



EMPLOYMENT TRIBUNALS

Claimant: ALISON CHASE

Respondents: NEW FOREST DISTRICT COUNCIL

Heard at: Exeter (by VHS) **On:** 29 June 2023

Before: Employment Judge Oldroyd (sitting alone)

Appearances

For the Claimant: Ms Chase (in person)

For the Respondent: Mr Peck (Counsel)

RESERVED JUDGMENT

1. The Claimant's claim that the Respondent failed to make reasonable adjustments pursuant to Sections 20 & 21 of the Equality Act 2010 was not brought within time and it would not be just and equitable to extend time pursuant to Section 123 of the Equality Act 2010.

WRITTEN REASONS

Introduction

1. The Claimant alleges that the Respondent failed to make reasonable adjustments in respect of her disability.
2. The Respondent denies the claim and, among other things, asserts that the Employment Tribunal has no jurisdiction to consider the claim as it was presented outside of the relevant statutory time limits.

3. The issue of whether the Tribunal has jurisdiction to consider the claim was ordered to be the subject of a preliminary hearing.
4. The preliminary hearing was heard on 30 June 2023.

Evidence & documents

5. In terms of evidence, the Claimant produced a witness statement and gave oral evidence. Mr Cole, an employee of the Respondent, also produced a witness statement and gave oral evidence.
6. The parties produced a bundle of documents that extended to 319 pages as well as an agreed chronology.
7. Both parties produced written submissions. I was also provided, by the Respondent, with a bundle of authorities.
8. Regular short breaks were taken during the hearing by way of reasonable adjustments and in light of the Claimant's disability.

Facts findings

9. The Respondent is a local authority.
10. The Claimant commenced her employment with the Respondent on 21 June 2000, working as a Tax and Benefits Officer. The Claimant was initially based at the Town Hall in Lymington.
11. In March 2012, the Claimant was diagnosed with Chronic Fatigue Syndrome (among other things). It is not disputed that, since March 2012, the Claimant has been disabled within the meaning of Section 6 Equality Act 2010. It is also not disputed that the Claimant's disability has had a significant effect on her working as well as home life.
12. Upon the Claimant's disability being diagnosed in 2012, the Respondent put into effect reasonable adjustments. Notably:
 - a. The Claimant was permitted to start work at 10am instead of 9am. This gave the Claimant a period of rest between taking her daughter to school and starting work.
 - b. The Claimant was able to have access to a first aid room which was equipped with a bed. This enabled the Claimant to rest as required and particularly over the lunch period.
13. This arrangement worked well and it allowed the Claimant to work effectively, particularly during the period February 2015 to October 2018. During this time period, the Claimant was not absent from work at all.
14. However, on 12 December 2018, the Claimant's working location was changed. Along with other colleagues, the Claimant ceased working at the Town Hall in Lymington and was moved to Appletree Court, Lyndhurst (**ATC**). ATC was approximately 6 miles further away from the Claimant's home and there was less parking available to employees.

15. The Claimant says that as a result of her move to ATC she immediately lost the benefit of the reasonable adjustments that had been put in place or, more pertinently perhaps, new equivalent adjustments were not put into place. To this end, the Claimant says that:
- a. Although she was still permitted to start work at 10.00, the limited parking that was available at ATC, coupled with the greater distance she now had to travel, meant that she was obliged to arrive at work closer to 9.00am so as to guarantee herself a parking space. The Claimant says that this caused her to lose the chance of properly resting before starting work.
 - b. She was not afforded access to a first aid room with a bed (or some similar arrangement) and so was unable to rest over the lunch period or as and when required.
16. It is clear that the Claimant was concerned by the prospect of the move to ATC, and the loss of the reasonable adjustments that she had hitherto enjoyed, many months before the move eventuated. Indeed, the Claimant became anxious almost as soon as she was told that the move would be taking place. Hence, by e-mail dated 25 April 2018 and nearly 8 months before the move actually happened, the Claimant raised the impending loss (or potential loss) of her reasonable adjustments with the Respondent's HR team (page 84). In that e-mail, the Claimant expressly stated that she was reliant upon the reasonable adjustments that had been made (and in particular access to a first aid room with a bed).
17. It is clear too that the Respondent attempted to address the Claimant's concerns. By e-mail dated 8 June 2018, Mr Ryan Stevens of the Respondent (a manager) indicated that a first aid room with a bed would be made available to the Claimant at ATC (page 86). I have no doubt that Mr Stevens believed that this would be the case but, in the event, such a room did not exist at ATC (at least it did not exist during the period that the Claimant physically worked there).
18. As the move to ATC approached, the Claimant came to learn that a first aid room with a bed would not be immediately available and indeed would not be available for some months. This was owing to the fact that ATC was itself being refurbished (page 90). I find that the Claimant was initially accepting of this, but her belief was that an appropriate room would be made available as soon as was practically possible and without undue delay.
19. Shortly after the move to ATC and in January 2109, the Claimant was advised that her performance at work was not reaching a required standard. It is clear to me that the Claimant attributed this to the absence of the reasonable adjustments that she had been made available to her historically, but which were not available at ATC. Hence in her written Statement, the Claimant noted that her *"ability to pace and rest was directly impacted from December 2018"*. Accordingly, whilst the Claimant had been initially accepting of the fact that she would not have access to a room with a bed, once her performance was called into question, she no longer was. In light of this, and by e-mail dated 25 January 2019 to the Respondent's HR team (92), the Claimant said:

"Since our move to [ATC] in December I am no longer getting any of the reasonable adjustments that I previously had and in any case I feel that my needs have changed and

have requested a review with Occupational Health ... In the meantime I do not feel able to come into work"

20. The Claimant was then absent from work between 25 January and 10 February 2019 on account of her disability. In her evidence, the Claimant attributed this absence, at least in part, to the loss of her reasonable adjustments and the failure of the Respondent to put new and equivalent adjustments in place.
21. The Respondent did continue to attempt to meet the Claimant's concerns. At the end of January 2019, for example, it arranged for the Claimant to work for a week at the Town Hall. Also, upon her return to ATC, the Claimant was provided with a rest room (but without a bed) and also her rota was adjusted (page 96). The Claimant was also referred to Occupational Health on or about 22 March 2019. The purpose of that referral was stated to be "...to ascertain what, if any, additional measures can be implemented to support Alison".
22. Dr Skidmore produced an Occupational Health report dated 12 April 2019 which noted that the provision of a room with a bed at ATC was impractical (or just not possible). Other adjustments were suggested such as allowing the Claimant to rest in her car in periods of fair weather and adjusting the Claimant's telephone duties (which were especially demanding).
23. The Respondent implemented these recommendations and further, as of 1 May 2019, the Respondent was still indicating that a first aid room (with a bed) would eventually become available at ATC (page 108).
24. As of 24 June 2019 and 27 September 2019 and in 'catch ups' with Mr Stevens, the Claimant was again told that a first aid room would be provided in due course (page 110 / 113). In the last of the meetings, a note records the Claimant as confirming she was content at work and "*no further support or [help] was needed*".
25. The Claimant says that this remained the position until March 2020 at which time the country entered into the first national lockdown as a result of the Covid 19 pandemic.
26. At this point the Claimant and other colleagues were instructed to work from home. The Claimant says that from this time she was expected to work and specifically undertake telephone duties between 8.45 and 13.00.
27. The Claimant says that this working regime led her to be ill, a point she flagged to the Respondent by e-mail dated 10 June 2020 (117). The Claimant explained that:

"I am struggling to cope with life in general. My normal coping strategies and support networks are not available because of COVID."
28. By e-mail dated 20 July 2020 (117) the Claimant requested that she be provided with a better screen for home working in anticipation that working from home was to be what had been described to her as a "*semi-permanent*" arrangement.
29. As from 17 August 2020, the Claimant's illness was such that she was unable to work at all. The Claimant's illness is well documented in her Statement in which the Claimant describes how, from this period, she often felt unable to get washed or dress herself.

