

EAT considers meaning of a protected act under s27(2)(c), namely ‘doing any other thing for the purposes of or in connection with’ the EQA

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[Leighton v Renfrewshire Council \[2026\] EAT 95](#)

The facts

1. C was employed by the Council in the housing service. In March 2023 he was asked to assist a disabled service user to move temporarily into alternative accommodation; the task did not fall within his usual duties. He obtained permission from his line manager to assist and he proceeded with the task.
2. Following the move, a complaint was made, including that C had breached the service user’s confidentiality. The Council informed C that the complaint would be investigated. Pending the outcome of that investigation C was moved to alternative duties (with a view to avoiding contact between C and the service user).
3. The investigation ran for seven months. Some of the complaint was dismissed at an early stage; the alleged breach of confidentiality aspect proceeded to a disciplinary hearing. C resigned before it took place.

The ET decision

4. Whilst the investigation was ongoing, C brought a claim of victimisation under s27 Equality Act 2010. He asserted that by providing assistance to the service user he did an act “for the purposes of or in connection with” the Act; and that as such he did a protected act.

5. The ET accepted that C was subjected to a detriment by way of being moved to alternative duties.

6. However, the ET found against C on the other two key issues:

- (i) The ET concluded that the claimant had not done a protected act. The ET's decision records as follows:

“The claimant argued that he had done a protected act within the terms of section 27(2)(c) when he provided support to a disabled tenant to move house. The claimant believed the reason why it was a protected act was because the disabled tenant was told he had to move tenancy and that he would not be provided with any support in relation to his disability because Housing staff could not enter his property due to covid restrictions. The disabled tenant would not have been able to move if support had not been provided.

.....

The tribunal asked itself what was it the claimant was doing for the purposes of, or in connection with, the Equality Act. The claimant referred to two points: (i) that he provided support to the disabled tenant and (ii) that the tenant would be discriminated against if support was not provided because he would be forced to move.

We did not consider, in respect of point (i) that providing support to Mr A amounted to a protected act. We say that because simply because Mr A was disabled does not mean each and every interaction with him is a protected act. Further, in respect of point (ii) the whole purpose of the request to provide support to Mr A was to enable him to move accommodation on a temporary basis to allow damp in his property to be addressed. The purpose of the request for support was (to use the claimant's language) to prevent Mr A being “discriminated” against.

The tribunal concluded, for these reasons, that the claimant had not done a protected act within the meaning of section 27(c) of the Equality Act.”

- (ii) As to causation, the ET found that C was moved because of the complaint made about him (i.e. about C) and the need to avoid contact with the service user during the investigation. The ET stated:

“If the claimant had provided the support and there had been no complaint, he would not have been moved. The only reason the claimant was moved was because of the complaint. The complaint can be separated from the support provided to Mr A.”

7. As such the ET dismissed the claim.

The EAT decision

8. The EAT held that the ET erred in its analysis of the protected act. The EAT emphasised that C’s case was not that every interaction with a disabled person is protected; rather, C was arguing that the particular circumstances in which he had provided assistance in this case triggered s27(2)(c).

9. The EAT stated:

“....., the claimant advanced the argument that this amounted to a protected act because the request for the support was to prevent Mr A being discriminated against , what is missing from the analysis of the ET in addition to engagement with what specific protected act it is that the claimant is founding upon, is any analysis of, or engagement with, the purpose for which the claimant contended he had engaged in the protected act.”

10. The ET had recorded the relevant factual matrix but had failed to engage with C’s asserted purpose (i.e. to prevent discrimination) when applying s27(2)(c). The EAT concluded that there was a “lacuna in the reasoning of the ET such that it cannot be said with confidence that it has engaged with the relevant test set out in s27(c).”
11. However, the appeal was in any event dismissed by virtue of the EAT’s conclusion on the appeal on causation. The EAT took the view that the ET had not applied an incorrect legal test on the issue of causation and that its factual conclusion (that the only reason for moving C was the complaint and the need to avoid contact with the service user) was open to the ET on the evidence.
12. The EAT noted that the ET’s finding that the move was motivated by the complaint (i.e. and as such not C’s assistance of the service user) was consistent with authorities such as *Chief Constable of West Yorkshire Police v Khan* [2001] ICR 1065 (HL) and *Page v The Lord Chancellor* [2021] EWCA Civ 254 and did not amount to an error of law.

Comment

13. This case serves as a useful reminder that a protected act for the purposes of s27(2) is not limited to allegations of discrimination and matters akin; it includes various other matters. The particular provision of relevance to this claim was s27(2)(c), i.e. “doing any other thing for the purposes of or in connection with this Act”.
14. Employers should take note that s27(2)(c) has a broad scope: it is drafted using broad terms and without express limitation. As this case reveals, a worker who provides assistance to a disabled individual with a view to preventing discrimination could potentially be doing something which falls within its scope.
15. It is not hard to envisage all sorts of other acts which a worker might do which could also potentially fall within scope, and which could consequently provide protection for that worker. Employers should take care before taking action against any worker who might be able to argue that they have gained such protection.
16. This case also provides useful support for employers who decide to take action against a worker in circumstances in which a protected act is a significant feature within the relevant factual matrix. So long as the employer’s action is taken for a different reason or for a reason properly separable from the protected act itself, the employer should not fall foul of s27. It is not enough for the worker to argue that but for their protected act the subsequent action of the employer would not have been taken.

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