



EMPLOYMENT TRIBUNALS

Claimant: Mr Stuart Brown

Respondent: The Chief Constable of Sussex Police

Heard at: London South Hearing Centre by CPV

On: Friday 30 January 2026

Before: Employment Judge Hallen

Representation

Claimant: Ms A. Amesu- Counsel

Respondent: Mrs L. Simpson- Counsel

JUDGMENT

It is just and equitable to extend time and accept the Claimant's Claim Form presented on 10 July 2024 outside the primary time limit of 3 months. Accordingly, the substantive hearing can proceed on 21 to 24 April 2026 at the London South Hearing Centre.

REASONS

Background and Issues

1. This case came before Employment Judge Rahman on 13 August 2025 at a preliminary hearing at which the judge listed the case for a substantive hearing for 4 days on 21, 22, 23, and 24 April 2026 before an Employment Judge and two non-legal members. At that preliminary hearing, the judge gave directions to the parties for the substantive hearing as well as setting out the legal claims and issues. The judge also listed the matter for an open preliminary hearing on 30 January 2026 before an Employment Judge sitting alone to consider the issue of jurisdiction namely whether the Claimant's claim for direct and indirect sex discrimination was presented within three months of the last act of discrimination

or whether if the Claimant's claim is out of time, it is just and equitable to extend time in accordance with section 123(1) (B) Equality Act 2010. At that hearing, the Claimant confirmed to the Employment Tribunal that he relied on incorrect advice from his staff association namely the Police Federation of England and Wales as the reason for the delay in his submitting the claim within time. Accordingly, the tribunal listed the matter for a hearing on jurisdiction before me.

2. For the hearing, I had an agreed bundle of documents made-up of 134 pages that included the witness statement of the Claimant along with the witness statement of his Police Federation representative Mr Andrew Dunkling. I also had a skeleton argument for the Claimant and Respondent. I heard evidence under oath from the Claimant and his witness, and they were subject to cross examination. After hearing closing submissions from the party's counsel, I gave my oral judgement to the parties at the end of the hearing. I confirmed to the parties that I would also send them my written reasons for the judgement.

Facts

3. The Claimant is a police officer currently employed by the Respondent. He is also a subscribing member of Sussex Police Federation, which is the staff association for officers from the ranks student officer up to and including Chief Inspector. The National Police Federation is made up of 43 Branch Federations, Sussex Police Federation being one such branch.

4. In June 2023, the Claimant took part in the Police Constable to Sergeant promotion process with Sussex Police, where he was at the time employed for over seventeen years. At the end of this process, he was not selected for the promotion for which he had applied. Instead, the position was awarded to other successful candidates that form the subject matter of the substantive aspects of his complaint to this tribunal.

5. Following the outcome of the promotion process, the Claimant lodged an appeal against the decision not to promote him, and this was rejected on 17 August 2023. During this process, the Claimant had regular contact with his Sussex Police Federation Representative, Mr Andrew Dunkling and a request for legal assistance funding to pay for an Employment Tribunal claim was made to the National Police Federation.

6. In his role as a Federation representative Mr Dunkling had not received any training in Employment Tribunal processes and procedures although he had a rough idea that there needed to be ACAS conciliation before a tribunal claim could be started. On 30 October 2023 Mr Dunkling commenced the ACAS pre-claims conciliation process, and a certificate was issued on 1 November 2023. This meant that the Claimant's Claim Form should have been submitted to the tribunal by no later than 1 December 2023.

7. Mr Dunkling had been lobbying the National Police Federation to support the Claimant's claim at the Employment Tribunal by making a claim for legal assistance in the first instance on 9 September 2023. However, on 30 October 2023, the National Federation confirmed that they had rejected funding for the claim on the basis that the claim did not meet the National Federation's funding criteria. Mr Dunkling informed the Claimant of this decision and advised him that as he had paid his subscriptions to the Federation, he should not spend further money unnecessarily. He advised the Claimant that he believed the Federation would eventually fund his claim.

8. At the time, Mr Dunkling's mistaken understanding was that authority for funding the tribunal claim would need to be granted by the Police Federation before an Employment Tribunal claim could be lodged. The Claimant relied solely on Mr Dunkling's advice on this matter and his advice as he candidly admitted to me at the hearing was incorrect. Mr. Dunkling's communication with the Claimant took place on a regular basis and he repeatedly told the Claimant to '*hold the line*' and wait until legal funding had been obtained at which point he believed he the Claimant could then proceed with the tribunal claim. As a consequence, the Claimant did not make any presentations to the tribunal himself but relied entirely upon Mr Dunkling's advice.

