



# EMPLOYMENT TRIBUNALS

**Claimant:** Dr S Rifet  
**Respondent:** University of Bradford

## JUDGMENT

**Heard at:** Leeds by CVP **On:** 28 April 2022

**Before:** Employment Judge Tegerdine

### Representation

**Claimant:** In person  
**Respondent:** Miss J Connelly (Counsel)

## RESERVED JUDGMENT ON EXTENSION OF TIME

The judgment of the Tribunal is that it is not just and equitable to extend time, so the Tribunal does not have jurisdiction to consider the claim because it was presented outside the time limit in section 123 of the Equality Act 2010.

## REASONS

### Background

1. The purpose of this preliminary hearing was to decide whether or not it would be just and equitable to extend time for the claimant to bring her claims against the respondent. The hearing had also been listed to consider the claimant's application to amend her claim, however it was not necessary for the Tribunal to consider this issue, because the claimant withdrew her amendment application during the hearing.
2. The Tribunal was provided with a bundle of documents for the preliminary hearing (the "**Bundle**"). The Tribunal heard oral submissions from the claimant, and from

counsel on behalf of the respondent. The claimant provided a witness statement, and gave evidence at the hearing.

3. The claimant commenced employment with the respondent as a lecturer on 1 April 2015. Although the claimant was still employed by the respondent when she lodged her claim, she was no longer employed by the respondent as at the date of the preliminary hearing.
4. Early conciliation started on 13 January 2021 and ended on 12 February 2021. The claimant submitted her claim form on 11 March 2021. All of the claimant's claims were submitted out of time.
5. The claimant's claim relates to the way she was treated during and after her return from maternity leave, and she brings complaints of sex, race, maternity and disability discrimination. The background and procedural history of the claim is set out in the record of the preliminary hearing which took place on 10 June 2021 (**page 20 of the Bundle**).
6. The claimant gave birth to her first child, a son, on 4 December 2018. The claimant was on maternity leave for a number of months, after which she took a short period of annual leave before she returned to work. The claimant physically returned to work on 16 September 2019.
7. The first potentially discriminatory act complained of is alleged to have occurred in April 2019, when the claimant says the respondent pressurised her into returning to work as soon as possible. The last potentially discriminatory act is an allegation that Anna Christina Costa suggested that the claimant had been too lenient in granting an extension. This last act is alleged to have taken place in July 2020.
8. As the last allegedly discriminatory act occurred in July 2020, the claimant's claim was submitted approximately five months out of time. As the primary limitation period had already expired when the claimant commenced early conciliation, the Acas conciliation extension of time provisions in section 207B of the Employment Rights Act 1996 did not apply (**Pearce v Bank of America Merrill Lynch UKEAT/0067/19**).
9. The time limit issue was discussed at a preliminary hearing which took place on 21 September 2021. A record of that hearing is at **page 199 of the Bundle**. During that hearing Employment Judge Lancaster decided that the question of whether or not it would be just and equitable to extend time (assuming for those purposes that the last act, which was alleged to have occurred in July 2020, was discriminatory) should be determined at this preliminary hearing. If time is not extended, the entirety of the claimant's claim will be out of time, and will be dismissed.
10. The purpose of this preliminary hearing is not to determine whether the other alleged discriminatory acts amounted to a "continuing act", as this would be a matter for the final hearing in the event that the Tribunal finds that it is just and equitable to extend time in respect of the incident which is alleged to have occurred in July 2020.

