EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Mrs H Bannerman	**v**	The Land Restoration Trust

Heard at: Bury St Edmunds (by CVP)

On: 30 and 31 July 2025

Before: Employment Judge KJ Palmer (sitting alone)

Appearances
For the Claimant: In person
For the Respondent: Mr J Arnold, Counsel

RESERVED JUDGMENT
Pursuant to a Preliminary Hearing

1. The Claimant's belief in social and environment justice does not amount to a philosophical belief under Section 10 of the Equality Act 2010 and therefore the Claimant's belief is not capable of protection under the Equality Act 2010 as a protected characteristic.

2. The Claimant's claim in direct sex discrimination under paragraph 30(ii) of the Case Management Summary of EJ Palmer of 14 May 2025 is out of time and it is not just and equitable to extend time to validate it. The Tribunal therefore has no jurisdiction to hear it and it is dismissed.

REASONS

Background

1. This matter came before me for a two day Preliminary Hearing to be conducted by Cloud Video Platform (CVP) pursuant to a Preliminary Hearing Case Management Discussion which was before me on 14 May 2025. At that Case Management Hearing we were able to identify the nature of the Claimant's claims and these were all incorporated into a Case Management Summary, sent out to the parties on 5 June 2025.

2. As part of that Case Management Discussion, we were also able to identify the necessity for a separate Preliminary Hearing to consider two issues. The issues are set out under the Orders made pursuant to that Preliminary Hearing Case Management Discussion at 1.1.1 and 1.1.2.

3. They are as follows:

    1.1.1 Whether the Claimant's belief in social and environmental justice amounts to a philosophical belief under Section 10 of the Equality Act 2010 and whether such belief is capable of protection under the Equality Act 2010 as a protected characteristic; and

    1.1.2 Whether any or all of the Claimant's claims in sex, philosophical belief and disability discrimination are out of time. In considering whether claims are out of time, the Tribunal will have to determine under s.123(3) whether there was conduct extending over a period and thus such conduct is to be treated as done at the end of that period. If any of the claims are out of time, the Tribunal will need to consider whether it is just and equitable to extend time to validate them. The out of time issues will be examined on a substantive basis under Rule 52 (1) (b) of the Employment Tribunal Rules of Procedure 2024.

4. The Orders then go on to indicate that in respect of such claims that survive the scrutiny of 1.1.1 and 1.1.2, the Respondent has leave to ventilate a Strike Out and / or Deposit Order Application.

5. Various Orders I gave indicated that the Claimant must produce a Witness Statement in respect of the issues to be determined at the Preliminary Hearing, which is this two day Preliminary Hearing. It specifically indicated that the Claimant should produce a Witness Statement on both of the issues to be determined, 1.1.1 and 1.1.2.

6. Various other Orders relating to a Bundle for this Preliminary Hearing were also made.

Documents before me at the Preliminary Hearing

7. The Hearing took place over two days and Judgment was reserved.

8. There initially were some problems with the CVP equipment and we had to move Tribunals on Day 1, thus losing some time.

9. I had before me a Witness Statement from the Claimant running to some 244 pages. Of this document some 48 pages constituted the Claimant's Witness Statement running to some 376 paragraphs. The remainder of the pages consisted of extracts from documents, photographs, CVs and essentially a port folio of the Claimant's life.

10. I also had before me a Bundle running to some 276 pages prepared by the Respondents, for which I am grateful.

Minor Corrections Required

11. Some minor corrections were required to the Case Management Summary from 14 May 2025.

12. Pursuant to the Preliminary Hearing Case Management Discussion on 14 May 2025, I completed a detailed Summary and List of Issues by 19 May 2025. The Administration despatched this document to the parties on 5 June 2025.

13. On 19 June 2025 Mr Crawshaw, Solicitor for the Respondent, wrote to the Tribunal indicating that in his view there were some minor inaccuracies and discrepancies in the Case Management Summary which did not reflect the discussion that took place on 14 May 2025. I should stress that it was necessary to go through a detailed List of Issues in respect of the Claimant's claims and there was always a possibility that there would need to be some minor adjustment.

