order that the Claimant pay its costs of resisting the claim ('the costs application').

3. Directions were issued on 27 October 2025 to prepare the costs application for determination at an oral hearing. The hearing was reserved to me as the judge who had presided over the Tribunal. As the costs application related to alleged conduct prior to the final hearing, it was not necessary to reconvene the full panel. In advance of the oral hearing, the Respondent provided an indexed paginated bundle of relevant documents ('the bundle'). I also had sight of updated financial information

regarding the Claimant's current circumstances. Both parties provided written submissions

4. The hearing took place on 8 May 2026 by video. During the hearing, I received oral submissions (in addition to the written submissions) from Ms Tuck for the Respondent and from the Claimant.

The law

5. The applicable legal provisions were accurately detailed within both parties written submissions. I did not understand there to be any disagreement or issue between them as to the principles and approaches to be applied by the Tribunal in determining an application for an order for costs.

6. I do not intend to rehearse the applicable law in detail, save that I will refer to elements of it throughout this decision, where appropriate. If written reasons are requested, I will set out the law in detail therein (see Appendix 1).

The application

7. The Respondent seeks an order that the Claimant pays 70% of its costs, awarded on an indemnity basis. Its total costs, per the Schedule of Costs (at [181] – [209] of the bundle) are £115,809.59, of which 70% is £81,066.71

8. The Respondent seeks a costs order on the basis that the Claimant acted vexatious, abusively, disruptively or otherwise unreasonably in the way he has conducted these proceedings. Whilst the Respondent has raised issues in the course of the litigation with the Claimant about the merits of his claim and attendant prosects of success (not least in two costs warning letters sent to the Claimant on 14 October 2024 & 13 June 2025), the application is not pursued on the basis of the merit or otherwise of the claim. Rather, the Respondent says that as a direct result of how the Claimant has conducted this litigation, it has incurred costs in excess of what would and should have been reasonably incurred in defending a claim of this type. In short, the Respondent estimates those excessive costs to be in the region of £80,000 (on the basis of 70% of its total costs of £115,000).

9. The Respondent applies for those costs to be assessed on the indemnity, rather than the standard, basis. On the standard basis (which, as the name suggests, is the default basis upon which costs are assessed on a detailed assessment), any costs claimed must be reasonably and necessarily incurred, and proportionate to the matters in issue. Any doubt is resolved in the paying party's favour. On the indemnity basis, any costs must be reasonably and necessarily incurred, and any doubt is resolved in the receiving party's favour. Proportionality is not a factor on the indemnity basis. (per Rule 44.3 of the Civil Procedure Rules 1998).

10. The Respondent relied upon the fact that the Claimant is a qualified solicitor, who is on the roll and subject to the principals of the Solicitors Regulation Authority (SRA) and its Code of Conduct.

11. Specifically, the Respondent relied upon the Claimant's conduct in this litigation, as detailed at Paragraph 14 of Ms Tuck's written submissions (and reproduced at Appendix 2). I do not rehearse the conduct relied upon. It was supported by evidence in the bundle and ranged over a period from July 2024 (the claim was presented in March 2024) to the start of the final hearing on 1 July 2025 (when redactions were made to the Claimant's witness statement in respect of wholly unfounded allegations that one of the Respondent's witnesses was, in the Claimant's words, "*potentially a child abuser*"). The conduct relied upon consisted of in excess of 30 separate instances, including the finding of Employment Judge Evans at the preliminary hearing of 17 April 2025 that "*the Claimant's conduct has been unreasonable and vexatious*" (at [92] of the bundle).

12. In addition, the Respondent relied upon the aforementioned costs warning letters (at [351] & [428] of the bundle), wherein the Claimant was invited to withdraw his claim, failing which the Respondent reserved the right to seek an order for costs. Those letters included the following about how the Claimant had been conducting the litigation:

13. From the costs warning letter of 14 October 2024:

> … you have acted not only unreasonably but also vexatiously, abusively and disruptively in the way you have pursued this claim.
> …
>
> If you do not withdraw your claim, our client will be required to continue to defend it, incurring further costs. Our client therefore reserves its right to make an application to the Employment Tribunal for its costs.
>
> Although an Employment Tribunal will not automatically order the losing party to pay the other side's costs, it may do so where the losing party has pursued a case that had no reasonable prospect of success or where its pursuit was in some other way unreasonable.
> …
>
> Indeed, the way in which these proceedings have been brought by you have led to a disproportionate level of legal costs being incurred by our client.
>
> …
> … we also consider that you will be acting unreasonably if you continue to pursue such a claim after having considered the matters set out in this letter.

