



EMPLOYMENT TRIBUNALS

Claimant: Jodie Satterley

Respondent: Law Commission

Heard at: (By CVP) **On:** 6 May 2025

Before: Tribunal Judge McGrade acting as an Employment Judge

Appearances

For the claimant: P Wilkinson (counsel)

For the first respondent: H Peto (counsel)

JUDGMENT

1. The claimant was a disabled person, for the purposes of section 6(1) of the Equality Act 2010, at the relevant time.
2. The complaint of disability discrimination (failure to make reasonable adjustments) was not presented within the applicable time limit. It is just and equitable to extend the time limit. The claim can therefore proceed.

Background

1. By claim form dated 23 July 2024, the claimant brought a claim of disability discrimination. At a case management hearing on 19 November 2024, a preliminary hearing was fixed to determine both disability status and issues relating to time limits.

Preliminary issues

2. I sought to clarify the issues that were to be dealt with today. An issue arose as to whether the claimant was pursuing only a claim for reasonable adjustments or a claim for reasonable adjustments and other forms of disability discrimination. In the event, the claimant's counsel accepted that he was not seeking to rely upon any later date in connection with any other claim, beyond the date of the failure to make reasonable adjustments and therefore I could determine this issue.

3. A separate issue arose as to the nature of the conditions being relied upon by the claimant. The claimant's counsel indicated that the claimant had a number of additional conditions, including dyspraxia and dyslexia. I indicated to the respondent's counsel that I considered I was dealing only with Punctate Inner Choroidopathy ("PIC"), as the case management order issued following the last hearing indicated that this was the condition upon which the claimant sought to rely and therefore the respondent did not have fair notice of any other condition. The claimant's counsel indicated that he wished to proceed on the basis of PIC.
4. The claimant's counsel also produced a position paper and email correspondence between the claimant and the respondent. The respondent's counsel initially opposed the inclusion of the emails within the bundle. However, having had the opportunity to examine those documents, he no longer opposed them being included.
5. I have evidence from the claimant who adopted her disability impact statement and a separate statement of time limits.

The issues

6. I directed both parties representatives to the issues detailed in the orders issued following the last CMPH. These were as follows:-

Time limits

- 1.1 The claim form was presented on 23 July 2024. The Claimant commenced the Early Conciliation process with ACAS on 7 May 2024. (Day A). The Early Conciliation Certificate was issued on 18 July 2024 (Day B). Accordingly, any act or omission which took place on 5 February 2024, or in the period 5 – 13 February 2024 (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.
- 1.2 Was the discrimination complaint made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:
 - 1.2.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act or omission to which the complaint relates?
 - 1.2.2 If not, was there conduct extending over a period?
 - 1.2.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?
 - 1.2.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:
 - 1.2.4.1 Why were the complaints not made to the Tribunal in time?

1.2.4.2 In any event, is it just and equitable in all the circumstances to extend time?

Disability

2.1 Did the Claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the claim is about? The Tribunal will decide:

- 2.1.1 Whether the Claimant had a physical or mental impairment. She asserts that the disability is PIC, which is an inflammatory eye disease.
- 2.1.2 Did it have a substantial adverse effect on the Claimant's ability to carry out day-to-day activities?
- 2.1.3 If not, did the Claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?
- 2.1.4 Would the impairment have had a substantial adverse effect on her ability to carry out day-to-day activities without the treatment or other measures?
- 2.1.5 Were the effects of the impairment long-term? The Tribunal will decide:
 - 2.1.5.1 did they last at least 12 months, or were they likely to last at least 12 months?
 - 2.1.5.2 if not, were they likely to recur?

The facts

- 7. The claimant was referred to Moorfields Eye Hospital in 2017 as she could see black dots in her field of vision. She was diagnosed with right eye PIC around December 2017. This is a rare inflammatory eye disease which causes photopsia (flashes of light), blind spots and blurred vision. It was treated initially with steroids (prednisolone). She was also prescribed an immunosuppressant (Mycophenolate).
- 8. PIC is not a condition that can be cured, as the lesions/scarring cannot be removed. It can lead to blindness. The best outcome that can be hoped for is that the condition remains stable. The claimant's condition has remained stable since late 2019. However, the condition has an impact on various aspects of the claimant's life. There are some situations in which the claimant's condition worsens. If the claimant is tired or using a computer, the black dots become more visible. This can also cause her to experience blurred vision and flashing lights. This makes it hard and at times impossible for her to read and work.

