



EMPLOYMENT TRIBUNALS

Claimant: Mr J Shiri

Respondent: West Berkshire Council

Heard at: Reading **On:** 8 October 2025

Before: Employment Judge Shastri-Hurst

Representation

Claimant: in person

Respondent: Mr Webster (counsel)

RESERVED JUDGMENT

1. The Tribunal does not have jurisdiction to hear the claimant's unfair dismissal claim under the Employment Rights Act 1996. As such, it is dismissed for want of jurisdiction.

REASONS

Introduction

1. The claimant was employed by the respondent, a local authority, from 22 January 2018 to 31 October 2023, following his resignation tendered with notice on 28 September 2023. By the time of his departure from the respondent's employment, he held the position of Senior Environmental Control Officer.
2. Early conciliation started on 1 November 2024 and ended on 4 November 2024. The claim form was presented also on 4 November 2024. The claim form appeared to present the following claims:
 - 2.1. Constructive unfair dismissal;
 - 2.2. Race discrimination;
 - 2.3. Religion/belief discrimination;
 - 2.4. Equal pay;
 - 2.5. Other pay claims
 - 2.6. Failure to provide written statement under s1 Employment Rights Act 1996.
3. During the course of our discussion today, it emerged that the claimant was not seeking to pursue a claim of religion or belief discrimination, or indeed other

pay claims. These claims have therefore been dismissed upon withdrawal. Further in those discussions, it seemed to me that the claimant may be making a complaint of victimisation. The precise nature of the claims will be dealt with at the next hearing listed on 12 November 2025 before me.

4. Given the claimant's effective date of termination (31 October 2023), and taking that date as the last day on which anything unlawful could be said to have been done by the respondent, it follows that any claim (other than the equal pay claim) should have been presented to the Tribunal by 30 January 2024. The time frame for presenting a claim for equal pay is six months (less a day), and so the deadline for presenting that claim would be 29 April 2024. As such, any claim presented in the claimant's ET1 is either 9.5 months or 6.5 months out of time.
5. The respondent had applied by email of 16 December 2024 to strike out the claims in their entirety on the basis that the claims were presented out of time and, as such, the Tribunal does not have jurisdiction to hear the claimant's claims. The Tribunal however listed the hearing today solely to deal with the claim of unfair dismissal (as opposed to all the claims). We put all other claims to one side for the purposes of the hearing today.
6. Within the notice of hearing, the hearing today was listed in order to consider:

“whether the unfair dismissal complaint was presented outside the time limits in sections 111(2)(a) & (b) of the Employment Rights Act 1996 and if so, should it be dismissed on the basis that the Tribunal has no jurisdiction to hear it? Further or alternatively, because of those time limits (and not for any other reason), should the unfair dismissal complaint be struck out under rule 38 on the basis that it has no reasonable prospects of success and/or should the deposit order be made under rule 40 on the basis of little reasonable prospects of success?”
7. At the commencement of the hearing, we had a discussion about which point I should consider: the jurisdiction/time limit point, or the strike out/deposit order point. There is no sensible reason for considering both, and the notice of hearing appears to suggest that the two issues were listed in the alternative, leaving it for the judge dealing with the hearing today to determine which of the two routes they would take.
8. Given that the claimant had produced a witness statement following an order to do so, I determined that I would hear evidence and deal with the matter as a jurisdictional/time limits point. In other words, I would determine whether the time for bringing a claim of unfair dismissal should be extended under the provisions set out in s111(2)(b) ERA.
9. I felt it necessary to ensure that I understood the factual basis of the constructive unfair dismissal claim prior to dealing with the jurisdiction point. I therefore spent the first hour and a half of the hearing with the claimant, attempting to crystallise his claim of constructive unfair dismissal. Although this was not strictly necessary in order to deal with the time limits point, I considered it prudent to do so: the issues relating to the constructive unfair dismissal claim are set out within my case management orders following the hearing today.
10. Having clarified in my mind the claimant's constructive unfair dismissal case, I then proceeded to hear evidence from the claimant based on his witness

statement. As well as the claimant's witness statement, I had two bundles in front of me: one bundle from the respondent of 142 pages, and one from the claimant of 145 pages. Page references to page X within those bundles are set out herein as [R/X] and [C/X] respectively. I note that the claimant's bundle has not been paginated: I rely on the pdf page numbers. Many of the documents within the claimant's bundle also appear in the respondent's bundle, however the claimant found it easier to use his bundle and therefore I was referred to documents in both bundles.