The applicable law

11. Section 123 of the Equality Act 2010 states that a discrimination complaint may not be brought after the end of (a) the period of 3 months starting with the act to which the complaint relates, or (b) such other period as the employment tribunal thinks just and equitable.
12. Although Tribunals have a wide discretion to allow an extension of time under the “just and equitable” test, the Court of Appeal stated in **Robertson v Bexley Community Centre [2003] IRLR 434** that when Tribunals are considering whether to exercise their discretion under what is now section 123 of the Equality Act 2010, “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 complaint unless the applicant convinces it that it is just and equitable to extend time so the exercise of the discretion is the exception rather than the rule.” The onus is on the claimant to convince the Tribunal that it is just and equitable to extend the time limit.
13. Section 123 of the Equality Act 2010 does not specify any list of factors to which a Tribunal is required to have regard in exercising the discretion whether to extend time for “just and equitable” reasons.
14. In **British Coal Corporation v Keeble [1997] IRLR 336** the Employment Appeal Tribunal suggested that in determining whether to exercise its discretion, Tribunals would be assisted by considering the factors listed in section 33 of the Limitation Act 1980. Those factors are:
  - the length of and reasons for the delay;
  - the extent to which the cogency of the evidence is likely to be affected by the delay;
  - the extent to which the party sued has cooperated with any requests for information;
  - the promptness with which the claimant acted once they knew of the possibility of taking action; and
  - the steps taken by the claimant to obtain appropriate professional advice once they knew of the possibility of taking action.
15. The Court of Appeal in **Southwark London Borough Council v Afolabi ICR 800** confirmed that while the checklist in section 33 provides a useful guide for Tribunals, it must not be adhered to slavishly. However, there are two factors which will almost always be relevant to the exercise of the discretion to extend time:
  - the length of, and reasons for the delay; and
  - whether the delay has prejudiced the respondent.
16. The relevance of the factors set out in **Keeble** was revisited in **Adedeji v University Hospitals Birmingham NHS Foundation Trust 2021 ICR**. In that case, the Court of Appeal upheld an Employment Judge’s refusal to extend time for a race discrimination claim which was presented three days late. The Court of Appeal said that it was not healthy for the **Keeble** factors to be taken as a starting point for Tribunals when considering “just and equitable” extensions, and rigid adherence to a checklist can lead to a mechanistic approach to which is meant to be a very broad general discretion. The best approach for a Tribunal in considering the exercise of the discretion is to assess all the factors in the particular case that it considers relevant, including in particular, the length of, and reasons for, the delay.

Relevant factors

17. The claimant says that the delay in submitting her ET1 was caused by three key factors:
- The claimant was the sole carer for her son, who had health issues;
  - The claimant was suffering from anxiety and depression; and
  - The claimant was unaware that she could submit an Employment Tribunal claim.

*Son's health issues*

18. The claimant's son experienced some health issues in 2020, and had an operation in July 2020. The claimant says she was required to provide her son with round the clock care for a number of months, and was anxious about his health issues and his operation. The claimant says that her son's health issues was one of the reasons she did not submit her Employment Tribunal claim sooner.
19. Extracts from the claimant's son's medical records were in the bundle. These records show that the claimant's son suffered from obstructive sleep apnoea which was caused by his enlarged tonsils and adenoids (**letter from Dr Moya dated 15 May 2020 at page 541 of the Bundle**).
20. According to an occupational health report which was prepared by Dr Dempster in respect of the claimant on 7 May 2020 (**page 474 of the bundle**), the claimant's son was "failing to thrive". He was not putting on weight in the normal way because he was having trouble with feeding and sleeping. The claimant's son was prescribed home oxygen for several months to help with his breathing issues, and the claimant was responsible for administering it.
21. The medical records show that the claimant's son had an adenoidectomy and tonsillectomy in July 2020 (**letter from Dr Moya of 3 September 2020 at page 544 of the Bundle**).
22. At paragraph 36 of the claimant's witness statement she says that the period leading up to her son's surgery in July 2020 was an extremely difficult time, as she was in the middle of a disciplinary investigation at work, and was worried about her son's operation. At paragraph 38 of the claimant's witness statement she says that she continued to remain off sick following her child's surgery and that by this point had a "huge amount of fear" about losing her job and her child. She says she couldn't sleep at night because she was worried that he son might stop breathing, and was thinking about the situation she was in at work.
23. At paragraph 42 of the claimant's witness statement she says that although her child's surgery was deemed to be a success, his health conditions had not yet been fully resolved, as he was still experiencing repeated respiratory infections, and had a suspected enlarged heart and digestive issues. In the claimant's oral evidence the claimant said that her son's condition greatly improved after his operation to remove his tonsils and adenoids, but he suffered from repeated chest infections until recently.