30. Although the Claimant attempted a phased return to work in November 2020 that was very short lived and the Claimant remained unfit to work after that time.
31. Although the Respondent was undoubtedly very poorly at this time, and certainly not fit to work, she plainly was able to carry out some tasks that required mental effort. Hence, in February 2021 she completed documentation for a Personal Independence Payment and in March 2021 she contributed significantly to an Occupational Health referral that was made on her behalf by the Respondent. I accept the Claimant's evidence, though, that the Claimant found these tasks very time consuming and draining. This is entirely consistent with the picture painted by the medical evidence.
32. As to this medical evidence, the bundle is replete with Occupation Health reports, all of which suggest that that the Claimant was not able to work after 17 August 2020. It is clear also from this medical evidence that, although the Claimant says that the failure to implement reasonable adjustments initially caused her to become unfit to work (and I make no findings in that regard), it was not the failure to make reasonable adjustments that was inhibiting the Claimant's *return* to work. None of the Occupational Health Reports suggested that any form of reasonable adjustment would enable the Claimant to return to work.
33. In May 2021, the Respondent began to formally manage the Claimant's absence in accordance with its Sickness & Absence policy. This entailed the Claimant having regular review meetings to discuss her progress and a possible return to work. The Claimant was advised that the outcome of these review meetings might eventually be that her employment would be terminated on ill health grounds.
34. It was against this backdrop that the Claimant says that she first actively considered bringing some form of a legal claim against the Respondent. To this end, the Claimant did not (in her written Statement or her written submissions) suggest that she was ever *unaware* of her right to claim or indeed the time limit within which such a claim should be brought. Instead, the Claimant's evidence was that she simply did not wish to bring a claim whilst she was hopeful of a return to work for she did not wish to damage relations with her employer. In her Statement, and in relation to thus time period, the Claimant states:
- ".... I did not bring a claim at that time as I still hoped to recover and return to work. It was my expectation that my employer would put the necessary adjustments in place to enable me to return to work .."*
35. It was only in July 2021, when the Claimant came to realise that a return to work might not be a realistic possibility, that her mind turned to litigation at which point she sought legal advice. At paragraph 59 of her Statement the Claimant states:
- "... I began to feel very worried about my future if my health did not improve. I was anxious that I could lose my job and I began to feel aggrieved about the way my reasonable adjustments had been handled since relocating to ATC and whilst working at home .."*
36. The Claimant says that the thrust of the legal advice that she received was that:

“...a failure to provide reasonable adjustments was a continuous failure until they were provided, so the normal deadline of 3 months less 1 day for making a claim did not apply. Therefore, if I lost my job, my date of dismissal could be taken as the end of the continuous period of failure to make reasonable adjustments ..”

37. I accept that after July 2021, the Claimant did not bring a claim earlier than she did because of the advice she had received.
38. Following a final Occupational Health assessment on 11 January 2022 (in which Dr Jenney Leeser confirmed that the Claimant was unlikely to be able to return to work within the next 3 years), the Claimant's employment was terminated by the Respondent on ill health grounds on 14 January 2022.
39. Following the termination of her employment, the Claimant raised a grievance by letter dated 24 January 2022. The thrust of the grievance was that Claimant said that she felt that she had been unsupported since the move to ATC (in the sense that the reasonable adjustments that now form part of this claim were not made). In other words, the Claimant made a complaint that she makes in this claim. The Claimant's grievance was not upheld.
40. After attempts at reconciliation having been made through ACAS, the Claimant presented ET1 and commenced this claim on 16 June 2022.

The claims

41. In this claim, the Claimant alleges that the Respondent failed to make reasonable adjustments pursuant to Sections 20 & 21 EA 2010.
42. There are two categories of adjustments that the Claimant says ought to have been made but were not:
 - a. In December 2018 and upon the move to ATC the Claimant says that she ought to have been afforded a parking space and also access to a first aid room with a bed (the **ATC Adjustments**);
 - b. In March 2020 and upon the Claimant beginning to work from home during lock down the Claimant says :
 - i. she ought to have been provided with suitable IT equipment. The Claimant says in essence that the equipment that was provided was inferior to that provided in the office; and
 - ii. she was required to carry out call handling duties from 08.45 – 13.00 (whereas previously she had carried out such duties from 10.00 – 12.00).(the **Home Working Adjustments**)
43. The Claimant confirmed to me at the outset of the hearing that that she does not claim that her dismissal itself was discriminatory.

The preliminary issue

44. At a Case Management Hearing on 15 December 2022, EJ King ordered that the issue of whether the Claimant's complaints were brought in time such that the ET had jurisdiction to hear them should be resolved at a preliminary hearing.
45. The issues to be determined by the Tribunal (as amended by subsequent Orders) were described as follows.

