



EMPLOYMENT TRIBUNALS

Claimant

C E Prunty

Respondent

Aramark Defence
Services Limited

v

Heard at: Reading
Before: Employment Judge W Anderson

On: 2 February 2026

Appearances

For the claimant: L Simpson (counsel)

For the respondent: E Margetts (counsel)

JUDGMENT ON TIME

1. The complaint of disability discrimination on 31 March to 2 April 2024 was presented within the applicable time limit and claim 3306179/2024 is not dismissed.
2. The complaint that a decision not to uphold an internal appeal on 3 October 2025 was not presented within the applicable time limit. It is not just and equitable to extend the time limit. The complaint is therefore dismissed.
3. Claim No 3303883/2025 was not presented within the applicable time limit. It is not just and equitable to extend the time limit in respect of the discrimination allegations. It was reasonably practicable for the complaint of breach of contract to be filed within the applicable time limit. The claim is therefore dismissed.

REASONS

Background

1. The claimant filed a claim (33016179/2024) of discrimination on the grounds of sex and disability, whistleblowing and unfair dismissal on 26 June 2024. This followed a period of early conciliation from 24 to 29 April 2024. The claimant was at that point still employed by the respondent; her employment having commenced on 28 April 2023.

2. The claimant filed a second claim (3303883/2025) of discrimination on the grounds of sex and disability, unpaid wages and unfair dismissal on 10 July 2025. This followed a period of early conciliation from 5 to 11 June 2025. The claimant was dismissed by the respondent on 12 March 2025.
3. At a preliminary hearing on 3 October 2025 EJ A Gumbiti-Zimuto listed an open preliminary hearing to consider, amongst other matters: *whether the claims or any of them have been presented in the time for presentation of complaints and if not to consider whether the time for presentation of the complaints should be extended.*
4. At that hearing the claimant confirmed that she did not pursue complaints of whistleblowing, ordinary unfair dismissal or race discrimination.
5. The respondent was granted permission to file an amended grounds of response to both claims and did so on 11 December 2025. Within the grounds it applied for both of the claimant's claims to be struck out for being out of time. I have reproduced the application below:

1. To aid the Tribunal the Respondent contends that in respect of the First Claim:

- a. It was presented to the Employment Tribunal on 26 June 2024;
- b. It now consists of various allegations of disability and sex discrimination;
- c. Cites that the final date of the allegations as being 23 October 2023;
- d. The Claimant did not commence ACAS Early Conciliation until 24 April 2024 and expressly stated in the First Claim Form that "the decision to come to court wasn't easy and I have held off because I hoped [the Respondent] and my managers would see that in fact it wasn't me causing the trouble". The ACAS Early Conciliation certificate was issued on 29 April 2024;
- e. Any allegations made by the Claimant which occurred before 25 January 2024 (being three months plus one day before the Claimant commenced ACAS early conciliation) are out of time;
- f. The Claimant was not subjected to a continuing course of conduct by the Respondent as alleged or at all; and
- g. The Claimant has failed to explain why it would be just and equitable to extend time on this occasion.

2. The Respondent contends in respect of the Second Claim:

- a. The Second Claim Form was presented to the Employment Tribunal on 10 July 2025;
- b. The claim consists of various allegations of disability, sex and race discrimination, unlawful deduction from wages, wrongful dismissal and breach of contract;
- c. The Claimant seeks to rely on a further period of Early Conciliation period between 5 June 2025 and 11 June 2025 to extend the time limitation period for presenting the Second Claim (paragraph 5 of the Particulars of Claim for the Second Claim), particularly in respect of the alleged discrimination. The Respondent submits that this is incorrect;
- d. The Early Conciliation extension of time provisions do not apply to a second period of Early Conciliation. As highlighted by the Employment Appeal Tribunal in Commissioners for HM