11. Following the claimant's evidence, I spent some time explaining the outline legal framework relevant to the issue as to whether time should be extended for the unfair dismissal claim. I then heard submissions from Mr Webster. The claimant was then offered a break, however did not feel the need to take one: he then made his submissions. At that stage, it was too late in the day to provide a judgment on this point. Instead, I case managed the remaining claims forward to another hearing listed before me on 12 November 2025 and made orders accordingly. Those orders are set out in a separate document.

Issues

12. The issues relevant to the jurisdiction point for consideration today are as follows:

1. Was the unfair dismissal complaint made within the time limit in section 111 of the Employment Rights Act 1996? The Tribunal will decide:
 - 1.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the effective date of termination?
 - 1.2 If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?
 - 1.3 If it was not reasonably practicable for the claim to be made to the Tribunal within the time limit, was it made within a reasonable period?

Findings of fact

Policies

13. The respondent has many written policies applicable to its employees. Within the respondent's bundle, I have seen the grievance procedure at [R/89]. At [R/91], that procedure states, at paragraph 2.2, that:

“[t]his procedure applies to all current employees of West Berkshire Council except: staff employed in schools; and other employees whose individual contracts specifically exempt them from this procedure. Separate procedures apply for these staff”.

14. I have seen no evidence that suggests that the claimant is one of the excluded employees. Therefore, I find that, during his employment, the appropriate and correct policy for him to follow in order to raise a grievance with his employer was the grievance procedure at [R/89].
15. The claimant included within his bundle three other policy documents provided by the respondent:

- 15.1. A document entitled “A Guide to Help You...Make a Complaint” – [C/134];
- 15.2. A document entitled “Complaints” – [C/138];
- 15.3. A document entitled “Draft Corporate Complaints Policy” – [C/141].

16. I take each of these policies in turn. The “Guide to Help You” commences on its first page with the following paragraph:

“Before you make a complaint there may be another way we can help you. You might want to report a problem that you’d like us to fix or report a missed bin collection. You can report these issues by using the links on the Council’s website.

If you still want to make a complaint, it is helpful if you explain why you are unhappy and what you think should be done to resolve the problem. More information on the Corporate Complaints Process can be found below and on the council’s website: [website].

If your complaint is about social care services you receive, there is a different complaints process. Contact details for the services are; [contact details]”.

17. The Complaints document opens with the following paragraph:

“A complaint is an expression of a dissatisfaction about the standard of service and/or its delivery, lack of action by the council, its staff or those acting on our behalf, council policy or attitude/behaviour of council staff, affecting an individual or group of individuals”.

18. The Draft Corporate Complaints Policy does appear to be a draft, reflecting the current policy and the proposed changes to be made to it. This is therefore actually not the respondent’s Corporate Complaints Policy that was in place at the time of the claimant’s employment but a draft in order to update the existing policy. In any event, on the first page of the draft, the following is set out:

“Our current Corporate Complaints Procedure, which was published in 2020 and is due to be reviewed, has three stages:

- Stage one response: usually managed by the relevant service unit
- Stage two response: if the complainant is dissatisfied by the stage one response, the complaint is reviewed by a senior officer in another service; historically this has been the corporate complaints manager, and is currently being undertaken by members of legal services
- Stage three: a right to refer to the LGSCO [Local Government and Social Care Ombudsman] for independent review”.

19. I find that it is clear on any reading of these three policies that these apply to service users of the respondent and not to current employees. The examples given in the “Guide to Help You” of missed bin collections, and then linking it to the Corporate Complaints Policy, clearly indicates that both documents are envisaged to be used by service users of the respondent. I also note there is no reference to employee or employer within the three documents: this clearly suggests that these documents are not for use by someone in an employment relationship with the respondent.

20. Although the claimant seeks to rely on these documents, I repeat my finding: the relevant document for the claimant to use during his employment in order to raise a grievance would be that at [R/89].
21. In any event, I have not been taken to any reference to the employment tribunal, or the process for presenting an employment tribunal claim, within any four of the aforementioned policies.

Claimant's complaints

22. The claimant commenced his employment with the respondent on 29 January 2018. During the course of his employment, he raised various complaints:

- 22.1. on 13 December 2019 – [R/86];
- 22.2. on 24 July 2020 [R/85-86];
- 22.3. on 4 August 2022 – [R/82].

