



EMPLOYMENT TRIBUNALS

Claimant: Ingris Rosa Maya Gonzalez
Respondent: St Mary's Care Ltd
Heard at: Croydon
On: 9-12 September 2025
Before: Employment Judge Liz Ord
Tribunal Member Claire Chaudhuri
Tribunal Member Michael Cronin
Translator: Maria Isobel Sanchez

Representation:

Claimant: Ms Jessica Derwent (Trade Union Representative)
Respondent: Mr Chuks Ushieagu (Employment Consultant)

JUDGMENT

1. The complaints of harassment related to sex and direct sex discrimination were presented out of time and it is not just and equitable to extend time. Therefore, they are dismissed for lack of jurisdiction.
2. The complaint of religious belief discrimination is well founded and succeeds. The respondent is ordered to pay the claimant the principal sum of £6,000, and interest of £954.74, making a total of £6,954.74.

REASONS

The Complaints and Issues

1. The claimant complains of:
 - 1.1. Indirect religion or belief discrimination
 - 1.2. Sex related harassment
 - 1.3. Direct sex discrimination
2. The issues for the tribunal are set out in the attached Annex. They were

finalized at the case management hearing on 24 March 2025. At the final hearing the claimant stated that the date of June 2024 under the complaints of sex related harassment and direct sex discrimination was a mistake and it should read June 2023. This raised the issue of whether these allegations were out of time.

Evidence

3. The tribunal had before it the following documentary evidence: a documents bundle (181 pages) a supplementary bundle (35 pages), witness statements of Maya Gonzalez, Beatriz Ogaban, Nirva Patel, Priscilla Chibanda, and Virginia Fenlon.
4. On behalf of the claimant we heard evidence on oath from:
 - 4.1. Maya Gonzalez
5. On behalf of the respondent we heard evidence on oath from:
 - 5.1. Priscilla Chibanda (Home Manager),
 - 5.2. Virginia Fenlon (Head House Keeper).
 - 5.3. Beatriz Ogaban (Domestic Assistant),
 - 5.4. Nirva Patel (Director of respondent),
6. Number references in brackets [01] are to the main documents bundle. Number references in bracket [SB 01] are to the supplementary documents bundle. References in brackets in the format [XX 01] are to paragraphs within witness statements.
7. Only findings of fact relevant to the issues, and those necessary for the tribunal to determine, have been referred to in this judgment. It has not been necessary, and neither would it be proportionate, to determine each and every fact in dispute. The tribunal has not referred to every document it read and/or was taken to in the findings below, but that does not mean it was not considered if the tribunal was taken to the document in evidence or as part of a reading list. The tribunal notified the parties at the outset of the hearing that they would only read documents that they were specifically referred to and would only read documents referred to in witness statements insofar as they were identified as being relevant to an issue in the case.

The Law

8. Time limits – discrimination/harassment

Section 123 Equality Act 2010 (EqA) provides:

- (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.

9. Section 19 EqA – Indirect discrimination

- (1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.
- (2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if –
- a. A applies, or would apply, it to persons with whom B does not share the characteristic,
 - b. It puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
 - c. It puts, or would put, B at that disadvantage, and
 - d. A cannot show it to be a proportionate means of achieving a legitimate aim.

The provision, criterion or practice (PCP) is the employer's way of doing things.

For indirect discrimination, people with and without the protected characteristics are treated the same, so the question is asked - What is the neutral PCP that the respondent applied?

