



EMPLOYMENT TRIBUNALS

Claimant: Mr D Wright

Respondent: Blossom Homecare Ltd

Heard at: Newcastle by CVP

On: 14 September 2026

Before: Employment Judge Moss

Representation

Claimant: In person

Respondent: Ms P Douglass (HR Consultant)

Judgment and written summary reasons were sent to the parties on 15 September 2026. The claimant having requested full reasons in accordance with Rule 60 of The Employment Tribunal Procedure Rules 2024, the following written full reasons are provided:

FULL REASONS

Introduction

1. This was a public preliminary hearing to determine the following issues:

Should the complaint of unfair dismissal made under the Employment Rights Act 1996 be struck out because it has no reasonable prospect of success as the claimant had less than two years' continuous employment at the time of termination?

If the claim is not struck out on the ground set out above, was it reasonably practicable to present the complaint of unfair dismissal within the three month time limit? If not, was it presented within a reasonable period?

Would it be just and equitable to extend the time limit for presenting the complaints made under the Equality Act 2010 of disability discrimination, sexual harassment and/or victimisation?

2. The complaint of unfair dismissal was dismissed upon withdrawal at the start of the hearing, leaving only the question of whether the tribunal has jurisdiction to consider the claimant's claims under the Equality Act 2010.

3. I had separate bundles from the claimant and respondent, the respondent's bundle having been uploaded to the case via the HMCTS online portal on 10 July 2026 and the claimant's bundle having been uploaded on 11 September 2026. The claimant and Lucinder Dickinson, Registered Manager for the Respondent as at September 2023 (now Franchise Manager), had prepared witness statements. The claimant gave sworn evidence and Ms Dickinson was sworn for her witness statement to stand as her evidence in chief but there were no questions of her from either party or the tribunal. Both parties made oral closing submissions.

Evidence and findings of fact

4. I find the following facts on a balance of probabilities after considering the whole of the evidence, both oral and documentary, and after listening to any factual and legal submissions made by or on behalf of the parties.
5. It is agreed the claimant was employed by the respondent as a Senior Home Care Worker from 21 November 2022 until 21 June 2023. His statement of terms and conditions suggests employment commenced on 01 December 2022 but the start date is not material to the issue to be determined. He resigned on 24 May 2023, giving a month's notice, providing as his reasons *"being under discrimination. And also being mentally unwell"*.
6. Prior to resigning, the claimant had made complaints of sexual harassment by a supervisor/manager in January 2023. That individual resigned himself in February 2023. The claimant had a period of sickness absence from 13 March 2023 to 21 March 2023 due to anxiety and, following his return to work interview, stepped down to a part-time senior role until he felt better to return full time. The claimant was on sickness absence at the time of his resignation and stated that he would remain on sick during his notice period due to not being allowed to return to work. He had been informed in a meeting on 16 May 2023 that the employer felt he was not ready to be able to return to work. Community mental health services were involved in providing care for the claimant at the relevant time.
7. In November 2023 the claimant re-applied for employment with the respondent. A new Registered Manager, Lucinder Dickinson, was in post and offered the claimant a position subject to satisfactory references being obtained. The respondent withdrew the offer of employment on 13 November 2023 stating that the offer was dependent on satisfactory references and that one reference had come back unsatisfactory. A letter of concern from the Care Quality Commission (CQC) had also been received by the respondent but this was not disclosed to the claimant as being a factor affecting the decision to withdraw the job offer.
8. The claimant sent a Subject Access Request (SAR) to Lucinder Dickinson on 17 November 2023 explaining that he had spoken to ACAS and had been advised to request information about the unsatisfactory reference to find out exactly what was said to see if he could take it further. He contacted Ms Dickinson again in writing on 21 November 2023 chasing a response. Not having received a response, he sent a further email on 28

January 2024 stating that he would like to request the information one final time otherwise he would have to take it further.