23. The claimant did not use the required form for raising a grievance under the respondent's grievance procedure in relation to any of the above three complaints. The suggested format for registering a grievance under the grievance procedure is attached to that procedure at appendix 2, and can be seen at [R/98].

24. Of particular relevance is the claimant's statement in the third complaint listed above at [R/82]. On [R/83], the claimant states as follows:

“This is the last opportunity for you and Assistant Director to put things right before I consider [whether] to take my case to [the] Employment Tribunal”.

25. The claimant told me in evidence that:

“Unless the respondent had taken those [complaints] seriously, at the back of my mind was the option to go to the Tribunal”.

26. I therefore find that, as at 4 August 2022, the claimant had the possibility of a Tribunal claim in his mind.

27. The claimant sent the email of 4 August 2022 to Damien James at Bracknell Forest Council. Mr James responded the following day stating that, as the claimant was not an employee of Bracknell Forest Council, but of the respondent, he would need to enter the formal complaint processes of the respondent using their HR policies.

28. The claimant was able to find the respondent's grievance procedure and complete the requisite pro forma grievance form, and was able to raise a grievance under the grievance procedure on 8 February 2023 – [R/99]. When the claimant was asked why he had used the pro forma on this particular occasion, he told me that it was in direct response to Mr James' advice to him in the 5 August 2022 email cited above. There is a six-month gap between the claimant receiving Mr James' email and the claimant following his advice. This demonstrates to me that the claimant felt no sense of urgency in following that grievance procedure. The claimant did tell me that there had been delays on the respondent's side as well in terms of that six-month gap. However, ultimately, I find that if the claimant had wished to raise a grievance with any

sense of urgency following the 5 August 2022 email, the only step he needed to take was to find the grievance policy and complete the pro forma. I note he was unable to explain to me what exact action on the part of the respondent had caused any delay within that six-month period.

Resignation and new employment

29. Prior to the claimant receiving an outcome to his grievance of 8 February 2023, on 28 September 2023 he resigned: he set out his last day as being 31 October 2023 - [R/100]. The claimant told me that, in his mind, the respondent had failed to address the issues raised in August 2022 within the time limit he thought was reasonable.
30. Following his departure from the respondent on 31 October 2023, the claimant started a new job with Slough Borough Council on around 15 November 2023. He worked there for about a year and then moved employment to work at Lambeth Council. Both jobs were acquired via a recruitment agency.

Grievance process

31. the claimant's grievance was investigated, and the outcome sent to the claimant on 30 April 2024 - [R/106]. That letter sets out that there had been a grievance hearing on 20 April 2023 at which the grievance officer had required further information from the claimant. Unfortunately, the claimant then went on a period of sick leave which meant he was only able to send the requisite further information to the grievance officer on 4 October 2023: the claimant's email attaching that information is at [R/105]. This provides some explanation (although not a full explanation) as to the delay in concluding the grievance. a timeline explaining the steps taken in the grievance process is set out on [R/110-111].
32. The outcome letter, at [R/107], sets out the claimant's right to appeal the decision therein within five working days of receipt of the outcome letter. The claimant said in evidence that he did not take in that detail and accepted that he had not read the letter sufficiently thoroughly. He told me that, prior to receiving the outcome letter, he had spoken to the grievance officer about the outcome and had raised his dissatisfaction with it. In his mind he had already therefore initiated the appeal process. I find that this communication of dissatisfaction is not sufficient to trigger the appeal process. The grievance procedure at [R/94] is very clear: at paragraph 8.2, the policy states that an appeal must be made in writing marked for the attention of the HR Service Lead, to a specific email address, within five working days of receiving the written outcome of the grievance hearing. Clearly a remark regarding dissatisfaction in a telephone call prior to receiving the outcome of the grievance in writing is not compliant with this policy. Further, the claimant must have had access to the Grievance Procedure from February 2023 and so ought to have been able to access this information regarding the appeal. Moreover, the same information is set out in the outcome letter in any event.
33. The claimant opened the email attaching the outcome of the grievance letter on 3 May 2024: we have a read receipt at [R/117].