14. One of the principal inaccuracies was that throughout the Summary I had referred to Mr Alan Carter as Mr Andrew Carter. It is a simple enough matter to indicate that all references to Andrew Carter in that Case Summary should be read as "Alan" Carter.

15. The following corrections were also agreed between the parties and henceforth the Case Management Order Summary of 14 May 2025 should be read in the light of these corrections:

    15.1. Paragraph 28(iii) of the Case Management Summary – the allegation relied upon is that "the Respondent failed to protect the Claimant in respect of complaints raised by Hill Marshall on 13 September 2023 and 2 February 2024".

    15.2. Paragraph 30(i) of the Case Management Summary – this should reflect that it is agreed that this allegation was not advanced as an allegation of direct sex discrimination, albeit that the Respondent does note and understand that the Claimant referred to an allegation in similar terms shortly before discussion of the Claimant's sex discrimination claims at the Preliminary Hearing. In any event and for the avoidance of doubt, the Respondent had responded to this allegation as an allegation of direct sex discrimination in its Amended Grounds of Resistance.

    15.3. Paragraph 37 of the Case Management Summary – which sets out a list of reasonable adjustments which the Claimant says the Respondent should have made, should include an additional alleged

reasonable adjustment of "carrying out a risk assessment to identify whether any reasonable adjustments could have been made".

15.4. Paragraph 41 of the Case Management Summary – which sets out the Claimant's claims in harassment related to disability should include as an additional act of harassment relied upon the fact that the Claimant alleges the Respondents "emailed the Claimant on 6 March 2024 and 28 March 2024 contrary to the Claimant's stated communication preferences (i.e. not sending correspondence after noon)".

16. The above are the only corrections that are necessary to the Case Management Summary. Henceforth the Case Management Summary will be read as including these corrections and additions.

The Issues before me today

17. Paragraph 1.1.1 of the Orders pursuant to the Summary of 14 May 2025 is as follows:

> "Whether the Claimant's belief in social and environmental justice amounts to a philosophical belief under s.10 of the Equality Act 2010 and whether such belief is capable of protection under the Equality Act 2010 as a protected characteristic."

18. I heard evidence from the Claimant where the Claimant was cross examined by Mr Arnold. I was also grateful to both parties for providing written submissions.

19. The Claimant is unrepresented and is not a Lawyer. I have therefore taken into account this is the case and accept and understand that her Witness Statement which she herself says is not a Witness Statement in the traditional sense and her written submissions are not in the usual form, albeit that the Claimant is to be congratulated for, in particular, her written submissions which read extremely well.

20. The Claimant relies on her belief in social and environmental justice as amounting to a philosophical belief under s.10 of the Equality Act 2010.

21. Section 10 of the Equality Act 2010 reads as follows:

> **10. Religion or belief**
>
> (1) Religion means any religion and a reference to religion includes a reference to a lack of religion.
>
> (2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

> (3) In relation to the protected characteristic of religion or belief—
>
> (a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;
>
> (b) a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief.

22. In respect of this issue we are principally concerned with s.10(2).

23. The leading case of the definition of a philosophical belief is **Grainger Plc and Ors. v Nicholson [2010] ICR 360 EAT**, where the Employment Appeal Tribunal provided important guidance of general application on the ambit of this category of protected belief. Mr Justice Burton expressed the view that there is nothing in the make up of a philosophical belief that would disqualify beliefs based on political philosophies. Nor is there any reason to disqualify from the statutory protection of philosophical belief based on science, as opposed to religion. Whilst it is necessary for the belief to have a similar status or cogency to a religious belief, it does not need to constitute or elude to a fully fledged system of thought.

24. In the course of this Judgment in Grainger, Burton J drew heavily on Case Law decided under Article 9 of the European Convention on Human Rights and distilled from this the basic criteria that must be met in order for a belief to be protected under s.10 of the Equality Act 2010. As he himself recognised, there have to be some limitations. He then set out what have commonly become known as the Grainger Principles. These are as follows:

    24.1. The belief must be genuinely held.

    24.2. It must be a belief and not simply an opinion or viewpoint based on the present state of information available.

    24.3. It must be a belief as to a weighty and substantial aspect of human life and behaviour.

    24.4. It must obtain a certain level of cogency, seriousness, cohesion and importance.

    24.5. It must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others.

25. These criteria have now been replicated in the Equality and Human Rights Commission's Code of Practice on Employment, January 2011 ("the EHRC Employment Code") as official guidance on what comprises a philosophical belief for the purposes of the protected characteristic of religion or belief.

