



EMPLOYMENT TRIBUNALS

Claimant: Mr S U Mehuddin

Respondent: Manpower UK Ltd

HELD AT: Manchester

ON: 28 June 2018

BEFORE: Employment Judge Porter

REPRESENTATION:

Claimant: In person

Respondent: Ms H Donnelly, solicitor

JUDGMENT

1. The claim was presented out of time.
2. It is not just and equitable to extend time.
3. The tribunal has no jurisdiction to hear this claim, which is dismissed.

REASONS

1. Written reasons are provided pursuant to the claimant's request at the conclusion of the hearing.

Issues to be determined

2. At the outset it was confirmed that the issue to be determined at this preliminary hearing was identified at the previous preliminary hearing on 14 February 2018, namely:

- 2.1. Whether the claim was presented out of time; and
- 2.2. If so, whether it was just and equitable to extend time to give the tribunal jurisdiction to hear the claim.

Orders

3. The claimant asserted that he had not had the opportunity to review the bundle of documents prepared by the respondent. The claimant was given time to re-read the documents contained in the bundle and his witness statement which appeared at pages 36-37 of the bundle. After a short adjournment the claimant confirmed that he was ready to proceed. He made no request for further time or an adjournment of the preliminary hearing.

Submissions

4. The claimant made a number of detailed submissions which the tribunal has considered with care but does not rehearse in full here. In essence it was asserted that: -
 - 4.1. the claimant was aware in April 2017 that the respondent was not providing reasonable adjustments for his disability, that the respondent was breaking the law;
 - 4.2. the claimant sought advice from a trade union representative with 13 years' experience;
 - 4.3. the claimant was aware of the right to bring a claim to the employment tribunal in relation to allegations of discrimination but he was not aware of the time limits;
 - 4.4. the claimant did not in April 2017 ask his trade union representative if he could bring a claim at that date. He did not look on the ACAS website, he did not seek advice from CAB in April 2017 about a potential claim;
 - 4.5. He would expect his trade union representative to alert him to any time limits for bringing a claim but she did not and the claimant should not lose the right to bring a claim because of her failure to give appropriate advice;
 - 4.6. after the hearing on 20 April 2017 the respondent put in place some of the adjustments suggested by his trade union representative in the meeting;

- 4.7. the last thing on the claimant's mind after 20 April 2017 was bringing a claim to the tribunal because he did not want to antagonise the respondent and risk being dismissed;
 - 4.8. there was no disciplinary action arising from the meeting on 20 April 2017;
 - 4.9. the claimant makes no claim of failure to make reasonable adjustments in the period from 20 April 2017 onwards;
 - 4.10. notes were taken by the HR representative at the hearing on 20 April 2017;
 - 4.11. the BT managers displayed some animosity towards the claimant after the hearing on 20 April 2017 because they took the view that he had won by getting off the Performance Improvement plan;
 - 4.12. the claimant does not bring any other claim of disability discrimination after 20 April 2017. He does not assert that the decision to dismiss him was an act of disability discrimination;
 - 4.13. there is no prejudice to the respondent in allowing this claim to proceed out of time. The delay in presenting the claim was very short;
 - 4.14. the claimant investigated bringing a claim after his dismissal. He understood that he had three months from the date of dismissal to pursue the claim
5. Solicitor for the respondent made a number of detailed submissions which the tribunal has considered with care but does not rehearse in full here. In essence it was asserted that: -
- 5.1. the burden is on the claimant to convince the tribunal that it is just and equitable to extend time to allow this claim to proceed. The claimant has failed to discharge that burden;
 - 5.2. the last act of alleged discrimination took place on the 20 April 2017. The claimant asserts today that that was not the end of the matter but any subsequent complaint is against British Telecommunications plc not the respondent;
 - 5.3. the claim was presented out of time - seven months after the last incident and four months after the expiry of the time limit;
 - 5.4. Ignorance of the time limit is not enough;

- 5.5. The claimant had access to advice from a trade union representative with 30 years of experience;
- 5.6. The duty was on the claimant to make appropriate enquiries as to any time limit for presenting a claim. He failed to do so.;
- 5.7. The cogency of the evidence is likely to be affected by the delay. The last alleged incident of disability discrimination took place on 20 April 2017., over a year ago. There are no notes of that meeting. The witnesses will have to rely on their memory of an unminuted meeting more than a year ago;
- 5.8. The nature of the claim of disability discrimination arising from the meeting on 20 April 2017 is not clear, bearing in mind that no disciplinary action was taken following that disciplinary hearing.

