



EMPLOYMENT TRIBUNALS

Claimant: Shireen Asaw

Respondent: Monzo Bank Limited

Heard at: London South (by video) **On: 19 January 2026**

Before: Employment Judge N Wilson

Appearances

For the claimant: Mr Franck Magennis (counsel)
For the respondent: Mr Paras Gorasia (counsel)

PUBLIC PRELIMINARY HEARING JUDGMENT

1. The following complaints were not presented within the applicable time limit. It was reasonably practicable to do so. The claims set out below in this paragraph are therefore dismissed as the Tribunal has no jurisdiction to hear them:
 - a. Ordinary unfair dismissal (s.94 Employment Rights Act 1996). ('ERA')
 - b. Automatic unfair dismissal:
 - i. s.152(1)(a) and/or (b) Trade Union and Labour Relations (Consolidation) Act 1992 ('TULR(C)A 1992')
 - ii. s. 103A Employment Rights Act 1996 (protected disclosures).
 - c. Detriment short of dismissal:
 - i. s.146 TULR(C)A 1992;
 - ii. s.47 B ERA 1996 (protected disclosures).
 - d. Unauthorised deductions from wages (section 13 ERA 1996)
 - e. Breach of contract

2. The complaint of harassment related to race (s.26 Equality Act 2010) was not presented within the applicable time limit. It is not just and equitable to extend the time limit. This claim is therefore dismissed as the Tribunal has no jurisdiction to hear it.
3. Time limits in relation to the complaints of victimisation (section 27 Equality Act 2010) and discrimination arising from disability (section 15 Equality Act 2010) will be determined at the final hearing.
4. The complaint of failure to make reasonable adjustments (ss.20-21 Equality Act 2010) was not presented within the applicable time limit but it is just and equitable to extend the time limit. This claim will therefore proceed.

REASONS

Background

5. This hearing is listed to deal with time limits and the claimant's claims potentially being out of time.
6. The letter from the Tribunal listing this hearing is dated 16 December 2024 and I quote what is set out in the letter (including the numbering):

At the the hearing an Employment Judge will decide:

1. *Was it reasonably practicable to present the complaint of unfair dismissal and whistleblowing within the time limit? If not, was it presented within a reasonable period? Note In general terms, the time limit is three months from the relevant event, as extended by the rules relating to early conciliation. The claimant must persuade the Judge to extend the time limit. If time is not extended the claim (or that part of it) will be dismissed.*
2. *Would it be just and equitable to extend the time limit for presenting the claim? Note The time limit in s 123 Equality Act 2010 is three months from the date of the last alleged act of discrimination, as extended by the rules relating to early conciliation. The Judge will assume at the preliminary hearing that there was conduct over a period ending with the last alleged act of discrimination. The Judge will consider why the claim was not presented sooner and, in any event, whether it just and equitable to extend time. The claimant must persuade the Judge to extend the time limit. If time is not extended the claim (or that part of it) will be dismissed.*

The following is Ordered: No later than 21 days before the preliminary hearing the Claimant must send the respondent and the Tribunal a pdf file containing:

*(a) a signed witness statement setting out all the facts on which the Claimant relies in support of the application for an extension of time; and
(b) copies of any documents relevant to that application.*

2. If the Respondent wishes to rely on any witness statements or documents, it must send a pdf copy to the Claimant and the Tribunal no later than 7 days before the preliminary hearing.

3 days before the hearing the Respondent must send the electronic file of documents and witness statement(s) to the Tribunal

3. The list of issues set out in my Case Management Order (EJ Wilson) dated 25 September 2025 identifies the claimant brings the following claims:

- a. Ordinary unfair dismissal (s.94 ERA 1996).
- b. Automatic unfair dismissal:
 - i. s.152(1)(a) and/or TULR(C)A 1992 (trade union membership/activities)
 - ii. s. 103A ERA 1996 (protected disclosures).
- c. Detriment short of dismissal:
 - i. s.146 TULR(C)A 1992
 - ii. s.47 B ERA 1996 (protected disclosures).
- d. Harassment related to race (s.26 EqA 2010).
- e. Victimisation (s.27 EqA 2010).
- f. Discrimination arising from disability (s.15 EqA 2010)
- g. Failure to make reasonable adjustments (ss.20-21 EqA 2010)
- h. Unauthorised deductions from wages / breach of contract

4. I had before me a 180-page preliminary hearing bundle and the parties' skeleton arguments and case authorities.

5. The claimant refers me in particular to the authorities of:

- **C Raison v DF Capital Bank Ltd and Others [2025] EAT 86**
- **Compass Group UK & Ireland Ltd v Morgan [2017] ICR 73**
- **Revenue and Customs Commissioners v Serra Garau [2017] ICR 1121**
- **Logo v Payone [2025] EAT 95**

6. The respondent refers me to the authorities of:

- **C Raison v DF Capital Bank Ltd & Ors [2025] IRLR 685**
- **Walls Meat Co Ltd v Khan [1979] ICR 52**

- **Dedman v British Building and Engineering Appliances Ltd [1974] ICR 53,**
 - **Porter v Bandridge Ltd 1978 ICR 943**
 - **Trevelyan (Birmingham) Ltd v Norton 1991] ICR 488,**
 - **London Underground v Noel [1999] IRLR 621**
 - **Robertson v Bexley Community Centre [2003] IRLR 434,**
 - **Rathakrishnan v Pizza Express (Restaurants) Ltd [2016] IRLR 278**
 - **Adedeji v University Hospitals Birmingham NHS Foundation Trust [2021] EWCA Civ 23,**
7. The claimant was dismissed with effect on 26 April 2024. ACAS early conciliation started on 23 April 2024 and ended on 4 June 2024. The claim form was presented on 4 September 2024.
8. The issue surrounds the fact that in this case the claimant has calculated the limitation period of 3 months less one day to bring her claim (using the period of early conciliation) as ending on 5 September 2024.
9. The respondent asserts that the limitation period in fact in this matter expires on 2 September 2024 and as such all the claimant's claims are out of time and should be dismissed unless the Tribunal decides to extend time.