Revenue and Customs Commissioners v Serra Garau UKEAT/0348/16, a second Early Conciliation period is purely voluntary and an Early Conciliation certificate issued for a second period is not recognised for statutory purposes. The Employment Tribunals Act 1996 (the "ETA 1996") only requires one mandatory Early Conciliation process. "Day A" only refers to the mandatory notification under section 18A(1) of the ETA 1996 and "Day B" only refers to the mandatory certificate obtained under section 18A(4) of the ETA 1996. Neither term applies to a second period of Early Conciliation relating to the same matter;

e. Any claim relating to either (i) a discriminatory act or omission or detriment, (ii) any unlawful deduction from wages, (iii) wrongful dismissal and/or (iv) breach of contract which occurred prior to 11 April 2025 (three months plus one day before the Second Claim Form was presented) is out of time;

f. Assuming that the Claimant's dismissal was the last act complained of the Second Claim should have been presented no later than 11 June 2025. The Second Claim was not presented until 10 July 2025, a month later. Accordingly, the Second Claim is out of time; and

g. In the alternative, if time is calculated from the start of the second Early Conciliation period on 5 June 2025, any alleged act occurring before 6 March 2025 is also out of time.

6. At the hearing on 2 February 2026 I considered an application to amend by the claimant to include an allegation that the respondent's upholding of the claimant's dismissal on appeal on 3 October 2025 was a further act of unfavourable treatment for the purposes of a claim under s15 Equality Act 2010. I allowed the amendment but left a decision on whether the claim was brought in time to form part of my wider consideration of time which is the subject of this judgment.

The Hearing

7. The parties filed a joint bundle of 606 pages, most of which concerned the separate question of disability status. That is not a matter dealt with in this judgment. In addition, the claimant filed a witness statement. The statement covered an application to amend (again not dealt with in this judgment and also not the amendment I heard on 2 February 2026) and the respondent's application to strike out both claims on the grounds that they are out of time. Both counsel made submissions on time.
8. No witness evidence was heard. Ms Margetts said the claimant had put forward no arguments regarding an extension of time on the basis of a just and equitable extension and therefore there was nothing on which she could cross examine, points relating to a continuing course of conduct being a jurisdictional matter. Ms Simpson subsequently made arguments in submissions about why the tribunal should extend time on a just and equitable basis relating to the claimant's health. These were arguments not put forward anywhere in relation to time until that point and when I asked why she was raising this now when the lack of a just and equitable argument from the claimant had already been noted she said that this too was a jurisdictional matter. When I asked why then a witness statement had been filed on the matter of time, Ms Simpson had no instructions on that point.

Chronology

9. Claim 33016170/24 was filed on 26 June 2024 following a period of early conciliation from 24 to 29 April 2024. The claimant was at that time a litigant in person.
10. The claimant was dismissed on 12 March 2025.
11. The claimant appealed the dismissal, and an appeal hearing took place on 3 April 2025.
12. On or around 24 April 2025 the claimant's solicitors came on record.
13. Claim 3303883/2025 was filed on 10 July 2025 following a period of early conciliation from 5 to 11 June 2024.
14. On 3 October 2025 the claimant was informed that her appeal against dismissal was not upheld.
15. The claimant filed further and better particulars on 14 November 2025 and included in those particulars under the heading of 'Discrimination Arising from Disability' was an allegation of unfavourable treatment as follows: *On 03 October 2025, the Respondent upheld the Claimant's dismissal on appeal.* This was the first time that the claimant had indicated she sought to rely on the appeal decision as a discriminatory act.
16. An application to amend the claim to include an allegation that the appeal decision was a discriminatory act was made orally at the preliminary hearing on 2 February 2026.

Submissions

17. Counsel were in agreement that a second period of early conciliation would not operate to extend the filing date for the second claim. Ms Simpson also agreed that for the purposes of the first claim any allegations made by the claimant which occurred before 25 January 2024 would be out of time subject to any arguments on a continuing course of conduct. She agreed that for the second claim any claim relating to either (i) a discriminatory act or omission or detriment, (ii) any unlawful deduction from wages, (iii) wrongful dismissal and/or (iv) breach of contract which occurred prior to 11 April 2025 is out of time; and that, where the dismissal on 12 March 2025 was the last act complained of, the last filing date for the claim was 11 June 2025. Again, this was subject to any arguments on continuing course of conduct where relevant.

Respondent's submissions

18. Ms Margetts said that the claimant's position is that all claims are out of time. The first claim was presented when the claimant was a litigant in person, it contains a narrative and the last date given for acts complained of is 23 October 2023. Due to the filing date all claims relating to incidents that took place before 25 January 2024 are out of time. The claimant acknowledged within her grounds of claim at box 8.2 that she had held off filing the claim. Although the claimant has subsequently provided further dates for some

allegations they are still out of time. As all of the allegations are out of time there can be no argument that there has been a continuing course of conduct.