16 June 2024 "Letter of Formal Complaint – Final"

34. The next document pertinent to this hearing is found at [R/15] and is the claimant's "Letter of Formal Complaint – Final" dated 16 June 2024. This document was not sent to the respondent until 25 July 2024, as can be seen in the respondent's acknowledgement letter on [R/133]. The claimant explained that he considered this to be his appeal letter: if this is so the claimant had waited roughly 11 weeks between receiving the grievance outcome and sending his appeal. This demonstrates a pattern of a lack of sense of urgency from the claimant when dealing with deadlines. The claimant made a vague suggestion that it was possible he may have posted a copy of his 16 June 2024 letter to the respondent prior to emailing it. I have no good evidence before me to support that assertion which I note was not made in the claimant's witness statement provided for the purposes of this hearing.
35. The claimant gave some reasons as to this 11-week delay. He firstly said that he is a litigant in person and did not know the Employment Tribunal process, and so it took him time to put the letter together. Secondly, he said he was suffering with work-related stress and was having professional medical support. He also said he was under unaware of the five-day requirement and had searched through the Corporate Complaints Procedure regarding Stage 2 and there was no mention of five days.
36. Regarding these reasons I make the following findings. The claimant had been capable of following the grievance process in order to put in the pro forma on 8 February 2023. It therefore follows that he had access to the grievance policy and knew that that was the policy to follow. One does not need to be an Employment lawyer in order to follow an internal grievance process. The five-day requirement had been clearly set out in the outcome letter of 30 April 2024, so regardless of the claimant's ability to follow an internal process, he had the timing set out to him clearly in a letter that he ought to have read carefully. I will return to the claimant's point regarding his health shortly.
37. Returning to the claimant's "Letter of Formal Complaint – Final", this document prepared on 16 June 2024 was the same document attached to the claimant's ET1 claim form. In other words, it forms his Grounds of Complaint. In that letter, the claimant has referenced various legal terms, for example as follows:
- 37.1. Section 1 of the Employment Rights Act 1996, the statutory obligation to provide a clear written statement of particulars of employment. He has also cited several cases of relevance to variation of terms of employment;
- 37.2. Harassment under section 26 of the Equality Act 2010, including reference to "violating my dignity" and "creating an intimidating, hostile, degrading, humiliating or offensive environment", which are the statutory words in section 26;
- 37.3. Constructive dismissal, as well as the relevant parts of the Employment Rights Act 1996, including reference to Part X and section 95(1)(c);
- 37.4. Discriminatory constructive dismissal including reference to "discriminatory conduct materially influencing the conduct amounted to the repudiatory breach";

- 37.5. A case relevant to both ordinary and discriminatory constructive unfair dismissal (Williams v Alderman Davies Church in Wales Primary School);
- 37.6. Equal pay for work of equal value, a relevant case (K and Others v Tesco Stores Ltd) and reference to Art 157 of the Treaty on the Functioning of the European Union.
38. The claimant told me that he had written his letter of 16 June 2024 himself and had researched the law on the internet. This level of legal language demonstrates to me that the claimant had undertaken a significant amount of research on the law relevant to his complaint as at 16 June 2024. He is clearly capable of using the internet and Google searches as a source of information in order to research legal matters. The claimant's letter demonstrates that he is an intelligent individual who is able to use the resources available to him to set out relevant legislation and case-law when necessary.
39. At this stage, it is useful to note that the claimant's work with the respondent involved an understanding and application of the Housing Act 2004, in order to enforce and implement the legislation therein. The claimant knew the requirements under the Housing Act 2004, which includes time limits relevant to that Act.

Reasons for delay in presenting ET1 claim form

40. it was put to the claimant that, having produced this letter on 16 June 2024, he could have submitted his ET1 claim form on that date as well. The claimant said he could not have done for several reasons as follows:
- 40.1. He understood that he had to go through the second stage of the grievance, in other words the appeal process, prior to starting proceedings in the Tribunal. This was his understanding from the respondent's policies;
- 40.2. He was told by the respondent's legal team to wait and give them more time to respond to his letter of 16 June 2024 (sent on 25 July 2024);
- 40.3. The claimant was unwell due to his work environment and was receiving medication and support;
- 40.4. Implicit in the claimant's evidence is a fourth reason, being his lack of knowledge of the time limits applicable to the Employment Tribunal.
41. The claimant also suggested at one point that his telephone conversation with the grievance officer just prior to receiving the outcome of the grievance was one of the reasons for the delay in sending the ET1 claim form. Despite asking several questions about this, I am still not clear as to the causative link that is said to exist between that telephone call and the claimant's presentation of the ET1 claim form.
42. Taking each of the above listed four reasons in turn, I make the following findings.
43. In terms of completing the internal process and stage 2, there is nothing in any of the policies that I have seen in either bundle that stipulates that an individual

raising a grievance must complete the appeal process before presenting a claim to the Employment Tribunal. Nor is there anything in those documents that could reasonably be interpreted as meaning the same.