14. From the costs warning letter of 13 June 2025:

> Your Witness Statement makes extremely serious allegations against employees at HMLR, without foundation. In our view, your decision to invent such baseless allegations against HMLR, its employees as well as HMLR's legal representative indicates a lack of good faith, and honesty on your part, which is more than likely to adversely impact your credibility before the Tribunal.
>
> Further, we note that the manner in which you have conducted these proceedings has been unreasonable, inappropriate and vexatious – as agreed and supported by Employment Judge R Evans. We note in particular the extreme difficulties we have experienced in agreeing a Hearing Bundle and in the manner you have been sending

> correspondence. Indeed, the way in which these proceedings have been handled have led to a disproportionate level of legal costs being incurred by our client.
>
> The legal and factual issues in this case are such that we would ordinarily have instructed junior counsel to defend this claim, but your approach to the internal proceedings within HMLR and to this litigation have required us to incur the greater expense of instructing leading counsel. We consider that even if your claim had some merit (which we do not), your unreasonable and vexatious conduct has led to our costs being higher than they otherwise would have been. Indeed, so that you are aware, costs are well into the tens of thousands of pounds and will continue to increase throughout the course of the litigation.
>
> We remain of the view that there is no reasonable prospect of you persuading the Employment Tribunal that you were subjected to discrimination of any kind, or that you were unfairly dismissed and that you have acted not only unreasonably but, in light of your evidence, vexatiously, abusively and disruptively in the way you have pursued this claim.
>
> Therefore, we confirm that our client will apply for costs against you should the claim be unsuccessful.
>
> In view of the above, we invite you to withdraw your claim in its entirety by 16:00 hrs on 17 June 2025, at the latest. Should you do so, we confirm that the Respondent will not make, nor pursue an application for costs against you.

15. The Claimant's response to the allegations regarding his conduct, in both his written and oral submissions, was noteworthy. He did not deny the conduct. Indeed, he did not materially comment upon it at all, save to explain in his oral submission that during 2024 and 2025 he had been going through stressful events in his life and had relied at times upon alcohol, and in his written submissions to state that *"[T]he Claimant's conduct can be explained by his disabilities, which were worsened by the Respondent's lack of co-operation during these proceedings*" (at Paragraph 26).

16. Instead, the Claimant's focus was more upon how he said the Respondent had conducted these proceedings (including this application for costs), how he had complied with orders, attended all the Tribunal hearings and been entitled to bring and pursue his claim, whilst continuing to make allegations against the dismissing officer (Mr Mudford), the Respondent's solicitors and Ms Tuck (per his email to the Tribunal of 30 April 2026, at [485] – [486] of the bundle).

17. The Claimant also explained his current financial circumstances. He is not currently in work, although he has two conditional offers of employment from the civil service. He refers to modest savings (of £11,000) and debts in the region of £50,000, which include a costs order against him in the county court, following his unsuccessful action for malicious falsehood against Mr Mudford. He is engaged in litigation with South Wales Police, resulting in the payment of damages of £4,000 in February 2026 (£1,000 of which has been put toward the county court costs order) and has two other claims against the police pending. Although not evidenced, Ms Tuck did not take issue with the figures provided by the Claimant or his overall current financial circumstances.

Findings & conclusions

Relevant findings of fact

18. I have considered the conduct relied upon by the Respondent and set out at Paragraph 14 of Ms Tuck's written submissions. The conduct is supported by evidence and not materially challenged by the Claimant as having taken place. It is by no means an exaggeration or hyperbolic to describe it variously as vindictive, calculated, threatening, alarming, egregious, outrageous and distasteful. I do not repeat the conduct here but will annex Paragraph 14 to any written reasons, so that the reader can understand for themselves the type of conduct the Claimant engaged in (at Appendix 2, subject to the order of 20 August 2026, made under Rule 49 of The Employment Tribunal Procedure Rules 2024).

19. It is also right to say, as Ms Tuck does, that the Claimant's approach to these proceedings has not changed, despite his oral submissions that he is now in a much better place than he was in 2024 & 2025, when the above conduct was perpetuated. In his email to the Tribunal of 30 April 2026, ahead of this hearing, the Claimant continued in his allegations of dishonesty and professional malpractice against Mr Mudford (who is not a party to these proceedings), against the Respondent's solicitors and against Ms Tuck, concluding with reference to apparent legal action he is contemplating against them for civil fraud, misconduct in a public office and regulatory issues.

20. Can the Claimant's conduct be explained by his disability, as he avers in his written submissions? The Claimant did provide medical evidence ahead of the final hearing but has provided nothing further in response to the costs application. The Claimant is disabled by reason of a traumatic head injury and anxiety. An important and relevant symptom of the Claimant's head injury was emotional lability, the impact of which the Claimant explained in the course of his oral evidence during the final hearing, and recorded in the reserved judgment & reasons at Paragraph 62, as follows:

> …In his oral evidence, the Claimant was asked how his emotional lability presented. He stated that it manifested itself as reacting immediately and in the immediate moment. He contrasted that with how he conducts himself when he able to reflect and reach a considered position. The Claimant talked about needing maybe 20 to 30 minutes to adjust to any given situation and emphasised the importance of being able to step back and reflect.

21. The Tribunal went on to find that many instances of the Claimant's conduct which led to his dismissal by the Respondent could not be explained by the symptoms described by the Claimant, in that his actions could be characterised as calculated and premediated (see, for example Paragraphs 142, 211, 218, & 219 of the reserved judgment & reasons).