Grainger 1

Genuineness

26. The first criterion laid down by Mr Justice Burton in **Grainger Plc and Ors. v Nicholson** is that the belief must be genuinely held by the Claimant. This implies that an Employment Tribunal must be satisfied that the Claimant actually adheres to the belief and that the adherence form something more than merely the assertion of a view or opinion. This is not a high hurdle to clear in the case of religious belief. In **R (Williamson and Ors.) v Secretary of State for Education and Employment [2005] UK HL15**, the House of Lords made it clear that where genuineness is in issue the Court or Tribunal must enquire into the genuineness and decide it as a question of fact but it is a limited enquiry. The concern is to ensure that an assertion of belief is made in good faith but it is not for the Court or Tribunal to embark upon an enquiry as to the asserted belief and judge its validity by some objective standard. It is therefore generally accepted particularly in circumstances where a philosophical belief is relied upon, that cross examination is needed.

Grainger 2

Not just opinion or viewpoint

27. The requirement the belief must be more than an opinion or viewpoint stems from remarks made by Mr Justice Elias in **McClintock v Department of Constitutional Affairs [2008] IRLR 29 EAT**. There the EAT upheld an Employment Tribunal decision that there a Christian Justice of the Peace was not discriminated against by reason of his religion or belief when he was refused permission to excuse himself from sitting on family cases that might lead to the adoption of a child by a same sex couple.

28. In Grainger Mr Justice Burton rejected the contention that science or evidence based beliefs are incapable of amounting to a philosophical belief, thus an ethical stance based on a science based belief in potentially catastrophic climate change was perfectly capable of amounting to a philosophical belief. Whether or not it actually did so depended upon the Tribunal being satisfied that the Claimant actually lived according to the precepts of such a belief and that the employer's actions were attributable to the fact that the Claimant held that belief.

Grainger 3

Weighty and substantial aspect

29. This criterion potentially excludes beliefs that have a very narrow focus. In **Harron v Chief Constable of Dorset Police UKEAT/0234/15/DA**, the belief at issue concerned the need for probity in public sector expenditure. An Employment Tribunal rejected the employer's contention that this comprised a philosophical belief for several reasons. One of which that it was not so much a belief as a set of values which manifest themselves as an objective or goal principally operating in the workplace. Although the EAT allowed the Employment Appeal holding that the Tribunal's reasons were inadequate that it had adopted the correct approach, it did not accept that the Tribunal had in Law in suggesting that a belief that operates only in the workplace is excluded. Mr Justice Langstaff observed that where a belief has too narrow a focus, it may, depending upon the width of that focus does not satisfy the requirement that the belief relates to a fundamental problem. It is therefore clear that the subject matter of the belief in question must be of some general importance.

30. In **X v Y** Employment Tribunal Case Number: 2413947/20, an Employment Judge concluded that X's belief in fear of catching Covid19 and a need to protect herself and others, was not a protected belief. The Judge took the view that since X's fears were principally centred upon herself and the protective steps she was taking, it could not be said to concern a weighty and substantial aspect of human life and behaviour.

31. In **Conisbee v Crossley Farms Limited** Employment Tribunal Case Number: 3335357/18, an Employment Judge found that C's vegetarianism fail the Grainger test under this head. According to the evidence that it presented to the Tribunal, C's vegetarianism stems from his belief that it is immoral to eat animals and to subject them and the environment to cruelty in the perils of farming and slaughter. The Employment Judge did not accept that this belief concerned a weighty and substantial aspect of human life and behaviour. In the Judge's view, vegetarianism was not about human life and behaviour but was a lifestyle choice and in C's case a choice it was a choice based on a belief that the world would be a better place if animals were not killed for food. However, in other cases Tribunals have accepted in certain circumstances that vegetarianism may fall within the scope of s.10.

