

IN THE EMPLOYMENT APPEAL TRIBUNAL

Appeals: EA-2023-001051 and 001271

BETWEEN:

PROFESSOR THEODORA KOSTAKOPOULOU *Appellant*

-and-

(1) UNIVERSITY OF WARWICK (2) PROFESSOR CHRISTINE ENNEW OBE (3) PROFESSOR ANDREW SANDERS *Respondents*

APPELLANT'S SKELETON ARGUMENT

INTRODUCTION

1. This is an appeal against the judgment of Employment Judge Perry sitting with members at the Birmingham Employment Tribunal ("ET") on 24-28, and 2 August 2023, which struck out the Appellant's victimisation, whistleblowing, and unfair dismissal claims in their entirety without a final merits hearing.
2. The Appellant contends that the ET's decision to strike out her claims in their entirety was wrong in law, procedurally unfair, and disproportionate.
3. The appeal raises important issues regarding:
 - I. The constitutional principle of open justice
 - II. Litigants in person's right to a fair hearing
 - III. The proper approach to lists of issues
 - IV. The correct application of the strike-out power under Rule 37(1)(b) ETRP 2013
 - V. The appropriate consideration of proportionality when striking out claims
 - VI. The evidential basis required before finding conduct to be scandalous, unreasonable or vexatious

BACKGROUND

4. The Appellant had brought two claims against the Respondents:

- a) The first claim (Case No. 1304457/2020) concerned victimisation, lodged on 24 February 2020 stemming from her subjection to a disciplinary investigation, false allegations and suspension
 - b) The second claim (Case No. 1306894/2020) concerned wrongful dismissal, unfair dismissal and discriminatory dismissal, lodged on 4 August 2020
5. By the time of the final merits hearing which was scheduled to last for 14 days and to commence on 24 July 2023, the claims had been in the system for 3.5 and 3 years respectively.
 6. The ET struck out both claims without hearing the merits on 2 August 2023, following a truncated hearing where the first two days (24-25 July 2023) were conducted as closed case management hearings. As acknowledged in the judgment's heading itself, these critical first two days were "held in private" despite being scheduled as part of the final merits hearing.

PRELIMINARY MATTER: FUNDAMENTAL IMPROPRIETY AND FACTUAL ERRORS INVALIDATING THE JUDGMENT

7. Before addressing the specific grounds of appeal, the Appellant must note that she had brought to the EAT's attention two revelations of exceptional importance that fundamentally undermine the reliability and validity of the entire judgment. These matters go beyond ordinary errors of law and constitute serious procedural irregularities that render the judgment unsafe.

Non-existence of the "Strike-Out Bundle" Referenced Throughout the Judgment

8. The Appellant has received formal confirmation from the ET through the Governmental complaints procedure which lasted for several months that no strike-out bundle of more than 600 pages was ever submitted to the ET by the Respondents on Friday 21 July 2023 as both the Judge and the Respondents' legal team had stated during the proceedings on 24, 25 and 26 July 2023 (or no other day of the following week), despite this purported bundle being extensively referenced and relied upon in Judge Perry's judgment.

9. At paragraphs 9-10 of the judgment, EJ Perry states:

"In addition the respondents provided a bundle of documents [SO/ page] in support of an application for strike out (628 pages) that it intended to pursue. Of that strike out bundle pages 1 to 487 represented a bundle used at a previous strike out application heard before Employment Judge Camp on 7 & 8 June 2023 [C/681-683] and the remainder (pages 488-628) correspondence and tribunal orders that followed thereafter."

"We were concerned that the claimant had not had sight of the strike out bundle in advance of trial. We were assured by the respondents that this represented the bundle used before Employment Judge Camp at the earlier strike out application so the claimant was aware of them and had had ample opportunity to consider the same."

10. This non-existent bundle is then used throughout the judgment to assess the Appellant's conduct, and the official transcripts of proceedings on 26 and 27 July 2023 (item 2 of the Core Bundle which were submitted to the EAT on 15 September 2023 at 12.59 pm; Ubiquis own page numbering for the proceedings of 26 July at pp. 56, 57, 64, 66, 68, 70 and for the proceedings of 27 July on pp. 89 line 29, 85 line 6 etc.) contains many references to the Respondents' 'phantom' strike out bundle.

11. This represents not merely an error of fact but a complete fabrication at the heart of the judgment. The Appellant was deceived at the hearing and was ambushed; EJ Perry conducted proceedings on a fundamentally false premise; false statements by the Respondents about these non-existent materials were accepted uncritically by the tribunal and EJ Perry made false statements in an official judgment about the existence of a strike out bundle.