22. The Claimant has not sought to resile from his explanation at the final hearing of how emotional lability manifests itself in his behaviours and conduct. The conduct he has exhibited during this litigation, relied upon by the Respondent, cannot be explained by the Claimant's disabilities. The only symptom which could have come close to explaining some of his behaviours, emotional lability, was clearly not at large, since, even if the Claimant on occasions reacted relatively immediately to correspondence

from the Respondent (for example, he replied quickly to the costs warning letters referred to above), he had plenty of time to "step back and reflect". There was no evidence of the Claimant stepping back and reflecting on his conduct of these proceedings, or of him reaching a considered position. Instead, he consistently, vigorously and clearly doubled down, to use Ms Tuck's phrase, on his various allegations, accusations and reactions. The Claimant's conduct was not an immediate reaction in the immediate moment. It was considered, thought about and decided upon, and thereafter re-stated and repeated on numerous occasions.

23. Was the Claimant's conduct because of the life issues he alluded to in his oral evidence? There was no evidence to support the Claimant's claim, save that it appears to be common knowledge that he has been engaged in a number of significant disagreements and clashes with Ms Williams. There was certainly no evidence that the stress caused by those events and any attendant use of alcohol by the Claimant to alleviate those stresses, explained why he behaved as he did in such a manner, on repeated occasions, over a significant period of time. And there was force in Ms Tuck's submission that he continues that type of conduct even now, in a time that he describes as "*being in better place*" (as evidenced by his email of 30 April 2026, referred to above).

24. In my judgment, the Claimant's conduct and actions, as relied upon by the Respondent, cannot be explained away by events going on in his personal life.

Is the threshold for making a costs order met?

25. I had no hesitation in concluding that the threshold to make a costs order had been reached in this case.

26. On any reasonable view, the Claimant's conduct has been vexatious (in the Attorney-General v Baker sense, that the Claimant's conduct had the effect of subjecting the Respondent to inconvenience, harassment and expense out of all proportion to any gain likely to accrue; a use of the court process for a purpose or in a way which was significantly different from the ordinary and proper use of the court process). That was a conclusion also reached by Employment Judge Evans in April 2025, but as the time line of the conduct relied upon by the Respondent showed, that finding had no discernible effect on the Claimant's continued conduct.

27. On any reasonable view, the Claimant's conduct has been abusive, because it included, but was not limited to, insults, allegations, slurs and accusations which were both gratuitous, serious and unsubstantiated, being directed at the Respondent in general, at the Respondent's employees, at witnesses in these proceedings, at the Respondent's solicitors and at the Respondent's counsel.

28. On any reasonable view, the Claimant's conduct has been disruptive, causing witnesses to feel intimidated and seek permission not to attend to give oral evidence, and to seek protection by way of anonymity orders (one of which remains in force). Despite the findings of Employment Judge Evans on 17 Apri 2025 as to the nature of his conduct, the Claimant continued to act in the same manner toward the Respondent and its legal representatives, albeit he no longer contacted the

Respondent or its witnesses directly (per the terms of the unless order made by Employment Judge Evans).

29. Finally, on any reasonable view, and for all the same reasons as detailed above, the Claimant's conduct was unreasonable.

30. For all those reasons, in my judgment, such conduct was vexatious, abusive disruptive and otherwise unreasonable for the purposes of Rule 74(2)(b) of The Employment Tribunal Procedure Rules 2024 ('the 2024 Rules').

31. It follows that the threshold for making a costs order is met.

Should a costs order be made?

32. The Claimant's ability to pay any costs order is a relevant consideration, both in deciding whether to make an order and as to the amount of any order.

33. I have detailed the Claimant's current financial circumstances above, which have not been materially challenged by the Respondent. I am reminded that the Claimant is a qualified solicitor and, whilst he told me that that he intends to come off the roll and not work as a solicitor again, his education, qualifications and work experience should assist him in securing decently remunerated employment in the future (indeed, one of the civil service jobs he has a conditional offer for is at a salary of £35,000).

34. I reminded myself that costs orders are the exception, not the rule and the purpose of a costs order is to compensate the receiving party for the costs they have incurred because of the unreasonable conduct, not to punish the paying party for that behaviour.

35. The Claimant has conducted these proceedings (and appears to still be conducting these proceedings, given his email of 30 April 2026) in a manner which is simply unacceptable. The Claimant's behaviour is without excuse or viable explanation. It is all the more perplexing given he himself is a trained and regulated solicitor, who should know more than most what is expected of those who conduct litigation and engage with the legal system. That is not to apply an elevated threshold to the Claimant. He is a litigant in person and I have assed this application with that firmly in my mind. But even as a litigant in person, his behaviour as detailed in this application has been extreme and utterly unacceptable.

36. The Claimant had been clearly put on notice by the Respondent, on two occasions in October 2024 and June 2025, of the effects of that behaviour on their own legal costs and what the possible consequences of continuing with that behaviour were. The Claimant took no heed of those reasonable and measured warnings. Instead, he reverted to the behaviour which has characterised the history of this case – he accused, he threatened, he made outrageous allegations.

37. In my judgment, it is unreasonable and unjust, given the facts and circumstances of the Claimant's conduct of this litigation, and mindful of my findings on his financial

circumstances, to allow the Respondent to bear those costs without some contribution from the Claimant.