Grainger 4

Cogency, seriousness, cohesion and importance

32. Mr Justice Burton expanded on the fourth criterion in Grainger by saying that notwithstanding the removal of the requirement to what is now s.10 Equality Act 2010 for a philosophical belief to be similar to a religious belief, it remains necessary for the belief to have a similar status or cogency to a religious belief. Beliefs must possess consistent internal logic and structure (cogency), provide guiding principles for behaviour (status) and concern fundamental (as opposed to parochial) matters. Passivism and vegetarianism are potentially covered.

33. Beliefs that are broadly expressed may fall foul of the fourth Grainger criterion. In **AB v CD Limited [2025] EAT 73**, the Employment Appeal Tribunal upheld an Employment Tribunal conclusion that the Claimant's philosophical belief in "every individual's fundamental right to freedom, dignity and bodily autonomy and integrity" did not obtain the required level of cogency, seriousness, cohesion and importance and that it was so wide ranging as to be meaningless. On Appeal, the Claimant sought to narrow the belief and the EAT's view ultimately was that the Tribunal's decision was correct.

34. That case also set out that precision in pleading is not equally important in every case but it is essential before considering whether a belief amounts to a philosophical belief under s.10(2) Equality Act 2010.

Grainger 5

Worthy of respect

35. The fifth criterion set down in Grainger that the belief is worthy of respect in a democratic society is not incompatible with human dignity and does not conflict with the fundamental rights of others, derives from two ECHR cases, **Campbell and Anr. v United Kingdom** and **R on the Application of Williamson v Secretary of State for Education and Employment**. The belief must be consistent with the basic standards of dignity and integrity and indicated that for example, a belief that involved in subjecting others to torture or human punishment would not qualify for protection. In Grainger Mr Justice Burton suggested that a philosophical belief which could be characterised as objectionable, such as concerted racism or homophobia, would also likely be excluded from protection.

36. The Employment Appeal Tribunal conducted a detailed consideration of the scope of the limitation imposed by the fifth Grainger criterion in **Forstater v CGD Europe and Ors. [2022] ICR 1EAT**, with much of its analysis resting on Case Law under Articles 9 and 10 of the ECHR (European Convention of Human Rights). In that case, the core of the Claimant's belief was that sex is biologically immutable. An Employment Tribunal found that this belief did not satisfy the fifth Grainger criterion. The Tribunal commented that aspects of S's belief were not supported by scientific evidence and that many of the arguments she put forward based on safe spaces or services for vulnerable women could be made without believing that a man can never become a woman or insisting as describing trans women as men.

37. When reviewing the ECHR Case Law, the EAT held that the types of belief that are excluded by the fifth Grainger criterion must be defined by reference to Article 17 of the ECHR which prohibits the use of conventional rights to destroy or limit the convention rights of others. Thus, the fifth Grainger criterion is apt only to exclude the most extreme beliefs akin to Naziism or totalitarianism, or which incite hatred or violence. Beliefs which are offensive, shocking or even disturbing to others including those that would fall into the less serious category of hate speech can still qualify for

protection. This suggests that few cases fall at this hurdle. The afore stated Judgment has given Employment Tribunals a clear marker against which to measure potentially offensive and objectional beliefs.

The Evidence

38. Whilst the Claimant's evidence ran to some 244 pages, much of which was not relevant to the issues to be determined, being photographs and something of a history of the Claimant. In fact, of over 370 paragraphs, only a relatively small proportion of those paragraphs numbered 35 to 65 and 280 to 288 appear strictly relevant to the Claimant's claim that social and environmental justice in the Claimant's case and her belief in it, constitutes a philosophical belief.

39. She was cross examined on these paragraphs by Mr Arnold. In her Witness Statement she claims that her belief in social and environmental justice is deeply rooted, consistent and central to who she is. She says it is not political in the party political sense but philosophical in nature, concerned with fairness, sustainability and the moral responsibility we each carry out to protect people and the planet (para. 35).

40. She goes on to say that this belief is genuinely held and that it relates to weighty and substantial aspects of human life such as equality, dignity, access to basic needs and our collective stewardship of the environment. She says it is cogent, serious and worthy of respect in a democratic society.

41. She goes on to say that her belief has been shaped over time and that it was grounded in early experiences from childhood. She says she was exposed to issues of social inequality and environmental responsibility without going into detail.