The legal framework

Jurisdiction

10. Time limits are not mere procedural niceties that can be waived by the parties. Rather, they are a fundamental limitation on the right to have a claim determined, and they go to the Tribunal's jurisdiction: if the claim is presented outside the time limit, the Tribunal simply does not have jurisdiction to hear it (subject to the Tribunal's discretion, if applicable, to grant an extension of time).
11. An Employment Tribunal shall not consider a complaint... unless it is presented to the tribunal... before the end of the period of three months beginning with the effective date of termination' (S.111(2)(a) Employment Rights Act 1996 ('ERA')). Therefore, if a claim is presented out of time and cannot be brought within a statutory formula, if there is one, allowing for an extension of time, then the Tribunal must refuse to hear the case.

Calculation of time limits

12. A claim of unfair dismissal under S.111 of the Employment Rights Act 1996 ('ERA') must be brought before the end of the period of three months beginning with the 'effective date of termination', subject to the possibility of an extension if it is 'not reasonably practicable' for the claimant to meet this deadline.

13. A claim of unlawful detriment under S.48 ERA, which may relate to grounds including whistleblowing, or acting as an employee representative, must generally be brought within three months of 'the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them'.
14. A claim of unauthorised deductions from wages under S.23 ERA must be brought within three months of the date of payment of the wages from which the deduction was made or, if there was a series of deductions, the last deduction in the series.
15. Detriment and unauthorised deductions claims are subject to the same 'not reasonably practicable' extension of time criteria as unfair dismissal claims.
16. The three-month time limit for a claim of detriment related to trade union activities under S.147 of the Trade Union and Labour Relations (Consolidation) Act 1992 is calculated in the same way as for a detriment claim under the ERA, being triggered by the date of act or failure to which the complaint relates, and is likewise subject to the possibility of a 'not reasonably practicable' extension.
17. With regard to discrimination claims the Equality Act 2010 ('EqA') provides that the usual three-month time limit for starting employment tribunal proceedings runs from 'the date of the act to which the complaint relates' — S.123(1)(a). Case law has established that where the 'act complained of' (now 'the act to which the complaint relates') is a dismissal, the date from which the time limit runs is the date on which the dismissal takes effect and not the date when notice of termination is given - *Lupetti v Wrens Old House Ltd 1984 ICR 348, EAT*.

Effect of early conciliation

18. Since 6 May 2014, anyone wishing to present a claim to an Employment Tribunal must first contact ACAS and be offered early conciliation — S.18A Employment Tribunals Act 1996 ('ETA')
19. Special provisions have been introduced to extend the relevant time limit in light of ACAS early conciliation.
20. In cases where the EC period starts to run (as in this case) before the effective date of termination (EDT) any part of the EC period which occurs prior to the relevant limitation period commencing will not count towards an extension of time under section 207B (3) and the equivalent provisions. This follows the EAT's decision in **HM Revenue and Customs v Serra Garau UKEAT/0348/16/LA**. In that case, the entire EC period had taken place before the time limit had started to run and so there was no extension of time under S.207B. The EAT commented that 'the limitation clock could not stop... because it had never started'.

21. Any uncertainty that followed earlier cases, has been resolved by the EAT in **Raison v DF Capital Bank Ltd and ors 2025 EAT 86**, which confirmed that the effect of S.207B(3) is to 'stop the clock', thereby extending the primary limitation period for an unfair dismissal claim by the number of days in the EC period that occurred after the EDT. The EAT considered that the wording of S.207B(3) is 'clear and unambiguous', being specifically directed at 'working out when a time limit set by a relevant provision expires'. It emphasised that limitation periods are invariably calculated from when time starts to run, which in unfair dismissal cases is the EDT. There is no question of including a period before the date when limitation started to run; such a period does not count for this purpose. Accordingly, the EAT considered that there is no need for a specific statutory provision stating that a period before the EDT does not count for limitation purposes because this is unambiguously the position in any event.

Parties' submissions

22. I have taken note of both parties' skeleton arguments, the authorities referred to and oral submissions made by both Mr Magennis and Mr Gorasia. I do not intend to repeat them here.
23. I also take note of the oral evidence of the claimant heard in relation to why she brought the claims when she did, as well as matters contained in her witness statement. I refer to her evidence as much as it is relevant to the matters I am deciding upon and insofar as it is necessary to explain my decision.

Conclusions

24. The claimant seeks to persuade me to depart from the clear authority laid out in **Raison**. **Raison** is clear authority and the argument that the present case is distinguishable because Ms Asaw is also making discriminatory complaints does not lead to any different outcome. The facts are not such where I am persuaded that they are distinguishable.
25. The effective date of termination ('EDT') was on 26 April 2024. The EC period started on 23 April 2024, 3 days before the limitation period commenced for a number of claims.
26. The respondent argues the discriminatory allegations all crystallise before the EDT. I do not accept the claimant's assertion that in this case the effect is to create two day 'A's for the purpose of the limitation calculation. Mr Magennis seeks to persuade me that the facts in this case are distinct from those in **Raison** or alternatively the claim was brought in time because **Raison** was wrongly decided. I do not agree. The facts in the present case are analogous to **Raison**. The main difference being this case also has discriminatory and other claims not just a complaint of unfair dismissal. However, it is plainly not

right that this creates two day 'A's on the EC certificate. Section 207B of the ERA provides as follows:

(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 ... the certificate issued under subsection (4) of that section.

27. The effect of the 'stop the clock' mechanism is to exclude the early conciliation period from the time limit calculation for the purpose of limitation. However, this is subject to the limitation period having commenced.
28. Day A is clearly 23 April 2024. The respondent is not arguing, contrary to Mr Magennis' submission that Day A is 26 April 2024. The respondent is saying the stop the clock mechanism cannot include the days in the EC period before limitation has commenced.
29. In this case the dismissal post dates Day A by 3 days. The list of issues does not disclose the course of conduct alleged for any of the discriminatory claims extends over a period of time ending with the dismissal. None of the complaints allege the dismissal was a detriment and/or discriminatory.
30. Mr Magennis makes no submission about this, and his skeleton argument simply refers me to the claimant's witness statement. The claimant's statement however does refer to a continuing course of conduct relied on culminating in dismissal.
31. Her evidence about this was not challenged. Reliance (understandably) has been placed on the last act complained of which appears in the List of Issues. The last act complained of in the List of Issues is not dismissal. However, for the purpose of determining time limits it has been necessary to review the claimant's particulars of claim particularly where the claimant maintains that the dismissal was the last act of discriminatory conduct, but this is not reflected in her List of Issues (for which it must be noted she had legal representation at the preliminary hearing to identify). Whilst Mr Magennis did not raise this at the preliminary hearing or today's hearing (nor has the claimant taken steps to dispute the list of issues since receiving the case management order) the particulars of claim at paragraph 121 (c) do refer to dismissal being the unfavourable treatment for the Discrimination arising from Disability claim and at paragraph 116 refers to dismissal as being a detriment because of the protected acts for the Victimisation claim.