24. Dr Moya's letter of 3 September 2020 states that the claimant's son has been "very well" since he had his adenotonsillectomy, and that although he was still having oxygen, the amount of oxygen being given had gone down. The letter states that the claimant's son was eating better, and he had gained weight. It also says that he had had a normal echocardiogram, and been discharged from cardiology.
25. A letter from Dr Moya dated 24 September 2020 (**page 545 of the Bundle**) states that the claimant was concerned about nocturnal retching, which was disturbing her son's sleep. However, on examination the claimant's son looked very well and was very active; his chest was clear and he had normal heart sounds. Dr Moya prescribed medication for nocturnal gastroesophageal reflux.
26. A hospital letter dated 28 September 2020 (**page 547 of the Bundle**) states that the claimant's son had had an oximetry test which was completely normal, that he did not need oxygen overnight anymore, and that no further tests were required.
27. A letter from Dr Garside dated 22 April 2021 (**page 556 of the Bundle**) states that the claimant's breathing had been much better since his surgery in July 2020, and that there had been significant improvement in his oxygen saturations, however the claimant had asked for a further saturation test to be done which would be arranged. Dr Garside thought the claimant's son's digestive issues were typical of toddler's diarrhoea, which takes a while to settle down. The letter states that the claimant's son was continuing to grow well, had put weight on, and was very active.
28. When it was put to the claimant during cross-examination that her son no longer needed oxygen from 28 September 2020, the claimant replied that her son's breathing issues had not been resolved, and more tests were carried out because of her concerns about his breathing. When it was put to the claimant that her son's breathing issues had largely been resolved by December 2020, the claimant said that she had asked for further tests to be done because she still had concerns. When the claimant was asked if her son's respiratory problems had been resolved by April 2021, the claimant said no, because her son required steroids and his digestive issues continued. The claimant also said that her son had been hospitalised because of his infections.
29. On the basis of both the claimant's evidence and the medical evidence, the Tribunal accepts that the claimant's son had some significant health issues prior to July 2020. The Tribunal finds that the claimant's son was having oxygen at home until 28 September 2020, which the claimant was responsible for administering. The claimant's evidence about the impact this had on her between May and September 2020 was consistent with the medical evidence, including the occupational health report dated 7 May 2020. For these reasons the Tribunal finds that the claimant's son's health issues had a significant impact on the claimant's ability to submit an Employment Tribunal claim between May and September 2020.
30. However, the Tribunal found the claimant's evidence about her son's health following his operation to be unsatisfactory, as her answers were somewhat evasive, and were not consistent with the contemporaneous medical evidence. The medical evidence, which the claimant did not dispute, shows that whilst the claimant's son did still have some health issues after his operation in July 2020, his health improved significantly after his operation. The claimant's son did not need oxygen or round the clock care

after 28 September 2020, and was, according to one of the doctors who was treating him, an active child who seemed “very well”. As the claimant’s evidence about this was unsatisfactory, the Tribunal prefers the medical evidence about her son’s health after his operation to the claimant’s evidence, and finds that the claimant’s son’s health issues did not have any appreciable impact on the claimant’s ability to lodge an Employment Tribunal claim after he stopped having oxygen at home on 28 September 2020.

*Anxiety and depression*

31. The claimant says that she suffered from anxiety and depression for a number of months, which contributed to the delay in lodging her Employment Tribunal claim.
32. In the claimant’s oral evidence the claimant said she was suffering from undiagnosed depression from January 2020 onwards, although she continued working until she went off sick in May 2020. At paragraph 42 of the claimant’s witness statement she says that she was suffering mentally and physically throughout the period following her return to work from maternity leave until December 2020, and that she was still unwell when she contacted Acas in January 2021.
33. Dr Dempster’s occupational health report of 7 May 2020 (**page 474 of the Bundle**) states that the reason for the referral was that the claimant had recently been diagnosed with fibromyalgia, and there were concerns about her mental health after she became tearful during a Skype meeting. The report states that the claimant had had a tough time over the previous 16 months because her son had failed to thrive, was awaiting surgery for a tonsillectomy and adenoidectomy, and was being investigated for possible heart problems. The report states that the claimant had been diagnosed with post-natal depression in January 2020. The report noted that the claimant’s working hours had been reduced to 27.5 hours per week, and advised that the claimant was fit to work those hours.
34. A further occupational health report was prepared by Dr Dempster on 16 July 2020 (**page 478 of the Bundle**). This report confirmed that the claimant’s son was due to undergo surgery on 20 July 2020, which the claimant was very concerned about, and that that aspect of her stress would hopefully improve if the operation was successful. The report advised that the claimant had been particularly affected by the Coronavirus lockdown, and that although the claimant was still very stressed and anxious and not fit for work, she was capable of participating in a disciplinary hearing. The report advised that the disciplinary process was a major contributor to the claimant’s mental health problems, and that a rapid conclusion to the investigation was likely to improve her mental state.
35. The claimant says at paragraph 39 of her witness statement that she started CBT therapy in October 2020, and that the CBT helped her to realise that she was grieving about the negative and unsupportive treatment and harassment she felt she had experienced at work. The claimant says that this realisation gave her the courage, alongside the support of her union, to raise an internal grievance and to “finally seek justice for the discriminatory treatment I had faced for numerous years”. The claimant submitted a formal written grievance on 15 December 2020.