Evidence

6. The claimant gave evidence. The claimant provided his evidence from his written witness statement. He was subject to cross-examination, questioning by the tribunal and was then given the opportunity to clarify his evidence
7. The respondent called no witnesses to give evidence.
8. An agreed bundle of documents was presented. References to page numbers in these Reasons are references to the page numbers in the agreed Bundle.

Facts

9. Having considered all the evidence the tribunal has made the following findings of fact. Where a conflict of evidence arose the tribunal has resolved the same, on the balance of probabilities, in accordance with the following findings.
10. The claimant was employed by the respondent from 5 September 2016. The claimant was placed to work on assignment with British Telecommunications plc (BT) as a BT help adviser.
11. The claimant was dismissed and the effective date of termination was 16 August 2017.
12. The claim was presented on 14 November 2017.
13. The date of receipt by ACAS of the EC notification was 8 November 2017
14. The date of issue by ACAS of the EC certificate was 8 November 2017.

15. In his claim form the claimant presented complaints of unfair dismissal and disability discrimination.
16. The complaint of unfair dismissal was dismissed by a judgment dated 19 December 2017 on the grounds that the claimant had not worked for the respondent for two years at the date of dismissal and had not acquired the right to bring such a claim.
17. At paragraph 8.2 of the claim form the claimant sets out the details of his claim in the following terms:

I'm making a claim under the Equality Act 2010 of disability discrimination in regards to failure to make reasonable adjustments at the commencement of my employment. A DSE (display screen equipment) assessment was also not completed. It was known to Manpower that I had a disability in my hands and legs as well as wearing hearing aids in each ear. I was put on a performance plan January 2017, throughout this time team leaders were aware of my struggles performing certain aspects of my job, no reasonable adjustments had been made in any circumstances. Disciplinary proceedings were pursued against me in March 2017 as Manpower HR manager at the time (Elizabeth Norton) and my team leader (Safwan Purcell) decided that I had failed the performance plan, to which I was given an official letter to attend a disciplinary hearing with the option of being accompanied by a representative e.g. union, my union representative Jackie Stewart raised these issues, after this disciplinary meeting which was chaired by Michael McCue (Manpower) with notes been taken by Elizabeth Norton, decided no further action was to be taken. After this hearing they completed a DSE assessment, from this meeting forward until the end of my employment, I was constantly being targeted by the managers because I felt they wanted to have the last word in response to being taken off the performance plan, I fed back this information to Elizabeth Norton on several occasions. On August 11, 2017 I had an argument with a manager about permission to escalate a customers complaint to which the manager refused, the manager emailed Elizabeth Norton about this and I was on the spot called into the office and suspended, during collecting my belongings I said some angry statements to the manager who sent the email, on my way out of the building. I was called into a disciplinary hearing on August 16, 2017 along with my union representative Jackie Stewart and my employment was terminated. From this date forward I have not received any formal outcome letter in regards to this or my outstanding holiday. I submitted an appeal myself via email to on site contract manager Julie McPartland. I attended a hearing chaired by Julie and notes taken by Kelly Stanton, I was accompanied by union representative Peter O'Hanlon, during this meeting Julie said she had ordered Elizabeth Norton not to put me on a performance plan, I said I was put on one, Julie said she would investigate, it has been six weeks and I have heard nothing.

18. At a closed preliminary hearing on 14 February 2018 before EJ Ryan, the issues were identified as claims under:

- 18.1. Section 15: Discrimination arising from disability;
- 18.2. Section 20 and section 21. Failure to make reasonable adjustments:

19. Time/limitation issues were also identified in the following terms:

- 19.1.1. The claim form was presented on 14 November 2017. Bearing in mind the effects of ACAS Early Conciliation, any act or omission which took place before 15 August 2017 is potentially out of time, so that the tribunal may not have jurisdiction.
- 19.1.2. If so can the claimant prove that there was conduct extending over a period which is to be treated as done at the end of the period? Is such conduct accordingly in time?
- 19.1.3. If not, can the claimant show that it would be just and equitable for time to be extended so that the tribunal may find that it has jurisdiction?

20. Case management orders were sent to the parties on 6 March 2018 and included the following:

6.3.3 It is the claimant's case that these adjustments were made in February/March 2017 but the respondent was in breach of duty in not having made the adjustments until then.