Other law

10. All other law/caselaw as raised by the parties was considered.

Findings of Fact

Indirect discrimination - religious belief

11. At all material times the claimant was, and still is, a practising Pentecostal Christian. She has practiced her faith for about 27 years. She attends her own church every Sunday with her son and she is an active member of the congregation. Her son has special educational needs and it is the claimant's belief that attending church will improve his condition. Some Sunday services are streamed.
12. The respondent is a Catholic nursing home in London and there is a Catholic church on site which is available for employees and residents to use. The claimant is not Catholic and does not attend Catholic churches.
13. The claimant is Columbian and her native language is Spanish. She has a limited understanding of English. She generally gets by with the help of friends or colleagues and latterly she has been using Google Translate.
14. The claimant commenced employment with the respondent on 20 November 2017 as a Domestic Assistant and remains employed by them.
15. The claimant's evidence, was that she attended her initial interview with a friend who translated what was being said. The claimant told the interviewer, whose name was Samil, that she did not want to work weekends because she was a practising Christian and went to her church on Sundays, and because of her son, who was then 7 years old. Samil explained this to Johnathan, who was the manager at the time, and he said she was not required to work weekends. We accept this evidence.
16. The claimant's original written contract of employment dated 18 November 2017, required her to work 36 hours per week on variable days and with variable start and finish times according to a rota (59-60). However, at that stage, she was employed to work 5 days a week from Monday to Friday. She did not work weekends.
17. There were changes in management. Priscilla Chibanda took up the post in 2018.
18. During the Covid pandemic, the claimant's hours were reduced. She signed a new contract of employment on 12 August 2020 amending her working time to 18 hours per week. The contract stated that her working pattern may vary (100-102). She was put on a 3 day week, being 6 hours a day from Monday to Wednesday, which in practice did not vary at that stage.
19. The claimant missed some shifts.
20. On 28 June 2023 the claimant attended a supervision meeting with Ms Chibanda (107). In evidence, Ms Chibanda said it was to discuss weekend work. The one page of handwritten minutes of the meeting state the reason for the meeting was the claimant's cancellation of shifts. A typed note dated the same day (108) records that she had cancelled shifts without giving prior notice.
21. The minutes at point 5, under "Issues to be followed up" record that the claimant had been working Mondays, Tuesdays and Wednesdays. They also mention changes, although exactly what was meant is unclear. The wording is that the claimant said "From next week rota changes". There is then a

sentence "I do not want to change", which is attributed to Ms Chibanda. However, it was agreed in evidence that it was the claimant who actually said this. There is no specific mention of Sunday working.

22. Contrary to the handwritten minutes, the typed meeting note says the claimant was asked to change her shift pattern to any other day and she agreed to do so during the meeting.
23. The handwritten minutes of the meeting were signed by the claimant. The typed note is signed by Ms Chibanda but not by the claimant. The claimant in evidence said she did not sign the note because she did not know what it said.
24. The claimant's oral evidence was that she said to Ms Chibanda at this meeting that she did not mind working Saturdays but not Sundays because she went to her church on Sundays with her son. We accept this evidence.
25. For 3 months there was no change in the claimant's work pattern. Then on 14 September Ms Chibanda signed off the rota for 17 September through to 14 October, which included 4 Sundays for the claimant. There is no evidence that she consulted the claimant and we find that she did not.
26. The claimant did not work her rostered shifts on Sunday 17 and Sunday 24 September 2023. She did, however, attend work on Monday and Wednesday 25 and 27 September, when she was not scheduled to work. She was not permitted to work those shifts.
27. On 20 September she wrote to Ms Chibanda asking if she could work her 18 hours over 2 days instead of 3 as she had accepted another job as a child care assistant. In fact, she never actually took up that post. She also wrote that she was unable to work the hours allocated to her on the current rota. She asked to work either Monday, Tuesday or Wednesday (130).
28. On 26 September the claimant emailed Ms Chibanda recording that she had turned up for work on 25 September as usual, but Ms Chibanda had not allowed her to work. The claimant confirmed she was available to work on Monday, Tuesday and Wednesday (133).
29. Ms Chibanda emailed the claimant back on 26 September saying she was not scheduled to work on 25 September, she had failed to show up on 17 and 24 September, and she was not scheduled to work on 27 September (134).
30. Ms Chibanda called a meeting with the claimant for 26 September. The minutes of the meeting (129) record that it was to discuss changes in the rota. The minutes record that the claimant agreed the changes, 9 hours over 2 days could not be done, 3 days of 6 hours was reasonable and the claimant was not aware of the rota changes. The outcome is recorded as the claimant being OK to do what the managing decision was (qu 4 - 129). The record indicates that the claimant refused to sign the minutes.
31. The claimant's evidence, both written (IG 18-20) and oral, was that she asked Ms Chibanda in the meeting to please not give her Sundays because of her faith and her Sunday attendance at her church with her son, which she had attended for many years. The claimant said that Ms Chibanda replied that she

didn't care if she went to church or not. The claimant was her employee and she would work whenever Ms Chibanda wanted her to. We accept the claimant's evidence.