19. The second claim is a repleading of the first claim including some further and better particulars, except for the wrongful dismissal allegation. Allegations about matters that took place before 11 April 2025 are out of time. Allegations relating to the dismissal are out of time as the dismissal was on 12 March 2025 so the claim should have been filed by 11 June 2024. It was filed on 11 July 2024. The allegations, most clearly laid out in the list of issues drafted by Ms Simpson are all out of time, with the possible exception of the allegation that was subject to the amendment granted earlier. As all allegations except for the appeal outcome are out of time there can be no continuing course of conduct argument.
20. The appeal against dismissal was dismissed on 3 October 2025. Any application to amend to add a complaint about the appeal outcome should have been made by 2 January 2026, three months less one day after it happened. It was therefore brought one month out of time as the application was only made orally today. The respondent disputes that the matter was raised before the further and better particulars were filed on 11 November 2025. As to whether there has been a continuing course of conduct, this is an allegation that is about the outcome of an appeal against dismissal, and therefore only relates to the allegations brought previously under the heading of unfair dismissal. It was not claimed in the further and better particulars that the actions around dismissal were discriminatory. The claim is hugely over particularised. The claimant was dismissed for gross misconduct in relation to racist and belittling comments against a Nepali colleague. The decision to uphold the dismissal is only narrowly related to this claim as it relates to the unfair dismissal claim, which has now become a discrimination argument. This is a stand alone head of claim about the decision to dismiss the claimant.
21. As regards any arguments about a just and equitable extension, the claimant drafted a witness statement dealing with the respondent's application to strike out her claim. It only deals with continuing course of conduct. It does not address at all why she should benefit from a just and equitable extension. It is not pleaded so the tribunal cannot make any decision on that basis.

Claimant's submissions

22. For the first claim, the claimant ticked the box at 8.1 for disability discrimination and factually refers to at 8.2 the two women (JJ and TB) turning against her, making things up, stopping talking to her, threatening her, telling her to shut up and the manager not dealing with it. The final line in box 8.2 refers to her being told that autism was an excuse she hid behind. This is the basis of direct discrimination and harassment claims. The remainder of the particulars of claims describes individuals not speaking to the claimant, the bank holiday weekend and comments about not being the best chef. What is factually pleaded is a s15 claim though it is not explicitly labelled as such. The claimant was a litigant in person when the first claim was filed. She pleaded the facts of the detriments. Heads of claim are clarified in the second claim or better still in the further and better particulars, and dates have been put on those factual points. The claimant does also refer to the 'something arising'

in her particulars where she describes being spoken to about coming across as abrupt and rude. All of these points correlate to the s15 detriments set out in the list of issues. The documents accompanying the first ET1 do not specify the dates but have since been provided in the second claim and further and better particulars. They have now been pulled into the list of issues. The list includes allegations some of which on the face of it are out of time. Some are in time as follows (using the number in the draft list of issues: 3(a)iii, factually pleaded in box 8.2; Easter bank holiday weekend March 2024 referred to as witnessed by manager in 8.2 see 3(a)v; 3(a)xiii and xiv are referred to at 8.2; 3(b) is referred to in one of the additional pages attached to the ETs; and, 3(d) is in box 8.2. All of these points are pleaded in the second claim. Harassment and victimisation are not labelled but are in the grounds factually. 10(c) relates to the claim in 8.2 that the claimant was told she was hiding behind her autism. 10(a) and (b) are pleaded in the additional documents (page 14 of the today's bundle), though on their own those allegations are out of time.

