EMPLOYMENT TRIBUNALS

BETWEEN

Claimant	AND	**Respondent**
Mr Raymond Bryce		Stoke-On-Trent City Council

HELD AT Birmingham (remotely, via CVP)

ON 1 June 2026

BEFORE EMPLOYMENT JUDGE Dimbylow

Representation

For the claimant: In person

For the respondent: Mr I Ahmed, Counsel

JUDGMENT having been sent to the parties on 10 June 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

1. The claim. This is a claim by Mr Raymond Bryce (the claimant) against Stoke-On-Trent City Council (the respondent), to which he applied for a job but was unsuccessful. There was a case management preliminary hearing (CMPH) in private before Employment Judge Flood on 26 January 2026. Judge Flood

recited the history of the claim to that time in the case summary which accompanied her order. I do not need to repeat everything she said here. The claimant is disabled as a result of Asperger's Syndrome and Dyslexia. In his claim form he brought claims of disability discrimination and victimisation.

2. At the start of this public preliminary hearing (PH) I enquired of the claimant whether he required any reasonable adjustments. We agreed to regular breaks. The claimant said that if I disagreed with him then I should give him a chance to explain. As the hearing proceeded, the claimant had every chance to explain his account of the issues. I tried to agree a timetable at the start of the hearing. The claimant signified that he would make no further submissions orally but would rely on those which were already set out in writing by him. As the hearing went along, the claimant did in fact make a number of oral submissions. At the end he asked for a particular font, font size and spacing as an adjustment and I have done that.

3. The issues.

(1) Do I grant the claimant's application for an adjournment of today's hearing?

(2) Do I strike out the claim pursuant to an "unless order" made by Judge Flood on 26 January 2026?

(3) Do I grant the respondent's application for a costs order arising out of the claimant's failure to attend the hearing before Judge Flood on 26 January 2026?

(4) Do I grant the respondent's application to strike out the claim or in the alternative order the claimant to pay a deposit as a condition of proceeding with the claim?

(5) Do I grant the claimant's application to strike out the response or in the alternative order the respondent to pay a deposit as a condition of proceeding with the response?

(6) If the case proceeds, do I fix the date for the final hearing and make suitable orders for the just disposal of it?

4. The evidence. The parties made oral submissions to me, which I mention later; and I received several documents which I marked as exhibits as follows:

C1 Claimant's email with written representations dated 3 February 2026, together with copies of tribunal notices, 2 attachments on Asperger's Syndrome and 3 on Dyslexia.

C2 Claimant's email of 1 June 2026 with 7 attachments: 2 concerning County Court proceedings, an Individual Cognitive Profile, an email of 21 January 2020, a report dated November 2022, and 2 extracts from the Equal Treatment Bench Book.

R1 Bundle of documents (182 pages)

5. (1) The law. The relevant Rules of Procedure considered were these:

Overriding objective

3.— (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes, so far as practicable—

(a)ensuring that the parties are on an equal footing,

(b)dealing with cases in ways which are proportionate to the complexity and importance of the issues,

(c)avoiding unnecessary formality and seeking flexibility in the proceedings,

(d)avoiding delay, so far as compatible with proper consideration of the issues, and

(e)saving expense.

(3) The Tribunal must seek to give effect to the overriding objective when it—

(a)exercises any power under these Rules, or

(b)interprets any rule or practice direction.

(4) The parties and their representatives must—

(a)assist the Tribunal to further the overriding objective, and

(b)co-operate generally with each other and with the Tribunal.

Striking out

38.— (1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—

(a)that it is scandalous or vexatious or has no reasonable prospect of success;

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

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

(d)that it has not been actively pursued;

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

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

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

(4) Where a reply is struck out, the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26 (2) (replying to an employer's contract claim).

Deposit orders

40.—(1) Where at a preliminary hearing the Tribunal considers that any specific allegation or argument in a claim, response or reply has little reasonable prospect of success, it may make an order requiring a party ("the depositor") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument ("a deposit order").

(2) The Tribunal must make reasonable enquiries into the depositor's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.

(3) The Tribunal's reasons for making the deposit order must be provided with the order and the depositor must be notified about the potential consequences of the order.

(4) If the depositor fails to pay the deposit by the date specified by the deposit order, the Tribunal must strike out the specific allegation or argument to which the deposit order relates.

(5) Where a response is struck out under paragraph 4, the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).

(6) Where a reply is struck out under paragraph (4), the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer's contract claim).

