



EMPLOYMENT TRIBUNALS

Claimant: Mr Paul Evans

Respondent: Secretary of State for Justice

JUDGMENT

Rule 38(1)(a) Employment Tribunal Rules of Procedure 2024

The three complaints of harassment related to race dated (a) 1997 or 1998 (b) 2013 and (c) 2015 are struck out as having no reasonable prospects of success, given their age.

REASONS

1. The respondent, in their letter of 14 May 2026, has made an application for an order to strike out the claim of harassment related to race on the basis that it has no reasonable prospects of success. They say that it has no reasonable prospects of success on time limit grounds.
2. There are five complaints, and some are very old indeed. One is from 1997 or 1998, one from 2013, one from 2015, then there are two from 2022, one in the early part of the year and one in the middle.
3. Even the comments made in 2022 took place long before Mr Evans resigned. His employment came to an end on 14 November 2024, over two years after the latest of these allegations, and the claim form was submitted on 27 January 2025.
4. Those 2022 allegations involve a senior manager, Mandy, saying "There are too many Africans" working in the department, and then Mandy and a colleague, Sandra, mocking a foreign accent.
5. Those are the basic facts behind the application. Mr Evans has provided a written response and the main points he makes are that these allegations have been

raised at the time with the management and that they are relied on as evidence of the culture of the workplace.

6. By section 123 Equality Act 2010, claims must be brought within three months of the act of discrimination, although an extra allowance is made for time spent in early conciliation. Here the relevant date is 19 August 2024 – three months less one day before early conciliation started.
7. To pursue any earlier acts of discrimination, Mr Evans must either prove that
 - a) the discrimination was in fact conduct extending over a period of time and ending after that date, or
 - b) it would be just and equitable to extend the normal time limit
8. Rule 38 of the Employment Tribunal Rules of Procedure provides that:
 - (1) (1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—
 - (2) (a) that it is scandalous or vexatious ***or has no reasonable prospect of success*** ...
9. So the main question is whether Mr Evans has a reasonable prospect of proving that there was conduct extending over a period of time, up to around the time of his resignation about two years after the last incident, or that it would be just and equitable to extend time.
10. Summarising the main cases in this area, in **Anyanwu and anor v South Bank Student Union and anor** 2001 ICR 391, the House of Lords highlighted the importance of not striking out discrimination claims except in the most obvious cases, because of the public importance of such cases being heard. That, however, was a decision on the underlying merits of the case rather than in relation to time limit points.
11. Other guidance has been given by the Employment Appeal Tribunal in **Balls v Downham Market High School and College** 2011 IRLR 217, and in **Cox v Adecco** [2021] ICR 1307. These cases emphasised the importance of taking pains before such an order is made, of making sure that all available material is taken into consideration, that the claim is properly understood, that any amendment applications have been considered, that it is not dealt with without giving the claimant a opportunity to reflect and explain, and that the facts should

be taken at their highest, which means essentially accepting for the purpose of the application that what is said is true.

12. The complaints themselves were set out clearly in the Particulars of Claim and the application was made shortly after a case management hearing, on 30 April 2026. There does not appear to be anything to clarify. The application does not involve any suggestion that the allegations themselves are unreliable, or that they are so old that the respondent can no longer defend them. It is based squarely on the dates. Unusually therefore, this is an application which can be dealt with on the papers.
13. It is necessary to see these particular complaints against the background of the rest of the claim, which is for constructive dismissal and disability discrimination. The main claim advanced is that there were a number of issues during 2024 which led to his resignation. These earlier allegations of harassment are largely relied on for background.
14. Since the last of these allegations is from mid-2022, Mr Evans will need to persuade the tribunal in due course that this was conduct extending over a period up to that point in time *and* that it would be just and equitable to extend time from then on for a further two to three years until his resignation.
15. The identities of the alleged harasser is not mentioned in relation to the first three incidents, so it is very hard to see what could connect them over such a long period. Nor is there any explanation at all for the failure to bring a claim at the time.
16. In those circumstances, the allegations dating back to the late 1990s, 2013 and 2015 appear to be hopelessly out of time. The two allegations from 2022 appear to be an extremely long time before Mr Evans resigned, but they both involve Mandy, and she is available to give evidence in any event. In those circumstances it is arguable that time may be extended on just and equitable grounds to consider those allegations, and it cannot be said that they have no reasonable prospects of being considered by the Tribunal.
17. There is also an application for a deposit order, but that cannot be dealt with on the papers. The relevant rule, Rule 40, begins:

(1) Where *at a preliminary hearing* the Tribunal considers ...
18. Accordingly, that application is refused.

Employment Judge Fowell

Date 20 July 2026