23. The applicable time limit is three months or other such period as the tribunal thinks just and equitable. The claimant relies on s123 (3), that conduct extending over a period of time should be treated as done at end of that period. The tribunal's discretion to extend time is broad and unfettered. *Jones v SSHSC EAT 2024*. The tribunal, in making its decision can take into account anything it deems relevant including the length of or reason for delay, whether the cogency of evidence is affected, the promptness with which the claimant acted, steps taken to obtain appropriate advice. Discretion is deliberately wide but the tribunal should not extend time without good reason – *Robertson and Bexley 2003 CA*. Different types of discrimination can form part of the same continuing act as can allegations relying on different protected characteristics - *Worcestershire Health and Care NHS Trust v Allen 2024 EAT 40*. The claimant relies on the argument that the matters complained of form a continuing course of conduct and that the court of appeal in *Commissioner of Police of the Metropolis v Hendricks 2003 ICR 530, CA* said that it was not appropriate to strike out complaints of discrimination at a preliminary hearing where continuing acts are pleaded if factual findings are required as some allegations may be proven and some not. It may be relevant to whether they were brought in time. It would be an error of law to determine today the matter of a continuing course of conduct. If the tribunal disagrees then the claimant's position is that they are all in time as there are claims within time and she says they are all part of a continuing course of conduct. This was an ongoing situation and state of affairs in which the claimant was treated less favourably due to something arising in consequence of her disabilities. Considering the allegations in the round the question is, was the employer responsible for the continuing state of affairs? The claimant submits that in any event it is just and equitable to extend time.
24. For the second claim the position is the same in that the appeal, the allegation about the way in which the respondent dealt with appeal, has been allowed by way of amendment. The remaining allegations come from the second claim and they are pleaded allegations. Some are out of time, and one

remaining allegation is in time. The rest relate to the dismissal appeal. There is a continuing course of conduct.

25. The second claim includes allegations under s15 Equality Act 2010 which post date the first claim (3 (h) to (l) on the new draft list of issues). Some of these show a continuing course of conduct. Behaviour complained of in the first claim continued after it was filed. If the tribunal disagrees that there is a continuing course of conduct it should consider whether it is just and equitable to extend time. In doing so it should take into account: the claimant was a litigant in person when the first claim was filed and was so until a month after her dismissal; the length of the delay is not substantial and there was a period of early conciliation which cannot be counted for the purposes of extending time but can be counted in determining whether it is just and equitable to extend in terms of delay. There was an ongoing appeal against dismissal. The claimant says there is no forensic prejudice to the respondent who has provided a full response to all allegations. The claimant would lose the right to bring important allegations on a technicality. There are medical documents relating to mental health, depression and anxiety, which should be taken into account. Her condition is severe and has subsisted over a long period. The tribunal's discretion is broad and unfettered. It can take into account anything it deems relevant. The fact that the claimant has referred to a delay in bringing her claim on the first ET1 is not an acknowledgment that the claim is out of time.

Respondent's reply

26. The claimant states herself in the first ET1 that she held off as she wanted to see if the respondent would change its mind. A just and equitable extension is not addressed in her witness statement, and the claimant cannot ask the tribunal to draw inferences from lengthy medical records where she has said the claim was late as she was hoping the respondent would change its mind. The claimant does not at any point refer to conditions or impairments affecting her ability to bring the claim in a timely manner. The decision of the tribunal is jurisdictional, but the claimant knew that and it was up to the claimant to provide evidence in relation to that. The claimant, on advice from her solicitor, has put together a witness statement on the application and only deals with continuing conduct. She had the opportunity to refer to her health in relation to time and did not. There are dates pleaded in the first ET1 and grounds of claim. The claimant was clearly capable of putting dates in her claims. The respondent does not accept that any allegations in the first claim as pleaded are in time.

Decision and reasons

First claim

27. The claimant's primary position is that there are allegations in the first claim which are in time and for those that are out of time, it is her position that those form part of a continuing course of conduct. The respondent says that all of the claim is out of time as the last date referred to in the grounds of claim is 23 October 2023 and any allegation dated before 25 January 2024 is out of time.

28. I agree with Ms Simpson that there are allegations set out in the first claim which appear to be in time. The claimant states in box 8.2 of the ET1 *'In the document attached gives you examples of emails I have had to send over the past few months'*. Those emails are appended and are dated in early April 2024. Complaints about the behavior of colleagues are set out in those emails. Also, in box 8.2 the claimant states: *On the Bank holiday weekend listed in one of my emails, I was threatened in my face by Theresa; this was also witnessed by her Manager Terri at the time. Along with other issues given that day to me, I went directly to Luis office. I also spoke to HR on how to continue this now grievance; I followed up what was asked of me!* The Easter Bank Holiday weekend in 2024 was from 31 March to 3 April 2024. The claimant has appended emails to the ET1 which show her clearly raising complaints to 'Luis' that weekend. The claimant was at this point a litigant in person.
29. I find that at least one of the allegations made at Box 8.2 is dated 31 March 2024 to 2 April 2024 and is therefore brought in time for the purposes of s123 Equality Act 2010. It is an allegation about mistreatment by a colleague and when the claim was later particularised, claims of mistreatment by colleagues have been clarified as claims under s15 Equality Act 2010. There are allegations which are, on the face of it out of time, and it may be that those allegations form part of a continuing course of conduct. The respondent made no submissions today about its position on which allegations may or may not form part of a particular course of conduct, other than in relation to allegations relating to dismissal. If it is reasonably arguable that there was an act extending over a period, the tribunal must not determine that issue until it has heard all relevant evidence (*Aziz v. FDA [2010] EWCA Civ 304*). The evidence required to determine that is very likely to overlap with the evidence required at the final hearing.
30. In conclusion, not all of the first claim is out of time and any decision as to whether some of the allegations brought are out of time, is one to be determined at the final hearing when the tribunal has the opportunity to hear all relevant evidence and make findings of fact. I was not provided with sufficient detail or clear submissions relating to each allegation so that such a decision could be made at this hearing.