42. In cross examination the Claimant was taken to the first of her two claims (they have been consolidated) which was in the Bundle before me. In that first claim presented in July of 2024 the Claimant makes no mention of a claim for discrimination on the grounds of religion or belief. That box remains unticked. The suggestion put to the Claimant by Mr Arnold was that this part of her claim was included when she issued her second claim and was therefore something of an after thought and was not central to the claim she was seeking to pursue. The Claimant argued that she was unaware that she could pursue such a claim until the second claim. It was put to her that the way her belief is expressed was vague and nebulous, she disagreed with this and it was suggested to her that her expression of this so called belief was simplistic and childlike. In her evidence she expressed the view as being fairness and moral and it is suggested that these are vague concepts.

43. She responded by saying she "always goes good and not bad". She also expressed the view that she found it difficult to hold down a job because she was always too "moral". She was referred to paragraph 286 of her Witness Statement where she expressed from paragraphs 280 onwards how she "lived her belief".

44. At paragraph 283 she states that in line with her belief in social and environmental justice she has consistently practised sustainability at home and in the workplace through rigorous recycling, reducing waste, minimising single use plastics and actively encouraging others to adopt similar practices. She says this is part of her long standing commitment to lowering her carbon footprint and supporting clean energy.

45. She was cross examined by Mr Arnold who put to her that a longstanding commitment to lowering her carbon footprint was only something that she abided by when it suited her, because she had held down a job for some years in Canada which had involved her flying frequently by aeroplane. She accepted that she flew everywhere with her job and that it was a need that she could not escape from.

46. It was put to her that she flies to Greece on holiday and she admitted that she was going on a holiday the following Tuesday where she was flying with her family. She would be on a flight where a quarter tonne of carbon was being belched into the atmosphere, Mr Arnold said. She responded by saying that she was a mother and everyone was entitled to a holiday and she must therefore compromise her beliefs. She said it was not possible for everyone to live in caves. She accepted that she often travelled by train and that when she lived in Cambridge she drove a car for four to five hours a day and she accepted that this was not environmentally friendly. She admitted effectively that by driving a car she was again prepared to compromise her beliefs. She went on to say that she does not compromise her beliefs unless she has no choice.

47. It was put to her that her examples in her Witness Statement of rigorous recycling, etc. were modest examples of sustainability pretty much practiced by the entire population of the UK. She accepted that Councils enforce it and it is the Law. She was asked if she had a plant based diet and she said no. She was asked if she lived in ecological housing and she said no. She did explain that she had certain solar panels but admitted she had no wind turbine. She accepted she did not use eco friendly energy companies specifically and it was put to her that there was no concrete evidence that she lived her life according to her beliefs. She did not accept this.

48. She was asked in her Witness Statement to take Mr Arnold to something more concrete than the modest recycling that she had referred to. She said that she used sustainable shopping bags and had a green roof on her cycle shed which was an insect habitat. She was asked whether she had ever in

her life advanced her belief in social justice by her deeds. Specifically she was asked whether she had ever been a social worker, to which she said no. She was asked whether she had ever been a mental health worker to which she said no. She was asked whether she had ever worked for a Council and she said that she had worked at the City of Toronto Council but only in a Transport Planning role.

49. She was then cross examined by Mr Arnold on how a Transport Planning role could be her living her social justice belief. She explained that Transport Planning was very important in that being a Director of Transit and Sustainable Transportation was about keeping people safe. She said making roads safer would fit into her social justice belief. It was put to her that she espoused the belief when it suited her but there was little or no manifestation of her living by it.

50. It was also put to her that her view that she expressed that her desire to pursue this claim was which she believed would yielded millions in compensation was so that her son would be financially secure going forward as her son had seen that her and his father were unable to work. She said she cannot hold down a job because she is too moral. She agreed.

51. Mr Arnold put to her that this was a rather individualistic view and did not sit happily with her philosophy of social justice but was rather a narrow desire to make her son financially secure.

Conclusions

Grainger 1

Genuineness

52. I accept Mr Arnold's submissions that whilst the claimant suggests that her belief in social and environmental justice is deep rooted and central to who she is, this is somewhat contradicted by the fact that the Claimant neglected to claim religion or belief discrimination in her first claim and it did not appear until the second claim.