9. The claimant has taken a number of steps to reduce the impact of the condition upon her. She uses adaptations to her computer including screen tints and filters to reduce contrast and visual stress. She prints materials on lilac coloured paper and writes on lilac or white paper. She wears sunglasses both indoors and outdoors to reduce the pain and visual disturbance caused by bright lights. The lights in her home are also fitted with adaptive bulbs to enable the lights to be dimmed and to change colour, to reduce visual stress.
10. By decision dated 26 August 2020, the claimant was awarded the standard rate daily living component of Personal Independence Payment as a result of her eye problems and mental and physical health. In March 2024, she was found to be entitled to the daily living and mobility components of the Personal Independence Payment .
11. The claimant submitted an application for the post of research assistant with the Respondent on 31 January 2024. She had studied law and considered being appointed to this post would be of considerable benefit to her future career. The application included a question as to whether she would need reasonable adjustment to complete the online test or interview. The claimant answered that she did, and explained that she had a visual impairment and required 25% extra time. She also requested that the materials be printed on lilac paper and that she be permitted to wear sunglasses.
12. The claimant had not heard from the respondent by 2 February 2024, confirming reasonable adjustments would be put in place. She therefore emailed the respondent on 2 February 2024, asking that they implement the adjustments prior to 4 February. She also repeated that she was looking for an additional 25% time due to a visual impairment. The respondent replied on 5 February 2024 to advise it understood the claimant was undertaking the situational judgement test on Sunday and asking whether she had contacted the respondent's HR providers regarding the additional time. The claimant replied on 5 February to indicate that she had only contacted this email address as it was the one given and advising that she understood the test activity had to be undertaken by today and asking whether she should take it without adjustments. She forwarded another email later that day to advise she was about to do the test when she received an email thanking her for doing it and telling her that she had failed.
13. The respondent replied on 6 February 2024 in the following terms: –

Dear Jodie,

Thank you for your email. Candidates are allotted a 5-day timeframe to complete the SJT, ensuring ample time for completion. There seems to be a misunderstanding as your previous communication stated the test deadline was on the 4th, while your recent email implies it was yesterday.

We understand your need for reasonable adjustments and we provided contact details for you to reach to our HR providers to allow more time, and while we appreciate your effort in completing the test, the challenge arises as we are unable to resend the SJT upon failing. We value your

application and warmly encourage you to consider reapplying in the coming year.

14. The claimant replied on 6 February 2024, questioning the assertion that there was a misunderstanding and advising the window to complete the test ended before the end of five days. She also questioned whether this was an acceptable way to treat a disabled candidate requesting adjustments.
15. The respondent replied to this email on 6 February 2024 and suggested the claimant contact the respondent's HR providers, as they handle system-related matters. The respondent went on to state that:-

“Your reasonable adjustments are important to us, and our providers are equipped to assist with online applications and support your specific requests, as outlined in your previous communication.”

16. The claimant forwarded an email to the email address provided by the respondent on 6 February 2024 requesting their assistance with the situational judgement test and reasonable adjustments. There followed an exchange of emails between the claimant and the recruitment agency appointed by the respondent until 13 February 2024, at which point the recruitment agency advised the claimant that:-

“I have investigated your query and can confirm that you had the full timeframe for this assessment from 31/01 - 05/02, I am sorry that you experienced issues with regards to your reasonable adjustments however the hiring managers have advised that, unfortunately, they will not be issuing resets for this vacancy.”

17. The claimant began early conciliation on 7 May 2024. An early conciliation certificate was issued on 18 June 2024. There was an exchange of emails between the claimant and the ACAS conciliator on 18 June 2024, regarding the position taken by the respondent. The ACAS conciliator wrote to the claimant on 18 June 2024 in the following terms:-

“I have contacted the Respondent to find out if there is any appetite to resolve this matter in early conciliation at this stage. If you can hold off lodging your claim with the Tribunal until end of this week, should I hear back from them, I will update you. If you do not hear from me by close of business on Friday, then I will not have heard back from the Respondent, so you can start the litigation process then.”

