Case Number: 6015236/2025

EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Ms C Anthony	v	John Lewis plc

Heard at: Watford, via Cloud Video Platform ("CVP") **On**: 30 April 2026

Before: Employment Judge Hyams, sitting alone

Appearances:

For the claimant: Mr Elliott Hammer, solicitor
For the respondent: Mr Mark Green, of counsel

JUDGMENT

All of the claims made by the claimant (of (1) wrongful dismissal, (2) direct discrimination within the meaning of section 13 of the Equality Act 2010 because of race and/or belief contrary to section 39 of that Act, (3) harassment within the meaning of section 26 of that Act, contrary to section 40 of that Act, and (4) indirect discrimination within the meaning of section 19 of that Act, contrary to section 39 of that Act) were made out of time and the tribunal therefore does not have jurisdiction to hear them. They are accordingly dismissed.

REASONS

The claims

1 The claimant was dismissed by the respondent summarily on 8 March 2024. She appealed against that dismissal and her appeal was dismissed (I was told in the manner stated in paragraph 4 below) on 28 March 2024. In these proceedings,

the claimant claims principally that her dismissal was contrary to sections 13 and 39 of the EqA 2010 in that it was less favourable treatment of her because of her race and/or a belief of hers which she claims was within the meaning of section 10 of that Act. The claimant also claims in the alternative that the manner in which she was treated was harassment within the meaning of section 26 of that Act, contrary to section 40 of that Act, but it appeared from what Mr Hammer said during the hearing of 30 April 2026 which I conducted that that claim might not be being pursued. In addition, the claimant claims that she was indirectly discriminated against. I found that claim (stated in paragraphs 39 and 40 of the particulars of claim) to be hard to follow, but it was part of the claimant's case. Part of her case which was rather easier to follow was that she was dismissed wrongfully, so that she was claiming notice pay as a claim for damages for breach of contract.

The hearing of 30 April 2026

2 The hearing of 30 April 2026 was listed for

> "an Employment Judge [to] decide
>
> (1) Whether the Claimant's claim for unfair dismissal was brought outside the normal three month time limit for bringing claims for unfair dismissal (as extended by the early conciliation period);
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> (2) If so, whether it was not reasonably practicable for the Claimant to bring her claim in time;
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> (3) If so, what further period was reasonable for bringing the claim;
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> (4) If the Tribunal considers that it has sufficient information to determine time limit issues in relation to the Claimant's discrimination claims, whether such claims were brought in time and, if not, whether it is just and equitable to extend time."

3 In fact, the claimant was not claiming that she was dismissed unfairly within the meaning of section 98(4) of the Employment Rights Act 1996. However, her claim for damages for notice pay, which was brought under section 3 of the Employment Tribunals Act 1996 and article 3 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994, SI 1994/1623, was subject to the same limitation test as that which applies to a claim of unfair dismissal, namely as stated in questions (2) and (3) set out in the preceding paragraph above.

4 The tests set out in paragraph 2 above were applicable because the claim form was presented about eight months after the primary time limit for making the claims stated in it had expired. The claim form and the particulars of claim did not say that the claimant had appealed against her dismissal and that that appeal

had been dismissed. The claimant had made a witness statement for the purposes of the hearing of 30 April 2026, but it also made no reference to an appeal against the decision to dismiss her. Nevertheless, I was told during that hearing that the claimant had appealed against the decision to dismiss her and that the appeal had been held by telephone on 26 March 2024. In the skeleton argument prepared by Mr Hammer for the hearing, it was said that the appeal had been dismissed on 28 March 2024.

5 The ET1 claim form was presented on 28 April 2025. The claimant approached ACAS and formally commenced early conciliation on 7 June 2024, and ACAS issued the resulting early conciliation certificate on 19 July 2024. That early conciliation certificate named as the respondent "Waitrose Brent Cross 119". However, the claimant's employer was in fact John Lewis plc, which was the body against which the claims were actually instituted, and in relation to which a second early conciliation certificate was issued by ACAS on 28 April 2025, ACAS having been notified formally for that purpose on 25 April 2025.