(7) If the Tribunal following the making of a deposit order decides the specific allegation or argument against the depositor for substantially the reasons given in the deposit order—

(a)the depositor must be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 74 (when a costs order or a preparation time order may or must be made), unless the contrary is shown, and

(b)the deposit must be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders),

otherwise the deposit must be refunded.

(8) If a deposit has been paid to a party under paragraph (7)(b) and a costs order or preparation time order has been made against the depositor in favour of the party who received the deposit, the amount of the deposit must count towards the settlement of that order.

When a costs order or a preparation time order may or must be made

74.—(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under rule 73 (1) (b), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(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,

(b)any claim, response or reply had no reasonable prospect of success, or

(c)a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.

(3) The Tribunal may also make a costs order or a preparation time order (as appropriate) on the application of a party where a party has been in breach of any order, rule or practice direction or where a hearing has been postponed or adjourned.

(4) Where in proceedings for unfair dismissal a final hearing is postponed or adjourned, the Tribunal must order the respondent to pay the costs incurred as a result of the postponement or adjournment if—

(a)the claimant has expressed a wish to be reinstated or re-engaged which has been communicated to the respondent not less than 7 days before the hearing, and

(b)the postponement or adjournment of that hearing has been caused by the respondent's failure, without a special reason, to adduce reasonable evidence as to the availability of the job from which the claimant was dismissed or of comparable or suitable employment.

Procedure

75.— (1) A party may apply for a costs order or a preparation time 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 or a preparation time 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(1), or by the Tribunal applying the same principles;

(ii)in Scotland…..

(c)another party or a witness, as appropriate, a specified amount in respect of necessary and reasonably incurred expenses for the purpose of, or in connection with, an individual's attendance as a witness at a hearing;

(d)an amount agreed between the paying party and the receiving party in respect of the receiving party's costs.

(2) Where the costs order includes an amount in respect of fees charged by a lay representative, for the purposes of the calculation of the order, the hourly rate applicable for the fees of the lay representative must not exceed the rate under rule 77 (2) (the amount of a preparation time order).

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

Ability to pay

82. In deciding whether to make a costs order, preparation time order, or wasted costs order, and if so the amount of any such order, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay.

5.2 I make some general points about dealing with an application for costs. The fundamental principle in the Employment Tribunal is that costs are the exception rather than the rule and costs do not normally follow the event. If the tribunal has to consider an application for a costs order, then it has to undertake a two-stage process. Firstly, I must be satisfied that the claim has been conducted in a manner falling within rule 74 (2) (a) and/or (b) and/or the paying party has breached orders, or a hearing has been adjourned or postponed under rule 74 (3). If I am so satisfied, then at the second stage I have to consider whether to make the order and in doing so may proceed to make the order if I think it is

appropriate. As part of the second stage, if it is appropriate then I must consider the amount, and if the amount is above £20,000 I may order a detailed assessment, either here in the tribunal or in the County Court. I can undertake my own summary assessment of costs in the Employment Tribunal up to £20,000 if I consider that this properly compensates a party for the costs incurred because of the culpable conduct in question.

5.3 The purpose of a "no costs" regime in the Employment Tribunal is regarded as providing a more level playing field between employers who may be prosperous and employees who are less likely to be so in comparison. For that balance to be observed it seems to be the case that, for example, false or unwinnable claims are discouraged. This would be particularly so in relation to false claims; and where there was no available remedy, the no costs regime here would fall into disrepute. In the case before me, the claimant advances serious allegations of discrimination, wherein the amount of compensation potentially recoverable is unlimited and reputational issues arise. False or exaggerated claims should be considered carefully. I remind myself that the object of any costs order, if made, must always be compensatory and not punitive.

5.4 I know that I have a further discretion, as I may have regard to the paying party's ability to pay. This is the case even if the tribunal orders a detailed assessment. Guidance has been given from previous cases encouraging tribunals to give their reasons for any decision whether or not to take ability to pay into account. I also have regard to the status of the claimant as a litigant in person. However, I must manage the case in a manner that is fair to both the claimant and the respondent.

5.5 When considering unreasonable conduct, I know that I do not have to dissect the case in detail and I am encouraged to look at the whole picture in the case and ask whether there has been unreasonable conduct by a party in bringing and conducting the case, and/or causing an adjournment or postponement, and when doing this identify the conduct, stating what was unreasonable and what effects it

had. This arises out of the case of Barnsley MBC v Yerrakalva [2011] EWCA Civ 1255.

