

EMPLOYMENT TRIBUNALS

Claimant: Ms H Kaur

Respondent: Ministry of Defence – Defence Equipment and Support

Heard at: Bristol **On:** 12 December 2019

Before: Employment Judge Mulvaney

Representation

Claimant: Mr S Butler, Of Counsel

Respondent: Ms L Robinson, Of Counsel

JUDGMENT ON PRELIMINARY HEARING

1. The claimant's application to amend Claim number 1400775/2019, to include events occurring after 28 April 2018 is refused.
2. Claim number 1400775/2019 having been submitted out of time, is dismissed, it not being just and equitable to extend time to allow it to be heard.
3. The claimant's application to amend Claim number 1400775/2019 to include a complaint of victimisation based on events included in the particulars of claim is dismissed following the dismissal of the claim for reasons given at 2 above.

REASONS

1. This was a preliminary hearing at which the following issues had to be determined:

- 1 Whether the claimant ought to be permitted to amend her claim number 1400775/2019 (Claim 1);
 - 2 If that application is not granted, whether it is just and equitable to extend time to enable Claim 1 to proceed.
 - 3 Whether the claimant ought to be permitted to amend Claim 1 to include a complaint of victimisation (only in respect of the grievance appeal delay).
1. The background to the processing of the claim and the amendment application is as follows:
- 1.1. The claimant submitted her first claim (Claim 1) to the Tribunal on 8th March 2019. The complaints included in Claim 1 were of discrimination on the grounds of race, sex and/or pregnancy and maternity against the respondent. The events relied on in Claim 1 took place between November 2016 and 25th April 2018. In its response to Claim 1 the respondent contended that the claim was out of time and the case was, by notice dated 16th April 2019, listed for a preliminary hearing to determine issues relating to jurisdiction. The preliminary hearing was subsequently postponed to the 10th October 2019.
 - 1.2. On 10th July 2019, the claimant issued a second claim (Claim 2) raising complaints of discrimination on the grounds of race, sex and/or pregnancy and maternity and victimisation against the respondent, relying on events that took place between 24 May 2018 and 8 July 2019 (para 73.1 of Particulars of Claim 2). The claimant asserted that the conduct relied on in Claim 2 formed part of a continuing act with the matters complained of in Claim 1.
 - 1.3. Prior to the preliminary hearing that took place before Employment Judge Livesey on 10th October 2019, the claimant had filed a Scott schedule detailing the allegations raised in Claim 1 and in Claim 2.
 - 1.4. The Scott schedule for Claim 1 included as the last allegation, “Ms Gibson and Mr Neary unnecessarily delaying the appeal hearing outcome due to investigating the grievance”, an act alleged to have extended between 21st February 2018 and 27th February 2019.
 - 1.5. That allegation did not appear in the particulars in Claim 1. There was discussion at the Preliminary Hearing on 10th October 2019 as to whether the allegation was encapsulated in the particulars of claim as contended at the time by the claimant’s representative, Mr Butler. Employment Judge Livesey, having considered the arguments from Mr Butler and from Ms Williams for the respondent and the text of the particulars of claim, formed the view “on a fair reading of the claim form” that Claim 1 did not raise “allegations of discrimination in relation to the delay of the claimant’s grievance appeal”.
 - 1.6. I have considered the same point and have reached the same conclusion. The last action complained of in Claim 1 was the date that the respondent responded to the claimant’s data subject access request (SAR) on 25th April 2018, prompting the respondent’s application to the Tribunal that the claim was out of time, the claim not having been submitted until 8 March 2019.
 - 1.7. Following the Preliminary Hearing on the 10 October 2019, on the 31 October 2019, the claimant’s representative made an application to amend Claim 1 to

include the allegation relating to delay in the grievance appeal, the allegation to be pleaded as a claim of victimisation. Such an amendment, if allowed would mean that Claim 1 was in time in respect of that complaint, and as the other matters were pleaded as continuing acts, the time issue in relation to those matters would proceed to be determined at a final hearing.