6 That second early conciliation certificate was obtained by the solicitors who by the time of the making of the claimant's claims were instructed to act for her. Mr Hammer, who was acting for the claimant generally in these proceedings as well as appearing as her advocate in the hearing before me, told me that the second certificate was obtained to avoid the argument that there had not been a valid early conciliation certificate. As I said on 30 April 2026, the error on the first certificate about the name of the respondent would probably have been regarded as a minor error which did not preclude the claim being made here.

7 Assuming, therefore, that the first early conciliation certificate was valid, it extended time for the making of the claim in respect of the claimant's dismissal from 7 June 2024 to one month after 19 July 2024, so to 18 August 2024. On that basis, the claim was made 8 months and 10 days out of time in respect of the claimant's dismissal. That was against the background of a primary limitation period of three months, extended in this instance to five months and 10 days.

8 It was therefore necessary, for the claims to be within the jurisdiction of the tribunal, for the claimant to satisfy the tribunal (in this instance, me, sitting alone)

8.1 that it was not reasonably practicable for the claimant to have made her claim of wrongful dismissal within the primary time limit (as extended by the period of early conciliation) and that it was made within a reasonable period of time after the ending of that primary time limit period, and/or

8.2 that it was just and equitable to extend time for making the claims of discrimination and harassment contrary to the EqA 2010.

9 However, at the start of the hearing of 30 April 2026, Mr Hammer (in my view very sensibly) said that it was not being contended that it was not reasonably practicable to make the claim within the primary limitation period.

10 During that hearing, the claimant gave evidence and was cross-examined by Mr Green. In part because I spent the first hour of the hearing discussing the case in general terms and the extent to which the claim was out of time, there was not enough time during the hearing for me to deliberate and give judgment. I therefore reserved my judgment. In fact, I ended the hearing just before 2.30pm, by which time I had heard the claimant's oral evidence and submissions, but we had not had an adjournment for lunch. As a result, I would have reserved my judgment in any event. That was because the claimant's evidence was extensive and required careful analysis. I also wanted to think carefully when applying the relevant case law.

The relevant case law

11 I discussed that case law with Mr Hammer and Mr Green during the hearing, and by the end of the hearing I had concluded that it was probably best summarised by what His Honour Judge ("HHJ") Auerbach said in *Wells Cathedral School Ltd v Souter* (20 July 2021, unreported; EA- 2020-000801-JOJ). As I commented on 30 April 2026, while there are in *Miller v The Ministry of Justice*, UKEAT/0003/15/LA several references to there being a "discretion" to be exercised when applying the test in section 123(1)(b) of the EqA 2010, even if that proposition is qualified by the proposition that that discretion has to be exercised judicially, in reality the test is one of judgment: deciding whether it is just and equitable to extend time for the making of the claim.

12 In *Miller*, Elisabeth Laing J, as she then was, stated in paragraph 10 of the EAT's judgment in that case a helpful summary of the applicable principles. HHJ Auerbach in *Souter* set out that summary and made some more helpful comments. I found the following parts of HHJ's judgment in *Souter* to be of particular assistance.

> '**Discussion and Conclusions**
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> 28. As to the law, the starting point as always, is the language of the statute. Section 123(1) Equality Act 2010 provides that, subject to adjustment in respect of the ACAS early conciliation process, a complaint may not be brought after the end of
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> > "(a) the period of 3 months starting with the date of the act to which the complaint relates, or (b) such other period as the employment tribunal thinks just and equitable."
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> 29. Those provisions therefore require the employment tribunal to decide what other limitation period, if any, it thinks is just and equitable in the particular case. That decision must of course be taken judicially, but the statute itself gives no further guidance as to how to apply that test. However, the authorities have, of course, laid out a number of useful

principles and points of guidance over the years that should be followed by employment tribunals. A number of them are usefully distilled in the decision of Elisabeth Laing J, as she then was, in **Miller** at paragraph 10:

> "There are five points which are relevant to the issues in these appeals.
>
> i) The discretion to extend time is a wide one: Robertson v Bexley Community Centre [2003] EWCA Civ 576; [2003] IRLR 434, paragraphs 23 and 24 .
>
> ii) Time limits are to be observed strictly in ETs. There is no presumption that time will be extended unless it cannot be justified; quite the reverse. The exercise of that discretion is the exception rather than the rule (ibid, paragraph 25). In Chief Constable of Lincolnshire v Caston [2010] EWCA Civ 1298 ; [2010] IRLR 327 Wall LJ (with whom Longmore LJ agreed), at paragraph 25, put a gloss on that passage in Robertson , but did not, in my judgment, overrule it. It follows that I reject Mr Allen's submission that, in Caston, the Court of Appeal "corrected" paragraph 25 of Robertson. Be that as it may, the EJ in any event directed himself, in the first appeal, in accordance with Sedley LJ's gloss (at paragraph 31 of Caston), which is more favourable to the Claimants than the gloss by the majority.
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> iii) If an ET directs itself correctly in law, the EAT can only interfere if the decision is, in the technical sense, "perverse", that is, if no reasonable ET properly directing itself in law could have reached it, or the ET failed to take into account relevant factors, or took into account irrelevant factors, or made a decision which was not based on the evidence. No authority is needed for that proposition.
>
> iv) What factors are relevant to the exercise of the discretion, and how they should be balanced, are for the ET (DCA v Jones [2007] EWCA Civ 894; [2007] IRLR 128). The prejudice which a Respondent will suffer from facing a claim which would otherwise be time barred is "customarily" relevant in such cases (ibid, paragraph 44).
>
> v) The ET may find the checklist of factors in section 33 of the Limitation Act 1980 helpful (British Coal Corporation v Keeble [1997] IRLR 336 EAT; the EAT (presided over by Holland J) on an earlier appeal in that case had suggested this, and Smith J (as she then was) recorded, at paragraph 8 of her Judgment, that nobody had suggested that this was wrong. This is not a requirement, however, and an ET will only err in law if it omits something significant: Afolabi v Southwark London Borough Council [2003] ICR 800; [2003] EWCA Civ 15, at paragraph 33."

30. I add that the point made there about **British Coal Corporation v Keeble** [1997] IRLR 336 has since been restated by the Court of Appeal in **Abertawe Bro Morgannwg University Health Board v Morgan** [2018] ICR 1194, to which the present tribunal referred, and in **Adedeji v University Hospitals Birmingham NHS Foundation Trust** [2021] EWCA Civ 23. Crucially, as **Miller**, drawing in turn on **DCA v Jones** [2007] IRLR 128, explains, and this line of authorities cautioning against a mechanistic use of the so-called **Keeble** checklist emphasises, what factors are relevant in the given case is case-sensitive, and so must be identified by the tribunal, case by case.

31. As a matter of law, there is no particular feature that must necessarily be present in order for a just and equitable extension to be granted, nor that, if present, is automatically sufficient to warrant such a grant. However, some factors are, as it is put, customarily relevant. In every case the implication of refusing to extend time will be that the claimant will not be able to have a complaint adjudicated on its merits, as they would, had time been extended. Conversely, the effect of granting an extension of time will be that a respondent will be obliged to defend a complaint on its merits, and exposed to the risk of losing, in a way that would not be so, were time not to be extended.

32. There are also some essential legal considerations that flow from the statutory time limits framework itself, that form part of the general backcloth in every case, in particular, the inherent importance attached to observance of time limits for litigating, and finality in litigation, even where, as here, there is considerable flexibility in the test that the tribunal must apply when deciding whether or not to extend time. It is also established that the onus is on a claimant to persuade a tribunal that there is some good reason why it would be just and equitable to extend time in the given case.

33. Beyond those basic principles, what factors are relevant and how to weigh them up in the given case are matters for the employment tribunal. There are some factors that may often be considered relevant, such as the extent of the delay and what the reason for the delay is. But the authorities stress that even here the tribunal should beware of taking a mechanistic approach. I would add that the concept of what is or is not a good or a bad reason for delay is inherently malleable, variable and fact-specific. As indeed the discussion in **Morgan** observes, it is not always essential that the tribunal be satisfied that there is a particular reason that it would regard as a good reason.

...