32. Based on the clearly pleaded particulars of claim it is therefore in the interests of justice to ensure the List of Issues properly reflects the claimant's pleaded case and appropriate that the date of dismissal is used for calculation of time limits for the relevant claims when making my decision about time limits.
33. I find the last act complained of therefore for the Victimisation complaint and the Discrimination arising from disability complaint in those circumstances was the dismissal on 26 April 2024. The List of Issues in my case management order dated 25 September 2025 is to be accordingly amended to add the dismissal as being the last act complained of for these two claims only. Whilst not identified by Mr Magennis at the preliminary hearing it is clearly pleaded in the claimant's particulars of claim and ought to have been included. The claimant's witness statement for this hearing clearly shows she remains of the view this is the basis of her pleaded claim.
34. The last alleged unwanted conduct for the harassment claim occurred on 18 September 2023. This is reflected in the List of Issues.
35. For the reasonable adjustments claim the latest detriment claimed is 17 April 2024 (predating the EDT). This is reflected in the List of Issues.
36. The last protected disclosure is alleged to have been on 25 April 2024 (again predating the EDT). The last protected disclosure detriment is 17 April 2024.
37. I accept that there may be pre dismissal detriments or discriminatory conduct alleged and the Tribunal will ordinarily in those circumstances need to decide whether this amounted to a course of conduct extending over a period of time, but I do not find this has the effect of creating multiple day 'A's.
38. Even where the course of discriminatory conduct and/ or detriments alleged included the dismissal this would still have the effect that limitation starts to run at the latest in this case from the EDT. The difference being that limitation has already started to run for any discriminatory claims where the claimant relies on a course of conduct ending in the dismissal and therefore for those claims the pre-EDT conciliation period will not need to be discounted for the purpose of calculating limitation for those claims. This is of course subject to there being a finding that the conduct relied on did in fact amount to a continuing course of conduct with the last act being in time.
39. For the purpose of today's hearing I am assuming (but not making any findings about) the discriminatory acts alleged could amount to a course of conduct extending over a period.
40. For the detriment and reasonable adjustments claims (based on the last act complained of being 17 April 2024) the claimant had until 27 August 2024 to issue her claims, and she did not issue her claim form until 4 September 2024.

41. The detriment and reasonable adjustment claims are all out of time accordingly.
42. For the harassment claim (based on the last unwanted conduct being 18 September 2023) the claimant's notification to ACAS was therefore out of time and the claim ought to have been issued by 17 December 2023. This claim is also out of time accordingly.
43. For the unauthorised deduction from wages claim (even if a series of deductions is established) the last unauthorised deduction is December 2023. This claim is therefore plainly out of time also.
44. This leaves the Victimisation, Discrimination arising from Disability and the Unfair Dismissal claims. **Raison** makes clear that limitation has to have started to run before the extension of time in the EC period can count. The EAT held that the effect of the ERA 1996 207B(3) was to extend the limitation period by the number of days in the EC period that occurred after the EDT of the claimant's employment.
45. The claimant relies on **Compass Group UK & Ireland Ltd v. Morgan UKEAT/0060/16/RN** specifically in relation to section 18A of the Employment Tribunals Act 1996 ('ETA') which provides:
- '18A Requirement to contact ACAS before instituting proceedings*
- (1) Before a person ("the prospective claimant") presents an application to institute relevant proceedings relating to any matter, the prospective claimant must provide to ACAS prescribed information, in the prescribed manner, about that matter....'*
46. I am referred to Simler P holding that it did not matter that the early conciliation certificate had preceded some of the events relied on in the case, and the word 'matter' in section 18A(1) of the ETA could cover future events. However, that case was determining whether the Tribunal had jurisdiction to deal with the constructive dismissal complaint which had not yet occurred at the time of the original EC certificate. It is not analogous to the issues in this case because in that case the issue was not limitation and time limits, the issue was whether the claimant had fulfilled the requirements of early conciliation as the dismissal had not yet occurred at the time of conciliation and therefore it was asserted the claim was barred by virtue of section 18A of the ETA. In this case there is no issue about the conciliation not having been complied with nor is it being asserted that the matters complained of do not fall within the scope of the EC certificate. The respondent makes no issue of this. The issue lies squarely with whether the claim was brought within the relevant statutory limitation period taking into account the period of EC which predates the dismissal for which there is clear direct authority in **Raison**.
47. In this case therefore it is evident applying the clearly analogous relevant authority of **Raison** that the claimant has presented the unfair dismissal claim

3 days out of time. She issued the claim form on 5 September 2024, but discounting 3 days of the EC period which was before the EDT means the limitation period expired on 2 September 2024.

48. Whilst Mr Magennis refers me to the fact that **Raison** was not decided until after the claimant in this case had issued her claims, nonetheless statutory time limits remain the same and the case of **Sera Garau** also relied on the principle that the limitation clock can only 'stop' under s207B for periods when limitation is actually running. This was clearly emphasised by the EAT and good law before the claimant issued these proceedings.
49. The claimant's discriminatory claims which rely on the dismissal as the last act complained of are however potentially in time. The claimant alleges a course of conduct with the last act complained of being the dismissal. For the purpose of this hearing, I am assuming a course of conduct extending over a period (I am not making findings about this) and if the last act appears to be in time then I can leave the issue of time limits to be determined at the final hearing where findings of fact need to be made to decide if there was indeed a course of conduct culminating in the dismissal. Accordingly for the Victimisation and Discrimination arising from Disability claims given limitation has started to run before the EDT, the pre-EDT period of EC can be counted for 'stop the clock' purposes and for calculating limitation for these complaints. As the last act of dismissal in those circumstances could potentially be in time, the issue of time limits ought properly be left to the final hearing to determine after hearing evidence. If the tribunal finds there was a course of conduct ending with the dismissal at the final hearing, then the claim will have been presented in time as the claimant will have had until 5 September 2024 to present those claims. If the Tribunal determines there was no course of conduct culminating in dismissal, then they will need to make a decision about limitation and whether to extend time for any claims which they find are well founded based on the relevant limitation dates and tests applicable in those circumstances.
50. All of the claimant's claims (except potentially the Victimisation and Disability arising from Discrimination claims) are therefore statute barred and the Tribunal has no jurisdiction to hear them unless she is granted an extension of time to proceed with them.