5.6 The law on striking out a claim and/or ordering a deposit. I mention the two things as they overlap. Rule 38 (1) of the Employment Tribunal Rules 2024 provides that all or any part of a claim or response may be struck out if it has no reasonable prospect of success or there are other specified grounds established. Tribunals always give special consideration to striking out a claim of discrimination. In the case of Anyanwu and another v South Bank Students' Union and another [2001] ICR 391, the House of Lords highlighted how important it was not to strike out discrimination claims except in the most obvious cases, because they are generally fact sensitive and require a full examination to enable a proper determination of the issues. Such a cautious approach to striking out claims of discrimination has been emphasized in subsequent cases, such as Ezsias v North Glamorgan NHS Trust [2007] EWCA Civ 330. This has given rise to the proposition that it is unfair to strike out a claim where there are crucial facts in dispute and there has been no opportunity for the evidence in relation to those facts to be considered. It is a draconian measure and one which I would not entertain lightly. Plainly the respondent recognized at the time of the PH today that this was not a suitable case for a strike out application or a deposit application and it was withdrawn and I dismissed it. It is important that a tribunal arrives at a decision which is just, fair and proportionate, having regard to the overriding objective, as more particularly described in rule 3 above. I have left this summary of guidance in place as the claimant is considering his position on striking out in relation to the response.

6. The facts. I make my findings of fact on the basis of the material before me taking into account contemporaneous documents where they exist and the conduct of those concerned at the time. However, this is a PH to deal with very specific issues, and I do not wish to be drawn into a mini trial of the main issues and therefore I will keep my fact-finding within limits relevant only to the

preliminary issues before me. I will discuss them as far as they are relevant when I explain my conclusions and give the reasons for them.

7. I say something about the claimant. The claimant is 40 years of age. He was never an employee or worker with the respondent. He was a job applicant. For a litigant in person the claimant knew his case well and knew his way about the documents in the bundle. He was confident, articulate and intelligent. He has a law degree. His knowledge of the law was more than reasonable, and for a litigant in person he was quite adept at presenting his case. The claimant has significant experience of conducting cases in the Employment Tribunal.

8. My conclusions and reasons. I apply the law to the facts and explain my analysis. I deal with the adjournment application first. The tribunal, on 17 July 2025, gave notice of a CMPH on 26 January 2026 at 2:15pm. On 25 November 2025 the respondent made an application to strike out the claim or in the alternative seek a deposit order and at the same time applied to convert the hearing to a public PH. The tribunal refused to convert the nature of the hearing and signified that on 26 January consideration would be given as to how the case would proceed, which might include fixing another hearing for striking out/deposit. By notice of hearing dated 19 January 2026 the tribunal increased the length of the hearing to 3 hours from 90 minutes and altered the start time to 10am. The CMPH was heard by Judge Flood. Full details of what happened on the day are contained in her case summary which accompanied the order that she made after the hearing. Stated briefly, the claimant did not attend at the start time and therefore enquiries were made. The case was put back when the claimant said that he would be ready by 11:30am. Unfortunately, he did not rejoin at that time, and the hearing was put off until April 2026 and listed for 3 hours as a PH. By notice dated 6 May 2026 the PH was relisted on 1 June 2026 at 10am for one day. The date, the start time and the length of the hearing all appear in bold type. The same applied to the notice dated 19 January 2026.

9. The claimant told me that he did not notice the hearing time change as it was not flagged up well enough. The claimant was trying to juggle 2 hearings on 26 January, that before Judge Flood and another one at Birmingham County Court. Today, the claimant explained that he faced the same dilemma that he had on 26 January 2026 in that he was trying to deal with the case before me, and he had another case in Birmingham County Court commencing at 2pm for one hour. The claimant explained that he had received the notice of hearing from Birmingham County Court about 2 weeks ago. This was after he received the notice of today's PH from the tribunal office. Most surprisingly, the claimant had taken no steps to notify the tribunal or the respondent of this development. The claimant applied for an adjournment today so that he could deal with the other case in Birmingham County Court, indicating that he was unable to change the date of it. Perhaps unsurprisingly, given what had happened at the last hearing on 26 January the respondent objected to the application. The respondent submitted that the claimant had failed to demonstrate that his inability to organise himself was attributable to his disability, and history was simply repeating itself.