40. As the authorities discuss, the tribunal also needs to have regard to the competing policy considerations. It is, in principle, desirable that parties be encouraged to resolve their disputes, so far as reasonably possible, by

> mechanisms short of litigation. But there is also a public policy in those who may be on the receiving end of litigation benefitting, so far as possible, from the certainty and finality which the enforcement of time limits potentially gives them.
> ...
>
> 46. I add that absence of forensic prejudice is also not something that will be presented to the tribunal as a sterile, bald proposition, or feature, devoid of any context. There will be a context in any given case, including factors such as the particular nature of the complaints or allegations, the sort of evidence that might be needed to make them good or to defend them, to what extent that might consist of documentary or witness evidence, and so on. The tribunal needs to consider in a given case how the picture looks in overall substance, as to whether, or in what way, the respondent may or may not suffer forensic prejudice if a claim that would otherwise be out of time is allowed to proceed.'

13 In paragraph 40 of his judgment on behalf of the EAT in *Virdi v Comr of Police of the Metropolis* [2007] IRLR 24, Elias J, the then President of the EAT, said this:

> "When assessing whether time should be extended the fault of the claimant is plainly relevant, as it is under s.33 [of the Limitation Act 1980]."

My findings of fact

14 Having heard the claimant give evidence, I made the following findings of fact about what had actually happened. I state below why I made those findings of fact where I did not accept the claimant's evidence in relation to them.

The claimant's representation at the hearings which preceded her dismissal

15 The claimant was represented by a representative of a trade union at the disciplinary hearing at which she (the claimant) was dismissed. The claimant said in oral evidence that she had not been a member of the trade union before her dismissal and that she had had to pay for advice given to her by the trade union and for representation by the union in that (as I recorded in my notes of the hearing) she had to pay the union "every two weeks" "or something like that". However, she accepted during cross-examination that she was represented at the meeting at which she was dismissed and at the hearing of her appeal against that dismissal.

16 When it was suggested to the claimant by Mr Green in cross-examination that the representative at her dismissal meeting had the initials "TK", she said that they were "something like that". On pages 15-16 of the notes of the disciplinary hearing at which the claimant was dismissed (only pages 14-17 of those notes were put before me; I understood that they were put before me by the claimant's solicitors, and certainly there was no dispute about their provenance), there was

a long section of text in which the decision-maker's reasons for deciding that the claimant should be dismissed summarily were set out. That section was plainly a record of what the decision-maker ("JH", who was Mr Jared Hughes, I saw from paragraph 23 of the claimant's witness statement) had said at the hearing. Immediately below that section there was a row (the notes were in tabular form with two columns) in which, by the initials TK (which were in the first column), there was this text (in the second column):

> "Can we have the letter please. This is unfair dismissal and we will take it to the Tribunal."

17 The claimant's oral evidence was that (1) she remembered that being said by her trade union representative at that hearing and (2) the reason why she did not make her claim until 28 April 2025 was that "at the time I was so distraught and so ill after my dismissal".

18 After a little prompting, the claimant accepted that TK represented her also at her appeal hearing, which was conducted by telephone. She said that he did not represent her after then. She said, as I recorded, "After the dismissal he did not represent me any more", but I interpreted that (given what she said subsequently in the hearing before me) as meaning that after the appeal hearing she ceased to be represented by him because as she saw it he had failed to stop her being dismissed.

19 The claimant's evidence was that she "must have" discussed with TK the possibility of making a claim to an employment tribunal but that because she was "so upset as he got [her] dismissed and did not help [her] with [her] case", she "did not want to discuss anything else with him."

What happened next: up to the end of the primary time limit as extended by early conciliation

20 The claimant also said when giving oral evidence that "no one told [her] to go to ACAS until [she] spoke to a colleague at work". In paragraph 27.2 of her witness statement, she said this:

> "A few months after my dismissal, I was told by an ex-employee [sic] of mine that I should go to ACAS because they can help me potentially going to a Tribunal."

21 However, in oral evidence the claimant said (as noted by me) that (1) she had first called the respondent and said "I need to contact ACAS; how do I go about doing that?", (2) the person she spoke to had given her a telephone number for the respondent's head office, and (3) she had called that number and the person she spoke to (who was probably a member of the respondent's HR team) had given her the telephone number for ACAS.