- 1.8. The respondent's representative accepted that allegations concerning the appeal grievance delay were contained in Claim 2. However, it argued that such of those events that formed part of that allegation and had occurred prior to the issue of Claim 1, could and should have been included in Claim 1. It contended that it was an abuse of process to include those complaints in Claim 2.
 - 1.9. Following the preliminary hearing on 10th October 2019, the claimant has, in the light of guidance given by Employment Judge Livesey, sought to clarify and simplify both the heads of claim and the number of factual allegations relied on in respect of the heads of claim.
 - 1.10. As a result of this, the claimant has withdrawn her complaints of harassment, sex, race, pregnancy and maternity discrimination in Claim 2 and wishes to proceed only with the victimisation claim in respect of the events described in Claim 2.
 - 1.11. The claimant has also indicated that she wishes to pursue those allegations contained in Claim 1 listed in the Scott schedule at 15 to 18 and dated as occurring between 18th January 2018 and 25th April 2018, as victimisation claims only rather than as direct discrimination claims. This represents an additional amendment as no claim of victimisation was specifically included in Claim 1. I have considered that amendment application in my deliberations following the Preliminary Hearing.
 - 1.12. The allegations on which the claimant now seeks to rely and the heads of claim to which they relate are set out in the amended Scott schedule.
2. That summarises the procedural background to the amendment application to be determined today. I heard evidence from the claimant and from Mr Justin Thomas, the claimant's Trade Union representative and also for the respondent from Mr Munroe-Davies, casework consultant for the respondent.
 3. The factual background to this claim is set out in the case management summary of Employment Judge Livesey dated 10 October 2019.
 4. The claimant's representative in his skeleton argument helpfully set out a summary of the claimant's rationalised claim with reference to the numbering in the amended Scott schedules. The claimant complains:
 - 4.1. That the respondent discriminated against her contrary to Section 18 of the Equality Act on her return from maternity leave in March/April 2017.
 - 4.2. Following an incident on 23rd March 2017, the claimant was discriminated against, being subject to unfair criticism and unjustified allegations. The discrimination was either direct discrimination on the grounds of sex and

race, or pregnancy and maternity discrimination, or harassment on grounds of sex or race.

- 4.3. The respondent discriminated against her by way of victimisation following the raising by her of a grievance in October 2017 and from that date up to the 5th July 2019.
- 4.4. The allegations contained within the two claims run up to the 25th April 2018 in Claim 1 and from 1st May 2018, in Claim 2. Although the amended Claim 2 Scott schedule includes the date of the 1st February 2018 as the first allegation included in Claim 2, that date is not included in the wording to paragraph 22 of Claim 2 and I do not accept that any of the events relied on in Claim 2 precede the date of the 1st May 2018.

Amendment application

5. The claimant's application to amend Claim 1 was made on 31st October 2019. It sought to include allegations of delaying an appeal hearing between 21st February 2018 and 27th February 2019. In an email dated 31st October 2019, the claimant's representative provided a proposed amended claim. The amendments ran to thirty-one new paragraphs detailing factual matters from 18th January 2018 to 8th March 2019.
6. The leading case on amendment of claims is **Selkent Bus Company Ltd v Moore [1996] IRLR 661**. That case sets out the general principles to be applied by Employment Tribunals when considering amendment applications. These are:
 - 6.1. The nature of the proposed amendment;
 - 6.2. The applicability of time limits;
 - 6.3. The timing and manner of the application.
7. The Employment Tribunal should carry out a balancing exercise of these factors, having regard to the interests of justice and to the relative hardship by granting or refusing the permission to amend. A distinction is to be made between amendments which add a new or different claim and those which merely amend the factual or legal basis of the claim.
8. Presidential Guidance on General Case Management (2018) practice note suggests that the Tribunal must decide whether the amendment applied for is a minor matter or a substantial alteration describing a new complaint.
9. I first considered the nature of the proposed amendment. The claimant seeks to amend her Claim 1 to include allegations of delaying an appeal hearing between 21st February 2018 and 27th February 2019. The claimant's Claim 1 was submitted in March 2019 and the events relied on were in her knowledge prior to that date. The application seeks to add a complaint of victimisation as a new head of claim in respect of the new factual allegations. The majority of the events

complained of (24 May 2018 and 8 July 2019) and the victimisation complaint are included in the claimant's second claim submitted on the 10 July 2019.

