



EMPLOYMENT TRIBUNALS

Claimant: Ms D Yovonie

Respondent: East Sussex Healthcare NHS Trust

Heard at: Croydon (hybrid) **On:** 17 June 2026

Before: Employment Judge Leith

Representation

Claimant: In person

Respondent: No attendance or representation (rule 14(3))

JUDGMENT having been sent to the parties on 24 June 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure 2024, the following reasons are provided:

WRITTEN REASONS

1. On 18 November 2025, the Claimant presented a claim to the Tribunal. I directed that that claim be rejected, for the reason set out in my letter of 19 December 2025. On 29 December 2025, the Claimant applied for reconsideration of that decision. The application was accompanied by a skeleton argument and a bundle of supporting documents, totalling 141 pages.
2. I directed that that application be listed for hearing, to be attended by the Claimant only. I heard oral submissions from the Claimant.

Law

3. Overriding objective

- (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.
- (2) Dealing with a case fairly and justly includes, so far as practicable—
 - (a) ensuring that the parties are on an equal footing,
 - (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,
 - (c) avoiding unnecessary formality and seeking flexibility in the proceedings,

- (d) avoiding delay, so far as compatible with proper consideration of the issues, and
- (e) saving expense.
- (3) The Tribunal must seek to give effect to the overriding objective when it—
 - (a) exercises any power under these Rules, or
 - (b) interprets any rule or practice direction.
- (4) The parties and their representatives must—
 - (a) assist the Tribunal to further the overriding objective, and
 - (b) co-operate generally with each other and with the Tribunal.

13. Rejection: substantive defects

- (1) Tribunal staff must refer a claim to the Tribunal if they consider that the claim, or part of it, may be—
 - (a) one which the Tribunal has no jurisdiction to consider,
 - (b) one which does not contain any grounds on which the claimant relies, cannot sensibly be responded to or is an abuse of process,
 - (c) one which institutes relevant proceedings and is made on a claim form that does not contain either an early conciliation number or confirmation that an early conciliation exemption applies,
 - (d) one which institutes relevant proceedings and is made on a claim form which contains confirmation that one of the early conciliation exemptions applies, and an early conciliation exemption does not apply,
 - (e) one which institutes relevant proceedings and the early conciliation number on the claim form is not the same as the early conciliation number on the early conciliation certificate,
 - (f) one which institutes relevant proceedings and the name of the claimant on the claim form is not the same as the name of the prospective claimant on the early conciliation certificate to which the early conciliation number relates, or
 - (g) one which institutes relevant proceedings and the name of the respondent on the claim form is not the same as the name of the prospective respondent on the early conciliation certificate to which the early conciliation number relates.
- (2) The Tribunal must reject a claim, or part of it, if it considers that the claim, or part of it, is of a kind described in sub-paragraphs (a), (b), (c) or (d) of paragraph (1).
- (3) The Tribunal must reject a claim, or part of it, if it considers that the claim is of a kind described in sub-paragraph (e) of paragraph (1), unless the Tribunal considers that the claimant made an error in relation to an early

conciliation number and it would not be in the interests of justice to reject the claim, or part of it.

- (4) The Tribunal must reject a claim, or part of it, if it considers that the claim, or part of it, is of a kind described in sub-paragraphs (f) or (g) of paragraph (1), unless the Tribunal considers that the claimant made an error in relation to a name or address and it would not be in the interests of justice to reject the claim, or part of it.
- (5) If a claim, or part of it, is rejected, the Tribunal must send a copy of the claim form to each claimant together with a notice of rejection giving the Tribunal's reasons for rejecting the claim, or part of it. The notice must contain information about how a claimant may apply for a reconsideration of the rejection.

14. Reconsideration of rejection of claim

- (1) A claimant whose claim has been rejected (in whole or in part) under rule 12 (rejection: claim form not used or failure to supply minimum information) or 13 (rejection: substantive defects) may apply for a reconsideration on the basis that either—
 - (a) the decision to reject was wrong, or
 - (b) the notified defect can be rectified.
- (2) An application under paragraph (1) must be in writing and it must be received by the Tribunal within 14 days of the date that the notice of rejection was sent. It must explain why the decision to reject is wrong or rectify the defect and it must state whether the claimant requests a hearing.
- (3) If the claimant does not request a hearing, or the Tribunal decides, on considering the application, that the claim is to be accepted in full, the Tribunal must determine the application without a hearing. Otherwise the application must be considered at a hearing attended only by the claimant.
- (4) If the Tribunal decides that the decision to reject the claim, or part of it, was correct but that the defect has been rectified, the claim must be treated as presented on the date that the application containing the rectification was received by the Tribunal.