22 The claimant's witness statement continued:

> "27.3. I contacted ACAS around June 2024, and I started ACAS Early Conciliation on 7 June 2024. I was told by ACAS that if I wanted to go to the Employment Tribunal to make a claim that I would have to pay, they did not provide me with an exact figure, they said something like if the claim goes to court/Tribunal then I would have to pay the Judges fee. I cannot quite remember the exact words that were used as this was a long time ago.
>
> 27.4. When I was informed that I would have to pay fees if I wanted to take my claim to the Tribunal, this worried me as I did not have the supplementary money to finance and proceed with a claim, especially as I was unemployed at the time."

23 When I pointed out to the claimant that she was plainly aware from TK of the potential to make a claim to an employment tribunal, she said this, as noted by me:

> "Yes. But the reason why I did not want him to carry on with the case was that I lost the case with him; I got dismissed; so I did not want to deal with him any more. And by the time I felt a bit better they told me contact Acas and see what you can do and when I did speak to someone there they said we can put in a claim for you but if it goes to court you have to pay the fees.
>
> And I assumed it would be a lot of money since it is going to court. So at the same time he said you have a time limit to do that and again [i.e. she was repeating her evidence on her health at the time] I got very ill; and I had high blood pressure and terrible headaches and I was not eating and I was very ill and I could not sleep and I was waking up with cold sweats."

24 However, before that, when being cross-examined, Mr Green said to her "So are you saying that if this person had not told you that it would cost you then you would have made claim?" and she said:

> "Yes; when he said that I would have to pay a court fee etc I decided not to make a claim; I could not think straight."

25 That had to be seen in the context of the things which preceded it. The whole of the passage, including that question and answer, as noted by me and tidied up for present purposes, was as follows.

> "Q: And when you spoke to ACAS how many times did you speak to them?
> A: I think it was just once.
>
> Q: You agreed to start ACAS conciliation?

A: Yes; but when he told me it would cost me and that I would have to put in an application in time, he said I would have to pay if it goes to trial; and I had already paid this other guy from the union; and at same time I was very ill; I was bedridden; I had high blood pressure; I could not think straight; I was getting cold sweats; I was very ill.

Q: So are you saying that if this person had not told you that it would cost you then you would have made claim?
A: Yes; when he said that I would have to pay a court fee etc I decided not to make a claim; I could not think straight."

26 As I said on 30 April 2026, it was not likely that an ACAS representative said that the claimant would have to pay fees to take the case to trial. It was also highly unlikely that an ACAS representative said that the claimant would have to pay a "Judges fee" as she said in paragraph 27.3 of her witness statement.

27 When she was being cross-examined, the claimant said that her health was now, as Mr Green put it in closing submissions, "more or less the same as it was in June 2024". He continued:

> "If it is the case that her health is the same and she has been able to instruct solicitors in April 2025 then she was able to do so in June 2024. It all [by which I understood Mr Green to mean all of the evidence] points towards the reason for the claimant not making her claim before April 2025 being only money, and not health."

28 However, I found some aspects of the claimant's oral evidence to be mistaken, so I did not take what she said in regard to her health throughout the period up to 18 August 2024 as being determinative.

29 In all of the circumstances, I concluded on the balance of probabilities that when the claimant recalled (and I am now quoting from my notes as set out in paragraph 23 above) that "when I did speak to someone [at ACAS] they said we can put in a claim for you but if it goes to court you have to pay the fees", she was recalling a conversation which she had with a solicitor, and not ACAS.

30 I also concluded that it was no mere co-incidence that the claimant commenced early conciliation on 7 June 2024, which was the final day in the three-month primary limitation period for making a claim about her dismissal on 8 March 2024. Rather, I concluded, the claimant commenced that early conciliation because she knew that if she were to make a claim to an employment tribunal in time then she had to start early conciliation at that time.

31 I concluded also that the claimant did not make a claim to an employment tribunal within a month of the ending of the early conciliation period because she decided at that time not to make such a claim. On the balance of probabilities, given her evidence and the history of the case, I concluded that the claimant did not want

to make a claim to an employment tribunal about her dismissal without legal representation and that she was not willing to pay for it by instructing solicitors (or, it might have been, a barrister who took instructions direct from the public) in the usual way. I emphasise that in saying that, I am in no way being critical of the claimant for making that decision.