10. The respondent raised the question as to whether the amendment application represents an abuse of process. The argument advanced is that if the amendment is allowed, the claimant will have been allowed to circumvent the applicable time limits by alleging further acts of discrimination simply in order to bring Claim 1 within the three month time limit. The respondent referred to the case of **Aqdbenowossi-Koffi v Donvand Ltd (trading as Gullivers Travel Associates) [2014] EWCA Civ 855** in which a claimant's second claim, found to have been issued in order to resurrect an earlier claim, was struck out as an abuse of process following the principle established in *Henderson v Henderson*.
1. It is not disputed that Claim 2, and the allegations within it about the grievance appeal delay, was presented in time. Had the grievance appeal delay allegations been included in Claim 1, Claim 1 would have been presented within the three-month time limit. Since they were not included in Claim 1, Claim 1 has been presented outside the three-month time limit.
2. The only reason for the claimant's application to amend Claim 1 to include the grievance delay allegations is to address the limitation issues that arise in Claim 1 since those same allegations about the grievance appeal delay are already the subject of proceedings through Claim 2.
3. In those circumstances I conclude that the claimant's amendment application should not be granted. Whilst it is always possible for a claimant to apply to amend a claim to include facts or claims omitted from the original claim, in this case, the allegations are already part of a subsequent claim and therefore there is no reason to amend the previous claim to include them in that claim. Had the claimant raised allegations in Claim 2 that had already been pleaded in Claim 1, those allegations would have been struck out to prevent duplication. I do not grant an amendment that introduces duplication into proceedings simply to enable the claimant to address the limitation issues that arise in Claim 1. It is not possible to bring two claims to the Employment Tribunal based on the same complaints and for that reason the amendment application cannot succeed.
4. On the question of the timing and manner of the application, it was prompted by discussion at the October Preliminary Hearing before EJ Livesey and was made on the 31 October 2019, by which time the claim based on events prior to 29 February 2019 was in any event out of time.
5. Although there is prejudice to the claimant in disallowing the amendment in that she now faces a jurisdictional issue in relation to Claim 1, she nevertheless has the opportunity to present her arguments for an extension of time on just and equitable grounds.

6. I conclude that the prejudice to the respondent in allowing the claimant's amendment and thereby preventing it from presenting jurisdictional arguments on time limits in respect of Claim 1 and a duplication of allegations is greater.
7. For those reasons I conclude that the claimant's application to amend Claim 1 should not be granted.
8. The respondent has raised a further argument on abuse of process. It argues that the allegations included in Claim 2, which, due to the date they occurred, should have been included in Claim 1 should not be allowed to proceed as they represent an abuse of process. I have considered the law on abuse of process, helpfully summarised in the claimant's skeleton argument. Bingham LJ set out the principles to be applied in the case of **Johnson v Gore Wood & Co [2002] 2 AC 1** as follows:

- 8.1. The underlying public interest is that *"there should be finality in litigation and that a party should not twice be vexed in the same manner."*
- 8.2. Presenting *"a claim ... in later proceedings may, without more, amount to an abuse of process if the court is satisfied ... that the claim... should have been raised in the earlier proceedings if it was to be raised at all"*.
- 8.3. There *"will rarely be a finding of abuse unless the latter proceeding involves what the court regards as unjust harassment of a party"*.
- 8.4. It *"would be wrong to hold that because a matter could have been raised in earlier proceedings it should have been so as to render the raising of it in later proceedings necessarily abusive. That is to adopt too dogmatic an approach.."*
- 8.5. The correct test *"is a broad merits-based judgment which takes account of the public and private interests involved and also takes account of all the facts of the case, focussing attention on the crucial question whether, in all the circumstances, a party is misusing or abusing the process of the court by seeking to raise before it the issue which could have been raised before"*.

8.6. The claimant's Claim 2 is concerned with the respondent's actions from 24 May 2018 and 8 July 2019 a period during which the claimant was pursuing a grievance and grievance appeal which led to disclosure issues and delay and further grievances being raised. Claim 2 raises complaints about the grievance appeal delay, complaints that were still being pursued internally and were ongoing at the time of submission of the first claim. The claimant considered that the respondent's conduct of the grievance appeal was discriminatory, having made reference to that in correspondence. The claimant was being advised by a Trade Union representative at the time but was not legally represented, and her ET1 was drafted by her union representative.