Second claim

31. All of the allegations made in the second claim, including the allegation which was the subject of the amendment application I heard earlier today are, on the face of it, out of time.
32. The last act complained of in the second claim, as filed on 10 July 2025, was the conduct of the appeal hearing (paragraph 61.14 grounds of claim). The appeal hearing took place on 3 April 2025, and any allegation relating to an incident that took place before 11 April 2025 is out of time. Furthermore, that allegation, though set out as an allegation of failure to make a reasonable adjustment, is stated to be an indirect discrimination claim and indirect discrimination is a head of claim no longer relied upon. For the purposes of

the unfair dismissal claim (now also withdrawn), any complaint of unfair dismissal should have been filed by 11 June 2025.

33. The amendment sought today was a complaint under s15 Equality Act 2010 about the appeal decision that was issued on 3 October 2025. The application was not made until the day of the hearing (2 February 2026). It should properly have been made as soon as possible and in any event within three months of it arising, which would have been 2 January 2025.
34. Where all of the allegations are out of time there can be no argument that the claim is in time under s123(3). The only way the claim can be in time is if the tribunal decides that it is just and equitable to extend item under s123 (2)(b). In this case if I decided that it is just and equitable to extend time for the amendment then the claimant could put forward an argument that earlier allegations raised when the claim was filed on 10 July 2025, form part of a continuing course of conduct for the purposes of s123(3) and Ms Simpson made clear that that was an argument that the claimant put forward.
35. For this reason, while the arguments for a just and equitable extension are very similar, I have considered whether to extend time for the amendment before considering that matter for the original claim.
36. Guidance from the Court of Appeal on the exercise of the just and equitable is set out in Robertson v Bexley Community Centre t/a Leisure Link [2003] EWCA Civ 576, [2003] IRLR 434, “When tribunals consider their discretion to consider a claim out of time on just and equitable grounds 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 discretion is the exception rather than the rule.”
37. The relevant principles in the exercise of this discretion can include the factors identified in s 33 Limitation Act 1980 *BCC v Keeble [1997] IRLR 336 [8]* though I note that the tribunal should not consider factor in this list as in a checklist but it should not leave a significant factor out of account *Southwark London Borough Council v Afolabi [2003] EWCA Civ 15, [2003] ICR 800*. The factors are : the length of, and reasons for, the delay; the extent to which the cogency of the evidence is likely to be affected by the delay; the extent to which the party sued has co-operated with any requests for information; the promptness with which the claimant acted once he or she knew of the facts giving rise to the cause of action; and the steps taken by the claimant to obtain appropriate advice once he or she knew of the possibility of taking action the tribunal should consider the prejudice which each party would suffer as a result of the decision reached, and have regard to all the circumstances of the case, In Afolabi the court went on to suggest that there are two factors which are almost always relevant when considering the exercise of any discretion whether to extend time. Those are the length of, and reasons for, the delay; and whether the delay has prejudiced the respondent.