9. The Claimant was unaware of the limitation date for submitting his claim by the 16 November 2023, until after the date had passed. The deadline was not communicated to him at the time by Mr Dunkling or the National Federation.

10. On 19 January 2024, the Claimant appealed the decision not to fund his claim to the National Federation, and the appeal was handled by Mr Dunkling on his behalf. In early 2024, the Claimant spoke with Mr Dunkling via email on a number of occasions in relation to the ACAS certificate and time scales for commencing the tribunal claim. The Claimant was wrongly advised that if he were to submit the certificate to court, a tribunal hearing would take place and that he should await the National Federation's funding decision. He was also told that if National Police Federation still refused to support him, he would become personally liable for the court fees which were estimated to be in the region of £30,000. The Claimant did not have the funds to pay such fees and as such he did not submit the certificate or take any other steps to progress the claim.

11. On 22 February 2024, the outcome of the appeal for funding from the Federation was concluded and the Federation's decision was that no funding would be provided to the Claimant to assist him with his claim to the tribunal. Despite this rejection, Mr Dunkling through the insistence of the Claimant continued to lobby the National Federation for legal funding and this was eventually granted in early July 2024. Once the funding had been granted to the Claimant to commence the Employment Tribunal claim from the Federation, he instructed Mr Dunkling to proceed, and the claim was commenced on 10 July 2024 when the Claim Form was accepted by the tribunal. The claim was nearly 8 months after the date that it should have been submitted on 1 December 2023.

The Law

12. s.123 EqA 2010 sets out the following: 123 Time limits (1) Subject to section proceedings on a complaint within section 120 may not be brought after the end of— (a) the period of 3 months starting with the date of the act to which the complaint relates, or (b) such other period as the employment tribunal thinks just and equitable.

13. Section 33(3) of the Limitation Act 1980 (power to extend time in personal injury actions) specified a number of factors that a court is required to consider when balancing the prejudice which each party would suffer as a result of granting or refusing an extension, and to have regard to all the other circumstances, in particular: (a) the length of and reasons for the delay; (b) the extent to which the cogency of the evidence is likely to be affected by the delay; (c) the extent to which the party sued had co-operated with any requests for information; (d) the promptness with which the claimant acted once he or she knew of the

facts giving rise to the cause of action; and (e) the steps taken by the claimant to obtain appropriate professional advice once he or she knew of the possibility of taking action.

14. In **British Coal Corporation v Keeble [1997] IRLR 336**, it was held that the Tribunal's power to extend time was similarly as broad under the 'just and equitable' formula. However, it is unnecessary for a tribunal to go through the above list in every case, 'provided of course that no significant factor has been left out of account by the employment tribunal in exercising its discretion' (**Southwark London Borough v Afolabi [2003] IRLR 220**).

15. The Court of Appeal in **Robertson and Bexley Community Centre (trading as Leisure Link) 2003 IRLR 434CA** made it clear that there is no presumption that time should be extended to validate an out of time claim unless the Claimant can justify the failure to issue the claim in time. The Tribunal cannot hear a claim unless the Claimant convinces the Tribunal that it is just and equitable to extend time, so the exercise of the discretion is the exception rather than the rule.

16. In **Abertawe Bro Morgannwg University v Morgan [2018] EWCA Civ 640** the Court of Appeal however stated that the "such other period as the employment tribunal thinks just and equitable" extension indicates that Parliament chose to give the tribunal the widest possible discretion. Although there is no prescribed list of factors for the tribunal to consider, "factors which are almost always relevant to consider are: (a) the length of, and reasons for, the delay and (b) whether the delay has prejudiced the respondent". There is no requirement that the tribunal had to be satisfied that there was a good reason for the delay before it could conclude that it was just and equitable to extend time in the Claimant's favour.

17. The Claimant did not argue that the discrimination he was subjected to took place over a period. His complaint was specifically limited to the time he was informed that his appeal against the decision not to appoint him was communicated to him on 17 August 2023. Accordingly, s.123(3) EqA did not apply.