8.7. Taking a broad merits-based approach, I do not accept that the inclusion of those allegations in Claim 2 amounts to an abuse of process. The claimant

was engaged in a grievance appeal and awaiting its outcome. This was an ongoing process which she allowed to run its course before bringing proceedings in respect of the entirety of that process. She could have included some of the allegations contained in Claim 2 in Claim 1, and would in fact have been wise to do so, but that is not to say that she should have done so when she was involved in an ongoing process. This case can be distinguished from that of *Agdbenowossi-Koffi v Donvand Ltd (trading as Gullivers Travel Associates) [2014] EWCA Civ 855* in which case the claimant relied on a specific and defined event that took place before the submission of her first claim. The Tribunal in that case found on the facts, that the claimant had not considered the action to be discriminatory at the time. I am satisfied on the facts of this case that the claimant did consider the respondent's alleged continuing delay and obstruction in the grievance process to have been discriminatory but formed the view with her TU Representative that a claim in respect of that should not be brought whilst the process was continuing.

8.8. I found no evidence that the claimant in the circumstances that applied in this case was misusing or abusing the process of the court by seeking to raise before it an issue which could have been raised before and the respondent's application to strike out part or all of Claim 2 on that ground is not granted.

Jurisdiction/Out of Time

9. It is not disputed that without the amendment to Claim 1, the allegations in Claim 1 have been presented outside of the three-month time limit that applies under s 123 Equality Act 2010 (EqA). S 123 EqA provides that claims must be presented within three months of the date of act complained of. If not, the Tribunal may extend time in order to hear the claim for "such other period as the employment tribunal thinks just and equitable" (s123(1)(b) EqA).
10. The last event relied on in Claim 1 is 25th April 2018, the date that the respondent replied to the claimant's Data Subject Access Request (SAR). The date by which the claimant should have contacted ACAS therefore was 25th July 2018. In fact, ACAS was not contacted until 9th November 2018 and the claim was not submitted until 8th March 2019. It is therefore, based on the date of the 25th April 2018, seven months out of time.
11. When considering whether to extend time the Employment Tribunal has to consider the reasons why the claim was brought out of time and why it was not presented sooner than it was. The Tribunal was encouraged to consider the factors listed in Section 53 of the Limitation Act 1980 which are as follows:
 - 11.1. The length of and reasons for the delay.
 - 11.2. The extent to which the cogency of the evidence is likely to be affected by the delay.

- 11.3. The extent to which the party sued has cooperated with requests for information.
 - 11.4. The promptness with which the claimant acted once she knew of the facts giving rise to the cause of action.
 - 11.5. The steps taken by the claimant once she knew of the possibility of taking action.
12. The timeline of relevant events before and after the last date relied on in Claim 1 is as follows:
- 11/10/17 the claimant submitted a grievance complaining of discrimination by the respondent relating to events following the claimant's return from maternity leave on 22nd November 2016 and her performance annual review moderation panel on 8th June 2017.
 - 18/01/18 the claimant was given the outcome of her grievance. The grievance was not upheld and the outcome letter made no reference to complaints of discrimination.
 - 1/2/18 the claimant appealed the grievance outcome, referring to the lack of response to her complaints of discrimination. She made a Data Subject Access Request (SAR) "in order to allow her to fully prepare for the appeal hearing".
 - 5/2/18 – 13/3/18 the claimant was signed off sick with stress.
 - 28/2/18 the claimant asked for a grievance appeal hearing to be placed on hold until she had received the subject access request information that she had requested.
 - 17/4/18 the respondent provided a response to the claimant's SAR.
 - 27/4/18 the claimant informed the respondent that the SAR response did not contain the information that she had requested.
 - 1/5/18 the claimant requested compliance with the SAR.
"Unless I see evidence to the contrary I will seek legal advice into an action against DE&S under the Equality Act for discrimination on the grounds of maternity and sex as well as equal pay."
 - 6/6/18 the claimant chased the respondent for a response.
 - 12/6/18 the respondent offered to meet the claimant to discuss the SAR and the grievance appeal.
 - 26/6/18 a meeting took place between the claimant and the respondent and outcomes were agreed to potentially resolve the claimant's grievance.
 - 18/7/18 Mr Thomas (the claimant's Union representative) wrote to the respondent saying "closer to Employment Tribunal" if the respondent cannot resolve.