44. Latterly in his evidence, the claimant suggested that the grievance officer had told him he must complete the appeal before presenting his claim form to the Tribunal. This does not appear in the claimant's witness statement produced for today's purposes, and it was towards the end of his evidence to me that he raised this matter for the first time. He raised this point after being taken through the various policies which he alleged advised him to complete the appeal process before presenting his claim to the Tribunal. I find that he gave this evidence once he became aware that the policies did not say what he thought they did. I consider it incredible that, had this conversation taken place as the claimant suggested, he would not have included it in his witness statement and raised it earlier in his oral evidence. I do not accept that the grievance officer told the claimant that he had to complete the appeal process before starting Tribunal proceedings.
45. in terms of the respondent telling the claimant to hold off and give them more time to respond to his complaint of 16 June 2024, the claimant relies on the letter at [R/133] from the respondent. This is the acknowledgement letter that the respondent sent following receipt of his 16 June 2024 email, sent to them on 25 July 2024. That letter states as follows:

“A per the Civil Procedure Rules paragraph 6, a defendant should respond to a letter of claim within a reasonable period and by no more than three months if the matter is a complex one. We would consider this matter to be of [sic] a complex one given the nature of the claim and the reference to historical incidents”.
46. Nowhere in this letter is the Employment Tribunal process mentioned. Nowhere in this letter is the claimant told to wait for the respondent's response to his complaint before raising a complaint to the Tribunal.
47. I do not accept that the respondent, whether by means of their policy, letter or oral conversations, ever represented to the claimant that he had to conclude the internal grievance process before presenting his claim to the Tribunal.
48. To the extent that the claimant genuinely believed that he was prohibited from presenting his claim to the Tribunal before the completion of the appeal, by inferring meaning into the respondent's words, I find that any such inference and consequential belief was unreasonable.
49. In terms of the claimant's ill-health, the claimant had been off sick from work for several months over the summer of 2023. He told me he returned to work sometime in August 2023. He worked for the respondent up until his date of termination on 31 October 2023. The claimant explained that he had suffered work-related stress and had been assisted by treatment and medical support. Things started to improve once he left the respondent in October 2023.
50. The claimant was then fit enough to start working in mid-November 2023 for Slough Borough Council for one year and then remained fit enough to work at Lambeth Council after that.

51. Taking the period of November 2023 to June 2024, the claimant told me he was in the process of recovery and was still having counselling sessions. He was suffering with stress and anxiety at that time but was able to work.
52. Taking the period of June 2024 of October 2024, the claimant told me his health had continued to improve but that he was still receiving counselling and medication.
53. The primary time-limit to bring his unfair dismissal claim ended on 30 January 2024. Throughout the period from his dismissal to that date, the claimant had been well enough to work at Slough Borough Council. That continued to be the case up to and including when he did present his claim on 4 November 2024 (he may by this time have switched to Lambeth Council).
54. The claimant was well enough to produce a very detailed and lengthy document on 16 June 2024 had been able to undertake the research necessary to produce a document. The only additional thing he needed to do in order to present his claim to the Tribunal was to complete the ET1 claim form: I have heard no good evidence that this presented him with any specific difficulty in terms of having to fill in details such as one's name and address.
55. I do not accept that the claimant was so unwell as to prevent him from raising his claim to the Tribunal at any time between his effective date of termination and the presentation of his claim on 4 November 2024. I have seen no good evidence in either bundle to support such a suggestion. In fact, I have seen no medical evidence at all and have limited evidence from the claimant himself as to his health during this period, other than that I have already set out above. There is nothing in his witness statement at [R/68] that suggests that his health presented a problem preventing him from presenting his claim at any time.
56. In terms of his knowledge of time limits, the claimant did not seek help from the Citizens Advice Bureau. He told me that the first time he had approached a lawyer was the day before this hearing. It was put to him that it was very easy to Google time limits for an unfair dismissal claim and that Google would produce the answer of three months less a day. The claimant's answer was that to do that search he needed to be a barrister or legally trained. When it was suggested to him that you did not need to be a barrister to type in "the time limit for an unfair dismissal claim" to Google, the claimant agreed, stating that "it depends on your ability and skill set". Given the level of research that the claimant had to do in order to produce the letter of 16 June 2024, including citing various legislation and case-law, I find that the claimant's ability and skill set was capable of typing into Google something to the effect of "what is the time limit for an unfair dismissal claim in the Tribunal?".
57. The claimant told me that he found out about the ACAS early conciliation process by approaching the Tribunal and being told that that was the first thing he had to do before presenting a claim. He further told me that he was in contact with the Tribunal around the beginning of October 2024. In terms of finding the ET1 form and completing that document, he said that he found it either on the Tribunal website or by doing a Google search.