8.1 Since it appeared that the claimant was not relying upon any act between April and August 2017 which he alleged to be an act of discrimination it was agreed that there was a preliminary issue because the claim was on the face of it presented out of time.

21. From the commencement of his employment the claimant:

- 21.1. Was aware of the right to bring a claim of disability discrimination to the employment tribunal;
- 21.2. Was aware of the duty of the employer to make reasonable adjustments in relation to the provision of equipment needed to assist him, as a disabled person, in the performance of his duties;
- 21.3. had assistance from his trade union representative and access to legal advice.

22. In October/November 2016 the claimant believed that the respondent was in breach of its duty to make reasonable adjustments, raised the issue with his line manager, and sought advice from his trade union about this.
23. In January February and March 2017, the respondents carried out performance development reviews (PDRs) with the claimant, the stated aim of which was to monitor the claimant's progress against set objectives related to his role at BT.
24. By letter dated 11 April 2017 the claimant was invited to a disciplinary hearing to consider an allegation of underperformance. The hearing was scheduled for 20 April 2017.
25. By email dated 13 April 2017 (page 43) the claimant raised a complaint in the following terms:

I'm writing this email because this whole disciplinary PDR situation has left me very angry, distressed and paranoid.

First of all when I was called into non-scheduled meeting on Tuesday, 11 April 2017... I asked Safwan Patel calmly about what quintiles I was in, he dodged the question and lied to my face when he said that it was starting after I received my equipment, that lie has left me feeling I can't trust anyone I'm a man who takes being lied to very seriously

....

This is how badly it's affecting me, I've been around the block to know what deliberately affecting someone in a way that also affects their job. That in my book is constructive dismissal in a form of psychologically pressuring a person that negatively impacts their professional performance.

I'm just so angry

26. At the time of composing that email the claimant did believe that the respondent was breaking the law relating to health and safety, was in breach of its duty of care towards him, and that he was being treated badly relating to his disability. He felt betrayed.
27. The claimant obtained advice about the forthcoming disciplinary hearing from an experienced trade union representative, whom he believed to have some 30 years' experience in that role.
28. The claimant had the benefit of trade union representation at the disciplinary hearing on 20 April 2017, when the experienced trade union representative made representations to the respondent that it had breached its duty to make reasonable adjustments and that the threatened disciplinary action for failure to improve under the performance procedure was inappropriate.
29. No disciplinary action was taken after that meeting on 20 April.

30. From that meeting the claimant understood that the respondent had a duty to make reasonable adjustments to assist him in the performance of his duties and that the respondent had infringed those rights. The claimant obtained advice from the Trade Union representative about his legal entitlements. He did not ask the trade union representative about time limits for bringing a claim, did not ask the trade union to help him take a claim to the tribunal.
31. The claimant did not want to bring a claim to the tribunal because he did not want to antagonise his employer or BT, he did not want to offend them and cause them to dismiss him.
32. After the meeting on 20 April 2017 some adjustments were put in place to assist the claimant in the performance of his duties.
33. The claimant does not pursue any complaint of failure to make reasonable adjustments after 20 April 2017.
34. The claimant did not raise a formal grievance relating to the complaints now pursued before this tribunal during the course of his employment.
35. The claimant was suspended pending an investigation of an allegation of misconduct. The claimant sought advice from his trade union representative and had the benefit of that advice and access to legal advice throughout the following disciplinary procedure
36. The claimant was invited to a disciplinary hearing which took place on 16 August 2017. He was represented at that disciplinary hearing by a trade union representative. At the end of the hearing the claimant was dismissed.
37. By email dated 6 September 2017 the claimant appealed against the decision to dismiss. In that email he raised a complaint of discrimination against some of the BT managers, he also made a complaint of defamation.
38. The claimant was represented at the appeal hearing on 11 October 2017 by a trade union representative.
39. Following his dismissal, the claimant researched the bringing of a complaint to the employment tribunal by effecting a "google" search on the internet.
40. The claimant has conducted himself well during the hearing, indicating that he is articulate, intelligent, with an understanding of the law and an ability to apply it.