Extension of time

Reasonable practicability

51. The claims to which the reasonable practicability test applies when I am deciding on whether to grant any extension of time for bringing those claims are the following:

- a. Ordinary unfair dismissal (s.94 ERA 1996).
- b. Automatic unfair dismissal:
 - i. s.152(1)(a) &/or (b) TULR(C)A 1992 (trade-union membership/activities);
 - ii. s.103A ERA 1996 (protected disclosures).
- c. Detriment short of dismissal:
 - i. s.146 TULR(C)A 1992;
 - ii. s.47B ERA 1996 (protected disclosures).
- d. Unauthorised deductions from wages / breach of contract

52. In **Palmer and anor v Southend-on-Sea Borough Council 1984 ICR 372, CA**, the Court of Appeal conducted a general review of the authorities and concluded that 'reasonably practicable' does not mean reasonable, which would be too favourable to employees, and does not mean physically possible, which would be too favourable to employers, but means something like 'reasonably feasible'. Lady Smith in **Asda Stores Ltd v Kauser EAT 0165/07** explained it in the following words: 'The relevant test is not simply a matter of looking at what was possible but to ask whether, on the facts of the case as found, it was reasonable to expect that which was possible to have been done'.

53. In **Lowri Beck Services Ltd v Brophy 2019 EWCA Civ 2490, CA**, Lord Justice Underhill set out the essential points established in the case law:

- the test should be given a liberal interpretation in favour of the employee
- the statutory language is not to be taken as referring only to physical impracticability and for that reason might be paraphrased as whether it was 'reasonably feasible' for the employee to present his or her claim in time.
- if an employee misses the time limit because he or she is ignorant about the existence of a time limit or mistaken about when it expires in his or her case, the question is whether that ignorance or mistake is reasonable. If it is not, then it will have been reasonably practicable for the employee to bring the claim in time. However, it is important to note that, in assessing whether ignorance or mistake are reasonable, it is necessary to take into account any enquiries which the employee or his or her adviser should have made

- if the employee retains a skilled adviser, any unreasonable ignorance or mistake on the part of the adviser is attributed to the employee.
 - the test of reasonable practicability is one of fact and not of law.
54. The claimant's witness statement is dated 3 January 2025 and can be found at page 97 of the preliminary hearing bundle.
55. I heard sworn evidence from the claimant. The claimant appeared reluctant in evidence to disclose information regarding when she first sought legal advice in relation to her claims.
56. It is clear from the minutes of a meeting included in the bundle that the claimant had trade union ('TU') support at an absence review meeting on 25 April 2024. The claimant refers to following through with ACAS and 'take it to court' in this meeting. She accepted in evidence by this date she was aware she could go to court. Her TU rep in the meeting refers to there being usually a 6-week time frame for ACAS. Two days before this meeting of course the claimant had already started ACAS early conciliation on 23 April 2024.
57. It is therefore evident she was being supported by someone who had knowledge of ACAS and time limits and she herself I find on balance will have had an awareness that there were time limits which will apply to such claims and she was aware of this before her dismissal. She certainly had pursuing a claim in her contemplation at this meeting given her reference to 'take it to court'.
58. Even if by this date it could be reasonably concluded (which I do not find it can be) she was not aware of time limits, she herself accepts she then engaged her legal representative.
59. I found the claimant's evidence regarding when she first engaged her legal representative and/or entered into any public access arrangement with him to be evasive. The question was put reasonably to her in a number of ways both by Mr Goraisa and myself. I find it troubling she could not narrow down the period to the likely month and year. Whilst she stated this was because she did not want to give the wrong information, it is reasonable to expect her to have been able to give some cogent evidence about this particularly where this hearing is about time limits. She referred to having emails which would substantiate when she engaged legal services but had not prepared her witness statement to include this clearly relevant information. She remains legally represented. The issues which are relevant to the reasonable practicability test will no doubt have been explained to her, one of those being any prior knowledge of time limits and when she obtained legal advice which is clearly relevant to this point. She was not being asked about specific dates. I accept she did offer to search her emails given there would be an email about when she entered into any damages-based agreement with her representative, but she was unable to do this without seemingly speaking with her counsel and she was under oath, so we abandoned this line of enquiry.

60. She explained that because she was friends with Mr McGennis this was why she could not recall when they had agreed he would represent her. She did eventually concede she was in contact with Mr McGennis before she brought the claim. Her particulars of claim are drafted by Mr McGennis and dated 4 September 2024.
61. The claimant's witness statement asserts she believes her claim was brought in time. She has utilised an online calculator to arrive at a limitation period of 5 September 2024. Her statement again gives no detail about when she engaged her legal representative but chronologically it appears as though it was after her dismissal. She stated she approached him to represent her on a public access basis and on 4 September 2024 she submitted her particulars of claim.
62. She goes on to say in her witness statement that she submitted the claim one day in advance of what she believed and '*still believe*' to be the correct limitation deadline of 5 September 2024. She says this date was confirmed by her use of a limitation calculator and notably this date was confirmed to her by her legal representative Mr Magennis.
63. Both the claimant and Mr Magennis appear to have used an online calculator which of course may be suitable in some cases but does not mean it can be relied on in all cases (as is evident with the present case where conciliation commenced before the EDT). The relevant statutory provisions clearly set out in s.111 and s.207B of the ERA 1996 ought to have been considered when assessing limitation periods.
64. The claimant notably in her witness statement relies on her trade union branch secretary and lawyer arriving at the same limitation deadline. This shows she was clearly reliant on advice from not only a trade union representative but also her legal representative that the correct limitation period was 5 September 2024. She also says had she been unable to obtain legal representation in time she would have submitted the claim herself and in doing so would have used the same sort of limitation calculators used by both her lawyer and trade union colleague in arriving at the same calculation.
65. She goes on to say if her lawyer was wrong it was because he used the same limitation calculator from what she refers to as a 'large reputable law firm'.
66. She states her trade union representative (after receiving the response raising the time limit issue) said he had used three online calculators, and they all gave the limitation date of 5 September 2024.
67. Needless to say, the use of an online calculator is not always going to be appropriate, and it certainly cannot replace legal advice precisely for the reasons we have seen in this case. Legal advice was sought in this matter and I agree with Mr Gorasia that a legal representative who seeks to rely on an online calculator without availing themselves of the relevant exceptions which could apply and/or relevant case law which could impact the limitation calculation where EC commences before the EDT, cannot seek to rely on this being a tool 'everyone uses' to defend a subsequent time limit point. Legal