18. On 27 June 2024, the ACAS conciliator wrote to the claimant again to advise that he had not received any response from the respondent. He asked the claimant let him nor when she had lodged the claim, so that he could close his file.
19. The claimant attempted to submit the claim online prior to 23 July 2024. However, she experienced a technical problem, with the result that her application was lost. There was therefore a delay which meant she did not lodge the claim until 23 July 2024.

20. The claimant was upset at what she considered to be a high-handed and unsympathetic attitude towards her by the respondent. This made more difficult for her to deal with the situation.

Relevant Legal Framework

21. Section 123 of the Equality Act provides as follows:-

- (1) Subject to section 140B proceedings on a complaint within section 120 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.

22. Section 140B of the Equality Act provides as follows:-

- (1) This section applies where a time limit is set by section 123(1)(a) or 129(3) or (4).

....
- (2) In this section—
 - (a) Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of [section 18A](#) of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
 - (b) Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.

(3) In working out when the time limit set by section 123(1)(a) or 129(3) or (4) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If the time limit set by section 123(1)(a) or 129(3) or (4) would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) The power conferred on the employment tribunal by subsection (1)(b) of section 123 to extend the time limit set by subsection (1)(a) of that section is exercisable in relation to that time limit as extended by this section.

23. The burden of persuading the Employment Tribunal to exercise its discretion on any time limit is on the claimant (**Robertson v Bexley Community Centre [2003] IRLR 434**). I recognise that in determining when the period expired within which an employer might reasonably have been expected to make adjustments, I should consider the facts as they appeared to the claimant, which involves considering what she was told by the respondent (**Abertawe Bro Morgannwg University Local Health Board v Morgan 2018 ICR 1194**).

24. The disability discrimination complaints were brought under the Equality Act 2010. Section 6 defines a disability as follows:

“A person (P) has a disability if

(a) P has a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on P’s ability to carry out normal day-to-day activities.”

25. The word “substantial” is defined in section 212(1) as meaning “more than minor or trivial”.

26. Paragraph 2 of Schedule 1 to the Act provides that the effect of an impairment is long-term if it has lasted for at least 12 months or is likely to last for at least 12 months, and that

“If an impairment ceases to have a substantial adverse effect on a person’s ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.”

27. Paragraph 5 of Schedule 1 to the Act provides that:-

“an impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if

(b) measures are being taken to treat or correct it, and

(c) but for that, it would be likely to have that effect.”

28. I have also considered the Guidance Relating to the Definition of Disability issued under section 6(5) of the Equality Act 2010, and in particular what constitutes day-to-day activities.

Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act or omission to which the complaint relates?

28. The claimant's counsel seeks to argue that the claim is in time. In particular, he seeks to argue that the act complained of took place on 13 February 2024 and therefore the claimant began early conciliation on time on 7 May 2024. The respondent's counsel indicated that the last date for making adjustments was 5 February 2024, as this was the date that the test closed. He also submitted that the respondent could not be responsible for emails issued by SCCL.
29. I consider the claimant was entitled to take the view that the respondent was willing to consider adjustments until 13 February 2024, when the claimant was advised that her query had been investigated and that she would not be permitted to undertake this test. During this period, the respondent and the recruitment agency appointed by them were engaging with the claimant. The respondent's email of 6 February 2024 made specific reference to reasonable adjustments in connection with the suggestion that the claimant contact their service providers. This was after the last date for the test to be carried out. The claimant followed up on this suggestion. I consider she was entitled to believe that adjustments could still be put in place up to this date. I consider ACAS early conciliation was therefore started within three months of this date.
30. The claimant's counsel also sought to argue that the time limit for lodging the claim following the issue of the early conciliation certificate did not begin from the date the early conciliation certificate was issued, i.e. 18 June 2024, but from 21 June 2024, on the basis that, in an email of 18 June 2024, the ACAS conciliator suggested that she hold off lodging a claim until the end of the week, as he was still awaiting a response from the respondent. I do not accept that this operates to extend the time limit, as section 140B makes clear that the time limit begins to run from the date of issue of the ACAS certificate.

If not, was there conduct extending over a period?

31. I am not satisfied there is conduct extending over a period of time.

Why were the complaints not made to the Tribunal in time?