32. On 27 September the claimant wrote to Ms Chibanda saying she had turned up for work and was not allowed to work (134).
33. Also on 27 September Ms Chibanda wrote to the claimant telling her she was required to attend an investigation meeting on 3 October 2023 to discuss her breach of contractual obligations regarding her rota and not turning up for work on 25 and 27 September. It said that disciplinary action was a possible outcome (137).
34. On 29 September the claimant's union representative, Alberto Durango, emailed the care home saying that the claimant had been with the respondent for 8 years and always worked fixed days, including from 2020 when she reduced her hours. He suggested that the respondent should first consult with the claimant before changing her way of working because she had organised her life around those fixed days, which had become custom and practice. He pointed out that some of the claimant's colleagues did not have to work Sundays. He told the respondent that the claimant had strong religious beliefs and it was imperative for her to dedicate Sunday to religious services. To deny her this would be to discriminate against her on the basis of her beliefs. It was not imperative for her to work Sundays as there were other colleagues who could work that day (131-132).
35. The claimant attended the meeting on 3 October. The minutes record that it was put to her that she did not come to work on 15.8.2023, 16.8.2023, 17.9.2023, 24.9.2023, 30.9.2023 and 1.10.2023 and that she was not following management instructions (139-141). The claimant did not sign the minutes.
36. From 17 September to 10 December the claimant was scheduled to work 2 Sundays in September, 5 Sundays in October, 3 Sundays in November and the Sunday of 10 December (rotas at 118, 119, 120, 121). She did not turn up for any of those shifts (104). She lost wages during this time.
37. After the claimant failed to attend her allocated shifts on Saturday 25 and Sunday 26 November, Ms Chibanda emailed her on 28 November asking her why (145). The claimant emailed back on 29 November saying she was available for work on Mondays, Tuesdays and Wednesdays as usual (146).
38. Ms Chibanda replied the same day saying that the claimant's union had advised that the claimant had agreed to work 2 Saturdays a month (146).
39. On 5 December 2023 after a discussion with the claimant and her union representative, Ms Chibanda emailed the claimant saying that she understood the claimant was not prepared to work on a Sunday due to her religious observance and to attend mass. Therefore, they would change her shift pattern to Saturday, which the union had confirmed was acceptable. However, she understood from the claimant's email of 29 November that the claimant felt unable to work Saturdays. She urged the claimant to think carefully about the issues the business faced and to put forward any suggestions for consideration by 8 December 2023 (146-147).

40. On 6 December 2023 the claimant wrote to the respondent saying she was available to work any day other than Sunday (148).
41. The rotas show that the claimant was not required to work Sunday shifts after 10 December (121,122,123,124, 125).
42. During the course of these matters, there were about 8 Domestic Assistants employed by the respondent. There would usually be 4 of them working on any one day. A couple of them did not work Sundays due to personal circumstances. The rest were given some Sunday shifts. The undisputed evidence was that weekend working was less sought after than weekday working.
43. Whilst Ms Chibanda gave oral evidence that all the Domestic Assistants were religious and of different religions, she did not refer to there being any other Pentecostal Christians working there. It would appear from the evidence that many of the staff are Catholic. There was no evidence of anybody else asking to be excused from Sunday working for religious reasons.
44. The evidence of Ms Chibanda and Ms Patel was that there was a business need to have Domestic Assistants work on Sundays, as the home had to be cleaned every day. They indicated that it was reasonable to ensure that each Domestic Assistant did their fair share of weekend work.