The Law

41. A claim concerning work-related discrimination under Part 5 of the Equality Act 2010 (EqA) (other than an equal pay claim) must be presented to the employment tribunal within the period of three months beginning with the date of the act complained of — S.123(1)(a) EqA. Conduct extending over a period is to be treated as done at the end of that period — S.123(3)(a). Where there is a series of distinct acts, the time limit begins to run when each act is completed, whereas if there is continuing discrimination, time only begins to run when the last act is completed.
42. In **Robertson v Bexley Community Centre t/a Leisure Link 2003 IRLR 434, CA**, the Court of Appeal stated that when employment tribunals consider exercising the discretion under what is now S.123(1)(b) EqA, ‘there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse. A tribunal cannot hear a claim unless the claimant convinces it that it is just and equitable to extend time. So, the exercise of discretion is the exception rather than the rule.’ However, this does not mean that exceptional circumstances are required before the time limit can be extended on just and equitable grounds. The law does not require this but simply requires that an extension of time should be just and equitable — **Pathan v South London Islamic Centre EAT 0312/13**
43. In **Barclays Bank plc v Kapur and ors 1991 ICR 208, HL** the House of Lords drew a distinction between a continuing act and an act that has continuing consequences. It held that where an employer operates a discriminatory regime, rule, practice or principle, then such a practice will amount to an act extending over a period. Where, however, there is no such regime, rule, practice or principle in operation, an act that affects an employee will not be treated as continuing, even though that act has ramifications which extend over a period of time.
44. In **Commissioner of Police of the Metropolis v Hendricks 2003 ICR 530, CA**, the Court of Appeal made it clear that it is not appropriate for employment tribunals to take too literal an approach to the question of what amounts to ‘continuing acts’ by focusing on whether the concepts of ‘policy, rule, scheme, regime or practice’ fit the facts of the particular case. Those concepts are merely examples of when an act extends over a period and should not be treated as a complete and constricting statement of the indicia of ‘an act extending over a period’. The Court of Appeal held that the focus should have been on the substance of the claimant’s allegations that the employer was responsible for an ongoing situation or a continuing state of affairs in which discrimination took place.
45. The Court of Appeal in **Lyfar v Brighton and Sussex University Hospitals Trust 2006 EWCA Civ 1548, CA** clarified that the correct test in determining whether there is a continuing act of discrimination is that set out in Hendricks.

Thus, tribunals should look at the substance of the complaints in question — as opposed to the existence of a policy or regime — and determine whether they can be said to be part of one continuing act by the employer.

46. In a claim of failure to make reasonable adjustments the question is when time begins to run for bringing the claim which is a claim relating to an omission to act. Under S.123(3)(b) EqA a failure to do something is to be 'treated as occurring when the person in question decided on it'.
47. In **Kingston upon Hull City Council v Matuszowicz 2009 ICR 1170, CA**, the Court of Appeal noted that, for the purposes of claims where the employer was not deliberately failing to comply with the duty, and the omission was due to lack of diligence or competence or any reason other than conscious refusal, it is to be treated as having decided upon the omission at what is in one sense an artificial date. In the absence of evidence as to when the omission was decided upon, the legislation provides two alternatives for defining that point (see S.123(4) EqA). The first is when the person does an act inconsistent with doing the omitted act. The second option requires an inquiry that is by no means straightforward. It presupposes that the person in question has carried on for a time without doing anything inconsistent with doing the omitted act, and it then requires consideration of the period within which he or she might reasonably have been expected do the omitted act if it was to be done. In terms of the duty to make reasonable adjustments, that seems to require an inquiry as to when, if the employer had been acting reasonably, it would have made the reasonable adjustments. That is not the same as inquiring whether the employer did in fact decide upon doing it at that time. Both Lord Justice Lloyd and Lord Justice Sedley acknowledged that imposing an artificial date from which time starts to run is not entirely satisfactory, but they pointed out that the uncertainty and even injustice that may be caused could be, to a certain extent, alleviated by the tribunal's discretion to extend the time limit where it is just and equitable to do so. The Court of Appeal stressed that the power to extend time should be considered in situations 'where the employee does not realise that the start date has occurred, or... the employer's decision has not been communicated to him' or if 'the employer were to seek to lull the employee into a false sense of security by professing to continue to consider what adjustments it ought reasonably to make, at a time long after the moment has arrived... when the employee is entitled to make a claim and time has started to run'. Lord Justice Sedley noted that in deciding whether to extend time under S.123(1)(b) EqA employment tribunals 'can be expected to have sympathetic regard' to the difficulty created for some claimants.
48. The Tribunal may consider any such complaint which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so. The Tribunal has a wide discretion to do what it thinks is just and equitable in the circumstances **Hutchinson v Westward Television Ltd [1997] IRLR 69**. The Tribunal should consider the prejudice which each party