38. For those reasons, it is appropriate for the Tribunal to exercise its discretion and make a costs order. This is, in my judgment, one of those exceptional cases where is appropriate to make an order.

The amount of costs ordered

39. The Respondent seeks the additional costs caused to it by reason of the manner in which the Claimant has chosen to conduct these proceedings which it estimates at 70% of the costs it has actually incurred. In other words, the Respondent says that but for the manner in which the Claimant conducted his claim, its costs would have been in the region of £35,000 (30% of £115,000). However, because of the Claimant's conduct, those costs have been inflated to £115,000, and the additional £80,000 has been incurred by reason of that conduct.

40. In determining the amount to award, there must be some link between the conduct and circumstances which justified the making of the costs order, and the costs incurred by the Respondent. The costs incurred must be necessary and reasonable (otherwise the award ceases to be compensatory and becomes punitive).

41. Did the Claimant's conduct (as found) impact upon the legal costs incurred by the Respondent? There is no need to find a precise causal link between the conduct complained of and the costs incurred but causation is not irrelevant. The Tribunal has a broad discretion and should adopt a broad brush approach and avoid being overly analytical. Rather, one looks at the overall picture, asks if there has been impugned conduct, identify what it was and the effects it had.

42. For the reasons I have explained, there has been impugned conduct on the part of the Claimant, as detailed in Paragraph 14 of Ms Tuck's written submissions. That undoubtedly has caused the Respondent additional costs in managing this litigation, far in a way over and above what is normally expected of a legally represented Respondent, responding to a claim of unfair dismissal and disability discrimination.

43. I have had regard again to the Claimant's financial circumstances in assessing the amount of the costs order, including how the costs order will be paid by the Claimant. That includes reflecting on the prospects of the Claimant's financial circumstances improving, not least in securing employment at what is likely to be a competitive salary.

44. I have the power to impose a cap on any contribution, having regard to the following:

    44.1. Is there a reasonable prospect that the Claimant will in due course be able to discharge the amount (e.g. through a return to well-paid employment)?

    44.2. If so, should there be a cap on the size of the total potential contribution and if so, how much?

45. It can be an improper exercise of discretion to saddle a litigant with a costs order which there is no prospect of them meeting (per Herry v Dudley Metropolitan Council [2017] ICR 610 EAT).

46. There is a prospect, potentially imminently, of the Claimant returning to employment and being able to satisfy a costs order. At the same time, I am mindful that he also already liable for a costs order in the county court in the region of £30,000.

47. Having regard to the costs incurred by the Respondent, the conduct which undoubtedly increased those costs, the nature and extent of the additional costs incurred by the Respondent because of the Claimant's conduct (which on a summary consideration of the schedule of costs, was reasonably and necessarily incurred - I was mindful that in assessing reasonableness, I must have regard to the experience of those fee earners conducting the work claimed, the nature of the work and its complexity and the rates charged by the various fee-earners.), the Claimant's financial circumstances now and the likelihood that they will improve in the near future, and the guidance from the higher courts on the factors to be considered in determining the scope and amount of a costs order in this Tribunal, I have capped the costs payable by the Claimant at £20,000.

48. Given that cap, and by reason of Rule 76(1)(a) of the 2024 Rules, I have the power to specify the precise amount which the Claimant should be ordered to pay toward the Respondent's costs. Given the costs incurred by the Respondent as a whole which are attributable to the Claimant's conduct (which, to be clear, reasonably and necessarily exceed £20,000 by some distance), there is a clear link between those costs and the Claimant's conduct, and they have been necessary and reasonable.

49. Adopting a broad brush approach, and having regard to all these factors, it is appropriate and proportionate for the Claimant to pay £20,000 towards the additional costs incurred by the Respondent as a result of the vexatious, abusive, disruptive and otherwise unreasonable manner in which he has conducted these proceedings.

Conclusion

50. The Claimant must pay the Respondent the sum of £20,000 toward its legal costs. That amount is payable within 28 days of receipt of this order (per Rule 64(a) of the 2024 Rules).

Sent to the parties on:

16 October 2026

For the Tribunal Office:

Kacey O'Brien

Approved by:

Employment Judge Povey

Date: 29 May 2026
Amended: 6 October 2026

Appendix 1

The relevant law

1. So far as relevant, the 2024 Rules include the following in respect of costs orders:

Definitions

72. In this Part—

"paying party" means a party liable to pay costs;
…
"receiving party" means a party entitled to be paid costs.

Costs orders…

73.—(1) A costs order is an order that the paying party make a payment to—
(a) the receiving party in respect of the costs that the receiving party has incurred while represented by a legal representative or a lay representative, …
…

When a costs order…may or shall be made

74.—(1) The Tribunal may make a costs order…on its own initiative or on the application of a party…

(2) The Tribunal must consider making a costs 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,

…

Procedure

75.—(1) A party may apply for a costs order…at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

(2) The Tribunal must not make a costs order…against a party unless that party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order).

The amount of a costs order

76.—(1) A costs order may order the paying party to pay—

(a) the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;

(b) the receiving party the whole or a specified part of the costs of the receiving party, with the amount to be paid being determined—

(i) in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998, or by the Tribunal applying the same principles;

…

(3) A costs order under sub-paragraphs (b)…paragraph (1) may exceed £20,000.