"The claim form was presented on 16 June 2022. The Claimant commenced the Early Conciliation process with ACAS on 10 April 2022 (Day A). The Early Conciliation Certificate was issued on 21 May 2022 (Day B). Accordingly, any act or omission which took place before [11 January 2022] (which allows for any extension under the Early Conciliation provisions) is potentially out of time so that the Tribunal may not have jurisdiction to hear that complaint.

Were the discrimination complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:

- Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act or omission to which the complaint relates?*
- If not, were the claims made within a further period that the Tribunal thinks is just and equitable?"*

The Law

46. Section 123 of the Equality Act (the **Act**), which specifies time limits for bringing employment claims, provides as follows:

"(1) ... proceedings on a complaint ... may not be brought after the end of—

- (a) the period of 3 months starting with the date of the act to which the complaint relates, or*
- (b) such other period as the employment tribunal thinks just and equitable.*

...

(3) For the purposes of this section—

- (a) conduct extending over a period is to be treated as done at the end of the period;*
- (b) failure to do something is to be treated as occurring when the person in question decided on it.*

(4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.”

47. In the case of a failure to make reasonable adjustments of the nature involved in this claim, the discriminatory conduct occurs by way of an omission as opposed to a continuing act (**Kerr -v- Fife Council UKEATS/022/20**).
48. As starting point, a failure to make reasonable adjustments is taken as occurring when an employer made the decision not to act. This is the effect of Section 123(3)(b) of the Act.
49. Pursuant to Section 123(4) of the Act, in the absence of evidence of when a decision not to make a reasonable adjustment was made, an employer is deemed to have decided not to do something when:
- a. it carries out an act inconsistent with implementing the reasonable adjustment; or else
 - b. if there is no inconsistent act, at the expiry of the period in which the respondent might reasonably have been expected to implement the reasonable adjustment.
50. The issue of when an employer might reasonably have been expected to make a reasonable adjustment was considered by the Court of Appeal in **Abertawe Bro Morgannwg University Local Health Board v Morgan [2018] EWCA Civ 640**. It was held that that period should be assessed from the employee's point of view, having regard to facts known by that employee.
51. In terms of Section 123(1)(b), the Tribunal has a very wide discretion when it comes to extending time, but regard must be had to what is just and equitable.
52. It is, in all cases, necessary to balance the prejudice that will be caused to each party should time be extended (**Pathan -v- South London Islamic Centre UKEAT/312/13**). It is self-evident, of course, that if discretion is not afforded to an employee then they will be deprived of a cause of action. Conversely, if discretion is afforded to an employee, then their employer will become bound to incur the cost of dealing with a claim that would otherwise have been out of time.
53. In **Morgan**, the Court of Appeal confirmed that having regard to the factors set out in Section 33 Limitation Act 1980 is a useful guide (but it is not a prescriptive list). The factors which are almost relevant are:
- a. the length and reasons for the delay; and
 - b. the prejudice caused to an employer by the delay (especially if an investigation has been hampered, for example).

54. As a general rule it is in the public interest that time limits are enforced, and strictly so (**Adedeji v University Hospitals Birmingham NHS Trust [2021] EWCA Civ 23**).
55. There is certainly no presumption that discretion should be exercised and indeed it is for the applicant to justify the exercise of that discretion. Hence, in **Robertson -v- Bexley Community Centre [2003] IRLR** the exercise of discretions was described as the exception and not the rule (albeit it is not the case that an extension of time may only be justified by exceptional circumstances).

The Claimant's position

56. The Claimants say that the ATC Adjustments ought to have been first implemented in or around December 2018 and the Home Working Adjustments ought to have been implemented in or around March 2020. On the basis that ET1 was presented on 16 June 2022, the claims are, when superficially viewed at least, presented out of time.
57. The Claimant, though, maintains that the failure to make reasonable adjustments was a state of affairs that continued up until her dismissal on 16 January 2022 (relying upon Section 123(3)(a) of the Act, which relates to "*conduct extending over a period*"). If that is right, and allowing for the ACAS extension, it is not disputed that the claims would be brought in time.
58. The Claimant says that, in any event, the Tribunal ought to exercise its discretion and extend the time within which any claim should have been brought. The Claimant, among other things, says that extending time in this way would be just and equitable in light of the effect of her disability on her.
59. The Respondent asserts that the claims were presented out of time on the basis that time ought to run from the date on which the Respondent ought reasonably to have made the adjustments contended for, and so by the end of 2020 at the very latest. The Respondent also disputes that it would be just and equitable for the Tribunal to extend time in light of the length of the delay and the absence of good reasons for that delay in particular.