False Allegations About Criminal Complaints

12. The judgment makes repeated reference to alleged criminal complaints made by the Appellant against Mr. Browne (the Respondents' solicitor) under the Protection Against Harassment Act 1997 and/or the Malicious Communications Act 1998.

13. At paragraph 104.1, EJ Perry states the Respondents relied upon:

"a criminal complaint against Mr Browne's firm that predated 26 May 2022 under s.1(1) the Malicious Communications Act 1998 and s.127 Communications Act 2003 referencing the disclosure, or prohibition of withholding, of the above information as well as the SRA regulations [SO/41]"

14. The Appellant has presented to the EAT formal confirmation that no such complaint was ever made to the police. The Appellant had repeatedly denied making such a complaint during the hearing and in her written submissions, yet the tribunal chose to accept the Respondents' false assertions without verification (para 104.1 of the judgement).

15. These allegations were then used as part of the basis for finding the Appellant's conduct "unreasonable," with EJ Perry stating at paragraph 105:

"We find the claimant's behaviour before the tribunal was therefore unreasonable and that extended to the respondents' counsel, its solicitor and a Judge. We find that based on her maintaining those allegations despite being warned as to the seriousness of the allegations, and need for evidence to substantiate them that again demonstrates her refusal to engage with her duties..."

Impact on the Judgment's Validity

16. These revelations demonstrate that the judgment is fundamentally flawed and unsafe. A judgment asserting falsehoods and based on phantom documents and false allegations cannot stand. The ET made crucial findings about the Appellant's conduct based on:

- Her alleged response to bundle materials that were not submitted to the Tribunal panel (and to her)
- Alleged criminal complaints she never made

17. These are not peripheral matters but central to the ET's assessment of the Appellant's conduct and its decision to impose the most severe sanction of striking out her claims. The judgment is therefore built on a foundation of factual errors so serious that they render the entire decision unsafe.

GROUNDS OF APPEAL

Ground 1: The ET acted in disregard of the open justice principle

18. The ET had no authority to derogate from the constitutional principle of open justice by conducting closed case management hearings on 24-25 July 2023, in breach of rule 59 ETRP 2013 which mandates that final merits hearings shall be held in public.
19. Members of the public who had been provided weblinks to observe proceedings were unable to join and witness the proceedings on these days, as acknowledged in the ET judgment itself (see header of judgment describing days "24 & 25 July held in private").
20. The closed hearing environment enabled the ET to subject the Appellant to improper and disrespectful treatment without public scrutiny, contrary to the principle that publicity is the very soul of justice and a safeguard against improbity. Significantly, it was during these private sessions that EJ Perry formed many of his adverse impressions of the Appellant's conduct (paras 97-100), which later became central to his strike-out decision.
21. The ET's conduct in this regard contradicts established case law including *Dring* [2019] UKSC 38, [2020] AC 629, and *Guardian News and Media Limited v Rozanov and Others* [2022] EAT 12.

Ground 2: The ET breached the Appellant's fundamental rights to a fair hearing

22. The ET breached the Appellant's rights under Article 6(1) ECHR, Articles 2, 14, 17 and 26 ICCPR, the HRA 1998, and the common law principle of natural justice in several significant ways:

2.1 Breaches of procedural fairness and equality of arms:

23. The ET:
 1. Closed the hearing to the public, creating an environment where the Appellant's alleged conduct could be characterized without independent observation

2. Permitted the Respondents to allegedly submit a strike-out bundle of 628 pages on the eve of the hearing (Friday 21 July 2023) without informing the Appellant, constituting what can only be described as an "ambush" (acknowledged in paragraph 10 where the ET notes its "concern") thereby destabilising a LIP at the commencement of what she believed to be the long anticipated final hearing
3. Failed to read and properly consider the Appellant's submissions and counterarguments submitted on 26 July 2023
4. Fundamentally mischaracterized parts of the Appellant's bundle (paragraph 11.2 of the Judgment) demonstrating that it had not properly examined her materials, stating they "were told" these were part of the "DE bundle" when the Appellant had explicitly informed them otherwise
5. Made no reference to the Appellant's written and oral submissions on 27 July 2023 regarding the strike-out application, creating a one-sided judgment that primarily reproduces the Respondents' assertions
6. Permitted the Respondents to advance new strike-out grounds on 26 July 2023 beyond those previously tabled