Ability to pay

82. In deciding whether to make a costs order,…and if so the amount of any such order, the Tribunal may have regard to the paying party's…ability to pay.

2. In ET Marler Ltd v Robertson [1974] ICR 72 NIRC, the Court defined "vexatious" as arising where "an employee brings a hopeless claim not with any expectation of recovering compensation out of spite to harass his employers and for some other improper motive."

3. A more recent definition however is as follows (per Lord Bingham in Attorney General v Barker [2000] 1 FLR 759 QBD, applied in this jurisdiction in Scott v Russell [2013] EWCA Civ 1432 CA):

> ...the hallmark of vexatious proceedings is in my judgment that has little or no basis in law (or at least no discernible basis); that whatever the intention of the proceeding may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant; and that it involves an abuse of the process of the court, meaning by that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process.

4. "Abusive", "disruptive" and "unreasonable" should be given their ordinary, everyday, objective meaning, when considering the conduct complained of (per Garnes v Lambeth LBC EAT 1237/97; Dyer v Secretary of State for Employment EAT 183/72; Beynon v Scadden [1999] IRLR 700).

5. A summary of the principles to be applied in considering an application for a costs order was provided in Carroll-Cliffe v Pembrey & Burry Port Town Council [2024] EAT 125, as follows (references are to the 2013 Procedure Rules, which were replaced by the 2024 Rules from January 2025):

> 4. In ET proceedings, costs do not simply follow the event, and orders for costs are far from the norm as Sedley LJ observed in Gee v Shell Ltd [2003] IRLR 82 CA:
>
> > "35. ... the governing structure remains that of a costs free user friendly jurisdiction in which the power to award costs is not of much an exception as a means to protecting its essential character."
>
> 5. The rules governing ET proceedings are contained (relevantly) within schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("ET Rules"), which, by rules 74-84, provide for a power to make an award of costs in specified circumstances.

…

7. When deciding whether to make a costs order pursuant to rule 76(1)…, as the wording of the rule makes clear, the ET must undertake a two-stage process. First, it must consider whether the relevant threshold has been crossed: whether a party (or their representative) has acted in the way set out at rule 76(1)(a), or pursued a claim or response that had no reasonable prospect of success for the purposes of rule 76(1)(b)... Even where satisfied of the relevant threshold condition, however, the use of the word "*may*" makes clear that, although the ET has the power to make a costs order, it is not bound to do so (although it "*shall*" consider whether it should do so if either condition specified by rule 76(1) is made out); in determining whether or not it would be appropriate to make such an award, the ET must undertake a second stage in its reasoning, which requires it to consider whether or not it should exercise its discretion in this regard. It is only if the ET has determined both that the threshold condition has been met *and* that it should exercise its discretion to make a costs order that it must then decide the amount, in accordance with rule 78. Relevant to the exercise of its discretion at the second stage and to any determination of the amount of a costs award, rule 84 provides that, in deciding whether to make a costs order and, if so, in what amount, the ET *may* have regard to the paying party's ability to pay.

…

11. The ET has a broad discretion as to both the decision to make an award of costs and the amount of such an award. The purpose of a costs order is, however, purely compensatory: questions of punishment are irrelevant both to the exercise of the discretion whether to award costs and to the nature of the order that is made (Beynon and ors v Scadden and ors [1999] IRLR 700 paragraph 31). That said, when making a costs order on the ground of unreasonable conduct, the ET's discretion is not fettered by the requirement to precisely link the award to specific costs incurred as a result of that particular conduct; as Mummery LJ observed in McPherson v PNP Paribas (London Branch) [2004] EWCA Civ 569, [2004] ICR 1398:

> "40. ... The principle of relevance means that the tribunal must have regard to the nature, gravity and effect of the unreasonable conduct as factors relevant to the exercise of the discretion, but that is not the same as requiring [the respondent] to prove that the specific unreasonable conduct by [the claimant] caused particular costs to be incurred. ..."

And see Sunuva Ltd v Martin UKEAT/0174/17, [2018] ICR D9 per Kerr J at paragraph 22.

12. That is not to say, however, that questions of causation are to be disregarded; as Mummery LJ stated in Barnsley Metropolitan Borough Council v Yerrakalva [2011] EWCA Civ 1255, [2012] IRLR 78:

> "41. The vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case and, in doing so, to identify the conduct, what was unreasonable about it and what effects it had. …"

Appendix 2

Extract from Respondent's written submissions (including bundle page references)

...