Discussion and conclusions

- 3. It is necessary first to consider the background to the Claimant's litigation against the Respondent. The background is set out in Bourne J's judgment in the High Court in the litigation between the same parties ([2023] EWHC 2618 (KB)). In short summary:
 - 3.1. The Claimant was employed by the Respondent. That employment terminated in May 2014.

- 3.2. The Claimant presented a claim to the Tribunal on 23 July 2014. She brought complaints of unfair dismissal, sex discrimination, race discrimination, disability discrimination, equal pay, and unauthorised deduction from wages. The complaints of sex discrimination, race discrimination and disability discrimination were withdrawn. The remaining complaints were heard at a four day final hearing, and were dismissed by the Tribunal on 15 June 2015.
- 3.3. The Claimant appealed that decision to the Employment Appeal Tribunal. Her appeal was allowed to proceed on one ground only, failure to treat a unilateral variation of her pay as an unauthorised deduction from wages or breach of contract. That appeal was dismissed on 25 Feb 2016 following a hearing before HHJ Eady QC (as she then was).
- 3.4. The Claimant sought to appeal to the Court of Appeal. Her appeal was dismissed as totally without merit by Burnett LJ at the permission stage.
- 3.5. The Claimant sought to judicially review Burnett LJ's decision in the Administrative Court. Permission was refused by Warby J on 14 August 2017. Her application was certified as totally without merit.
- 3.6. On 15 January 2018 the Claimant issued a claim in the High Court. Her claim form said this:

"Brief details of claim

During my employment between 6 September 2005 to 21 May 2014, unbeknown to me, the Defendant:

- 1) Breached my Contract of Employment;
- 2) Breached the Equality of Terms;
- 3) Breached the Sex Equality Clause;
- 4) Wrongfully Dismissed me and Terminated my Contract of Employment.

I am therefore claiming for:

- a) Equitable damages for wages shortfall arrears backdated pensions, calculated in accordance with Agenda for Change job evaluation scores and backdated to my start date of 6 September 2005.
- b) Damages for past and future loss of earnings and pensions adjustments with interest.
- c) Declaration to expunge the stigma of my dismissal and damage to professional reputation.
- d) All Costs for bringing proceedings
- e) Interest pursuant to s35A of the Senior Courts Act 1981."

- 3.7. Within the Particulars of Claim at paragraph 20 she said this:

"During disclosure process and ET hearing, I discovered from the Defendant's disclosure that the Defendant substantially underpaid me during my entire employment period of 8½ years with them"

- 3.8. On 27 July 2018, the Claimant's claim was struck out by Judge Bidder QC, sitting as a Deputy High Court Judge. Of particular note, DHCJ Bidder said this in his judgment:

"27. I should say, those words, 'unbeknown to me' is not entirely accurate. I accept from her that she did not know she had been misplaced on the scales as she now contends, but she could have discovered that for herself at the time because she could have worked out what her salary should have been knowing her qualifications and experience by reference to the Whitley Council scales and the AFC scales. It would, I accept, be unusual for an employee to have gone to the rather complex scales that were then available but these were published scales. She did not do so at that time but what she does say is that she was told that her salary was a certain salary and that was misleading. That she was told that in a letter which was written on the very same day and that the person who wrote the letter had made calculations which unquestionably should have put her above that scale in accordance with what she is now saying. What she is saying is, unbeknown to her, while she could have worked it out at the time she was misled by that letter and the statement of what her starting salary was not to bother to look and that the defendants breached her contract of employment."