would suffer as a result of granting or refusing an extension and have regard to all the other circumstances of the case including in particular the length of and reasons for the delay, the extent to which the cogency of the evidence is likely to be effected by the delay, the extent to which the parties sued had cooperated with any request for information, the promptness with which the claimant acted once he or she knew of the facts giving rise to the cause of action and the steps taken by the claimant to obtain appropriate professional advice once he or she knew the possibility of taking action; **British Coal Corporation v Keeble** [1997] IRLR 336. Wrong advice or the existence of an implied case against negligent solicitors ought not defeat a claimant's contention that the claim ought to be heard. A failure by a legal adviser to enter proceedings in time should not be visited upon the claimant **Chohan v Derby Law Centre** [2004] IRLR 685.

49. Tribunals must weigh up the relative prejudice that extending time would cause to the respondent on the one hand and to the claimant on the other. **Pathan v South London Islamic Centre EAT 0312/13.**
50. The tribunal has considered and where appropriate applied the authorities referred to in submissions.

Determination of the Issues

(including, where appropriate, any additional findings of fact not expressly contained within the findings above but made in the same manner after considering all the evidence)

51. The claimant has confirmed today that his allegations of discrimination relate to:
- 51.1. the alleged failure to make reasonable adjustments in the period from September 2016 to April 2017;
 - 51.2. putting the claimant through the PDR procedure, resulting in the disciplinary hearing on 20 April 2017.
52. The claimant does not pursue against this respondent:
- 52.1. any claim of failure to make reasonable adjustments after 20 April 2017;
 - 52.2. Any claim of discrimination after 20 April 2017
53. The claimant refers in his claim form and in the documentary evidence to allegations of discrimination after 20 April 2017 by BT employees. The claimant has made no application to join BT as party to these proceedings.

The claimant does not assert that the respondent is liable for the actions of BT employees.

54. The claimant was dismissed and the effective date of termination was 16 August 2017.
55. The complaint of failure to make reasonable adjustments relates to the alleged continuing failure of the respondent to act from September 2016 to April 2017.
56. The complaint under s15 EqA 2010 relates to an alleged continuing act of discrimination from September 2016 to April 2017.
57. The last date of complaint in either claim is 20 April 2017. This is not a case, as considered in **Hull City Council v Matuszowicz**, in which it is difficult to establish the date upon which time begins to run for bringing a complaint. It is clear that any relevant acts or omissions took place prior to 20 April 2017. Time runs from that date.
58. The three month time limit for presenting a claim expired on 19 July 2017 ignoring any extension of time resulting from a reference to ACAS under the early conciliation procedure.
59. The claim was presented on 14 November 2017.
60. The date of receipt by ACAS of the EC notification was 8 November 2017. The date of issue by ACAS of the EC certificate was 8 November 2017.
61. There is no extension of time under the early conciliation procedure. The claim was presented out of time.
62. The tribunal has considered whether it is just and equitable to extend time.
63. The tribunal notes that there is a wide discretion to extend time. The tribunal has considered all the circumstances of the case and the prejudice suffered by each party as the result of the decision. The tribunal notes in particular:
 - 63.1. **the length of and reasons for the delay:**
 - 63.1.1. The complaint was presented nearly 7 months after the last act complained of, nearly 4 months after the expiry of the time limit;