Conclusion and Findings

18. The Claimant was notified of his unsuccessful promotion on 17 August 2023. ACAS was contacted on 30 October 2023, and the ACAS certificate was issued on 1 November 2023. ACAS was contacted during the course of the three-month primary time limit and therefore the claim form deadline in this case of Sex Discrimination was extended to and expired on 1 December 2023. However, the claim was not submitted until 10 July 2024 approximately 8 months from when it should have been submitted which was on 1 December 2023.

19. In this case, I find that the Claimant relied entirely upon the advice of the Police Federation and specifically the advice given to him by his Federation representative Mr. Dunkling. That advice which turned out to be wrong was that he should not commence Employment Tribunal proceedings himself and should rely upon the Police Federation to fund the Employment Tribunal proceedings so that he could commence these proceedings without cost to himself. Mr Dunkling wrongly informed the Claimant that such fees would be in the region of £30,000 which sum of money the Claimant would be exposed to and which he did not have. Mr Dunkling informed the Claimant that as he had paid his Federation subscriptions he should wait upon the Federation to agree to funding the Tribunal claim. The Federation first decided not to fund the Claimants Employment Tribunal claim on 30 October

2023. Despite this, the Claimant and his Federation representative, Mr. Dunkling pursued the subject of funding the claim with tenacity with the national police Federation both verbally, by email and then by appealing against the refusal on 19 January 2024 and thereafter on 22 February 2024 when the appeal was rejected. Despite this rejection, Mr Dunkling continued to chase the Federation for funding. Eventually, the police Federation agreed to fund the litigation, and I find on the basis of the Claimant's evidence this was sometime in early July 2024 where upon the notice of claim was issued in the Employment Tribunal.

20. It transpires that the advice that Mr Dunkling gave to the Claimant took no account of the Employment Tribunal time limits and this was down to his own ignorance of Tribunal procedure and time limits. I accept his evidence that he was ignorant of what he needed to do. It was Mr Dunkling's evidence that the failure was his own and this was candidly accepted by him. I accept that Mr Dunkling was not given training in Employment Tribunal processes and procedures and was unaware of the specific time limit that applied or what he had to do to commence proceedings.

21. I do not find that the Claimant acted unreasonably upon in his reliance upon legal advice given to him by an organisation for which he had paid his subscriptions for a considerable period of time and for which he expected to be assisted in his Tribunal claim. Indeed, he was led to believe that this would be the case by his Federation representative Mr. Dunkling. Eventually he was afforded such funding in July 2024 at which time he commenced these proceedings without further delay.

22. Due to the failures of Mr Dunkling upon whom the Claimant entirely relied upon for legal assistance throughout this period until the lodgement of the claim form, I find that it is not reasonable to visit such failure upon him pursuant to the guidance given in the case of **Chohan v Derby Law Centre UKEAT/0851/03** which was also considered in **Phipps v Priory Education Services Ltd 2023 EWCA CIV 652**.

23. In exercising my discretion and deciding whether it is just an equitable to exercise it to extend the time limit in this case, I have also considered the extent to which the cogency of the evidence is likely to be affected. To the Respondents credit, it has been indicated that the delay in presenting this claim would have some detrimental effect albeit no more than minor in respect of the cogency of the oral evidence that will be given by the Respondent's witnesses. I have also noted in this regard that the case has been listed for hearing in April 2026 and that the parties have made good progress in respect of preparation for that hearing including preparation of disclosure of documentation.

24. I have also considered the prejudice to the parties in respect of exercising my discretion and find that the prejudice to the Respondent in the delay in the presentation of the Claim Form has not adversely effected the Respondent in respect of obtaining witnesses to respond to the claim, the Respondent has already pleaded a full and lengthy defence to the claim and the case has been case managed to a final hearing. Therefore, I do not find that there is any substantive or real prejudice to the Respondent in permitting this claim to proceed. By contrast, the refusal of an extension to the Claimant would mean he could not proceed with his claim due to failure not of his own making. It would also present the Respondent with a procedural victory based upon poor advice given to the Claimant by the police Federation. In addition, the appeal courts have long given guidance to the

Employment Tribunal that it is in the public interest for cases of discrimination to be tested in Employment Tribunal rather than defeated on procedural grounds.

25. Taking all the factors into consideration, I have decided to exercise my discretion in favour of the Claimant and find that it is just an equitable to extend time pursuant to section 123 (1) (b) of the Equality Act 2010 so that the Claim Form presented by the Claimant on 10 July 2024 is accepted.

Employment Judge Hallen

Dated: 3 February 2026

Sent to the parties on:

5 March 2026