10. The application was being made very late. However, that is only one consideration. I considered the "Employment Tribunals (England & Wales) Presidential Guidance - Seeking a Postponement of a Hearing (2013)". Failure to comply with the Guidance is not fatal to an application to postpone, but there would have to be exceptional circumstances and an explanation as to why it had not been complied with. The claimant failed to give notice of his application either in writing or verbally. The parties have been aware of the date of this hearing for some time. I took all matters into account in coming to my decision to refuse the application. I considered this outcome to be just, fair and proportionate. The issue of delay was a significant factor, as some 4 months had been lost in processing the claim on account of the claimant's conduct at the previous hearing on 26 January. It also put the parties on an equal footing and served as a reminder that the claimant must observe the orders of the tribunal. The claimant, by his conduct, and notable inaction by failing to contact the respondent and the

tribunal, had not been furthering the overriding objective. He should have told the tribunal and the respondent of the other case rather than leaving it to today. He exhibited today a serious degree a lack of cooperation with the tribunal and the respondent.

11. Once I have given my judgement on the adjournment application, the claimant then applied to me to have the lunch break from 2pm to 3pm to help him deal with the hearing in Birmingham County Court. The respondent helpfully agreed to the application and I granted it. Later, the claimant asked for an extension of 5 minutes, so that we returned at 3.05pm and again this was granted. Just to complete the picture, when we resumed at 3.05 pm the claimant failed to appear. This was a repeat of his failure to appear at 11.30am on 26 January. We waited and he rejoined the hearing at 3.10pm.

12. The next issue that was decided was in connection with the “unless order” made by Judge Flood. I heard submissions from Mr Ahmed first. He took me through the history of the claim, including the emails between the parties themselves, and between the parties and the tribunal. This demonstrated that the claimant had 2 emails confirming the revised time of the 26 January hearing, and by acknowledging them the claimant had knowledge of the change. The claimant had failed to comply with the order of Judge Flood by failing to give an explanation as to why he had not returned to the hearing at 11:30am. Once the claimant had complained that he did not know the change in time because it was not “flagged up” by the tribunal. The respondent had flagged it up in an email. The claimant’s reply to the “unless order” was inadequate and did not properly explain his conduct. The documentation provided by the claimant in relation to his disability did not demonstrate how the disability caused the claimant not to be able to manage his time properly. Furthermore, the medical evidence supplied was not recent. The claimant’s own documentation showed that he can use an electronic diary. His explanations were incoherent and unconvincing. Mr Ahmed submitted that by breaching the order of Judge Flood the claimant demonstrated

that he was not actively pursuing his claim and was acting in a manner which was unreasonable. He urged me to find that there was prejudice to the respondent, and even if I found that a fair trial is still possible, I should look at the conduct of the claimant as a whole, conclude that there was no convincing explanation for his conduct and find that there was doubt over the possibility of a fair trial. Even if the case was not struck out, then costs should still be awarded. The claimant had failed to give an adequate explanation, and I should make an award of costs who pursuant to Rule 74 (2) (a) and (c) and (3).

13. I then heard from the claimant with his submissions. He criticised the tribunal for not having highlighted the fact that there was a change in the time on 26 January 2026. It should have been highlighted and flagged up in bold and headed with “notice of change of time.” The claimant then referred me to the case of Elliott v Dorset County Council UKEAT/0197/20/LA. He summarised the case in the following way: the Employment Tribunal had erred in law by looking at the overall picture of an individual and made assumptions. He asked me not to be distracted by Mr Ahmed on what the claimant can do but rather I should look at what he cannot do. He asked me not to stereotype him and to consider his medical evidence.

14. The claimant went on to make some submissions about the issue of costs. The tribunal was obliged to make reasonable adjustments. He submitted that it was a reasonable adjustment for me not to award costs because of his disability. He did concede at one point that “I’m not completely immune” over costs. He then submitted that it would be a breach of section 15 of the Equality Act to make a costs order against him. Also, he said “If it happened again, I couldn’t argue the costs point again”. He referred to 2 cases: (1) Rohan v Environmental Agency and (2) Bryce v Trident Group Security Ltd. These, he asserted, should lead me to the conclusion that before striking out or imposing any sort of sanction I should consider a reasonable adjustment. If I did not strike out the claim, then I cannot

make a costs award. If I made a costs order, then it rewarded the respondent for them not highlighting the change in time.