Respondent's response

58. On 30 October 2024, the respondent's solicitor sent a response to the claimant's letter dated 16 June 2024 - [R/138]. The claimant seems to be of the understanding that his letter of 16 June was an appeal under the grievance procedure, and that the respondent's response of 30 October 2024 was the outcome of the appeal. I do not accept that that is the correct understanding of the status of these documents. The claimant's letter of 16 June 2024 is not entitled grievance appeal: it is entitled Letter of Formal Complaint – Final. I do however note that at [R/16], the claimant states:

“please accept this letter and statement of case as a final stage of grievance escalation and a letter before action and compliant with the court's civil procedure rules”.

59. To the extent this was intended to be a grievance appeal, it was around 10 weeks late when having regard to the respondent's five-day time limit. I do not accept that it was reasonable for this to be interpreted as an appeal from the grievance outcome. This is particularly when the grievance procedure does not in fact apply to former employees (as the claimant was by this time), but only to current employees.

60. The claimant completed the ACAS early conciliation process between 1 and 4 November 2024 and then presented his claim to the Tribunal on 4 November 2024.

Legal framework

61. S111 ERA makes provision for an extension of time for unfair dismissal cases when the primary time limit is missed, as follows:

“(2) Subject to the following provisions of this section, an employment tribunal shall not consider a complaint under this section unless it is presented to the tribunal –

- a. before the end of the period of three months beginning with the effective date of termination, or
- b. within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.”

62. This legislation therefore provides for a two-stage test for tribunals:

62.1. Firstly, the Tribunal must be satisfied that it was not reasonably practicable for the claimant to have presented his claim on or before 30 January 2024; and

62.2. Secondly, if it was not reasonably practicable, the Tribunal must be satisfied that the period from 30 January 2024 to 4 November 2024 was a reasonable further period to enter his claim.

63. The burden of proof regarding both limbs of this test falls to the claimant.

Reasonably practicable

64. The first question must be why the primary time limit of 30 January 2024 was missed. Then I must ask whether, notwithstanding those reasons, was the

timely presentation of the claim still reasonably practicable.

65. The meaning of “reasonably practicable” has been held to mean “*reasonably feasible*” – Palmer & Saunders v Southend-on-Sea Borough Council [1984] ICR 372 (page 384). What is “*reasonably feasible*” has been held to sit somewhere between the two extremes of what is reasonable, and what is physically possible.
66. Ultimately, as per the Employment Appeal Tribunal (“EAT”) in Northamptonshire County Council v Entwistle [2010] UKEAT 0540_09_2505, the issue of reasonable practicability is one of fact for the Tribunal, that needs to be determined on the specific facts of each case – paragraph 5(6).

Reason of ignorance/mistake as to time limits

67. Where the reason for missing the primary time limit is said to be ignorance or mistake, the question remains whether, in all the circumstances, it was reasonably practicable for a litigant to have presented the claim in time.
68. The Court of Appeal has stated, in a case of mistake, that the term “reasonably practicable” should be given liberal meaning so as to favour a claimant – Lowri Beck Services Ltd v Brophy [2019] EWCA Civ 2490, paragraph 12. One factor of relevance to ignorance/mistake cases will be whether a claimant has instructed a professional adviser. Where a litigant has no professional advice, they need only show that their ignorance or mistake was reasonable. As per Denning LJ in Wall’s Meat Co Ltd v Khan [1979] ICR 52 (page 56):

“It is simply to ask this question: Had the man just cause or excuse for not presenting his complaint within the prescribed time? Ignorance of his rights – or ignorance of the time limit – is not just cause or excuse, unless it appears that he or his advisers could not reasonably be expected to have been aware of them. If he or his advisers could reasonably have been so expected, it was his or their fault, and he must take the consequences.”