- 3.9. DHCJ Bidder went on to note that all of the issues raised in the High Court claim had been determined by the Employment Tribunal. He noted that therefore all of the matters she was seeking to advance were either covered by the principle of *res judicata* or estopped, and that it was therefore an abuse of process for her to seek to relitigate those matters. That was the basis on which he struck the Claimant's claim out.
- 3.10. On 17 September 2018, the Claimant applied to the Tribunal for reconsideration of the 2015 judgment. That request was refused.
- 3.11. On 4 June 2019, the Claimant drew up an application to amend the High Court proceedings (although the application was not sealed until 6 April 2022).
- 3.12. That was the application considered by Bourne J. He dismissed it, on the basis that there were no extant proceedings to be amended (as the claim had been struck out). He certified the application as being totally without merit. He noted that that was the third occasion where an application made by the Claimant had been certified as being totally without merit. He therefore decided to make an Extended Civil Restraint Order.
- 3.13. The Respondent also applied for an injunction to prevent the Claimant from bringing any further Employment Tribunal claims. Bourne J said this about that application:

“58. Miss Azib also suggested that because a CRO will not apply to the ET, I should grant an injunction in similar terms to a CRO restraining the Claimant from making any claim or application in the ET. The Claimant told me that she has no wish to bring these proceedings back to the ET and that she would consider it an abuse of process to do so. I am prepared to take her at her word. If she were to make any abusive application to the ET, then the Defendant could renew its application for an injunction.”

4. The Claimant presented the present claim on 18 November 2025. The ET1 indicated that she was bringing a complaint of race discrimination. The ET1 was accompanied by particulars of claim. Paragraphs 4(a) to 4(m) of that document set out the allegations being relied upon by the Claimant. As set out above, I directed that the claim be rejected on the basis that the Tribunal did not have jurisdiction to consider it, and because parts of it were an abuse of the Tribunal's process.
5. The Claimant sought to persuade me today that this litigation was entirely unrelated to the previous litigation, and to the matters advanced in that litigation. She explained at some length that the present case is solely about concealment by the Respondent of her pay. Of course, that is not how she set the claim out in the particulars of claim. The particulars of claim made various allegations, which I dealt with in the rejection letter. The Claimant does not appear to challenge the conclusion I reached on each of those allegations. Rather, the basis on which she advances the reconsideration application is that the present claim is much narrower than I had understood it to be when I directed that it be rejected.
6. For the purpose of the reconsideration application, I have taken the Claimant's case as being how she described it in that application (rather than what was set out in the particulars of claim). I consider that the submission that it is unrelated to the matters dealt with in the previous litigation is plainly wrong. I have not had the benefit of seeing the full 2015 Employment Tribunal judgment. But I note that:
 - 6.1. The Claimant's present claim is, in substance, about the way she was paid by the Respondent. Her claim is that her salary was altered in a discriminatory way, and that that was deliberately concealed by the Respondent (also in a discriminatory way). Her employment with the Respondent ended in 2014. While she talks about issues with her pay being concealed, even at its highest her case is that she found out about the error with her rate of pay during the previous Employment Tribunal litigation, which concluded in June 2015.
 - 6.2. The allegation of concealment was expressly made in the High Court litigation.
 - 6.3. The judgments of DHCJ Bidder and Bourne J make it plain that all matters related to pay were conclusively dealt with in the previous Tribunal litigation. DHCJ Bidder struck the High Court

proceedings out on the basis that the matters had already been litigated in this Tribunal, and were therefore subject to estoppel and/or the principle of *res judicata*.