Analysis

Were the discrimination complaints made within three months (plus early conciliation extension) of the act or omission to which the complaint relates?

60. In order to determine whether the complaints made by the Claimant were brought within 3 month period that is provided for by Section 123 of the Act, it is necessary to determine the date of the act or omission to which the complaint relates.
61. In this instance, the complaint that is made relates to the failure to provide reasonable adjustments that spans over a period of time, or adopting the language of Section 123(3)(a) of the Act, "*conduct extending over a period*"
62. As **Kerr** confirms, the starting point is to consider the nature of the complaint in question is an act or else an omission. In this case, the complaint is based on a failure to make a reasonable adjustment which is plainly an omission.

63. As a result, the issue of when that omission occurred (for the purposes of identifying when time begins to run for the purposes of Section 123(1)(a) of the Act) is determined by reference to Sections 123(3)(b) and (4).
64. As far as Section 123(3)(b) is concerned, the Respondent did not suggest that it made any conscious decision to not implement the adjustments sought. This being so, to determine when the Respondent's alleged failure occurred, it is necessary to apply Section 123(4) of the Act.
65. Section 123(4)(a) of the Act essentially provides two 'deeming' provisions.
66. The first of those deeming provisions requires the Tribunal to determine whether the Respondent acted in a manner that could be regarded as being inconsistent with implementing reasonable adjustments. In my judgment, the answer to this question is 'no' (and the Respondent did not suggest otherwise). I reach this conclusion in light of two related factors:
- a. First, the Claimant's own evidence was that she believed that the Claimant was constantly reassuring her that reasonable adjustments would be implemented. That is itself inconsistent with a suggestion that the Respondent's conduct was suggesting otherwise.
 - b. Second, throughout the Claimant's employment, I am satisfied that the Respondent was, if anything, supporting the Claimant and indicating that it was actively attempting to implement reasonable adjustments. This is most evident, perhaps, from the meetings that the Claimant had with the Respondent in 2018 and 2019 when reassurance was given that a first aid room with a bed would be made available to the Claimant at ATC and then by the fact that the Claimant was, on a number of occasions, referred to Occupation Health.
67. The second deeming provision and the critical issue to consider in this case is when the Claimant ought reasonably have expected the Respondent to implement the adjustments that she was seeking (viewed from her own perspective). It is appropriate to consider the ATC and Home Working Adjustments separately in this regard.
68. As far as the ATC Adjustments are concerned, they ought reasonably to have been made by 25 January 2019. I reach that view for two reasons:
- a. It was on this day that the Claimant e-mailed the Respondent's HR team and complained that her reasonable adjustments had not been made and that this was impacting on her health. This was directly before the Claimant commenced a period of sickness absence that she attributed to the absence of those adjustments.
 - b. By 25 January 2019, it had been more than 8 months since the Claimant had first pressed the Respondent to ensure continuity of her reasonable adjustments and, of course, more than a month since the Claimant had moved to ATC. This is a significant period of time.
69. In light of my conclusion, the Claimant's complaint relating to ATC Adjustments was not brought within the 3 month time period provided for by Section 123(1) of the Act and is out of time by nearly 3 years.

70. In terms of the Home Working Adjustments, I am satisfied that these ought reasonably to have been made prior to 17 August 2020 when the Claimant commenced long term sick leave. In my judgment, this is entirely consistent with the following points:

- a. The Claimant e-mailed the Respondent on 10 June 2020, making it clear that she was unable to work and was “*struggling*”. The essence of the Claimant’s claim is that the absence of reasonable adjustments was a contributory factor to this.
- b. The Claimant then requested additional office equipment on 15 July 2020.
- c. By 17 August 2020, the Claimant had been home working for 5 months without the reasonable adjustments for which she contends. That is a significant period of time.
- d. The Claimant now attributes her long term sick leave (at least in part) to the failure to make reasonable adjustments after lockdown.

71. In light of this conclusion, the Claimant’s complaint relating to the Home Working Adjustments are out of time some 17 months.

Were the claims made within a further period that the Tribunal thinks is just and equitable?

72. In considering whether it would be just and equitable to extend the time within which the Claimant’s claim ought to have been presented, I must have regard to all the circumstances (and the balance of prejudice).