69. The question becomes whether the mistake or ignorance is itself reasonable. Brandon LJ in Khan held (page 60)

“The performance of an act, in this case the presentation of a complaint, is not reasonably practicable if there is some impediment which reasonably prevents, or interferes with, or inhibits, such performance. The impediment may be physical, for instance the illness of the complainant or a postal strike; or the impediment may be mental, namely, the state of mind of the complainant in the form of ignorance of, or mistaken belief with regard to, essential matters. Such states of mind can, however, only be regarded as impediments making it not reasonably practicable to present a complaint within the period of three months, if the ignorance on the one hand, or the mistaken belief on the other, is itself reasonable. Either state of mind will, further, not be reasonable if it arises from the fault of the complainant in not making such inquiries as he should reasonably in all the circumstances have made ...”.

Reason of ill health

70. In order to be able to extend time as a result of a litigant’s poor health, it is necessary for a Tribunal to make findings as to the nature of any illness and the extent to which it affected a litigant’s ability to commence litigation. It also requires findings on the effect of the illness throughout the full three-month primary limitation period.

71. The Tribunal, in questioning what was reasonably practicable, should look carefully at any change in the claimant's circumstances (including fluctuating health issues) throughout the full duration of the primary limitation period, as well as taking into account at what stage of that primary period the changes occurred – Schultz v Esso Petroleum Ltd [1999] ICR 1202, page 1210.

72. In Cygnnet Behavioural Health Ltd v Britton [2022] IRLR 906, EAT, the EAT held that, despite the claimant's health issues, it was reasonably practicable for him to have presented his claim in the relevant time period. The claimant in that case had depression and dyslexia, and his focus during the primary time had been on a regulatory investigation into his fitness to practice as a physiotherapist. The Employment Tribunal had found that it was not reasonably practicable for him to present his claim in time. The EAT overturned that decision, holding as follows:

“58. ... It would be the work of a moment to ask somebody about time limits or to ask a search engine.

...

60. ... Even though during this period he was depressed and had dyslexia, this did not mean that he was incapacitated and it did not mean that it was not reasonably practicable for him to find out the time limits.”.

Reason of exhausting internal proceedings

73. The relevant question for the Tribunal is whether the existence of an ongoing internal grievance or disciplinary process dealing with the claimant's complaints makes it not reasonably practicable to present a claim to a Tribunal before that procedure is completed.

74. The most common scenario is that a lengthy appeal procedure leads to the Tribunal timeframe of three months running out prior to that appeal's completion. However, the EAT has determined as follows – Bodha v Hampshire Area Health Authority [1982] ICR 200, EAT page 204:

“... We do not think that the mere fact of a pending internal appeal, by itself, is sufficient to justify a finding of fact that it was not “reasonably practicable” to present a complaint to the industrial tribunal”.

75. The existence of internal proceedings will be one factor to take into account. This view in Bodha was approved subsequently by the Court of Appeal in Palmer.

Reasonable further period

76. What is considered a reasonable period depends on the circumstances at the time. It is not just a question of the time period that has passed since the expiry of the limitation period. For example, a delay of almost five months has been found to be reasonable – Locke v Tabfine Ltd t/a Hands Music Centre UKEAT/0517/10. This was a case in which the claimant had been undergoing treatment for cancer and was very frail.

77. However, the Tribunal does not have unfettered discretion to permit claims to continue, regardless of the length of delay – Westward Circuits Ltd v Read [1973] ICR 301. The length of delay is one factor to be considered, but not to the exclusion of all other relevant factors in any given case – Marley (UK) Ltd v Anderson [1994] IRLR 152.
78. A claimant must present his claim as soon as possible once the impediment stopping him having presented the claim in the initial three-month period is removed. For example, in Golub v University of Sussex [1981] 4 WLUK 133, CA, the Tribunal held that claimant delayed too long in bringing his claim so as to make the further period for presenting his claim not a reasonable one. This was overturned at the EAT but reinstated at the Court of Appeal.
79. It is necessary to consider the relevant circumstances throughout the period of delay and, at each point, what knowledge the Claimant had, and what knowledge he should have had if he had acted reasonably in all the circumstances – Northumberland County Council v Thompson [2007] UKEAT 0209_07_1409, paragraph 14.