9. The claimant did not receive a reply from the respondent regarding his SAR until 25 June 2024, at which time he was informed there was no record of a reference on file. Inadequate personal records and files had been kept by a previous manager and/or her staff. The claimant escalated the matter to the Information Commissioner's Office, receiving advice from an ICO Case Officer on 04 July 2024 to the effect that it could not enforce the organisation to provide a SAR.
10. Early conciliation through ACAS commenced on 25 June 2024 and ended on 06 August 2024. He was advised about time limits for commencing proceedings during this period. The respondent believed the matter to have been resolved through this process by the respondent agreeing to provide a reference for the claimant in specific terms. The respondent provided such a reference on request in January/February 2025 using the wording set out in the draft cot3 agreement. In fact, it transpired that ACAS had sent the draft cot3 to the claimant on 15 August 2024, but the claimant did not respond. When the ACAS Conciliator contacted the claimant again the following month the claimant responded on 10 September 2024 repeating concerns that the respondent had not complied with a SAR, and stating that he owned his own company and a reference would not be required. By the claimant's oral evidence, the company had been set up about 2 months beforehand, hence July 2024.
11. The claim form was presented to the Employment Tribunal on 13 May 2025 for complaints of constructive unfair dismissal, sexual harassment, disability discrimination and victimisation. It is accepted that the last alleged unlawful act complained of is the withdrawal of the job offer on 13 November 2023, the other allegations relating to treatment said to have taken place before the claimant's employment with the respondent ended on 21 June 2023. By the time the respondent learned of proceedings, the majority of people referenced by the claimant were no longer in their employ.
12. During his employment with the respondent, the claimant was the primary carer for two rescue dogs, one of whom had deteriorating health from the end of March 2025, requiring extensive veterinary involvement and the other required ongoing management for epilepsy. Both dogs subsequently passed away, evidence in the claimant's bundle suggesting one in July 2025, after proceedings were commenced.
13. The claimant's partner suffered from ill health, requiring hospital admission in May 2025. While documentary evidence produced by the claimant in connection with his caring responsibilities covers the period from April 2025 onwards, I accepted the claimant's oral evidence that they commenced in 2024. Evidence in the claimant's bundle includes that his partner's hospital admission was following a relapse, supporting the fact that it was a persistent or recurring issue. The claimant's caring responsibilities included communicating with the local authority occupational therapy team to obtain adaptations for the home, coordinating appointments, attending meetings and providing ongoing support for his partner.

Relevant law

14. Section 123 of the Equality Act 2010 provides:

(1) Subject to section 140B 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.'

15. There is no presumption in favour of an extension of time. The onus is on the claimant to convince the tribunal that it is just and equitable to extend time - *Robertson v Bexley Community Centre* [2003] EWCA Civ 576, [2003] IRLR 434. The tribunal has a wide discretion to extend time on just and equitable grounds and all relevant circumstances must be taken into account - *Jones v Secretary of State for Health and Social Care* [2024] EAT 2, [2024] IRLR 275, [2024] ICR. While reference to the checklist of factors listed in section 33 of the Limitation Act 1980 may be of assistance, it is not mandatory and what is required is a broad exercise of discretion rather than rigid adherence to a checklist - *Adedeji v University Hospitals Birmingham NHS Trust* [2021] EWCA Civ 23. Factors which are almost always relevant to consider when exercising any discretion whether to extend time are: (a) the length of, and reasons for, the delay and (b) whether the delay has prejudiced the respondent (for example, by preventing or inhibiting it from investigating the claim while matters were fresh) - *Abertawe Bro Morgannwg University Local Health Board v Morgan* [2018] EWCA Civ 640. The potential merits of the claim may also be a relevant consideration where an assessment is possible by reference to identifiable factors - *Kumari v Greater Manchester Mental Health NHS Foundation Trust* [2022] EAT 132.

Conclusions

16. It is for the claimant to persuade me that it would be just and equitable for time to be extended. I reminded myself that I have a wide discretion and must consider justice as it affects both sides in determining the matter. A balancing exercise is to be undertaken with all relevant circumstances being considered. Highly relevant factors will always be the length of and reasons for the delay, as well as prejudice caused to either side by the decision to extend, or not to extend, the relevant time limit.

17. In this case the claim form was presented on 13 May 2025 in respect of complaints, the last of which concerns the withdrawal of a job offer on 13 November 2023, and other matters that are said to have occurred during the claimant's employment which ended on 21 June 2023. The claimant did not commence early conciliation through ACAS until 25 June 2024, some 7 months after the last event complained of. The claimant is not therefore, assisted in this case by the provisions of s140B EqA operating so as to 'stop the clock'. That means the victimisation claim (the basis for

which is the withdrawal of the job offer) is 15 months late, and the disability discrimination and sexual harassment claims are at least 20 months late if looked at in isolation. Working on the basis that the complaints could be said to form part of a series or conduct extending over a period, the claim form was presented 15 months beyond expiry of the primary time limit in s123 of the Equality Act 2010.