36. At paragraph 40 of the claimant's witness statement she says that she started receiving counselling from the respondent's counselling service in December 2020, and contacted Acas following a recommendation from the counsellor. The claimant says she was only able to contact Acas after she had had CBT and counselling, which helped her to manage her anxiety and depression.
37. The claimant says in her witness statement that she spoke to Acas in January 2021, but asked them to put her complaint "on hold" until the grievance process had been concluded, because she wanted to see the grievance process through, and was fearful of the repercussions if she pursued a claim. The claimant says that the Acas officer told her that he would need to close the claimant's case and send her the Acas EC certificate on 12 February 2021, which would give the claimant one month to present her claim. The claimant says that she submitted a claim on 12 March 2021 "with much reluctance and fear" (paragraph 40 of her witness statement).
38. The claimant accepted in her oral evidence that she would have been fit to lodge an Employment Tribunal claim during the period between April 2019 and May 2020. As there is no evidence that the claimant was not fit to submit a claim during this period, the Tribunal accepts the claimant's evidence that she was fit to lodge a Tribunal claim between April 2019 and May 2020.
39. On the basis of the claimant's evidence and the occupational health reports in the Bundle, the Tribunal finds that the claimant was suffering from anxiety and depression between May 2020 and March 2021. However, the claimant did not produce any medical evidence to show that she was not fit to lodge an Employment Tribunal claim because of her mental health issues, and she accepted during cross-examination that as she was fit to submit a grievance between September – December 2020, she could have submitted an Employment Tribunal claim during that time "if she'd been aware".
40. The claimant also confirmed that once her list of complaints had been created in December 2020 with the help of the trade union, she would have been able to submit the grievance document to the Employment Tribunal "if I had been aware". On this basis the Tribunal finds although the claimant did have mental health issues between May 2020 and March 2021, they did not in themselves prevent her from lodging an Employment Tribunal claim.

*Lack of awareness*

41. In the claimant's oral evidence she said that she wasn't aware she could submit a claim in the Employment Tribunal until she started receiving CBT and counselling from October 2020 onwards.
42. The claimant confirmed in her oral evidence that she worked for the Director of Equality and Diversity between April 2015 and April 2016 collecting data on equality and diversity, and putting in interventions. However, she said that her awareness of gender equality issues was limited to disparities in treatment, and did not extend to legislation.
43. The claimant said in her oral evidence that she knew there were laws protecting protected characteristics, and that a person had a legal right to bring a claim if they

were discriminated against because of a protected characteristic, however she believed a claim could only be brought after matters had been exhausted internally.

44. The claimant said in her oral evidence that it did not occur to her that she might have a discrimination complaint. She said that at the end of 2019 during a conversation about her return to work, someone told her that a professor had said that people know how to play the system by “going off pregnant”. However, the claimant said that it did not occur to her that this could be discrimination, because she had no evidence that these words had been said. She said she did not seek any advice from a trade union at that point.
45. The claimant contacted a trade union for support in July 2020. The claimant said in her oral evidence that she didn’t approach the trade union for advice because July 2020, because at that time she saw what had happened to her as ill treatment, rather than discrimination. The claimant says that when she did obtain support from the trade union in July 2020, she was advised by them that without any evidence it was her word about what someone else had told her against the professor’s word. The claimant said in her oral evidence that she had support from her union, so she didn’t see the relevance of contacting Acas.
46. The claimant said in her oral evidence that she wasn’t aware of the existence of Employment Tribunals. She accepted that she has advanced research skills and that she could have made herself aware of her rights, however she said that she could only have done that if she had been aware that Employment Tribunals existed, which she wasn’t.
47. The claimant said in her oral evidence that she didn’t want her employer to know about her complaint to Acas until she’d exhausted the internal process, so was waiting for the grievance process to be concluded before she lodged an Employment Tribunal claim. The claimant said that she believed the grievance process might have come to an end before 11 March 2021.
48. The claimant also said in her oral evidence that she believed she had to exhaust the internal grievance process before she submitted a claim, however she did not explain why she believed this, and she failed to ask her trade union for advice about lodging a claim or seek legal advice, even after she started preparing her grievance in September 2020.
49. The claimant said in her oral evidence that she was afraid that the professor would become aware of the complaints about him, however she said that was not the reason why she was slow to submit her claim, and if she’d been aware of her rights she’d had brought a claim sooner.
50. It was put to the claimant in cross-examination that in her witness statement she says that she was reluctant to lodge an Employment Tribunal claim because she was worried about people finding out about her complaint. The claimant replied that was correct, but she had lodged a claim in March 2021 because Acas had told her that that was her last opportunity to submit a claim – otherwise she’d have waited until the grievance process had come to an end.