2.2 Breaches of the right to an impartial tribunal:

24. The ET's judgment contains numerous incorrect statements of fact and material misrepresentations with a material effect on the outcome (detailed in the Appellant's reconsideration application of 15 August 2023).
25. The ET falsely characterized the Appellant's submissions on human rights and EU law issues as "standalone" complaints when they were clearly presented in the context of victimisation, dismissal and the manner of dismissal (paras 33-36 of the ET1 of 4 August 2020).
26. The ET failed to consider what was at stake for the Appellant, namely her ability to exercise her profession, revive her career, obtain livelihood, and recover her reputation.
27. The ET failed to follow the jurisprudence requiring special care when Convention rights are engaged.

2.3 Breaches of reasonable time requirements:

28. By denying the Appellant access to justice in July 2023 after 3.5 years of delay, the ET compounded the breach of her right to prompt access to justice and an adequate remedy.

Ground 3: The ET erred in law regarding the lists of issues

29. The ET fundamentally erred in believing that:

1. A fair trial could proceed only with prior agreement on the list of issues
2. It was not obliged to consider the Appellant's pleadings in the ET1s and other documents setting out her case
3. The Appellant had behaved unreasonably regarding the lists of issues

30. The ET failed to pay due regard to the guidance in the Equal Treatment Bench Book and *Cox v Adecco* UKEAT 0039 19 AT, which emphasizes that:

1. A formal list of issues, while helpful, is not essential to a fair trial
2. For litigants in person, claims should not be ascertained only through oral explanations during a hearing (Despite being a LIP, she had presented all the issues clearly in her ET1 of 4 August 2020 with respect to the second claim which was the subject of the discussion and had drawn her list of issues in August and 1 September 2022 and had provided an integrated list of issues for claim 2 for the final hearing panel)
3. Respondents, especially when legally represented, should assist the tribunal in identifying documents where claims are set out

31. The ET disregarded authorities including:

1. *Land Rover v Short* (2011) UKEAT/0496/10/RN
2. *Parekh v London Borough of Brent* [2012] EWCA Civ 1630
3. *Mervyn v BW Controls Ltd* [2020] EWCA Civ 393
4. *Mrs N Moustache v Chelsea and Westminster NHS Foundation Trust* (EA-2021-000360-AT)

32. The Appellant's integrated list of issues submitted on 27 June 2023 had incorporated all the Respondents' issues (except one that was redundant) following the guidance in *Wilcox v Birmingham CAB Services Ltd* [2011] and *Scicluna v Zippy Stitch Ltd and Others* [2018] EWCA Civ 1320.
33. The ET incorrectly characterized the Appellant's legitimate defence of her right to have all issues determined as "unreasonable conduct" when she was protecting her interests against the Respondents' deliberate attempt to interfere with and omit issues from her ET1s.

Ground 4: The ET erred in concluding that a fair trial was not possible

34. The ET erred in concluding that a fair trial was not possible and in misapplying *Blockbuster Entertainment Limited v James* [2006] EWCA Civ 684 and other authorities.
35. There was no evidence of "deliberate and persistent disregard of required procedural steps" by the Appellant - on the contrary, she had displayed perfect compliance with tribunal directions throughout the proceedings.
36. The ET failed to consider less drastic alternatives including:
 1. Adding the few remaining pages from the Respondents' bundle to the Appellant's integrated bundle (- less than 50 pages)
 2. Proceeding with the hearing using the Appellant's integrated bundle which the Respondents had had for 15 days by the decision date and the Appellant had submitted in accordance with CPR's prescribed timeline for bundle submission (not more than 7 days and not less than 3 days before the hearing)
 3. Reading the ET1s and ET3s directly to determine the issues
 4. Conducting the hearing with the tribunal's own list of issues
 5. Conducting the hearing with the two bundles
37. By 2 August 2023 (the date of the strike-out decision), nine clear hearing days remained as the final merits hearing had been listed until 11 August 2023. A fair trial was entirely possible.

