



3. The Claimant is a black person of Somali origin.
4. I have heard the Claimant today and asked her some questions. The Claimant tells me she has lived in this country for 20 years. She knew she could claim race discrimination before an Employment Tribunal. She consulted a CAB before issuing the claim. She did not tell them she thought she had been racially discriminated against. Indeed, it had not occurred to her that she had been subject to race discrimination when she filled in the claim form. It was a lawyer who suggested she had been racially discriminated against when she consulted one in June 2022. Hence the application to add a claim of racial harassment dated 20 June 2022.
5. The application to amend was made some 7 months after the events. The normal time limit, of course, is 3 months. This is an amendment so time limits for presenting originating process is just one factor. Time can be extended if just and equitable, of course. Again, I can take that into account as a factor in the exercise of discretion (see for example Vaughan v Modality Partnership UKEAT/0147/20/BA(V) (9 November 2020)). I note further that Mr and Mrs Bamford could deal with the allegation if it were appropriate to do so. They could give evidence about the events.
6. I exercise my discretion against granting the amendment, however. I do so because (a) the Claimant knew she could claim race discrimination before an Employment Tribunal when first making the claim and (b) it did not occur to her that she had been subject to race discrimination. She did not think she was making a claim for race discrimination when she first contacted the CAB, contacted ACAS and when she filled in the claim form. This was her lawyer's idea: not hers. The Claimant is not someone who is ignorant of her rights. She has lived in the UK for over 20 years. If she thought she had been racially discriminated against, she could have and would have said so from the beginning. I do not find a good reason for granting the amendment in those circumstances.

Employment Judge Smail

Date: 15 August 2022

Reasons sent to the parties: 26 August 2022

For the Tribunal Office