51. The claimant is an educated woman who has advanced research skills. She worked in the field of academia, and had previously worked in the field of gender equality. The Tribunal finds it hard to believe that the claimant did not know that Employment Tribunals existed, particularly as the claimant says she had been subjected to unfair treatment for almost two years by the time she lodged her Tribunal, and had the support of a trade union from July 2020 onwards. Even if the Tribunal accepts that the claimant did not in fact know about Employment Tribunals, know how to go about lodging a claim in the Employment Tribunal, or know what the relevant time limits were, the Tribunal finds that the claimant's ignorance about these matters was not reasonable given her academic background and research expertise.

*Prejudice to the respondent*

52. The claimant's complaints relate to a range of matters which are alleged to have occurred between April 2019 and July 2020. If the Tribunal accepts for the purposes of considering the time limit issue that the last discriminatory act occurred in July 2020, the deadline for submitting a claim expired in October 2020. However, the claimant didn't contact Acas until January 2021, and then delayed a further two months before lodging her claim in March 2021. By the time the claimant lodged her claim, almost two years had passed since the first discriminatory incident allegedly occurred in April 2019.

53. The respondent's representative argued that the claimant's delay in lodging her claim has affected the respondent's ability to preserve the evidence. The respondent's representative said that both the quality of the evidence and the availability of witnesses has been adversely affected by the delay.

54. The respondent says that the claimant's delay in lodging her claim means that the respondent did not have the opportunity to interview potential witnesses soon after the discriminatory incidents were alleged to have occurred. In addition, some potentially relevant witnesses no longer work for the respondent and may not be willing to assist.

55. Furthermore, the respondent's representative argued that to the extent that relevant witnesses are still available and willing to give evidence, their memories will have faded, and the five month delay in the submission of the claimant's claim is significant, and causes significant prejudice to the respondent.

56. The claimant argued that the respondent had been made aware of the claimant's potential claims when the claimant lodged her grievance on 15 December 2020. However, the respondent's representative pointed out that this was still substantially outside the limitation period, and argued that the basis of the claimant's claim had changed by the time she submitted her claim in March 2021.

57. As the alleged incidents occurred over a period of time between April 2019 and July 2020 and the claim was not lodged until March 2021, the Tribunal finds that the delay in lodging a claim was significant, and caused prejudice to the respondent in respect of ensuring that witnesses were available, and that they had clear recollections about what had happened.

Conclusions

58. Applying the relevant legal principles to the facts of this case, the Tribunal has reached the following conclusions.

*April 2019 – May 2020*

59. The claimant confirmed in her oral evidence that she was fit to submit a claim during this period of time, but was not aware she could bring a claim. On the basis of the claimant's evidence the Tribunal finds that the claimant was fit to submit an Employment Tribunal claim during the period April 2019 and May 2020. The Tribunal finds that the claimant's lack of awareness was not reasonable. The claimant's lack of knowledge about her rights is dealt with at paragraphs 69 – 72 below.

*May 2020 – September 2020*

60. The claimant was off sick with anxiety and depression from May 2020 onwards. The claimant's son was failing to thrive between May and September 2020. The claimant's son had breathing issues which required oxygen to be regularly administered at home, and had a tonsillectomy and adenoidectomy under general anaesthetic in July 2020. The claimant was also required to engage with a disciplinary process during this time.

61. The claimant finds that the combination of the claimant's mental health issues, her son's health issues (which were significant during this period), and having to deal with a disciplinary investigation, meant that the claimant was unable to submit an Employment Tribunal claim during the period between May 2020 and September 2020.

*September 2020 – March 2021*

62. The Tribunal finds the claimant's evidence about why she did not submit a claim between September 2020 and March 2021 to be unsatisfactory. The claimant said in her oral evidence that she did not realise that what had happened to her amounted to discriminatory treatment, however the claimant's witness statement appears to contradict this, as it says that the claimant's CBT therapy gave her the courage to raise an internal grievance and "finally seek justice for the discriminatory treatment I had faced for numerous years".