7. I therefore conclude that the claim as the Claimant has described it today is covered by issue estoppel and/or the principle of *res judicata*. It is substantially the same claim as she sought to pursue in the High Court, and which the High Court struck out for that reason. It is therefore an abuse of process for the Claimant to pursue it in this Tribunal.
8. Even if I were wrong about that, the Claimant would face the significant hurdle that any claim about her pay would be well over 10 years out of time. The Claimant sought to argue that the claim is *prima facie* in time, because the discrepancy with her pay is an ongoing act. She relies in that regard on the fact that she is in receipt of an NHS pension, and as that is a defined benefit scheme her pension benefits are affected by her pay while in employment. I consider that that argument is misconceived, for the following reasons:
 - 8.1. Even taking the Claimant's case at its highest and accepting, for the purposes of considering the application, that her pay was incorrectly altered and that alteration was concealment, that would not be a continuing act. At most it would be an act with continuing consequences. The time would therefore have run from the date on which the Respondent acted or failed to act.
 - 8.2. Furthermore, the Claimant's pension payments come not from the Respondent itself but from the NHS Pension Scheme. That further reinforces the inevitable conclusion that there is no continuing act by the Respondent some 11 years after the Claimant's employment ended.
9. The Claimant also referred to the alleged concealment. Her submission was that time to bring a claim does not start to run where essential facts have been concealed. She referring to section 123 of the Equality Act 2010 and to section 32 of the Limitation Act 1980. In that regard:
 - 9.1. Section 32 of the Limitation Act 1980 has no direct application here. This is a statutory Tribunal, which derives its jurisdiction from statute. The relevant provision dealing with limitation in claims of the type being advanced by the Claimant is section 123 of the Equality Act 2010.
 - 9.2. Section 123 does not provide that that concealment stops time from running. The question of concealment and of knowledge may, however, be relevant to whether it would be just and equitable to extend the primary limitation period.
 - 9.3. DHCJ Bidder concluded that the Claimant had put her case on concealment rather too high, and that she could have found out about the issue with her pay from the publicly available Whitley Council scales. That gives the Claimant considerable difficulty, as

while the just and equitable test is open textured, the fact that the Claimant could with reasonable diligence have found out about the discrepancy would weigh heavily against her in terms of the balance of prejudice.

9.4. But even setting that point aside, on the Claimant's case she found out about the pay issue and the concealment either from receiving disclosure shortly before the 2015 final hearing, or (at its very highest) during the hearing itself. There was then a delay of well over 10 years before she issued this claim.

9.5. So even if the Tribunal concluded that there was some form of deliberate concealment, and that it was reasonable for the Claimant not to have discovered the cause of action until the 2015 Employment Tribunal hearing, I consider that there is absolutely no prospect that any Tribunal would conclude it was just and equitable to extend time by a further 10 years. Time limits in this jurisdiction are relatively short. They have been set that way by Parliament. To wait 10 years after the point when a case of action could reasonable have been discovered before bringing litigation would take the Claimant well outside the bounds of what would be just and equitable.

10. It follows then that even if I had concluded that bringing the claim was not an abuse of process, I would have concluded that the Tribunal has no jurisdiction to consider it by virtue of section 123 of the Equality Act 2010.

11. I therefore conclude that my decision to reject the claim was plainly not "wrong". I do not reconsider it. The claim remains rejected.

12. I should note also that the particulars of claim makes allegations about the way that the Respondent conducted the High Court litigation – for example "arbitrarily enforcing costs orders against me" and "obtaining an ECRO against me". The Claimant disavowed those allegations at the hearing before me. But I consider that the fact that the Claimant even sought to cite those in these proceedings gives an insight into the view she has taken of her relationship with the Respondent and the litigation that followed it. I infer that a cost orders or orders were made against the Claimant in the High Court because she was unsuccessful – the usual order in the civil courts is that the unsuccessful party pays the successful party's costs. The Claimant was unquestionably the unsuccessful party in the High Court litigation. And of course a publicly funded body ought to give careful consideration to enforcing a costs order made in its favour – it would be inadequate stewardship of public money not to seek to do so. Similarly, the Extended Civil Restraint Order was made because the Claimant had, on three separate occasions, made applications that were certified by senior judges as being "totally without merit". That is a high bar. To seek to suggest that that would give rise to a cause of action against the Respondent shows a startling lack of insight into how misconceived the Claimant's campaign of litigation has been.

13. I appreciate that the original Employment Tribunal litigation did not result in the outcome the Claimant sought. The Claimant applied for reconsideration (unsuccessfully) and appealed the outcome of that litigation (also unsuccessfully). That concluded the litigation, and drew a line under any outstanding disputes regarding the Claimant's employment with the Respondent and her pay during that employment. Attempting to pursue essentially the same litigation again, having been told by the High Court that the matters at the heart of it have already been litigated and cannot be litigated further, is an egregious abuse of the Tribunal's process.

Approved by:
Employment Judge Leith
Date: 30 June 2026

Sent to the parties on:
Date: 4 July 2026