14. Dealing chronologically with the Claimant's conduct since litigation commenced (the ET1 was presented on 26 March 2024); the respondent relies on the following:

a. On 12 July 2024 the claimant emailed the new employer of the Person A seeking to lodge a formal complaint against him for "*subjecting [the Claimant] to appalling treatment, including ignoring homophobic abuse I received despite him also being homosexual*", accused Person A of "*bullying [him] and seriously breach[ing] the civil service code by acting without integrity...",* of being "*dishonest*" and discriminating against him.

b. By unknown means, the Claimant had obtained the home address of the Person B, sending a letter dated 26 July 2024, stating his intention to sue the Person B in his personal capacity for "*malicious falsehood*". (Page 308). Note - the Claimant later did commence this claim in the County Court; there is currently an application to strike the claim out (or for alternative orders if this is not accepted) in light of the findings of the Employment Tribunal. UPDATE: ON 17 DECEMBER 2025 THE CLAIM WAS STRUCK OUT AND COSTS ORDERED Person B consulted Mills & Reeve who were instructed in this tribunal litigation: the solicitor replied to the letter before action, including setting out why it was improper to label the correspondence as "not for publication" in light of SRA guidance about SLAPPs, as such labels can be misleading and prevent recipients from sharing documents where necessary and appropriate.

c. On 26 July 2024 the Claimant sent a copy of his "pre action letter" to Person B to the Respondent's solicitor conducting the tribunal litigation, asking it be included in the trial bundle, and wrote "Should HMLR (or its legal advisors) try to intervene in these proceedings then I will consider whether HM Treasury and the minister in charge of HMLR need to be notified because of the use of taxpayers monies". The tone of this cannot be interpreted other than as a threat.

d. On 20 September 2024 the Claimant sought to contact Respondent's counsel via her judiciary email address (as she is a fee paid Employment Judge; in fact the address attempted was incorrect). The email was also to the solicitor with conduct of the case and the Claimant wrote "considering your client cannot be honest with you, I am offering your client a chance to settle my claim." He asked for £200,000, an admission of the respondent having a "toxic culture", publishing an unreserved apology and dismissing the HR, investigation and disciplinary officers. The Claimant went on in

what can again only be described as a threat, to say "*if your client thinks for one second I am not serious, our property market is in crisis and I can spill certain practices without breaching the Official Secrets Act. I am more than willing to whistle blow the doctors complaints system on social media …. Which would seriously undermine the credibility and likely result in [Person C] having to resign…. We now have a new government, which I am happy to alert to your client's corrupt behaviour. I look forward to hearing from you urgently before I go to the press about your client*."

e. On or around 10 September 2024, the Claimant reported the managing partner of this Firm to the SRA and has also reported him to the police accusing him of conspiracy to defraud.

f. On 30 September 2024 the Claimant emailed a group "walawyers" at the respondent, and stated "*I have uncovered how corrupt HMLR actually are, and the lies they will tell to cover themselves. The hierarchy such as Person C, Person D, Person E, Person F & Person G are all corrupt and inherently dishonest. I was dismissed by Person B. This gentleman active discriminated against me and subjected me to appalling behaviour. Person B even lied about the reasons for dismissing me…. If you ever come across Person H or Ms Tuck [RT] be extremely careful, as they wilfully will breach data protection legislation. Person J is also dangerous as she is 'under the thumb' and does not act with honesty or integrity. She wilfully followed orders from above in breach of the civil service code and the SRA principles…*"

g. On 30 September 2024 the Claimant contacted Person A via Linkedin calling him a "*manipulative, jealous gay man*" and saying that he "*cannot wait to cross examine you on the Stand*"

h. On 30 September 2024 the Claimant emailed Person J, and "report@SRA", including saying "*it is absolutely clear to me that you are a solicitor who is willing to lie to keep their own job. This is not in compliance with the civil service code or the SRA principles… you should be ashamed of yourself for the intentional dishonesty you have committed. Given the seriousness of your dishonesty, I feel the SRA must investigate you… people like you should never be allowed to practice law as you bring the profession into disrepute*".

i. Also on 30 September 2024 the Claimant emailed the Respondent, cc'ing the ET, various senior employees of the Respondent and Angela Rayner MP, an email entitled "*URGENT -perverting the course of justice*". This included allegations that the Respondent "*wilfully lied to SWP*" and sought to pervert the course of justice. M&R solicitors replied on 1 October, inter alia asking the Claimant to desist from contacting employees or directors of the Respondent directly.

j. On 4 October 2024 the Claimant emailed Person H with a subject "incomming [sic] : HR: Liar!" and wrote "*why didn't you disclose this to me? You work in fraud and you are the biggest fraud. How's the affair with Person K going*?!". Person H has never had an "affair" – with Person K or anybody else. This was a baseless, outrageous and

vexatious allegation designed to cause distress to a witness – which it did.

k. On 11 October 2024 the Claimant wrote to the Respondent's solicitor withdrawing his settlement offer "*considering the further evidence of dishonesty by your client I have now been made aware of",* adding *"to prevent me going public and exposing everything … your client pays me £500,000"* dismisses various individuals and publishes an unreserved apology.