- 21/8/18 Mr Thomas wrote to respondent "DE&S can settle this informally or you can force us to go to the appeal to complete the internal process (thus allowing us to take legal action against DE&S for discrimination)".
- 23/8/18 comments from the respondent: 'appeal meeting to go ahead no scope for informal appeal meeting'.
- 16/10/18 the claimant wrote to the HR Director Daniel Griffiths. "I consider the refusal by DE&S to progress my case and not to process my SAR as an ongoing act of discrimination."
- 23/10/18 Mr Thomas wrote to Daniel Griffiths repeating the claimant's words in her 16 October 2018 letter and saying:
"If we do not receive any response to the email from Harmeet by 26th October 2018, PCS will progress this case to an Employment Tribunal".
- 9/11/18 ACAS receipt of EC notification.
- 23/11/18 the respondent wrote to Mr Thomas.
"Harmeet is still within the bands of internal processes, ...I therefore encourage you to advise your member to set the date for her appeal and to conclude the process prior to engaging with ACAS. This is the appropriate and proper approach to resolve any internal matter and should be followed."
- 25/1/19 Mr Thomas' letter to the respondent.
"The reason we entered ACAS early conciliation was that we regarded the response of 8th November 2018 as being the final act of an ongoing series of discriminatory acts against Ms Kaur." (Respondent's response of 8th November 2018 not included in the bundle).
- 8/3/19 ET1 submitted to Employment Tribunal.

Length of and reasons for the delay

13. The claimant had the assistance of her Trade Union representative, Mr Thomas, from the 14 February 2018. Mr Thomas is an experienced union representative and he acknowledged in his evidence to the Tribunal that he was aware of the time limits that applied to claims in the Employment Tribunal and that by 1st May 2018 he would have told the claimant that she could bring a claim to the Employment Tribunal and of the three-month time limit that applied.
14. In addition to receiving advice from her union representative, the claimant telephoned ACAS on more than one occasion during the period February 2018 to November 2018, to ask about steps that she should take when pursuing an employment tribunal claim. Her evidence was that she was not informed by ACAS about the three-month time limit. I found on the balance of probabilities

that the claimant was aware of the time limits that applied either through her own research or through her Union representative. The claimant made reference to bringing discrimination proceedings in her correspondence with the respondent. She was in contact with and in discussion with her union representative, I find it unlikely that the question of time limits was not raised and the claimant made aware of their significance.

15. In his evidence at the hearing, Mr Thomas said that he believed that the best way of resolving the ongoing grievance with the respondent was by completing the internal process which might avoid the need for legal action. I conclude that both Mr Thomas and the claimant wished to achieve a resolution through internal procedures and viewed tribunal proceedings as a last resort.
16. I find that whilst they were both aware of the three-month time limit that applied in Employment Tribunal cases, their preference was to pursue the internal process first. Mr Thomas accepted in his evidence at the Tribunal that he knew that it was possible to issue proceedings at any time even if internal proceedings were ongoing
17. I accept that the claimant and her Trade Union representative were, during the period from the outcome of the claimant's grievance on 25th January 2018 to the date of the submission of the claimant's claim on 8 March 2019, following internal procedures with a view to resolving the claimant's complaint and I find that the preferred outcome for the claimant was that the matter be resolved internally. It is true to say that delay in the grievance appeal process was largely not the fault of the claimant, but there were periods of inactivity during which it appears that the claimant and/or her TU representative allowed things to drift.
18. Although the claimant referred to issuing Tribunal proceedings in correspondence with the respondent, this was in respect of original complaints that were the subject of the grievance rather than the respondent's actions in dealing with her grievance and grievance appeal (apart from her email of 16/10/18). Had she wished to bring a complaint about the original discrimination allegations following the initial grievance outcome, time would have started to run from 18 January 2018 and proceedings issued by the 17 April 2018 or 17 May 2018 after involving ACAS. By this time the claimant had the advice of her Union representative and had been in contact with ACAS. I conclude that delaying the issuing of proceedings in order to pursue the matter internally was a choice made by the claimant. There is no evidence that the claimant was not capable of taking decisions and acting on them during this time.
19. Seven months is a significant amount of time and the reason for the delay was the choice of the claimant to pursue her complaint internally rather than through the issuing of proceedings. I conclude that this was not a case where the claimant believed that she had to wait until internal proceedings were concluded

before issuing proceedings. A delay in issuing proceedings whilst internal proceedings are pursued is a factor to be considered when deciding whether it is just and equitable to extend time but is not determinative. (*Robinson v The Post Office [2000] UKEAT/1209/00*)

The extent to which the cogency of the evidence is likely to be affected by the delay.