representatives should carry out proper research and calculations when advising their clients about such a significant matter as limitation. Legal representatives ought to be fully aware of the serious consequences of failing to bring a claim in time and the effect this has on the ability to present and pursue a claim.

68. It is clear the calculation of the variety referred to and relied on by the claimant are those which apply to the more common situation of where early conciliation commences after the EDT.
69. Notably the claimant argues it was not reasonably practicable for the claimant her trade union or her lawyer to second guess a limitation calculator. But this is plainly wrong. Whilst the claimant and perhaps her trade union may not have been aware of scenarios where an online calculator could not be relied on her legal representative most certainly should have. A proper calculation ought to have been carried out having taken note that early conciliation had commenced before the date of dismissal. Even absent legal advice a manual calculation of when limitation expired, discounting any period of conciliation which could not be used in the calculation because the 'clock' had not started to run, is a reasonable step to take by any party to ensure they do not fall foul of the limitation provisions.
70. Lord Denning MR in **Dedman v British Building and Engineering Appliances Ltd 1974 ICR 53, CA** said: 'If a man engages skilled advisers to act for him — and they mistake the time limit and present [the claim] too late — he is out. His remedy is against them.'
71. In **Wall's Meat Co Ltd v Khan 1979 ICR 52, CA**, Lord Justice Brandon clarified the **Dedman** principle, explaining that ignorance or a mistaken belief will not be reasonable if it arises either from the fault of the complainant or from the fault of his or her solicitors or other professional advisers in not giving him or her such information *as they should reasonably in all the circumstances have given him*.
72. The burden of the *Dedman* principle, Underhill P explained in **Northamptonshire County Council v Entwistle 2010 IRLR 740, EAT**, is that in a case where a claimant has consulted skilled advisers, the question of reasonable practicability is to be judged by what he could have done if he had been given such advice as he should reasonably in all the circumstances have been given. Once the judge had accepted that E's solicitor had been negligent in not checking the date the time limit expired, he was required to hold that it had been reasonably practicable for E to present the claim in time. Consequently, following **Dedman**, the judge did not have jurisdiction to hear E's late claim.
73. Trade union representatives also count as 'advisers' in this context and, if they are helping a claimant with his or her case, they are generally assumed to know the relevant time limits and to appreciate the necessity of presenting claims in time. (**Times Newspapers Ltd v O'Regan 1977 IRLR 101, EAT**).

74. The claimant goes on to say in her statement had she known the limitation date was earlier she could and would have brought her claims in time. She therefore in effect accepts it was reasonably practicable to bring the claim in time. It is evident she made the mistake regarding the correct limitation date because of the advice given to her. Whilst she herself appears to have relied on an online calculator it is clear she had legal representation before she issued her claim form. Her legal representative drafted a comprehensive particulars of claim running to some 20 pages. Whilst it is dated 4 September 2024 it is reasonable to conclude (even with the claimant's inability to give any cogent evidence about this) she must have sought legal advice some time before this date to be able to draft and finalise such a detailed and lengthy document. The particulars of claim details 36 detriments comprehensively with dates and clearly pleads the EDT. It is reasonable to conclude that she must have discussed this claim with her legal representative over a period of time before limitation expired.
75. For reasons which are not explained, the claim form was still left to be issued until the day before the date the claimant thought the limitation period expired, leaving the matter right to the end of what she believed to be the limitation period in any event. Ultimately, I find this to have been a case where there was unreasonable ignorance of the law or mistake on the part of her legal advisor which in turn is attributed to the claimant. It was not reasonable for the legal representative to have solely relied on an online calculator when not only calculating but also advising the claimant about time limits. It is not reasonable that the legal representative failed to realise that part of the conciliation predated the dismissal and to fail to ascertain the correct legal position in those circumstances regarding the period of pre dismissal conciliation counting towards any extension of time provision. It is evident discussions are more likely than not to have taken place about time limits and legal advice must have been given. If such advice was not given, then this ought to reasonably have been given and in those circumstances, it will have been unreasonable not to have advised about limitation.
76. The claimant goes on to say we are just talking about a 'matter of days', but compliance with limitation periods is not a nice to have. It was reasonably practicable for her to have brought the claims, and I find she has not satisfied me it was not reasonably practicable to have brought her claims in time. Ultimately had her legal representative exercised reasonable diligence, as she herself accepts the claims will have been able to have been presented in time.
77. In arriving at this decision I take account of the essential matters referred to by Lord Justice Underhill when considering reasonable practicability in **Lowri Beck Services Ltd v Brophy 2019 EWCA Civ 2490, CA**.
78. Trade union representatives also count as 'advisers' in this context and, if they are helping a claimant with his or her case, they are generally assumed to know the relevant time limits and to appreciate the necessity of presenting claims in time. (**Times Newspapers Ltd v O'Regan 1977 IRLR 101, EAT**). Ultimately in this case however the claimant has also clearly obtained legal advice after the involvement and advice from her union representative and any mistaken belief

on the part of her TU advisor ought to reasonably have been corrected by a legal representative exercising reasonable care.

79. The claimant's claims as set out above at paragraph 51 are accordingly dismissed as they were not presented in time and it was reasonably practicable to do so.