Relevant subsequent events

32 From the claimant's oral evidence, I concluded that during the first part of December 2024, she started speaking to one or more solicitors and a judge (who might have been part-time or might have been salaried: it was not clear). The claimant's evidence on what happened then was very vague. In paragraphs 28-30 of her witness statement, she said this:

> '28. Obtaining Legal Representation
>
> 28.1. Towards the end of 2024 a friend of a friend, who had heard what had happened to me, was trying to help me find legal advice as she saw the toll that my dismissal had taken on my mental and physical health over the past 9 months.
>
> 28.2. I was unable to obtain pro bono representation or no win no fee representation, and I was not in a position to pay for legal representation from my savings, as I was using my savings to meet my day-to-day liabilities and to look after my sister and nephew.
>
> 28.3. However, upon being referred to my current solicitor, Mr Elliot Hammer, I learnt that I was able to crowd fund to pay for my legal representation.
>
> 28.4. Prior to instructing Branch Austin McCormick, I had no previous legal representation.
>
> **ISSUING THE CLAIM**
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> 29. Once I had learnt from Mr Hammer that I would be able to use crowd finding to pay for my legal fees, I formally instructed Branch Austin McCormick on 24 April 2025, and following this, Branch Austin McCormick started ACAS Early Conciliation against "John Lewis plc" on 25 April 2025.
>
> 30. Following this my claim was filed with the Tribunal on 28 April 2025, 4 days after instructing Branch Austin McCormick.'

33 There was at page 81 of the hearing bundle a copy of a letter from the claimant's GP addressed "To whom it may concern". It was in these terms.

> "I am writing this letter in support of my patient Coleen Anthony.
> She was dismissed unexpectedly without warning from her job of 20 years. Since then, she has been very distressed and anxious. It has triggered depression which has had an impact on her physical health. Her blood pressure has been erratic and often difficult to control. The stress of her current predicament is having a serious impact on her physical and mental well-being."

34 The reference to the claimant's savings in paragraph 28.2 of her witness statement was explored by Mr Green in cross-examination, and the claimant's oral evidence on that was guarded and in some respects inconsistent. In any event, it is not necessary to be legally represented in order to make a claim to an employment tribunal, and I did not regard the claimant's desire to use her savings on other things as a relevant factor here.

35 In closing submissions, Mr Green pointed out that in paragraph 28.4 of her witness statement, the claimant said that she had not had legal representation until, as recorded in paragraph 29 of that statement, 24 April 2025, but that on the basis of her oral evidence, she had spoken to a lawyer and/or a judge in December 2024, and the letter from her GP whose text I have set out in paragraph 33 above must have been sought after being given some sort of legal advice, albeit informal. As can be seen from what I say in paragraph 32 above, I accepted that part of the claimant's oral evidence.

36 Mr Green's submissions continued by him saying that there was no explanation from the claimant about why it took from December 2024 to April 2025 for her to present her claim form to the tribunal. In fact, it was the claimant's evidence, and, as I understood it, her case in this regard, that it was her health that had stopped her from making the claim between December 2024 and April 2025. If nothing else, that was clear from paragraph 31.3 of her witness statement, where she said:

> "I was unable to issue the claim to the Tribunal whilst I was suffering from severe depression following my dismissal."

37 The claimant said this in paragraph 6 of her witness statement:

> "I contend that the tribunal should extend time to hear my various claims under the Equality Act 2010 as it is just and equitable because:
>
> a. I was not able to afford legal representation at the time and following my dismissal. I was also not aware of my ability to crowd fund my representation. I was unable to obtain pro bono representation and I was not able to obtain no win no fee representation;

b. The facts of the claim are to a very high extent defined, so there is no prejudice to the Respondent from hearing the claim due to the lapse of time;

c. I have been depressed since my dismissal, despondency, and have suffered from severe anxiety, as well as being unable to sleep, and a fluctuating blood pressure; and

d. I am not computer savvy."