Harassment related to sex/direct sex discrimination

45. On 1 April 2023 Virginia Fenlon was promoted from the role of Domestic Assistant to Head House Keeper and became the claimant's line manager.
46. At the 26 June meeting the claimant raised an issue about Ms Fenlon (107). In section 4 of the minutes it records the claimant talking about being in pain and saying that Virginia assigned her three floors. Ms Chibanda's reply was that the claimant was so angry with Virginia.
47. The claimant gave evidence that Ms Fenlon called her a "bitch cleaner" in around June 2023, and called her and a colleague, Katarina Mroscakova, "fucking dirty cleaners". There appears to have been some confusion over the date of the latter allegation.
48. The list of issues says it was in around August 2023. The claimant's witness statement is silent on the date. However, it does state that she complained about the comment in July 2023 [IG 13-14]. In oral evidence she clarified that this was a mistake and she actually complained on 28 June 2023.
49. Ms Mroscakova wrote an email for the purposes of this tribunal saying that Ms Fenlon called them "fucking dirty cleaners" in around May 2023 and the claimant had a meeting with Ms Chibanda on 28 June 2023 when she told Ms Chibanda about this (SB 16).
50. Ms Chibanda's evidence was that the claimant raised issues in the 28 June meeting about Ms Fenlon giving her too much work despite the claimant having back pain.

51. Considering the above evidence, whatever was said, we find it did not take place in August 2023, but rather in May or June 2023.
52. The claimant said Ms Fenlon continued calling her names until she presented her claim to the tribunal on 19 December 2023. No specifics were given of this continued name calling.

Tribunal claim

53. The claimant commenced early conciliation with ACAS on 13 October 2023 and the ACAS certificate was issued on 24 November 2023 [4]. The claim, which followed on 19 December 2023, only complained of discrimination on the grounds of religious belief [5-19].
54. The claimant first raised the issues of sex discrimination and harassment related to sex at a preliminary hearing on 13 November 2024 [37-41]. The application to amend, dated 27 November 2024, was granted by consent at a further preliminary hearing on 31 March 2025 [52-58].

Discussion and Conclusions

Indirect discrimination – religious belief

55. At the relevant times, being September to December 2023, the respondent had the practice of requiring Domestic Assistants to work a variable rota, which included some Sundays, regardless of religious belief. The evidence suggests that these Domestic Assistants had varying faiths and most of them worked the required Sundays.
56. The claimant made it clear to the respondent that it was not possible for her to work on Sundays because of her faith as a Pentecostal Christian and her need to attend church on Sundays with her son. She never agreed to work Sundays at any stage. Her work pattern prior to September 2023 had always been weekdays. However, she told Ms Chibanda in June 2023 that she did not mind working Saturdays.
57. Nonetheless, the rota that was signed off on 14 September 2023 scheduled the claimant to work Sundays, as did subsequent rotas up until 10 December 2023. This was done without any proper consultation.
58. The Sunday working requirement prevented her from attending her own church services in person on Sundays, which is an important part of her faith. Attending Catholic mass at the respondent's home was no substitute for attending Pentecostal services. Viewing a streaming of the Pentecostal service was not a viable alternative, as contact with the rest of the congregation is of paramount importance.
59. Therefore, the practice of working some Sundays put the claimant at a particular disadvantage. It would also put other people with the same Pentecostal Christian belief at a disadvantage compared to those who did not hold that belief.

60. There were 8 Domestic Assistants and 4 were needed for any one shift. There were sufficient other employees available to do the work on Sundays. In terms of fairness in working weekends, the claimant was willing to work Saturdays and so there was no unfairness.
61. The claimant was taken off Sunday working in December 2023 and has not been required to work Sundays since then. This suggests that there was no business need for her to work Sundays.
62. Accordingly, we find that requiring the claimant to work Sundays was not a proportionate means of achieving a legitimate aim.
63. Consequently, there was indirect discrimination on the basis of religious belief for the period the claimant was required to work Sundays.

Harassment based on sex/direct sex discrimination

64. There is a jurisdictional issue with these claims. There were two alleged acts and the last one was in June 2023. ACAS conciliation started on 13 October 2023, but this was more than 3 months later. Whilst ACAS conciliation can stop the clock running, it only does so if the claim is presented within the 3 month period.
65. Furthermore, the original claim was only for discrimination on the grounds of religious belief. Sex based harassment and direct sex discrimination were only raised in November 2024.
66. The claimant has not demonstrated that there was conduct extending over a period, as she has not given specific examples of what was said subsequent to the 2 matters alleged. It is not enough to simply say that the conduct continued. In any event, her evidence was that it stopped when she presented her claim in December 2023. The amendment application did not come until November 2024, 11 months later.
67. Therefore, the presentation of these claims is out of time.
68. We have considered whether an extension of time should be granted. However, nothing has been put forward to persuade us that it would be just and equitable to extend time. Consequently, we do not do so.
69. Therefore, we do not have jurisdiction to hear these complaints and they are dismissed.