15. My conclusions and reasons on the “unless order”. The claimant did comply with the order by giving an explanation within time. It was not perfect, as it left some questions unanswered. There was no explanation as to why the claimant failed to join the hearing at 11:30am as he had said he would on the day. The claimant told me that “I anticipated a short hearing, but I was wrong about that”, and “I tried to burn the candle at both ends.” I find that the claim is being actively pursued. The way it is being pursued is questionable. The claimant’s conduct on 26 January 2026 was unreasonable. However, it does not lead me to the conclusion that the claim should be struck out. There seems to be an arguable case, putting it at its highest and on the limited information available at this point in time, and therefore it is just, fair and proportionate to allow it to continue, give tailor-made orders for the just disposal of the case and fix the date for the final hearing.

16. Turning then to the costs issue. On 26 January 2026 the claimant knew what he was doing and was trying to juggle 2 cases at different venues at the same time. It was a risk he took. He took the risk again today and appeared not to have learned any lessons about what happened on 26 January 2026. It was the claimant’s conduct which caused the adjournment on that day. I then found it was appropriate to make the order, and I order the claimant to pay costs to the respondent. The respondent only sought Mr Ahmed’s fees for the day on 26 January 2026. This amounted to £2,000 plus VAT. I did enquire whether the VAT was recoverable by the respondent, but Mr Ahmed was unsure. I assumed that it was, without any further input from either party. The hearing had been listed for 3 hours on 26 January. Some progress was made by Judge Flood, no doubt with the help of Mr Ahmed. The hearing was not as effective as it should have been because of the claimant’s conduct. The conduct of the claimant was unreasonable. He failed to cooperate with the respondent and the tribunal over

his double booking, and that was unreasonable. It had the effect of causing the adjournment or postponement of the CMPH.

17. I had a statement of means from the claimant in the bundle and I took that into account. His income exceeds his outgoings. He is 40 years of age and has over 20 years of working life ahead of him and he would be able to afford to pay the costs. I made a broad assessment on what I thought was proportionate and concluded that £1,000.00 should be awarded. The claimant asked me to consider making periodic payments. However, I indicated that I would leave it for he and the respondent to come to an agreement over that if necessary. Whilst preparing these reasons I did ask myself whether I had been unfair towards the respondent by not awarding the full £2,000.00. I thought about initiating a reconsideration of that part of the decision of my own volition. However, when I stood back and reflected on the facts of the case, in the end I thought it was proportionate.

18. The claimant failed to demonstrate that his disability impeded his ability to communicate with the respondent and the tribunal about the arrangements for the hearings on 26 January 2026 and his trying to balance the 2 hearings. Furthermore, his disability did not impede him from providing a full explanation in accordance with the terms of the order made by Judge Flood. The explanation was lacking in detail and was unconvincing. The claimant's disabilities were not shown by him to be the cause of his failures to communicate. I concluded that the claimant knew exactly what he was doing and he was prepared to take a risk on 26 January. He was prepared to take a risk today, by doing the same thing again. [redacted]
The claimant is a regular litigator in the Employment Tribunals and he knows the Rules.

19. When discussing costs, the claimant emphasised that he was in receipt of Universal Credit and a PIP. He asserted that he had no means, no assets and a

credit card bill. He did not want to make an offer to the respondent. The claimant was somewhat contradictory about work. On the one hand he said he was applying for jobs, but on the other he said he did not anticipate working again. He told me that he had a Civil Restraint Order in place against him, and whilst it effected proceedings in the County Court it had no effect in the Employment Tribunal. I took it from what the claimant told me that there was a court order in place made to prevent the misuse of part of the judicial system by him, and he was seen as someone who repeatedly filed unmeritorious or vexatious claims.

20. I dismissed on withdrawal the respondent's application for a strike out order/deposit order. The claimant makes similar applications in relation to the response. I gave an indication that my provisional view was that I was unlikely to make either sort of order. The claimant was going to consider his position on whether to proceed with these applications once he sees the amended response. This seemed a sensible idea as we had largely run out of time to hear argument and counterargument on the point when we finished the hearing at 5pm.

21. I went on to make some case management orders for the just disposal of the final hearing, and they appear in a separate document together with confirmation of the agreed date of the final hearing.

22. For completeness, I mention that the respondent made an application for specific disclosure on 1 June 2026. I granted the application. I set out my reasoning for doing so in the case management order which I approved on 2 June 2026. I do not need to recite it here.

Approved by Judge Dimbylow
On 10 June 2026
Reasons sent to Parties on
11 June 2026
Lindsey Brown