Just and equitable

80. As referred to above the issue of time limits for the Victimisation and Discrimination arising from Disability claims will be left to be determined at the final hearing as they could potentially be in time given a course of conduct extending over a period ending in dismissal is relied on for these complaints

81. The following claims are therefore the ones to which the just and equitable test set out in section 123 of the Equality Act 2010 ('EqA') applies for any extension of time request which I am considering today.

- a. Harassment related to race (s.26 EqA 2010).
- b. Failure to make reasonable adjustments (ss.20-21 EqA 2010)

82. Section 123 (1) states (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 period as the employment tribunal thinks just and equitable.

83. Section 123 (3) states for the purposes of this section -

- a) conduct 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 questions decided on it.

84. There will be different limitation periods for the different claims in this case as the last act complained of is not the dismissal.

85. It is therefore necessary to determine the date of the act complained of as this sets time limits running. Where there is not a single act of discrimination but an asserted continuing act of discriminatory or discriminatory omission s.123 (3) EqA states conduct extending over a period is to be treated as done at the end of that period.

86. The discretion for tribunals to hear out-of-time claims within whatever period they consider to be 'just and equitable' is clearly broader than the discretion to allow late claims to proceed where it was not 'reasonably practicable' to present the claim in time.

87. It does not necessarily follow that exercise of the discretion is a foregone conclusion. Indeed, the Court of Appeal made it clear in **Robertson v Bexley Community Centre t/a Leisure Link 2003 IRLR 434, CA**, that when tribunals consider exercising the discretion under what is now S.123(1)(b) EqA, *'there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse, a tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time so the exercise of the discretion is the exception rather than the rule.'* The onus is therefore on the claimant to convince the tribunal that it is just and equitable to extend the time limit. However, this does not mean that exceptional circumstances are required before the time limit can be extended on just and equitable grounds. The law simply requires that an extension of time should be just and equitable.
88. A summary of the principles governing the exercise of the 'just and equitable' discretion was set out by Mrs Justice Elisabeth Laing (as she then was) in **Miller and ors v Ministry of Justice and ors and another case EAT 0003/15**:
- the discretion to extend time is a wide one
 - time limits are to be observed strictly in employment tribunals. There is no presumption that time will be extended unless it cannot be justified. The reverse is true: the exercise of discretion is the exception rather than the rule
 - if a tribunal directs itself correctly in law, the EAT can only interfere if the decision is, in the technical sense, 'perverse', i.e. no reasonable tribunal properly directing itself in law could have reached it, or the tribunal failed to take into account relevant factors, or took into account irrelevant factors, or made a decision which was not based on the evidence
 - what factors are relevant to the exercise of the discretion, and how they should be balanced, are a matter for the tribunal. The prejudice that a respondent will suffer from facing a claim which would otherwise be time-barred is customarily relevant in such cases
 - the tribunal may find the checklist of factors in S.33 of the Limitation Act 1980 helpful but this is not a requirement and a tribunal will only err in law if it omits something significant.
89. Notably Section 123 EqA and its equivalents in other legislation do not specify any list of factors to which a tribunal should have regard in deciding whether to extend time for 'just and equitable' reasons.
90. The EAT suggested that in determining whether to exercise their discretion to allow the late submission of a discrimination claim, tribunals would be assisted by considering the factors listed in S.33 of the Limitation Act 1980 — **British Coal Corporation v Keeble and ors 1997 IRLR 336, EAT**.

91. Section 33(3) of the Limitation Act 1980 sets out the court shall have regard to all the circumstances of the case and in particular to -

- a) the length of, and the reasons for, the delay on the part of the plaintiff;
- b) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is or is likely to be less cogent than if the action had been brought within the time allowed by section 11 [by section 11A] [by section 11B] or (as the case may be) by section 12;
- c) the conduct of the defendant after the cause of action arose, including the extent (if any) to which he responded to requests reasonably made by the plaintiff for information or inspection for the purpose of ascertaining facts which were or might be relevant to the plaintiff's cause of action against the defendant;
- d) the duration of any disability of the plaintiff arising after the date of the accrual of the cause of action;
- e) the extent to which the plaintiff acted promptly and reasonably once he knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to an action for damages;
- f) the steps, if any, taken by the plaintiff to obtain medical, legal or other expert advice and the nature of any such advice he may have received.

92. Case law has since established that the best approach when considering the exercise of the discretion is for the tribunal to assess all the factors in the particular case that it considers to be relevant, including in particular — as Mr Justice Holland noted in *Keeble* — the length of, and the reasons for, the delay (**Adedeji v University Hospitals Birmingham NHS Foundation Trust 2021 ICR D5, CA.**) The court pointed out that *Keeble* had not stated that the list of factors in s.33 Limitation Act 1980 ought to be used as a checklist.

93. The Court of Appeal in **Chief Constable of Greater Manchester Police v Carroll 2017 EWCA Civ 1992, CA**, summarised the test thus: 'The essence of the proper exercise of the judicial discretion under S.33 is that the test is a balance of prejudice and the burden is on the claimant to show that his or her prejudice would outweigh that to the defendant.' Although S.33 does not apply to employment tribunals when deciding whether to extend time under the EqA, a consistent line of EAT authority beginning with **British Coal Corporation v Keeble and ors 1997 IRLR 336, EAT**, shows that they are generally expected to apply an equivalent test (**Szmidt v AC Produce Imports Ltd EAT 0291/14; Pathan v South London Islamic Centre EAT 0312/13; Rathakrishnan v Pizza Express (Restaurants) Ltd 2016 ICR 283, EAT**)

94. It is clear the approach is multifactorial.

Length of delay

95. In the present case the delay is as follows (based on the claimant's pleaded case and the list of issues set out in my case management Order dated 25 September 2025).
96. The harassment claim is brought approximately 8.5 months out of time based on the last alleged unwanted conduct occurring on 18 September 2023. This claim ought to have been presented by 17 December 2024. It was not presented until 4 September 2024.
97. The failure to make reasonable adjustments claim is brought 8 days late based on the last alleged act being 17 April 2024. This claim ought to have been presented by 27 August 2024. It was not presented until 4 September 2024.