38 As a result of the final thing said in that paragraph, I asked the claimant whether she had a mobile telephone. She said that she did and that it was an iPhone. After a little investigation, it became clear that it was an iPhone 11. I asked the claimant what she used her mobile telephone for. In reply, she said (as I noted):

> "I just use it for emergency contacts. And emails; and contacting friends; and for taking pictures."

39 I then asked the claimant whether she ever used it to surf the internet using the web-browser on the telephone. She then said this: "No; I only read the emails that come on it."

40 In paragraph 9 of her witness statement, the claimant said this:

> "I am 61 years of age, and I am not computer literate and my sister writes emails for me."

41 I asked the claimant whether she had a tablet computer, and she said that she did not. The claimant also said that she asked her sister to help her with emails and that if she wanted to buy anything on the internet then she would ask her sister to buy it, and that she would then reimburse her sister. The claimant also said that she did not use internet banking and would bank only in person at a branch instead.

42 When Mr Green put it to the claimant that she could have asked her sister to look up how to make a claim to an employment tribunal, and that her sister could have helped her to make a claim online, the claimant said:

> "Yes but she was busy; and I did not want to burden her with anything being the elder sister but I was ill at the time."

The merits of the claim

43 Mr Hammer submitted that the claim was a strong one and that I should take that factor into account in deciding whether it was just and equitable to extend time for making the claim. I did not see the claim as being obviously strong. I agreed with what Mr Green said in that regard, which was that this was not a "slam dunk" claim.

44 The merits of the claim were here in my view therefore of only peripheral relevance.

The relevance of the passage of time since the events which led to the claimant's dismissal

45 The passage of time was here in my view a factor of far less significance than it might have been. That was because of the inherent unreliability of memory and the existence of a fairly full contemporaneous record of the disciplinary hearing which led to the claimant's dismissal: although I had been given only four pages of the notes of the disciplinary hearing which had led to the claimant's dismissal, it seemed clear to me that there was a fairly full record of that hearing. In this regard, I bore in mind the case law and considerations discussed by His Honour Judge James Tayler in *Anea v OCS UK & I Limited & Ors* [2026] EAT 21.

My conclusion on the question whether it was just and equitable to extend time and my reasons for that conclusion

46 In all of the circumstances, and taking into account fully the case law to which I refer above (including what was said footnote 3 on page 7 of the judgment of Underhill LJ in *Adedeji*), I came to the clear conclusion that it was not just and equitable to extend time for making the claims of breaches of the EqA 2010.

47 That was primarily because of the findings of fact which I make in paragraphs 29-31 above and the first sentence of paragraph 32 above, which in my view were sufficient in themselves to compel me to the conclusion that it was not just and equitable to extend time. However, in addition, I concluded from the evidence to which I refer in paragraphs 38-42 above that the claimant chose also not to ask for assistance which would have been available to her if she had asked for it, if only from her sister, in order to make a claim to the employment tribunal. In fact, I regarded that evidence as confirming that the claimant's failure to make a claim before she did was not in reality the result of her ill-health after her dismissal, but that it was purely for the reason stated by me in paragraph 31 above.

48 I concluded that the claimant knew before the expiry of the primary limitation period that there was a time limit for making a claim to an employment tribunal. That was clear from, among other things, what I have recorded in paragraph 23 above the claimant as having said at the hearing on 30 April 2026. I also concluded that she knew what that time limit was. I came to that conclusion in part because of what I say in paragraphs 30 and 31 above. She made, I concluded, as I record in paragraph 31 above, a deliberate choice not to make a claim in time. She then did nothing more until December 2024 (as I record in the first sentence of paragraph 32 above), and even then it took her another four months to present her claim form.

49 Given those findings, I rather doubted whether I could lawfully have concluded that it was just and equitable to extend time for presenting that claim form, but in any event, as I say in paragraph 46 above, I concluded that it was not just and equitable to extend time for making the claims of breaches of the EqA 2010.

50 As a result, the claimant's claims are outside the jurisdiction of the employment tribunal and had to be dismissed.

Approved by Employment Judge Hyams

On 6 May 2026

JUDGMENT SENT TO THE PARTIES ON

6 May 2026

FOR THE TRIBUNAL OFFICE