38. This is the claimant's second claim. The first was issued when she was a litigant in person so she can be presumed to have some knowledge of tribunal procedures. The respondent made it clear in its response to the first claim that in its view the first claim was out of time. The claimant can then be presumed to have some knowledge of issues of time in the employment tribunal.
39. The claimant is represented by a firm of solicitors in the second claim. She has been represented since at least 24 April 2025, though the indication in her witness statement is that she engaged with a solicitor as early as December 2024 (para 23). She was represented by the firm at the time the appeal decision was issued. The allegation that the appeal hearing decision was discriminatory is set out in a further particulars document dated 14 November 2025, but that document is not accompanied by an application to amend. The application was not made until it was made orally by Ms Simpson at the hearing on 2 February 2026.
40. No explanation was provided for the delay. The claimant filed a witness statement in which she addressed the matter of continuing conduct relating to the wider claim. There is no reference to the amendment applied for on 2 February 2026 and no reference as to why an extension of time would be just and equitable. At the hearing on 2 February 2026 Ms Simpson made submissions as set out above at paragraph 25 which included that the claimant suffered from disabilities and the tribunal had 400 pages of medical evidence before it. The tribunal was not taken to any specific documents in this respect. Nor was any argument put forward as to why the claimant's disabilities were relevant to delay when she is represented and this was simply a matter of prompt filing by her solicitor. No reference was made to the claimant's solicitor or why there had been a delay by the solicitor in making an application, such as, for instance, that the claimant was so ill it was unable to obtain proper instructions. There was simply silence from the claimant on this matter. Therefore, I do not know why the application was not made at the same time as the matter was raised in the particulars on 14 November 2025 or why it was not then made until 2 February 2026.
41. The parties' arguments on balance of prejudice are set out above. Ms Simpson said that some of the second claim includes allegations under s15 Equality Act 2010 which post-date the first claim (3 (h) to (l) in the new draft list of issues). Some of these show a continuing course of conduct. Behaviour complained of in the first claim continued after it was filed. She went no further than this and there was no clear explanation as to why the allegation about the decision of 3 October was the final act in a continuing course of conduct. The reason that that is relevant here is because Ms Simpson said during submissions on the application to amend that one of the matters I should take into account is that granting the amendment allowed for the possibility of other allegations in the claim as originally filed being brought in to time on the basis of a continuing course of conduct argument. My view was that at the point of deciding the amendment, leaving a decision on time until the wider consideration on time, this was not a relevant consideration.

42. Ms Magrett's submissions in short were that the amendment was brought late and the allegation was about dismissal only, which previously had been separately pleaded as an unfair dismissal claim not as discrimination. The dismissal relates to gross misconduct in relation to racist comments about Nepali colleagues and the amendment allegation is a standalone head of claim about the decision to dismiss the claimant.
43. The prejudice to the claimant in the tribunal refusing to extend time for this amendment is that (i) she would not have the right to argue that the appeal decision was discriminatory and (ii) she would not have the opportunity of presenting to the tribunal an argument that the other allegations brought in the claim as originally filed formed part of a continuing course of conduct leading up to the decision in 3 October 2025, unless I decide that it is just and equitable to extend time for those allegations to be heard in any event.
44. The prejudice to the respondent would be in having to answer an allegation about the appeal process that was brought out of time and then in having to deal with a continuing course of conduct argument in relation to all of the second claim.
45. In evaluating the balance of prejudice and whether it is just and equitable to extend time for the bringing of the amendment claim it is my view that the fact that not granting an extension of time would mean that the claimant could not then make a continuing course argument in relation to the earlier allegations in the second claim is not a relevant consideration as whether the remainder of the claim was brought in time is a matter to be considered on its own facts. Even if it was a relevant consideration, it is my view that the prejudice to the parties relating to that factor is evenly balanced.
46. I have taken into account that the absence of an explanation from a claimant as to why a claim is not brought in time is not determinative and is simply one of the factors that can be taken into account. [Abertawe Bro Morgannwg University Local Health Board v Morgan 2018 ICR 1194, CA](#). I have also noted that in a decision under S123(1)(b) where a delay is due to incorrect legal advice there is a significant amount of case law to indicate that that will not always be fatal to the success of an application to extend time. See for example [Chohan v Derby Law Centre 2004 IRLR 685, EAT](#).
47. If time is not extended the claimant will not have the opportunity to have a claim heard that the decision to dismiss her appeal against gross misconduct was discriminatory. The claimant still has a substantive live claim in which she alleges discrimination. The claimant, despite being legally represented, gave no explanation for the substantial delay of one month in making her application for amendment. I cannot make an assessment about whether she was given incorrect legal advice and whether it would be fair or unfair to impute that failure to her as I was not told whether it was due to incorrect legal advice or was for some other reason. I cannot assess the impact of the claimant's disabilities on any delay as I was not told why or how those disabilities did impact, in a situation where the claimant is legally represented. The claimant states in her witness statement that her mental health deteriorated during this period (it is not clear which period she refers to as the

following paragraph refers to 'this tumultuous period' in connection to December 2024 and January 2025, but I am presuming she means after her dismissal) and upon reviewing policy documentation she realised that correct procedures had not been followed. It is not clear what policy documentation she is referring to, why that was relevant, and why her ill health would lead to a delay when she had a representative.