Ground 5: The decision to strike out was a misapplication of *Smith v Tesco Stores Ltd* and was disproportionate

38. The ET misdirected itself by equating the Appellant's behaviour with that of the claimant in *Smith v Tesco Stores Ltd* [2023] EAT 11, a case with fundamentally different circumstances.
39. The comparison drawn in paragraph 101 of the judgment is deeply flawed:
1. Unlike in *Smith*, the Appellant's case was ready for trial with comprehensive bundles, witness statements, and lists of issues submitted. The ET acknowledged this readiness by noting the hearing was "due to commence" (para 10), contrasting sharply with *Smith* where the litigation was "moving backwards, not forwards"
 2. The ET characterized the Appellant's conduct during hearings (paras 97-100) without providing specific quotes or examples, relying instead on general allegations such as "talking over the judge" and "not paying attention"
 3. The specific incident highlighted as "rude and disrespectful" (para 100) - looking at a clock and responding "I do not consider your question appropriate" when she was asked why she was looking at the clock by judge repeatedly in an aggressive way- is a natural and instinctive reaction which falls far short of the persistent disruption described in *Smith*
 4. The Appellant maintained consistent focus on her original ET1 submissions without seeking amendments, unlike Mr Smith who repeatedly sought to expand his claim
 5. The official transcripts of the proceedings on 26 and 27 July 2023 (item 2 of the core bundle on p. 179 et seq.) do not support EJ Perry's assertions about the Appellant's alleged unreasonable conduct. They demonstrate the opposite: the Appellant had acted in sincere cooperation and with professionalism and a genuine desire to assist the ET.
 6. The official transcripts of the proceedings on 24 and 25 July 2023 (which have omitted crucial phrases and questions of EJ Perry and are the basis of another EAT appeal) contained in the supplementary bundle show that on the second day of the closed hearing the Appellant was interrupted 131 times by EJ Perry and was exposed to his

rude comments 33 times. If the transcript of the first day of the proceedings had been included, it would show that the Appellant was interrupted 464 times by EJ Perry.

Ground 6: The ET improperly took into account irrelevant considerations and lacked evidential basis for its conclusions

40. The ET improperly considered matters irrelevant to the strike-out decision, often without adequate evidential foundation:

1. The Appellant's legitimate applications regarding redaction and factualisation of misconduct allegations were characterized as "unreasonable conduct of itself" (paras 58-62), despite being necessary for fair cross-examination preparation and involving only "a handful of documents" and "a single name" (as noted in the Appellant's reconsideration application)
2. The Appellant mentioning her right to appeal if prejudiced was held against her (para 95), with the ET stating this "amply reinforces the point" about unreasonable conduct - effectively penalizing the Appellant for noting her statutory rights
3. Ms. Reindorf's incorrect statements about criminal complaints allegedly made by the Appellant were uncritically repeated (paras 102, 104.1), despite the Appellant's consistent denials both at the hearing and in prior written submissions, with the ET making no attempt to verify these serious allegations before including them as justification for strike-out
4. The judgment cited "additional costs the respondents would be put to and use of scarce resources" (para 124) as justification for strike-out, despite nine clear hearing days remaining in the scheduled window (until August 11, 2023) - suggesting the true motivation was avoiding the merits hearing rather than resource constraints

Ground 7: The ET displayed bias or apparent bias toward the Appellant

41. The ET's conduct would lead a fair-minded and informed observer to conclude there was a real possibility of bias, evidenced by:

1. The decision to deny public access to proceedings for the first two crucial days where the Appellant's conduct was assessed (as acknowledged in the judgment heading itself)
2. The demonstrably incorrect statements and material misrepresentations in the judgment, particularly the extensive mischaracterization of the Appellant's integrated bundle as an attempt to "ambush" the Respondents (paras 84-89), when it contained documents already in their possession
3. The ET's predetermined approach to the proceedings, demonstrated by its dismissal of alternatives to strike-out in a cursory manner (paras 119-126)
4. The judgment's one-sided treatment of disputed matters, consistently accepting Respondents' characterizations while dismissing the Appellant's explanations
5. The ET's asymmetric standards - characterizing the Appellant's attempts to ensure her ET1 issues were heard as "unreasonable" (para 91) while minimizing the Respondents' documented non-compliance as "relatively minor matters" (para 76)
6. The uncritical repetition of serious allegations against the Appellant (including alleged criminal complaints, para 104.1) without verification, while holding her to impossible standards of proof for her own assertions
7. The ET "descending into the arena" by actively constructing a narrative of the Appellant's unreasonableness rather than neutrally adjudicating

EVIDENCE OF MATERIAL ERRORS AND LACK OF EVIDENTIAL BASIS

42. The Appellant has detailed numerous factual errors and misrepresentations in the judgment in her reconsideration application of 15 August 2023. The judgment relies heavily on assertions about the Appellant's conduct that either lack evidential support or directly contradict the documentary record:

Mischaracterization of the Appellant's actions

43. The judgment incorrectly states that the Appellant's stance was that her bundle should be used "instead of" the Respondents' bundle (para 18), when the Appellant had prepared an "integrated bundle" that included almost all the Respondents'

documents. This fundamental mischaracterization forms a central pillar of the ET's finding of unreasonableness.