Conclusions

Not reasonably practicable

80. The claimant gave four reasons for the delay in presenting his claim as set out at paragraph 40 above. Those reasons were as follows:
- 80.1. Reason 1 – he understood that he had to go through the second stage of the grievance, in other words the appeal process. This was his understanding from the respondent's policies;
- 80.2. Reason 2 – he was told by the respondent's legal team to wait and give them more time to respond to his letter of 16 June 2024 (sent on 25 July 2024);
- 80.3. Reason 3 – the claimant was unwell due to his work environment and was receiving medication and support;
- 80.4. Reason 4 – his lack of knowledge of time limits relevant to the Employment Tribunal.
81. Regarding reason one, for the reasons I have set out at paragraphs 43, 47 and 48, I do not accept that it was a reasonable understanding of the wording of any of the respondent's policies that the claimant had to complete the internal grievance process before presenting his Tribunal claim form.
82. Regarding reason 2, for the reasons I have set out in paragraphs 45-48, I do not accept that the respondent told the claimant to hold off on presenting his Tribunal claim form.
83. As such, I am not satisfied that the claimant's understanding that he had to complete the internal grievance process was a reasonable understanding. In other words, the mistaken belief that he had to complete the internal grievance process was not a reasonable mistake to make. I therefore do not accept this

mistake as being an impediment to him presenting his claim form by 30 January 2024.

84. Regarding reason three, I do not accept that the claimant was unwell sufficiently so as to cause an impediment to his presenting of a claim form by 30 January 2024. I refer back to my findings at paragraphs 49 to 55. The claimant was sufficiently well throughout the period between his dismissal and the primary time-limit to be able to work for Slough Borough Council.
85. Regarding reason 4, I am not satisfied that the claimant's ignorance of time limits was reasonable. The claimant had the ability and skills to be able to undertake the research required to find out the applicable time limits for tribunal claim. I revert to my findings at paragraphs 37-39 and 56-57 above: the research involved in finding out the time limit for an unfair dismissal claim is considerably more straight forward than researching the legislation and case-law set out in the claimant's letter of 16 June 2024. I conclude that the claimant's ignorance of time limits was not reasonable, as it arises from his own failure to make such inquiries as he should reasonably have undertaken, and was capable of so doing.
86. I therefore conclude that none of the reasons provided by the claimant are sufficient to amount to an impediment preventing him from presenting his claim within the time limit. As such I find that it was reasonably practicable for the claimant have presented his claim by 30 January 2024.
87. I will, for completeness, go on to consider the issue of a reasonable further period for bringing the claim.

Reasonable further period

88. The relevant period for my consideration at this stage is the period between 30 January 2024 and 4 November 2024. The claimant relies on the same reasons set out at paragraph 80 above for this delay.
89. On the facts, it does appear that the claimant waited until the respondent's letter of 30 October 2024 before then taking steps to follow the ACAS early conciliation process. However, I have already found that his belief that he had to complete the internal process before presenting his claim was not a reasonable one, and not an impediment to the presentation of the claim (at any time in this chronology).
90. In terms of the claimant's ill-health as I set out above, the claimant was well enough to be at work between 30 January 2024 and 4 November 2024. In the middle of that period, on 16 June 2024, the claimant was well enough to be able to undertake the necessary research to produce the detailed letter at [R/15] that formed the basis of his claim to the Tribunal. The only thing for him to do then was to complete the ET one claim form.
91. There is no good evidence to suggest that any health issue was an impediment to his completing the ET1 form and sending it with the 16 June 2024 letter to the Tribunal at a time prior to 4 November 2024.
92. In terms of any lack of knowledge of the relevant time limits, nothing changed

during the period of 30 January 2024 and 4 November 2024 to make the claimant aware of any time limits and therefore lift this alleged impairment. In other words, nothing changed in terms of his knowledge of time limits during this period. I repeat my conclusions at paragraph 85 above.

93. I am therefore not satisfied that the claim form was presented within further reasonable period of the expiry of the primary time limit.

94. As such, I conclude that the Tribunal does not have jurisdiction to deal with this claim as it was not presented within the relevant timeframe. It will therefore be dismissed.

Approved by:

Employment Judge Shastri-Hurst

10 October 2025

SENT TO THE PARTIES ON

18 October 2025

.....

.....

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/