

IN THE EMPLOYMENT TRIBUNAL

Claim No. 33/2025

BETWEEN:

DANIEL FENDLEY

Claimant

-AND-

THE COMMISSIONER OF THE ROYAL GIBRALTAR POLICE

Respondent

CASE MANAGEMENT ORDER

Tuesday, 8 September 2026

Before Gabrielle O'Hagan, Chairperson

IN PUBLIC

UPON HEARING the Claimant in person and Mr Neil Costa of Isolass LLP, instructed by the Respondent, **IT IS ORDERED THAT:-**

- (A) The Claimant having withdrawn his claim for breach of employment contract, this claim is dismissed.
- (B) The Claimant's application to amend his Claim is dismissed.
- (C) The Respondent having withdrawn its application under Rule 27 and/or Rule 36 of the Employment Tribunal (Constitution and Procedure) Rules 2016 (**the Rules**) to dismiss and/or strike out the Claimant's disability discrimination claims under the Equal Opportunities Act 2006 (**the EO Act**) on the grounds that they are in a form to which they cannot sensibly be responded and/or are an abuse of process and/or have no reasonable prospect of success, due to incorrect legislation referencing **by** the Claimant, this application is dismissed.
- (D) The Respondent's application under Rule 27 and/or Rule 36 to dismiss and/or strike out the disability discrimination claims on the grounds that they are in a form to which they cannot sensibly be responded and/or are an abuse of process and/or have no reasonable prospect of success, because they are time barred and the Claimant did not make a Rule 7 application, is dismissed.
- (E) The Respondent's application under Rule 27 and/or Rule 36 to dismiss and/or strike out the disability discrimination claims on the grounds that they are in a form to which they cannot sensibly be responded and/or are an abuse of process and/or have no reasonable prospect of success, due to the Claimant omitting to complete his residential address in the Claim Form, was withdrawn by the Respondent, further

to the Claimant's explanation that the copy of the Claim Form sent to the Respondent by the Tribunal had indeed included the Claimant's address, but this was not legible.

- (F) The issue of whether the Claimant's claims for disability discrimination are time barred, and if so, whether the Tribunal should nevertheless consider the claims on the grounds that in all the circumstances of the case, it considers that it is just and equitable to do so, to be decided as a **Preliminary Issue**.

Under Rule 29, **IT IS ORDERED THAT:-**

1. By 5.30 pm on Tuesday, 20 October 2026, the Claimant to file with the Tribunal and serve on the Respondent further and better particulars in writing of the Claimant's claims for disability discrimination under the EO Act, including:-
 - (i) particulars, with any supporting evidence (for example, medical reports), of the disability(ies) the Claimant claims he was suffering from i.e. the physical or mental impairment(s) which had a substantial and long-term adverse effect on the Claimant's ability to carry out normal day to day activities, at the time(s) the alleged act(s) of discrimination took place, to include relevant dates and details and particulars of the alleged symptoms, adverse effects, affected activities and any treatment received;
 - (ii) particulars, including relevant dates, with any supporting evidence, of the Respondent's knowledge of the Claimant's alleged disability(ies), or in support of a submission that the Respondent ought reasonably to have known of the Claimant's alleged disability(ies), at the time(s) the alleged act(s) of discrimination took place;
 - (iii) if the Claimant is claiming Section 12(1) EO Act disability discrimination, particulars, including relevant dates, with any supporting evidence, of the incident(s) of the Respondent's alleged less favourable treatment of the Claimant because of his disability, including particulars of the difference(s) in treatment to an identified real comparator employee or a hypothetical comparator employee (whose relevant characteristics must be particularised) not having the disability; and the reasons why the Claimant believes the less favourable treatment by the Respondent was because of his disability;
 - (iv) if the Claimant is claiming Section 12(2) EO Act disability discrimination, particulars, including relevant dates, with any supporting evidence, of the incident(s) of the Respondent's alleged less favourable treatment of the Claimant for a reason which related to his disability, including particulars of the difference(s) in treatment to an identified real comparator employee or a hypothetical comparator employee (whose relevant characteristics must be particularised) to whom that reason does not or would not apply; and the reasons why the Claimant believes the less favourable treatment by the Respondent was for a reason which related to his disability;

- (v) particulars, with any supporting evidence, of the Respondent's alleged rejection of an Occupational Health referral for the Claimant on 13 November 2024, then approval and subsequently a rejection on 7 February 2025;
 - (vi) in respect of the Claimant's claim under Sections 12(3) and 29 of the EO Act for the Respondent's alleged breach of the duty to make reasonable adjustments in relation to the Claimant as a disabled person, particulars, including relevant dates, with any supporting evidence, of:
 - (a) the alleged provision, criterion or practice applied by or on behalf of the Respondent which placed the Claimant at a substantial disadvantage in comparison to persons who are not disabled; and the nature and extent of that disadvantage;
 - (b) the reasonable adjustments the Claimant alleges it was reasonable, in all the circumstances of the case, for the Respondent to have made in order to prevent the provision, criterion or practice having that effect, which the Respondent did not take;
 - (vii) if the Claimant is relying upon Section 68(4)(b) of the EO Act, particulars, including relevant dates, with any supporting evidence, of the alleged act(s) or omission(s) amounting to conduct extending over a period which the Claimant relies upon, such as an ongoing policy, rule, regime or practice, situation or continuing state of affairs affecting the Claimant, as distinct from a succession of unconnected or isolated specific acts;
 - (viii) if the Claimant is seeking that the Tribunal should exercise its discretion under Section 68(3) of the EO Act to consider the disability discrimination claim out of time on the grounds that it would be just and equitable to do so, particulars, including relevant dates, with any supporting evidence, of the relevant facts relied upon by the Claimant.
2. The Respondent shall by 5.30 pm on Tuesday, 24 November 2026 file with the Tribunal and serve on the Claimant any responses to the further and better particulars provided by the Claimant under paragraph 1.
 3. Standard disclosure in relation to the Preliminary Issue to be effected by the parties by 5.30 pm on Tuesday, 29 December 2026, by way of exchange with each other of lists and copies of all documents, materials, records, data, etc in their possession, custody or control which support or adversely affect their own case or support or adversely affect the other party's case.
 4. The parties to file with the Tribunal and exchange with each other written witness statements of the oral evidence upon which they intend to rely in relation to any issues of fact in relation to the Preliminary Issue by 5.30 pm on Tuesday, 9 February 2027. No person will be entitled to give oral evidence unless a written witness statement by them has been filed and exchanged, without the Tribunal's permission. The witness statements shall stand as the evidence in chief of the witnesses so that the witnesses shall be tendered for the purpose only of cross-examination.

5. Not later than 28 days before the hearing of the Preliminary Issue, the Respondent to send to the Claimant a draft hearing bundle index. Not later than 21 days before the hearing, the Claimant to notify the Respondent of any additional documents he requires to be included in the hearing bundle.
6. Not later than 14 days before the hearing of the Preliminary Issue, the Respondent to prepare the hearing bundle and to file the same with the Tribunal and provide the same to the Claimant.
7. Not later than 10 days before the hearing of the Preliminary Issue, the parties to exchange with each other and file with the Tribunal their skeleton arguments and bundles of authorities.
8. The hearing of the Preliminary Issue to be listed for 5 days commencing on Monday, 5 April 2027 at 10.00 am.
9. Liberty to apply.

Gabrielle O'Hagan

Gabrielle O'Hagan, Chairperson