44. The ET erroneously concluded the Appellant "deliberately refused to follow the directions" regarding the list of issues (para 91), when she had in fact produced an integrated list incorporating all the Respondents' issues (minus one redundant item), as documented in her reconsideration application.
45. The judgment misrepresents the Appellant's position on human rights and EU law issues as a "standalone complaint" (para 19) when these were explicitly raised in the context of victimisation and dismissal in paragraphs 33-36 of her ET1, a fact readily verifiable from the original pleadings.

Unsupported assertions about the Appellant's conduct

46. The judgment makes serious accusations about the Appellant's hearing conduct (paras 97-100) but provides no specific quotes or concrete examples, relying instead on vague characterizations like "repeatedly talked over the judge" and "not listening." The most specific example offered - looking at a clock (para 100) - hardly rises to the level of conduct warranting strike-out.
47. The judgment repeats Ms. Reindorf's claim that the Appellant had made a criminal complaint against Mr. Browne (para 104.1), despite the Appellant's repeated denials. The ET made no attempt to verify this serious allegation before using it to support its strike-out decision.

Double standards in assessing conduct

48. The judgment acknowledges the Respondents' "failure to agree the bundle and its failures to address the lists of issues as directed" but dismisses these as "relatively minor matters" (para 76), while characterizing similar or lesser issues on the Appellant's part as scandalous or unreasonable conduct justifying the most extreme sanction available.
49. The judgment accepts at face value the Respondents' assertions about bundle preparation (para 80-85) while dismissing the Appellant's detailed explanations about her integrated bundle without proper consideration of her submissions and the

'homework' EJ Perry had asked her to do (item 1 of the Supplementary Bundle and pp. 80-109 of the Core Bundle).

THE LAW ON STRIKING OUT DISCRIMINATION CLAIMS

50. Striking out discrimination claims should be approached with particular caution:

51. In *Anyanwu v South Bank Student Union* [2001] ICR 391, Lord Steyn emphasized that discrimination claims should not be struck out except in the most obvious and plainest cases because "their proper determination is always vital in a pluralistic society."

52. The threshold for striking out on the eve of trial is especially high. In *Blockbuster Entertainment Limited v James* [2006] EWCA Civ 684, the Court of Appeal stated it would require "something very unusual indeed to justify the striking out, on procedural grounds, of a claim which has arrived at the point of trial."

53. Per *Blockbuster*, two cardinal conditions must be met for exercise of the strike-out power in response to unreasonable conduct:

- The conduct must take the form of deliberate and persistent disregard of required procedural steps; OR
- The conduct must make a fair trial impossible.

54. Even if either condition is met, the tribunal must still consider whether strike-out is a proportionate response. As stated in *Blockbuster*: "The first object of any system of justice is to get triable cases tried."

55. In *De Keyser Ltd v Wilson* [2001] IRLR 324, the EAT noted that in most cases, a claim should not be struck out in response to a party's conduct unless a fair trial is no longer possible.

CRITICAL ANALYSIS OF THE ET'S APPROACH TO STRIKE-OUT

56. The ET's approach to strike-out fundamentally misapplied the careful framework established in *Blockbuster* and *Tesco*:

57. The judgment fails to properly establish the threshold requirement of "scandalous, unreasonable or vexatious" conduct with concrete evidence. Instead, it relies on

generalized characterizations, disputed assertions, and selective and subjective interpretation of events.

58. The conclusion that a fair trial was "impossible" (para 118) contradicts the objective reality that:

1. Both parties had submitted comprehensive bundles (acknowledged in para 9)
2. Witness statements were prepared and submitted (para 14)
3. Lists of issues had been produced, even if disputed (paras 43-49)
4. Nine clear hearing days remained in the scheduled window

59. The judgment's cursory dismissal of alternatives to strike-out (paras 119-126) fails to seriously consider options such as:

1. Using the Appellant's integrated bundle with any necessary additions from the Respondents' bundle
2. Proceeding with the ET determining the issues based on the ET1s and ET3s directly
3. Setting clear parameters for the hearing while allowing it to proceed

APPEAL AGAINST THE REFUSAL OF RECONSIDERATION

60. The Appellant also appeals against Employment Judge Perry's decision of 25 October 2023 refusing reconsideration of his strike-out judgment. This appeal raises serious additional concerns about procedural fairness and the right to an impartial tribunal.