20. The original complaints of discrimination with which Claim 1 is primarily concerned date back to March and April 2017. The proceedings were not issued until 8 March 2019, two years later, which means that the cogency of the evidence about those events is likely to be affected by the delay.
21. The claimant contends that the respondent has been aware of the claimant's complaints throughout the period leading up to the claim due to her grievance and grievance appeal. I accept that this is not a case where the respondent will have been taken completely by surprise when it received the claimant's Tribunal claim, but nevertheless it is important that evidence given in the Tribunal is relatively fresh and that witnesses will be present. Mr Munro-Davies for the respondent refers to a witness, Mr Huggett, who is no longer employed by the organisation, and who may not be available to give evidence. Mr Huggett appears to be an individual of some significance in the claimant's original complaint.

The extent to which the party sued has cooperated with requests for information.

22. The claimant contends that part of the reason for the delay in issuing proceedings was because of the respondent's delay in complying with her SAR, which she requested in 1 February 2018 and to which the respondent responded on the 17 April 2018. The claimant contended that the response to the SAR by the respondent was incomplete and she pursued the respondent for further information. No evidence has been advanced to substantiate that the respondent's response to the SAR was or was not incomplete and I make no finding on that.
23. The claimant relies on the respondent's response to her SAR on the 17 April 2018 date as the trigger for her complaint to the Tribunal so it is unclear how she can rely on the respondent's delay after that date as explaining the late Tribunal application.

24. On 23rd November 2018, after ACAS was contacted, the respondent wrote suggesting that ACAS should not be involved until internal processes had been completed. As this letter was sent after the claimant had approached ACAS, it cannot be relied upon to show that the respondent was exercising pressure to delay the issuing of proceedings by the claimant. She was already significantly out of time by this stage, taking the last date relied on in the ET1 of the 28 April 2018.

The promptness with which the claimant acted once she knew of the facts giving rise to the cause of action.

25. As set out above the claimant chose to pursue internal proceedings rather than issue a claim in the Employment Tribunal. She eventually became frustrated by the process and issued proceedings before the grievance appeal outcome but several months after she knew of the facts giving rise to the cause of action, namely the alleged incomplete response by the respondent to her SAR. From 1st May 2018 the claimant had informed the respondent that she was considering pursuing legal action under the Equality Act and complained of the respondent's delay in complying with her SAR.

26. On 16th October 2018, the claimant informed the respondent that she considered the refusal by the respondent to progress her case and not to process her SAR as an ongoing act of discrimination. She sought the HR Director's assistance in resolving her complaint internally.

27. Mr Thomas was advising the claimant at this time and he considered that it was best to pursue the internal process to resolution if possible before issuing proceedings. On 8th November 2018, he concluded that the internal processes were no longer being actively pursued by the respondent and he approached ACAS "to protect the claimant's position". Proceedings were then issued on the 8 March 2019.

The steps taken by the claimant once she knew of the possibility of taking action.

28. Mr Thomas prepared and submitted the claimant's claim on her behalf in March 2019. The claimant did not review the particulars of claim, but the claimant was not unwell at the time although had some personal difficulties going on at the time. Both Mr Thomas and the claimant had indicated that they considered that the respondent's delay in the grievance appeal process was a further act of discrimination, so the failure to include that allegation in the claim form was, I

conclude, an error. However, the claimant had been aware of the possibility of taking action for some months as is apparent from her emails of the 1 May 2018 and the 16 October 2018 but continued to seek resolution internally.

Balance of Prejudice.

29. Whilst it is understandable that an employee would wish to seek to resolve an employment dispute through internal procedures, I consider the length of time that the claimant and her Trade Union representative delayed the issuing of proceedings to have been unjustifiable. They threatened legal action a number of times but continued to seek a resolution even when given little encouragement by the respondent. I conclude that there was a reluctance to issue proceedings and that this may have been because of a lack of confidence in the strength of the case.
30. Were the case to be allowed to proceed, the respondent would be put to significantly greater expense in dealing with the original allegations of discrimination which date back to March and April 2017. Contrary to the submissions of the claimant's representative, it will not be necessary to explore those complaints in any detail when dealing with the victimisation complaint in Claim 2.
31. There is prejudice to the claimant in not being able to pursue her complaints of discrimination which gave rise to her grievance, but I am satisfied that she was aware of the relevant time limits and capable of making a decision on her preferred course of action during the relevant time period, such that it is not just and equitable in this case to extend time to enable the Claim 1 to proceed. The case is dismissed.
32. Claim 2 will proceed as a complaint of victimisation based on the events pleaded and occurring between 1st May 2018 up to 10 July 2019, the date of submission of Claim 2.

Employment Judge Mulvaney

Date 26 January 2020