Reason for the delay

98. The claimant advances no other reason than the use of the online calculator giving her a limitation date of 5 September 2025. She gave no other explanation in oral evidence nor her witness statement. She says at paragraph 9 of her witness statements that she submitted her claim one day in advance of what she believed and still believes to be the correct limitation date namely 5 September 2024. She provides no explanation of why she believed the discriminatory claims all had the same limitation date as the unfair dismissal claim for those claims where she does not rely on dismissal as part of the discriminatory conduct.
99. She clearly had the benefit of trade union advice and assistance prior to her dismissal. She commenced conciliation prior to her dismissal. She goes on to say *'my lawyer my trade union branch secretary and I all arrived at the same view on limitation: that the limitation deadline was 05.09.2024'* This clearly shows no consideration appears to have been given to separate limitation periods for different claims. This ought to have been evident, if not to the claimant and arguably her trade union representative (depending on what information they may have been given at the material time as to the nature of the claimant's claims), but most certainly to her legal representative who by the time of instruction and preparation of the particulars of claim knew precisely the nature of the claims being pursued. The claimant does not advance any evidence of her knowledge of limitation periods being different for the differing claims she advances but clearly, she will have had knowledge of time limits applying to her claims based on her pre dismissal trade union support. She certainly will have been aware of time limits at the very latest from the point of instructing her legal representative. It is clear from her evidence that at this point she was still not advised that the claims which predated the dismissal may already have been out of time given the dates for the conduct she relies on.
100. The reason for the delay in bringing the claims which rely on the EDT as the starting point for calculating limitation is due to the reliance of online calculators without applying the law correctly regarding the effect of early conciliation on the 'stop the clock' provision on limitation running and failing to undertake a manual calculation. However, this explanation does not address

why the harassment claims and reasonable adjustments claims were delayed when the last act complained of was some time before dismissal in both instances. The claimant provided no cogent explanation of the delay for these claims. She still does not appear to appreciate that even if for some of her claims the dismissal may start the limitation clock for others it will be the last act complained of.

Balance of injustice and hardship

101. The claimant states that part of her claim is about anti black racism and these serious allegations should be explored as the problem of anti-black racism is pervasive and it would be unfortunate and unfair if a large bank were allowed to evade accountability because of an argument about limitation.
102. She goes on to say it is important she be given an opportunity to prove whether the respondent discriminated against a disabled employee.
103. She says it it seems 'unjust' and 'inequitable' to deprive her of the right to hold her employer legally accountable on the basis of any error in a limitation calculator that she had no practical way of checking. However, this is plainly wrong. The calculator is not a replacement for legal skill and expertise which she clearly had the benefit of. That legal skill and expertise was precisely the way she ought to have been able to check when limitation expired for each claim presented. It is reasonable to expect a legal representative to understand and advise on the differing limitation periods where applicable.
104. She cites the valuation of the respondent company saying they can easily afford to defend a claim, arguing she as a poor and disabled woman is more prejudiced. However, this is not the correct basis for me considering the balance of hardship and injustice. The fact the respondent can afford to defend the litigation is not a proper consideration in carrying out this exercise in my view. The fact the claimant has not put forward a good reason for why she did not present the harassment and reasonable adjustments claims in time does not however obviate the need to consider the balance of prejudice (**Szmidt v AC Produce Imports Ltd EAT 0291/14**).
105. I would expect to hear from both parties as to how they are each prejudiced if I exercise my discretion either against or for extending time.
106. The respondent fails to assert any prejudice to the respondent. They rely on it not being just an equitable to extend time relying on **Rathakrishnan**, stating the alleged incidents go back to 2022 in the harassment claim and that there is a public interest argument in the enforcement of time limits being strictly applied in the Employment Tribunal.
107. The respondent makes no submissions that the respondent is prejudiced in defending the claims. I can reasonably infer there is no forensic prejudice

and no difficulties with obtaining relevant documents to defend the allegations in those circumstances.

108. There are claims which are potentially in time (Victimisation and Discrimination arising from Disability) and many of the facts and matters in those claims which the respondent will have to adduce evidence for overlap with the allegations in the reasonable adjustment claims.
109. The Harassment claim will however involve a different line of enquiry to the other complaints. However, the respondent again does not raise any actual prejudice in defending those complaints other than to refer to the allegations going back to 2022.
110. The prejudice to the claimant is that she will not be able to proceed with her harassment claim and /or her reasonable adjustments claim.
111. The prejudice to the respondent is that they will have to meet a claim which would otherwise have been defeated by a limitation defence and witness memories will inevitably have been impacted for a number of the allegations given the passage of time.
112. In **Miller and ors v Ministry of Justice and ors and another case EAT 0003/15** Mrs Justice Elisabeth Laing (as she then was) set out five key points derived from case law on the 'just and equitable' discretion. She stated that no forensic prejudice is not decisive in favour of the extension and depending on the tribunals assessment of the facts may not be relevant at all.
113. It is plain in this case that the respondent will have to make a different factual enquiry for the harassment claim to the other claims. The incidents of racial harassment start 'some time in 2022'. The other allegations are between February 2023 and September 2023. There will clearly be impact on the passage of time with witness memories.

Incorrect advice/ignorance of the law

114. This is not a case where the claimant appears to have been given incorrect limitation period advice for the harassment claim. It appears no consideration has simply been given by either the claimant nor her legal representative to the fact the last act complained of was almost 9 months before the issuing of her claim.
115. Similarly, it is not clear whether any separate regard was had by either the claimant or her legal representative to the reasonable adjustments claim.
116. What is evident is that mistakenly the claimant, based on the legal advice given continues to believe there is one limitation period applicable to all her claims calculated from the date of dismissal. The advice has clearly caused

confusion. The harassment allegations precede the EDT and it is clear prior to the EDT the claimant had TU assistance and support. She advances no cogent evidence about what advice she received from her TU representative about time limits in relation to the Harassment claim specifically. The conduct alleged and relied on for this complaint was all within her own knowledge at the material time and ended in September 2023. There is no assertion by the claimant she was ignorant of any of the facts surrounding her harassment claim nor that this caused any delay in her presenting her claim.