l. It may be noted that on 14 October 2024 the Respondent issued a costs warning and invited the Claimant to withdraw his case; it may be noted that the position asserted by the Respondent is largely reflected in the judgment; that the Respondent also expressed its view that the Claimant was pursuing his claim in a manner which was vexatious, abusive and disruptive. The Claimant's reply sent within half an hour was to reject this and stating that while he would cease contacting employees who are not involved in the litigation, "*it appears that my emails are being re-routed as the hierarchy at your client is attempting to avoid accountability"*. Later on 14 October 2024 the Claimant emailed the solicitor for the Respondent accusing him of dishonesty; "considering the dishonesty (and thus lack of integrity) on your part identified in this email, I do not believe that both you and Mills & Reeve are complying with SRA Principles". The Claimant further wrote "*for a fellow gay man to ignore homophobic abuse against another is sickening. I cannot wait to cross-examine Person J, Person B, Person A and Person H on the stand. The extent of the dishonesty will all come out, particularly when the judgement of harassment against the complainant is finalised*" going on to comment that the "investigating officer has not denied the affair, which is interesting" and accusing all of the Respondent's witnesses of acting without honesty or integrity, of being deceitful and malicious.

m. On 14 October 2024 the Respondent set out its application for strike out / an unless order because of the Claimant's conduct. The claimant made an application to strike out the Response on the same date. He then sent two further emails, stating in one "*it is my belief that the Respondent and Mills & Reeve are intentionally gaslighting me and taking advantage of the fact that they know that this will exacerbate the complications arising from my brain injury and cause me significant distress*."

n. On 18 October 2024 the Claimant emailed the Respondent's solicitor saying "I reiterate my stance in respect of yours and your client's dishonesty"; he sought a payment of £600,000 to settle (in addition to an apology / dismissals), or if a "*gagging order*" was sought, a sum of not less than £1,800,000. He again, in the tone of a threat, wrote "*I would strongly advise both you and Rebecca Tuck KC watch what you state in emails. As at present particularly with yours, you have been contradictory and dishonest*".

o. The Respondent replied to the correspondence on 22 October 2024, making the submission that the Claimant's strike out application was in fact a further example of vexatious/ abusive / unreasonable conduct. The Claimant sent a lengthy response on

the same date.

p. On 30 October 0224 the Claimant wrote to the tribunal alleging dishonesty on the part of RT, and saying "*this is the third instance of dishonesty uncovered*..."

q. On 16 December 2024 the Claimant emailed the Tribunal including allegations that "*unless the Respondent and their solicitors start to act honestly, I really do not feel how I can have a fair trial*" – making a point about the "*discrepancy in the audio recording and the decision letter*", and accusing the Respondent of having "fabricated and false evidence"

r. On 14 January 2025 the ET listed a PH for 17 April 2025.

s. In January 2025 Person B applied for a stay of the county court claim pending the ET hearing; the Claimant responded seeking summary judgment against Person B. In advance of a hearing in the County Court listed for 24 March 2025, on 12 March 2025 a skeleton argument on behalf of Person B was served.

t. On 16 March 2025 the Claimant wrote "without prejudice save as to costs" with a global offer in relation to both the county court and ET proceedings. In that letter he referred to the SRA reports he had made, stating that an investigation against Person J was likely, stated "*Person L, you disclosed to me (albeit unprofessionally) that your 21 year old son has additional care needs. On a personal level I do not want a solicitor (a successful one at that) losing their career for a dishonest client, particularly when they have a caring responsibility. I can honestly tell you that I do not want to ruin anyone at Mills & Reeve's careers [sic] but given how your client is instructing you to act, it remains a real possibility*." He sated that if Person B lied "*then I will be filing a report for perverting the course of justice, which is a serious criminal offence*". He offered the settle the county court claim for £1 plus conditions around reissuing the dismissal letter, and the ET claim for £360,000 plus an apology, concluding "*I sincerely hope Counsel are 100% confident of the proceedings being stayed a week tomorrow. A summary judgment against your client would result in significant damage for a lot of people... it would also completely undermine Person B and discredit him as a witness for your client*..."

u. On 19 March 2025 the Claimant wrote to the tribunal asking for the ET claim to be stayed pending the outcome of the malicious falsehood claim in the county court. He also wrote "*it has also transpired today that Mills & Reeve have actually been misrepresenting themselves, and have misled both the County Court at Swansea and me to believe that they were acting for Person B in his individual capacity, when they were actually in fact acting for the Respondent all along"*. This assertion on the part of the Claimant has led to his belief that the managing partner of Mills & Reeve and I have acted "in contravention of section 2 of the Fraud Act 2006". The Claimant reported both the solicitor and barrister to the South Wales Police.

v. On 21 March 2025 the Claimant emailed various individuals at Mills & Reeve stating that "*attached is evidence of the fraud and dishonesty*", and saying "*this is almost*

certainly going to lead to Person L being struck-off". The Claimant reported the solicitor to the SRA – and according to his email of 20 March 2025 to the police.

w. On 23 March 2025 the Claimant wrote to counsel's chambers director and head of chambers informing them that he had reported her to the South Wales Police for fraud ("*because she makes an admission around vicarious liability*" – i.e. that Person B's acts were in the course of his employment), and warning them not to tell her. He alleged "Rebecca Tuck KC has committed a serious breach of the BSB Code of Conduct, as tomorrow, she intends on misleading the Court in respect of her fee. This is quite frankly shocking conduct by an experienced barrister". He thereafter reported her to the BSB; they declined to investigate by letter dated 11/8/25; on 12 September 2025 the Claimant telephoned the new chambers of Ms Tuck KC to "*inform them that she is under active police investigation*".