32. I accept the claimant was upset by what she considered to be unfair treatment by the respondent, and that this made it more difficult for her to deal with this issue. It is the claimant's position that she attempted to submit the claim online before 18 July 2024, but the application was lost. I have some difficulty with this aspect of the claimant's evidence. If the claimant knew that the application had to be submitted by 18 July 2024, but the application was lost due to an issue with the online system, I find it difficult to believe that she would not remember exactly when this happened, as she must have been aware that there was a time-limit pending. In addition, if she had taken steps to submit the claim by 18 July 2024,

but the application was lost due to an issue with the online system, I find it difficult to understand why she would then have left matters until 23 July 2024 to submit a fresh claim. I am however prepared to accept that the claimant attempted to submit an application at some point prior to 23 July 2024, but was unable to do so. I accept this resulted in a delay in the application being submitted.

Is it just and equitable in all the circumstances to extend time?

33. I have accepted that the claimant experienced technical difficulties when she attempted to submit this claim and that this caused a delay in the application being submitted, albeit I am unable to reach any clear conclusion as to exactly when that happened. She has also suggested that she considered the respondent's attitude to be contemptuous, which made her feel belittled and therefore she struggled to engage with the claim. I have accepted that she was upset by the treatment she received.
34. The respondent's counsel accepted that he was not seeking to argue that there was any prejudice to the respondent by the application being submitted late. It would appear all communications between the parties took place in writing. The delay is a relatively short one and there is nothing before me to indicate that the respondent's ability to respond to this claim will be adversely affected by the passage of time. The claim relates to a decision by the respondent not to allow the claimant additional time to undertake a situational judgement test, which formed part of an application process for the post of Higher Executive Officer (HEO) operational research posts. I accept that this was an important role for the claimant, which she hoped to be accepted for, as it would help her future career. In these circumstances, I consider it is just and equitable to extend time. For the sake of completeness, I should also add that, had I taken the view that the time limit for raising the claim began on 5 February 2024 and not 13 February 2024, I would have taken the view that it is just and equitable to extend the time limit, given the delay was still a relatively short one, and any prejudice to the respondent was substantially outweighed by the prejudice to the claimant.

Did the Claimant have a physical or mental impairment as a result of PIC, which is an inflammatory eye disease.

35. I am satisfied the claimant's PIC, with which she was diagnosed in December 2017, and which has impacted upon her vision since then, thereby also affecting her ability to use a computer and read, amounted to an impairment.

Did it have an adverse effect on the Claimant's ability to carry out day-to-day activities?

36. The respondent's counsel indicated there was no cogent evidence as to the impact of the claimant's condition at the relevant time, namely January and February 2024. I accept the claimant's evidence that the PIC with which she has been diagnosed has had an ongoing adverse effect on her ability to carry out normal day-to-day activities since she was first diagnosed in December 2017. In particular, it causes her to see black dots in her field of vision. When she is tired or using a computer, the dots become more visible and she experiences blurred vision and flashing lights. I am satisfied that at the relevant time, this made it

difficult for her to operate a computer, which is a factor which appears in the appendix to the Guidance on matters to be taken into account in determining questions relating to the definition of disability, as something that is likely to be regarded as having a substantial adverse effect on normal day-to-day activities. The claimant also indicated that her condition often makes it hard and at times impossible to read and work. I also note that a persistent and significant difficulty in reading because of a visual impairment (except where that is corrected by glasses or contact lenses) also appears in the appendix. I am satisfied that this restriction also applies to the claimant, and that both of these restrictions arise because of the PIC.

Was that effect substantial?

37. I am satisfied the effect of the condition was substantial, to the extent it was more than minor or trivial. In particular, she experienced blurred vision and flashing lights. She often found it hard and at times impossible to read and work. Had the effects been minor, I consider it is very unlikely that she would have taken the sort of steps that she has outlined, including adaptations to her computer, printing and writing on lilac paper and wearing sunglasses indoors.

Did the effects last at least 12 months, or were they likely to last at least 12 months?

38. The respondent's counsel accepted the claimant's PIC is long-term. I note the claimant was first diagnosed with PIC in December 2017. I accept her condition has remained reasonably stable since late 2019. However, the fact that her condition has remained stable does not indicate that the adverse effects that I have identified above have not been present throughout this period. I am satisfied that they have continued to impact upon the claimant since her diagnosis in December 2017 and therefore had lasted at least 12 months by the relevant date.

Tribunal Judge McGrade

23 May 2025

Sent to the parties on:

28 May 2025

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For the Tribunal Office:

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