73. Three factors appear to me to be most significant:

- a. the length of the delay;
- b. the reasons for the delay and in particular whether there were good reasons for it;
- c. the impact of the delay upon the quality of the evidence that is now available.

74. I shall consider the factors in turn but I do note that the factors inevitable interact with each other.

The length of the delay

75. The delay here is very significant indeed. The delay in bringing the claim relating to ATC Adjustments is about 3 years and the delay in bringing the claim relating to the Home Working Adjustments is about 17 months.

The reasons for the delay

76. The Claimant provides four broad reasons for her delay in bringing a claim.

- a. The Claimant firstly says that she relied upon the advice of a firm of solicitors in July 2021 to the effect that she would be able to bring her claim within 3 months of her eventual dismissal, if she was dismissed at all. Although it is not clear to me precisely what advice was given to the Claimant, I have accepted that the Claimant believed the advice to be as she describes it and she relied upon it in not bringing a claim earlier than she did.

However, in this case the Claimant first sought advice in July 2021 by which time the claims were already still significantly out of time. This factor does therefore any delay prior to July 2021 by which time I have found the claims to have been already out of time.

- b. The Claimant says that she was relying upon assurances from the Claimant that reasonable adjustments would be put in place, particularly in relation to the ATC Reasonable Adjustments.

I accept that the Respondent, at various stages, gave some comfort to the Claimant that it would make a first aid room available to the Claimant with a bed. However, those assurance ceased to have any meaningful relevance after the Claimant began home working in March 2020 (for after that time a bed was not immediately required) and also after the Claimant then began long term sick leave in August 2020.

- c. The Claimant was distracted by Covid 19 and lockdown.

I accept that the period immediately after the first national lockdown and certainly March, April and May 2020 was a period of huge adjustment for the Claimant (and the country as a whole). That said, I have found that the claim relating to the ATC Adjustments ought to have been brought before the period lockdown commenced.

As far as the Home Working Adjustments are concerned, by 20 July 2020 Claimant was planning a potential return to office working (at least in part) such that it seems to me that any distraction that the Claimant is relying upon appears to have waned at approximately a month to four months before the Claimant ought to have presented her claim.

- d. The Claimant says that she was too ill to make her claim.

I have of course noted that it is agreed that the Claimant was disabled throughout out the relevant period and that this impacted her significantly.

On the footing that the Claimant was able to work (with limited absences) until August 2020 limited, her disability ought not, though, to have impacted upon her ability to bring a claim in relation the ATC Adjustments by 24 April 2019, being 3 months less day after I have found that the clock began to run for time limit purposes.

The Home Working Claim ought to have been brought by 16 November 2020. I accept that the Claimant's disability would have impacted upon her ability to bring a claim within this period. However, I do note that the Claimant was well enough to attempt a return to work in November 2020 and also to complete applications for benefit in February 2021. In light of this, the Claimant's disability does not warrant

time being extended to a time that is much beyond February 2021. That is still nearly a year before the claim came to be presented (and still four months before the Claimant came to be influenced by the legal advice she received).

The effect of the delay on the cogency of the evidence

77. The Respondent says that the length of the delay is such that the recollections of key witnesses will be tarnished which risks prejudicing a fair trial. To this end, Mr Cole gave evidence that his recollection of events that took place since 2018 is inevitably less clear than it is now. No doubt that this would be true of any other witnesses who might be called to give evidence.
78. Whilst I regard this as a very important factor, it is not a decisive one in its own right. It is tempered by the fact that there is a very clear documentary record (in the form of e-mails and meeting notes) that comprehensively document the particular history of the matter. I note in particular that the Claimant's complaints were thoroughly investigated by the Respondent in response to the Claimant's grievance and it was not suggested that the passage of time unduly hampered that investigation.
79. Taking all matters into account, the Claimant has not persuaded me that it would be just and equitable to extend time in this case principally because of:
- a. the very significant delay in presenting the claim (far exceeding the ordinary statutory time limit).
 - b. the fact that the claim ought to have been brought some months before the Claimant had any potential good reason not to bring it (either because of illness, her reliance on legal advice or the impact of Covid).
 - c. the fact that the passage of time will have had an impact on the recollection of witnesses, notwithstanding the documentary record that exists.

Employment Judge Oldroyd

Dated: 10 July 2023

Sent to the parties on: 27th July 2023

For the Tribunal Office