x. On 24 March 2025 the County Court stayed the claim against Person B; the Claimant wrote to the ET, accusing Mills and Reeve and Rebecca Tuck KC of fraud over fees, on the misunderstanding that because HMLR accepted they were vicariously liable for Person B's acts/ omissions, they "are also legally responsible for paying his legal fees" .

y. On 25 March 2025 the Claimant wrote a letter of complaint to "UKHSA" about Person C, saying "*during his time at HMLR it is believed he was involved in a fraud, which is currently the subject of an active police investigation*", and asking for him to be investigated under the civil service code.

z. Solicitor for the Respondent provided a detailed reply to the Claimant's emails of 19 and 24 March on 26th; This again provoked a swift response in which the Claimant again cited being able "*to prove Person B's dishonesty at the Preliminary Hearing on 17 April*" and of misconduct in relation to Ms Tuck as to fees in the county court. The Respondent made clear this was disputed but that it did not consider it would advance the overriding objective to respond in detail.

aa. On 14 April 2025 a skeleton argument on behalf of the Respondent was served; the Claimant produced a skeleton by way of reply at the hearing on 17 April 2025. In his skeleton argument for that hearing the Claimant made a large number of baseless, very serious allegations:

- At para 16- "*The Respondent and their legal advisors have been inherently dishonest throughout these proceedings*".
- At para 25 – Having set out a spurious basis for alleging that Person B had been advised to alter his reasons for dismissal, the Claimant went on to allege that "*The Respondent's legal advisors have also wilfully ignored this evidence, so much so, they have wilfully misled the County Court at Swansea and this Tribunal*".
- At para 26 – The Claimant alleged failure by the Respondents to comply with

disclosure obligations and wrote "*Had I not commenced this civil action [*against Samatha Williams*], I would be unaware of the lengths the Respondent opted to go to in order to attempt to cover up their dishonest conduct*".

- At para 29- the Claimant again repeats an allegation of a deliberate "*attempt to mislead the Tribunal"*.
- At para 31- the claimant wrote "*the Respondent and their legal advisors are under an active police investigation for fraud*" – referring to his having reported Rebecca Tuck KC and Stuart Craig, partner of Mills & Reeve, to the South Wales Police over the costs application made in the County Court – on the basis, it seems, of the confirmation made in the County Court that there the Respondent accepted vicarious liability for any acts /omissions of Person B in the ET proceedings, and was not seeking to rely on any statutory defence.
- At paragraph 37 the claimant wrote of the Skeleton Argument dated 14 April 2025, prepared by Ms Tuck, "*I purport this is yet again an attempt to mislead the Tribunal"*.
- At para 38 – the Claimant alleged conduct by the Respondent "*and their legal advisors that is both scandalous and vexatious as they all continue to be wilfully dishonest. One might rightfully question their integrity…"*.
- At para 58 *"Rebecca Tuck KC has wilfully disregarded the without prejudice rule…"*
- At para 66 *"Rebecca Tuck KC's chambers have sought to unlawfully interfere with an active police investigation into fraud."* (The document then cited is the email the Claimant sent to the Head of Chambers and Chambers Director on 23 March 2205 informing them of the police complaint he had lodged against her for fraud.

As a (non-practising) solicitor the Claimant could be under no doubt of the seriousness of accusing the legal advisors of "*misleading / wilfully misleading"* the tribunal, and very definitely knew of the gravity of his accusation of "*wilful dishonesty*" and "*wilfully disregarding the without prejudice rule*" which would amount to professional misconduct.

bb. At the hearing on 17 April 2025 EJ Evans found that while "*the Claimant's conduct had been unreasonable and vexatious, a fair hearing could still take place and that could be further secured by the making of an Unless Order*". The Claimant in fact

consented to the Unless Order, prohibiting him from contacting Respondent witnesses as he recognised that his "conduct had not been appropriate"

cc. The Claimant made a further offer of settlement on 9 June 2025 seeking £350,000 along with a public apology and disciplinary action, and stating "*please note given the inherent dishonesty by employees in your client's organisation, if any are found to be dishonest at Tribunal I reserve all rights in this respect as to further action against them as individuals. This includes all rights against Person L and Rebecca Tuck KC in the proceedings against Person B*", and going on to warn that anyone found to lie under oath would be guilt of contempt of court.

dd. On exchange of witness statements, on 13 June 2025 the Respondent rejected the Claimant's offer, and again wrote to the Claimant with a costs warning and inviting him to withdraw. The Claimant rejected this on the same date, again asserting dishonesty by HMLR officers, solicitor and counsel, and "*contempt of court in your client's witness evidence*".

ee. On 22 June 2025, again alleging "*inherent dishonesty*", seeking £300,000 admission of liability, public apologies and disciplinary action against employees involved. The Respondent replied on 23 June.

ff. The tribunal will of course note the deletions from his witness statement made in the course of the hearing, including the unfounded and egregious allegation that one of the witnesses (who is subject to an anonymity order because of the Claimant's actions) is "*potentially a child abuser*".

REBECCA TUCK KC

17 November 2025