- 63.1.2. The reason for the delay is not clear. What is clear is that the claimant was from the beginning of his employment fully aware of the employer's duty to make reasonable adjustments and believed from an early stage in his employment that the respondent was breaching that duty. The claimant was also aware of the right to bring a claim to the employment tribunal in relation to such a breach. The claimant had the benefit of trade union representation at the hearing on 20 April 2017, when the experienced trade union representative made representations to the respondent that it had breached the duty to make reasonable adjustments and that the threatened disciplinary action for failure to improve under the performance procedure was inappropriate. No disciplinary action was taken after that meeting on 20 April. The claimant makes no claim against this respondent of discriminatory treatment, no allegation of continued failure to make reasonable adjustments, after 20 April 2017.
- 63.1.3. It is clear that the claimant did not wish to pursue a claim against the respondent while he was in employment. It is his evidence that he did not want to antagonise his employers;
- 63.1.4. the claimant actively considered making this claim following his dismissal on 16 August 2017. It is not clear why he delayed until November 2017 before taking action;
- 63.1.5. The claimant asserts that the reason for his delay was that he was unaware that the time for presenting a claim would begin to run from 20 April 2017. It was his understanding that time would begin to run from the date of dismissal. The claimant had the benefit of advice from his trade union throughout this period. He was able to take advice on the date for presenting his claim prior to termination of employment. He chose not to do so;
- 63.2. **the extent to which the cogency of the evidence is likely to be affected by the delay.** It is well over a year since the last act complained of. The claimant in his evidence today admitted he did not have an immediate recollection of the meeting on 20 April 2017. The respondent asserts that there are no notes of that meeting to assist with memory. The claimant challenges that. The claimant himself has not produced any notes of that meeting. The nature of the complaint under s15 Equality Act relating to that meeting is not clear. The claimant accepts that no disciplinary action was taken by the respondent following the disciplinary hearing on 20 April 2017, after which adjustments were put in place. The complaints about the imposition of the PDRs date back to January

2017. The complaint of failure to make reasonable adjustments relates to the period from September 2016 to April 2017. The claims will require an examination of events from September 2016 to April 2017, of the claimant's performance from September 2016 to April 2017, the reason for the PDRs and the calling of the disciplinary hearing. These are historical matters which have not previously been investigated as part of any formal grievance. Memories do fade. On balance the tribunal finds that the cogency of the evidence is likely to be affected by the delay;

63.3. **the difficulty in establishing when time began to run.** The tribunal notes that it can be expected to have sympathetic regard where there is confusion about the time for bringing any claim in relation to the claim of failure to make reasonable adjustments. This is not a case where the employer's decision on the relevant adjustments was not communicated to the claimant, this is not a case where the employer was seeking to lull the employee into a false sense of security by professing to continue to consider what adjustments it ought reasonably to make. The claimant asserts that he did not realise that the start date for bringing a claim had arisen in April 2017. However, the tribunal cannot accept that assertion. At the meeting on 20 April 2017 the claimant was in attendance when his trade union representative had identified to the respondent that it had failed in its duty to make reasonable adjustments, had acted inappropriately in relation to the proposed disciplinary action. The claimant had full opportunity to seek advice from his trade union representative at that time as to the time limit for any claim at that time;

63.4. **fault of the trade union representative.** The claimant does not assert that the trade union representative advised him in or around April 2017 that the claimant had until the termination of employment to pursue any claim under the Equality Act. The tribunal does not accept that a trade union representative is at fault for not bringing to the attention of their member the time limit for presenting a claim when the member has not sought their advice on the possibility of bringing such a claim. There is no merit in the argument that the failure of the claimant to act within three months after 20 April 2017 was because of the fault of his trade union representative. The claimant is clearly an articulate intelligent young man who in April 2017 was fully aware of his right to claim and had access to appropriate professional advice about the possibility of taking timely action in relation to what he had already identified as discrimination. He chose not to take any such action at that stage;

63.5. The claimant has failed to provide a satisfactory explanation for the delay in presenting the claim after the dismissal. He researched bringing

a claim on the internet. He was still in contact with the trade union during the disciplinary process. He was represented by the trade union at the disciplinary and appeal hearings. It is not clear why he did not seek their advice as to time limits for presenting any claim. The claimant asserts that he believed that the three month time limit would run from the date of dismissal. The tribunal is satisfied that the claimant had ample opportunity throughout to take advantage of the trade union representation and access to legal advice to obtain appropriate advice as to the appropriate time limits. The claimant's failure to act is not by reason of faulty advice but the failure of the claimant to seek that advice

63.6. The prejudice to the respondent in allowing this claim to proceed outweighs the prejudice to the claimant. Memories fade. The nature of the claim in relation to the hearing on 20 April 2017 is not clear. The respondent will be required to spend considerable time and cost in investigating the historic complaints. There was no formal grievance raised by the claimant relating to these complaints during the course of his employment.

In all the circumstances it is not just and equitable to extend time.

64. The claim is therefore dismissed.

Employment Judge Porter

Date: 11 July 2018

JUDGMENT AND REASONS SENT TO THE PARTIES ON

19 July 2018
FOR THE TRIBUNAL OFFICE