The refusal of reconsideration compounded the initial errors

61. EJ Perry's reconsideration refusal demonstrates the same problematic approach as his original judgment:

a) **Refusing to address the closed hearing breach:** EJ Perry ignored the legal framework requiring final merits hearings to be held in public (Rule 59 ETRP 2013). He refused to provide adequate reasons for holding critical sessions in private, breaching the open justice principle.

b) **Denying access to hearing recordings:** EJ Perry incorrectly cited non-existent case law ("Kumar v Birmingham City University") to justify withholding audio recordings of the closed hearings, preventing the Appellant from obtaining transcripts despite her rights under *Kumar v MES Environmental Ltd* [2022] EAT 60.

c) **Perpetuating false allegations:** Despite clear documentary evidence disproving Ms. Reindorf's assertions that the Appellant had made criminal complaints against Mr. Browne, EJ Perry continued to rely on these false allegations (para 9 of his reconsideration decision), even claiming the tribunal had "seen evidence" when the opposite was true.

d) **Dismissing fundamental rights concerns:** EJ Perry failed to engage substantively with the Appellant's detailed submissions regarding violations of her rights under the common law principle of natural justice, Articles 1, 6(1), 8 and 14 ECHR, and Articles 2, 14, 17 and 26 ICCPR.

Ignoring key evidence and misrepresenting facts

62. The reconsideration decision shows a concerning pattern of ignoring or mischaracterizing evidence that contradicted the judge's narrative:

a) **ET1 issues wrongly excluded:** EJ Perry failed to address his unlawful exclusion of the Appellant's human rights and EU law issues from the list of issues (detailed in paragraphs 33-36 of her ET1), despite the Appellant's clear explanation that these were not "standalone" complaints but integral to her discrimination and unfair dismissal claims.

b) **Bundle issues misrepresented:** EJ Perry repeated his incorrect characterization of the Appellant's integrated bundle (which contained almost all the Respondents' documents) while ignoring the Appellant's detailed tabular submissions demonstrating that the Respondents' bundle contained 490 duplicate pages and excluded key documents.

c) **Dismissing documented procedural irregularities:** EJ Perry disregarded the Respondents' submission of a 600+ page bundle to the ET without copying in the Appellant, and their improper modification of their strike-out application grounds during the hearing - both clear breaches of procedural fairness.

63. Most concerning, EJ Perry characterized the Appellant's legitimate request for reconsideration of demonstrable errors as merely "an attempt to re-argue matters" (para 24 of his reconsideration decision), effectively denying her the right to have material errors corrected.

64. The reconsideration refusal effectively attempted to shield the original judgment from proper appellate scrutiny, particularly by preventing access to recordings of the closed hearings where the judge formed his impressions of the Appellant's conduct.

65. The refusal of reconsideration, especially when combined with the original judgment's errors, demonstrates a troubling disregard for procedural fairness, equality of arms, and the right to an impartial tribunal that should address a party's submissions with intellectual honesty and sound legal reasoning.

CONCLUSION

66. The ET erred in law and acted unfairly in striking out the Appellant's claims. The decision was disproportionate and unjust, particularly given:

1. The claims had been in the system for 3.5 years
2. A full merits hearing was scheduled with 9 days remaining
3. The Appellant had demonstrated consistent compliance with tribunal directions
4. Less drastic alternatives were available
5. The importance of determining discrimination and whistleblowing claims on their merits

67. More fundamentally, the judgment is entirely unsafe because it rests on a non-existent strike-out bundle and false criminal law related allegations (non-existent criminal complaints). These are not peripheral matters but central to the ET's assessment of the Appellant's conduct and its decision to strike out her claims.

68. The EAT is respectfully invited to consider both appeals together, as they demonstrate a pattern of errors that collectively denied the Appellant her right to a fair hearing and determination of her discrimination and unfair dismissal claims on their merits.

69. The appeals should proceed to a full Eat hearing with a view to be allowed and the matter to be remitted to a differently constituted tribunal in accordance with the principles in *Sinclair Roche and Temperley v Heard* [2004].

Dated: 9 April 2025

PROFESSOR THEODORA KOSTAKOPOULOU *Appellant*