Remedy

70. We find that the injury to feelings claim falls within the lower Vento band because the discrimination was for a fairly short period of time and the claimant did not actually work the required Sundays.
71. We award £6,000 plus interest at 8% from 17 September 2023 to 12 September 2025, which amounts to £954.74.

Employment Judge Liz Ord

Date 13 September 2025

Notes

Public access to employment tribunal decisions

Judgements and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

ANNEX

LIST OF ISSUES

The Complaints

The Claimant is making the following complaints:

- a. Indirect Religious or belief discrimination
- b. Harassment related to sex
- c. Direct Sex Discrimination

The Issues

1. Indirect Discrimination (Equality Act 2010 section 19)

- 1.1. A "PCP" is a provision, criterion or practice. Did the respondent have the following PCPs:
 - 1.1.1. Requiring employees to work on a variable rota;
 - 1.1.2. Requiring employees to occasionally work on Sundays.
- 1.2. Did the respondent apply the PCP to the claimant?
- 1.3. Did the respondent apply the PCP to persons with whom the claimant does not share the characteristic, or would it have done so?
- 1.4. Did the PCP put persons with whom the claimant shares the characteristic, at a particular disadvantage when compared with persons with whom the claimant does not share the characteristic?
- 1.5. Did the PCP put the claimant at that disadvantage?
- 1.6. Was the PCP a proportionate means of achieving a legitimate aim? The Respondent says that its aim was:
 - 1.6.1. Operational efficiency.
- 1.7. The Tribunal will decide in particular:
 - 1.7.1. was the PCP an appropriate and reasonably necessary way to achieve those aims;
 - 1.7.2. could something less discriminatory have been done instead;
 - 1.7.3. how should the needs of the claimant and the respondent be balanced?

2. Harassment Related to sex (Equality Act 2010, section 26)

- 2.1. Did the Respondent do the following things:
 - 2.1.1. On or around June 2023, called the Claimant 'a bitch cleaner'.
- 2.2. If so, was that unwanted conduct?
- 2.3. Did it relate to sex?
- 2.4. Did the conduct have the purpose of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?
- 2.5. If not, did it have that effect? The Tribunal will take into account the Claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

3. Direct Sex Discrimination (Equality Act 2010, section 13)

- 3.1. Did the Respondent do the following things:
 - 3.1.1. Ms Fenlon calling the Claimant and her colleague "fucking dirty cleaners" on or around August 2023.
 - 3.1.2. Unnecessarily shouting and using aggressive language towards the Claimant in that on or around June 2023, Ms Fenlon called the Claimant 'a bitch cleaner'
- 3.2. Was that less favourable treatment?
 - 3.2.1. The Tribunal will decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the Claimant's.
 - 3.2.2. If there was nobody in the same circumstances as the Claimant, the Tribunal will decide whether she was treated worse than someone else would have been treated.
 - 3.2.3. The claimant has not named anyone in particular who she says was treated better than she was.

4. Time Limit – jurisdiction

- 4.1.1. Were the sex discrimination complaints made outside the time limit in section 123 of the Equality Act 2010? The tribunal will decide:
- 4.1.2. whether there was conduct extending over a period or a continuous state of affairs.
- 4.1.3. If so, whether the claim was made within 3 months (allowing

for any early conciliation extension) of the end of that period.

4.1.4. If the claims were out of time, whether they were made within such further period as the tribunal thinks is just and equitable. The tribunal will decide:

4.1.5. why the complaints were not made in time.

4.1.6. in any event, whether it is just and equitable in all the circumstances to extend time.

5. Remedy for discrimination or victimisation

4.1 Should the Tribunal make a recommendation that the respondent take steps to reduce any adverse effect on the claimant? What should it recommend?

4.2 What financial losses has the discrimination caused the claimant?

4.3 What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?

4.4 Should interest be awarded? How much?