117. Based on her oral evidence she does not appear to have formally engaged her legal representative until after her dismissal. Her harassment claims were already out of time by some months by the time of the dismissal. Therefore the incorrect advice about limitation dates from her legal representative about the remainder of her claims had no bearing on the harassment claim being issued out of time and had no causative effect (**Hunwicks v Royal Mail Group plc EAT 0003/07**)

Ignorance of Rights

118. The claimant does not assert that she was unaware of her right to make a tribunal complaint. Her only defence to the time limit point is that she and her TU representative and her legal representative used an online calculator.
119. However, this does not explain why the Harassment claim which has the last act complained within her knowledge at the material time as being September 2023 was presented out of time. Even an online calculator of the kind she refers to having used refers to inputting a date of dismissal/termination or *the date of the act complained of*.
120. Her oral evidence was that she wasn't sure she would be bringing a claim to the Employment Tribunal when she commenced ACAS early conciliation. In her words she went to ACAS because she had received the outcome of her grievance. However, she accepted certainly at the absence review meeting which was held on 25 April 2024 she was aware that she could go to court. It stands to reason given by this time she not only had TU advice but also had approached ACAS that time limits to bring claims in the Employment Tribunals ought to have been known to her. She does not say she was not aware that time limits applied to her claims. She only relied on the use of the online calculator as giving the wrong date (if I find her claims were brought out of time).
121. Case law has established that although the just and equitable discretion is wide it will only apply in any event where the claimant's ignorance is reasonable (**Perth and Kinross Council v Townsley EATS 0010/10**)

Disability

122. The claimant does not assert that any of her disabilities prevented her from bringing the claims in time. I only touch upon this given the nature of the claims she pursues. It cannot be a relevant consideration when the delay is not asserted to be because of any disability.

Conclusion

123. Having weighed up all the relevant factors which apply to the circumstances of this case it is clear there is no cogent reason advanced for the delay in presenting the Harassment claim approximately 8.5 months late. The claimant does not claim ignorance of time limits. She herself used an online calculator and states Mr Magennis confirmed the same date. She therefore was aware of the requirements to comply with time limits. She states clearly in paragraph 13 of her Witness statement that if she had not obtained legal representation in time, she would have relied on the same limitation calculator and would have been working to the same deadline that those calculators all identify.
124. The conduct she relies on for the harassment claim goes back to 2022. The conduct was in her knowledge at the material time. She herself says she was known as a trade unionist and that she was targeted for this reason. She also had the benefit of TU support and advice prior to her dismissal. She knew that time limits applied to her claims.
125. There is no evidence advanced about why she didn't similarly use the online calculator to input the last act of harassment relied on which would have given her the correct limitation date.
126. The delay is not insignificant. There is no explanation advanced for it. Incorrect advice from her legal representative was not causative of the delay for the harassment claim. It was out of time well before the EDT and she stated she did not get legal advice until after her dismissal. She had the benefit however of TU support and advice before her dismissal.
127. Whilst there is some overlap of the factual matrix for the other discriminatory claims she brings, the harassment claim will involve a different factual enquiry. The last act complained of is now over 2 years ago and inevitably witness memories will have faded. Some of the allegations relate to conversations and/or minutes of meetings which she alleges are not accurate reflections of what was said in the meeting. Witness recall will accordingly remain particularly important even where documentary evidence is available.

128. Whilst the Tribunal's discretion is wide, taking into consideration the explanation for the delay (there being none advanced), the length of delay (not minimal), the impact of the delay (the nature of the allegations will require witnesses to recall some conversations and meetings which took place over 3 years ago now and this delay will inevitably impact the cogency of the evidence), the fact that time limits were within the claimant's contemplation and knowledge prior to her dismissal, and the fact that by the time she received legal representation which mistakenly gave her a limitation date for the claims as being one limitation date of 5 September 2025 the harassment claim was already out of time and the incorrect advice was therefore not causative of the late issuing of the claim, I find the balance of injustice and hardship is tipped in favour of the respondent in having to respond to a claim which was capable of being presented some time before the other claims to which they will now have to respond and which involves a different factual enquiry to the other claims the claimant brings. The claimant still has other claims she is able to pursue.
129. It is therefore not just and equitable to extend the time for the Harassment claim, and it is dismissed.
130. Turning to the reasonable adjustment complaint. This is some 8 days out of time. The respondent submits that the claimant was at all times legally represented and could and should have brought her claims within the primary limitation period.
131. The burden is on the claimant to show that it is just and equitable to extend time. Here the fault squarely lies on the miscalculation of the limitation period by an erroneous reliance on an online calculator by the claimant's legal representative. I have taken into consideration the claimant had close ties with her trade union and the fact she had support and advice from them. More crucially she could and would have brought these claims in time had her legal representative provided the correct advice. When obtaining legal advice about each of her complaints and when preparing her particulars of claim it ought to have been evident when the last disadvantage was being alleged that limitation had started to run for this complaint before the EDT.
132. Aside from stating the claimant has not demonstrated why the Tribunal should take the exceptional steps of extending time the respondent equally does not assert any forensic prejudice to the respondent in defending the allegations.
133. The claimant would be disadvantaged by not being able to proceed with claims which would have been brought in time had her legal advice been correct. I take note the delay is one of 8 days. She had taken the legal advice shortly after her dismissal and at a point when the claim was in time.
134. The burden is on the claimant to demonstrate the balance of prejudice is greater for her than the defendant. The claimant points to the fact she will be prevented from pursuing claims which raise matters such as disability discrimination, and she will be denied the opportunity to establish that she was

discriminated against. She refers to it not being just and equitable to deprive her of the opportunity to do so. I take note the disability claims rely on documented Occupational health reports, and the respondent raises no issues with being able to locate appropriate documentation relevant to the issues.

135. When balancing this with the hardship to the employer namely that they will have to defend a claim which would have been out of time, taking into account the length of the delay and the reasons for the delay and the prejudice to both sides, I find the balance of prejudice is tipped in favour of the claimant.
136. I find it is just and equitable for the time to be extended for the failure to make reasonable adjustments complaint.
137. It is appropriate to reduce the current trial length of 9 days to 7 days. Whilst some of the claims have fallen away there are still considerable issues to be determined. The Judge will also require protected decision-making time. The parties should be prepared to address both liability and remedy at the final hearing. The original listing of 5 – 13 October 2026 (7 days) therefore replaces the 9-day listing.
138. I have prepared a separate case management order with the dismissal being added to the list of issues for the victimisation and discrimination arising from disability complaints and for time limits for these two complaints to be determined at the final hearing.

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Employment Judge N Wilson

Dated: 27 February 2026