- 18 The claimant included reference to discrimination as one of his reasons for resigning. Poor treatment by his employer was therefore in his mind at that early stage towards the end of May 2023, and a cursory internet search would have provided him with information about his rights in connection with the sexual harassment and discrimination he alleges he had suffered by that time. It would not have been too onerous a task to undertake, but the claimant also referred to poor mental health in his resignation and there is no doubt he was suffering with his mental health at the time. He may well not have been in a position to apply his mind to exploring options available to him at that stage. In any event, assuming for the purposes of this exercise the events formed part of conduct extending over a period, time runs from the last act complained of, namely the withdrawal of the job offer on 13 November 2023.
- 19 Putting the period between the claimant's resignation in May 2023 and the withdrawal of the job offer in November 2023 aside, a further period of 7 months elapsed before he contacted ACAS to commence early conciliation in June 2024. The claimant explains this delay by attempting to obtain more information through a Subject Access Request to find out more about the unsatisfactory reference, to help him understand why the job offer had been withdrawn. I accepted the claimant's evidence that he has not submitted all documentation relating to the deteriorating health of his dogs and his partner and that certainly his partner's health was a factor in 2024, not just in 2025, but the claimant was nevertheless over the relevant period able to deal with official business by pursuing the SAR and ultimately by contacting ACAS. He could have commenced proceedings concurrently with pursuing the SAR had he doubted the explanation given by the respondent about a negative reference to be genuine, believing it to have been an act of victimisation instead.
- 20 Following the ending of early conciliation on 06 August 2024, a further period of 9 months passed before the claimant presented his claim. During this period the claimant provided as a reason for refusing to sign the draft cot3 that he did not need a reference because he owned his own business, while remaining aggrieved at the respondent's failure to satisfactorily respond to his SAR. The claimant accepts that he was fully aware of his rights by that stage because he had been involved in early conciliation and ACAS had informed him of time limits for commencing proceedings, yet he did not present the claim for a further 9 months after early conciliation ended. He clearly had caring responsibilities for his partner and dogs but he had nonetheless been able to enter into early conciliation and consciously decided not to settle, in part because he had started his own business and concluded there would be no benefit to him in having the proposed reference from the respondent.
- 21 Whether it is just and equitable in the round to extend time in light of all the circumstances requires me to examine each period of delay and the

claimant's reasons for the delay which are different at each stage, although there is overlap at times. Initially upon resigning, he relies on his own poor mental health and not giving thought to his rights. Upon withdrawal of the job offer in November 2023, his explanation is that he wanted to resolve matters without litigation and was trying to obtain information through a Subject Access Request. For the period between contacting ACAS and presenting the claim, he points to the deteriorating health of his dogs and his partner and to his caring responsibilities in that regard. But he was fully aware of his rights by then if not before, and he was able to start a company with his partner during that time. The length of the delay is not satisfactorily explained by the reasons given, which I accept at times will have been the claimant's focus and understandably his priority, but there were many opportunities to commence proceedings well before May 2025 and I have concluded that he failed without good reason to act promptly.

Prejudice to either party

- 22 An inevitable consequence of not extending time is that the claimant is prevented from pursuing his claims. That is largely attributable to his not having afforded the matter any priority within a reasonable timescale, particularly after involving ACAS and consciously deciding not to settle the matter in refusing to sign the draft cot3. Granting the extension would prejudice the respondent by inhibiting it from investigating the claim while matters were fresh. I have taken into account that there is hardly anyone able to speak to events remaining in the respondent's employment. The respondent has searched through records and provided such information as it could for the purposes of submitting a response to the claim. As part of this exercise today it would have been open to me to consider the potential merits of the claim but the allegations currently lack sufficient detail for me to make an assessment. If matters were allowed to proceed, further and better particulars would be required to clarify the claims, and the respondent would then be required to provide amended grounds of resistance from the information it is able to pull together about matters, some of which are said to have occurred more than 2 years ago. The cogency of evidence available to the respondent is likely to be compromised given the passage of time, that inadequate personal records and files had been kept by the previous manager and/or her staff and relevant colleagues of the claimant are no longer employed. In all of the circumstances, the claimant has not persuaded me that it would be just and equitable to extend time and the complaints are dismissed.

Signed:

Employment Judge Moss

03 October 2026

Notes

All judgments (apart from judgments under Rule 51) and any written full reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/