

Reasonable fears of future professional harm can justify anonymity in disability claims

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[F v J \[2025\] EAT 34](#)

Summary

1. The Employment Appeal Tribunal (EAT) upheld an appeal against a tribunal's refusal to grant anonymity to a claimant with Asperger's Syndrome. It found that the Employment Tribunal (ET) had applied the wrong legal test, set the evidential bar too high, and failed to give due weight to the Claimant's reasonable concerns regarding future professional harm.

Background

2. The Claimant, F, an academic with a diagnosis of Asperger's Syndrome, brought a claim of disability discrimination against his former employer. At the time of the original claim in July 2021 he was still employed by the Respondent, although by the time of the initial hearing he had commenced a role with a new employer.
3. F had not disclosed his disability to colleagues or family and argued that making his diagnosis public would significantly harm his employability, particularly in the education sector. He sought anonymity under Rule 50 of the ET Rules, asserting that public identification would deter him from proceeding with the claim and might lead to disorder in any future teaching roles.
4. The ET refused the anonymity application, concluding that F had failed to provide objective or medical evidence to substantiate the harm alleged and that his general evidence on discrimination in employment lacked relevance to his specific situation.

Appeal to EAT

5. The EAT allowed the appeal. It held that the ET erred in requiring F to demonstrate objectively that harm was likely and in placing undue weight on the fact that he had since found alternative employment, without examining whether his new employer was aware of his diagnosis.
6. The EAT clarified that the correct test was whether there was a reasonable basis for the Claimant's fears and whether failing to grant anonymity would prejudice the administration of justice. It noted that the ET had misapplied principles from *Millicom Services UK Ltd v Clifford* [2023] ICR 663 by demanding proof of actual harm, rather than assessing the credibility and reasonableness of the Claimant's belief.

Legal analysis

7. The EAT observed that F's concerns were supported by reputable academic studies which showed that disclosing an autism diagnosis can significantly reduce employment prospects. The fact that the study was US-based did not undermine its relevance.
8. The tribunal's reliance on F's current employment as evidence against his claim was flawed, given the lack of clarity on whether his current employer was aware of his condition
9. The EAT held that medical evidence could demonstrate the existence of a disability but not its social stigma or its speculative impact on future employment; matters the tribunal wrongly required to be evidenced with certainty.

Outcome

10. The EAT concluded that F's fears were both genuine and reasonably held and had at least an objective foundation. The principle of open justice, while significant, did not outweigh the Claimant's interest in anonymity in this case.
11. The EAT substituted the decision of the tribunal and ordered that both the Claimant and the Respondent be anonymised throughout the proceedings. The anonymisation of the Respondent was necessary to prevent indirect identification of the Claimant

Comment

12. This case underscores the nuanced approach required in Rule 50 applications involving mental health and disability. The decision confirms that tribunals should consider the reasonableness of a claimant's fears rather than demanding conclusive proof of harm.
13. The ruling also emphasises that open justice may be curtailed where the identity of parties is not critical to public understanding of the case, particularly when disclosure may frustrate a claimant's ability to access justice.
14. This decision seems likely to lead to a greater willingness on the part of tribunals to grant such applications in situations in which claimants are concerned about their future employability.

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24 April 2025



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