63. In the claimant's witness statement she says that when she contacted Acas in January 2021 she asked them to put the conciliation process on hold, because she was "fearful" of repercussions, and that she submitted a claim with "reluctance and fear" on 12 March 2021, as that was what she believed to be the deadline for submitting a claim. However, in her oral evidence the claimant said that she believed that she had to exhaust the internal processes before she submitted an Employment Tribunal claim, and did not submit a claim sooner because she was waiting for the internal grievance process to be concluded.

64. The claimant's son's operation in July 2020 was a success, and his health significantly improved as a result. The claimant suggested in her oral evidence that her son was still suffering from significant health issues after July 2020. However, the Tribunal finds that the claimant's account of her son's condition after July 2020 is inconsistent

with the contemporaneous medical evidence, which shows that her son's health significantly improved following his surgery, and that although he still had some health issues, these do not appear to have been a serious cause for concern.

65. The disciplinary process came to an end in September 2020. Although the claimant was still experiencing mental health issues and was on sick leave, she had CBT therapy starting in October 2020, followed by counselling which started in December 2020, both of which helped her to manage her mental health issues.
66. The claimant had the support of a trade union during this period, who she had first contacted for advice in July 2020, and with the trade union's support she prepared a detailed written grievance, which she submitted on 14 December 2020.
67. The claimant accepted when she was giving evidence that she would have been able to submit a claim from September 2020 onwards if she had been aware of her rights, and the Tribunal finds that the claimant was fit to submit a claim between September 2020 and March 2021.
68. The claimant claims that she experienced discriminatory treatment between April 2019 and July 2020. Although the Tribunal accepts that the claimant was not fit to submit a claim between May and September 2020, it finds that she was fit to submit a claim between April 2019 and May 2020, and between September 2020 and March 2021. The Tribunal finds that the only reason she did not do so was because she didn't know what Employment Tribunals were, and wasn't aware that she could bring a claim.
69. The claimant is an educated woman with above average research skills. She worked in a university setting, and had the support of a trade union from July 2020 onwards. In the circumstances it would have been relatively quick and easy for the claimant to find out about her legal rights and what the time limits were for lodging a claim.
70. The claimant could have contacted the trade union or a solicitor for advice about her legal rights, or carried out her own research between April 2019 and July 2020, however she did not do so. The claimant also failed to seek out advice about her rights or carry out any research of her own between September 2020 and March 2021. Furthermore, when the claimant contacted Acas in January 2021 and was informed that there was a deadline for lodging a claim, she still failed to do any research into what her rights were, and delayed a further two months after contacting Acas before she finally lodged a claim. In all the circumstances the Tribunal finds that the claimant's ignorance of her rights was not reasonable.
71. Assuming for the purposes of determining the time limit issue that the last discriminatory act occurred in July 2020, the limitation period for submitting a claim to the Employment Tribunal expired in October 2020. Although the claimant was capable of submitting a claim from September 2020 onwards, she did not lodge a claim until March 2021. The Tribunal finds that the claimant's explanation about why she did not contact Acas until January 2021 and then waited a further two months to lodge her claim is unsatisfactory.
72. The claimant said she thought she had to wait until she had exhausted the internal process before she lodged a claim, however she didn't do any research about this, or

seek any advice, and it is not clear why she believed this. The claimant's lack of knowledge about the Employment Tribunal process and the relevant time limits was not reasonable in the circumstances.

73. The claimant says she was scared about lodging an Employment Tribunal claim, however the claimant was willing to submit a comprehensive written grievance in December 2020, and her fears about lodging a claim do not appear to have amounted to anything more than the kind of fear many claimants have about bringing a claim.
74. The claimant is an educated woman who was more than capable of finding out what her rights were. She had the support of a trade union, and was capable of submitting a claim from September 2020 onwards. Although the alleged discriminatory events date back to April 2019, the claimant's claim was not submitted until March 2021. This was five months after the limitation period had expired, and nearly two years after the first discriminatory act is alleged to have occurred.
75. The Tribunal finds that claimant's delay in lodging a claim has caused prejudice to the respondent in respect of the availability and willingness of witnesses to assist with the Employment Tribunal process, and the fact that witnesses' memories of what happened are likely to have faded.
76. The onus is on the claimant to convince the Tribunal that it is just and equitable to extend the time limit. In this case the Tribunal finds that the claimant has failed to do this, and finds that taking all the relevant factors into account, it is not just and equitable to extend time to vest the Tribunal with jurisdiction. Accordingly, the Tribunal has no jurisdiction to consider the claim.

Employment Judge Tegerdine

Date 23 June 2022

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