48. A just and equitable extension is at the discretion of the tribunal, having taken all relevant matters into account and weighing up the balance of prejudice to the parties. It is my decision that the prejudice to the respondent in having to answer an out of time allegation, where the claimant can be presumed to have some knowledge of employment tribunal timescales, is represented, and there has been no reason given for the delay, is greater than any prejudice to the claimant in not extending time in relation to this single allegation. The claimant has not convinced me that it is just and equitable to extend time and I do not extend time in respect of the allegation that the respondent discriminated against her in upholding its decision to dismiss her for gross misconduct on appeal on 3 October 2025.
49. Turning now to the substantive second claim, all of the allegations pleaded in that claim are out of time. There can therefore be no argument on time in relation to a continuing act under s123(3)(a).
50. The arguments put by Ms Simpson on behalf of the claimant are the same as set out above at paragraph 25 and 41. Ms Margett's view was that as no argument had been put forward in the claimant's witness statement or by way of an application about why it was just and equitable to extend time then the tribunal could not consider it. This was also her view in relation to the amendment application. Nevertheless, I have considered, in both cases, whether it would be just and equitable to extend time, based on the comments made by Ms Simpson in oral submissions.
51. Again, no explanation was provided for the delay. I do not know if the delay was caused by an act of the claimant or of her representative. I do not know if the application was then made promptly after the reason for the delay ended. The claim as originally pleaded included a claim for unfair dismissal, which was one month out of time. The last discriminatory act complained of is a failure to make reasonable adjustments for the appeal hearing on 3 April 2025. Ms Simpson said that whereas the second round of early conciliation could not extend time of itself it was a factor I could take into account when considering the length of and reasons for the delay. Early conciliation took place from 5 to 11 June 2025. I note that the claimant is legally represented and no explanation was provided as to who had made an error in relation to the second period of early conciliation or why.
52. The claimant applies to bring a claim of disability, race and sex discrimination raising allegations that reach back to 2023. Some of these are already pleaded in the first claim which will proceed to a final hearing. There is no clear indication in the claim as filed, or in the further particulars, which allegations are covered by the original claim and which it is said are new. If time is not extended the claimant cannot bring this claim. If it is, the

respondent will have the burden of defending a wordy and complex claim. Neither party addressed me on merit in their lengthy submissions on time and I have not taken that into account as a factor.

53. It is my decision that it is not just and equitable to extend time and that the prejudice to the respondent in having to answer a wide ranging and out of time claim, where the claimant can be presumed to have some knowledge of employment tribunal timescales, is represented, and there has been no reason given for the delay, is greater than the prejudice to the claimant in not extending time. There will always be a prejudice to a claimant where they cannot bring a claim they want to bring, but that in itself is not determinative in the considering the balance of prejudice. As noted in Robertson v Bexley Community Centre t/a Leisure Link above “A tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time. So, the exercise of discretion is the exception rather than the rule.” The claimant has not convinced me that I should exercise my discretion to extend time for the filing of claim 3303883/2025.

Breach of Contract

54. For the avoidance of doubt and noting that neither party addressed me on this point at the hearing, I find that any claim of breach of contract brought in the second claim (3303883/24), relating to the dismissal on 12 March 2025 is out of time. When considering whether time for filing should be extended the applicable rule is set out in Article 7 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994/1623, and is the reasonably practicable test.
55. This is a stricter test than that relating to the just and equitable extension. The claimant had ample opportunity to set out her arguments on delay at the hearing on 2 February 2026 and as set out at length above, the claimant provided no clear reason why her claim was late nor did she set out any explanation as to why it was filed on 10 July 2025. I therefore find that it was reasonably practicable to have filed in time and the complaint of breach of contract is dismissed as it is out of time.

Approved by:

Employment Judge W Anderson

Date: 26 February 2026

Sent to the parties on:

8 April 2026

For the Tribunal Office