53. The Claimant's evidence as to how she furthers her philosophical belief in environmental justice was unconvincing. She practices recycling, encourages others to do so, has made a modest adjustment to a bike shed and has attached some solar panels to her property. This is something that many millions of people have done in the UK and continue to do as a matter of course. In fact, recycling is a requirement for the majority of households in the United Kingdom.

54. Moreover, I accept that in cross examination the Claimant admitted that she was quite willing to fly by aeroplane both to work in Canada and for holidays and that she extensively drove a car to fulfil school and work obligations. Her modest recycling attempts do not suggest that one needed a deep seated belief in environmental justice to practice them.

55. The evidence that the Claimant lives her life according to that environmental belief was in my judgment scant to say the least. She does not refer to extensive use of public transport, a plant based diet, ecological housing and eco friendly energy companies and in fact accepted that she employed none of these.

56. She said that she utilised Co-operative environmental shopping bags but that is not unusual.

57. Her evidence in my judgement goes nowhere near showing that she lives by her belief in environmental justice.

58. With respect to the first limb of her alleged philosophical belief, social justice and her expression that this amounts to fairness and a moral responsibility to protect people, this does seem at odds with a desire to secure a large payment of compensation in these proceedings for the financial freedom of her son and husband. This is very much an individual and not a social outlook.

59. I also accept Mr Arnold's submissions that she has never ever worked in roles which have a social aspect, such as social worker, mental health or in medicine. She has worked as a Transport Planner for 24 years and the only aspect of this which the Claimant can tie to her social justice belief is that she focuses on keeping other road users safe from other vehicles.

60. She mentioned that she had worked on a new Staff Car Parking Policy with the Estate Management Team at the University of Cambridge but I do not accept that this is a manifestation of her belief in social justice.

61. I therefore accept Mr Arnold's submissions that there is no concrete evidence that the Claimant lives her life according to her belief in social justice.

62. She has therefore, on the balance of probabilities, failed to convince me on the evidence before me that she genuinely holds either the asserted belief of social justice, or the asserted belief of environmental justice.

63. She therefore fails on the Grainger 1 test.

Grainger 2

Not just opinion or viewpoint

64. Mr Arnold submits that the labels, "social justice" and "environmental justice" are insufficiently defined to amount to a belief and that they are so nebulous and vague as to amount to nothing more than an opinion or viewpoint.

65. The Claimant says that her belief in social and environmental justice is philosophical and is concerned with fairness, sustainability and the moral responsibility we each carry to protect people and the planet.

66. This is a very wide and vague definition. Neither is really refined or defined and I cannot accept that the Claimant has convinced me that this is sufficiently clear to amount to a belief.

67. The Claimant fails on the Grainger 2 test.

Grainger 3

Weighty and substantial aspect

68. Social and environmental justice must be a belief as to a weighty and substantial aspect of human life and behaviour.

69. The difficulty here for the Claimant is that she has simply not defined to any extent the nature of precisely what she means by social and environmental justice. Her definitions are vague and difficult to define outside the general assertion that she makes that it is to do with fairness, sustainability and the moral responsibility we each carry to protect people and the planet. That is simply too wide to be able to be construed as weighty and substantial.

70. On this basis the lack of definition means that the Claimant fails on the Grainger 3 test.

Grainger 4

Cogency, seriousness, cohesion and importance

71. Here the lack of definition and precision leads me to conclude in judgement taking into account **AB v CD Limited** that the belief is so generalised and broad as to effectively be meaningless. A generalised belief in fairness, sustainability and the moral responsibility we each carry to protect people and the planet is so generalised and broad that it falls into the definition of meaningless and is therefore in Grainger terms insufficiently coherent to amount to a belief for those purposes.

72. The Claimant therefore fails on Grainger 4.

Grainger 5

Worthy of Respect

73. By the same reasoning set out above, it is not possible to conclude that the fifth criterion of Grainger is satisfied as it is so poorly defined. Merely seeking to help others and pursue a moral responsibility to others, with fairness and sustainability and with a vague desire to protect people and the planet, is simply not definable sufficiently to be assessed as being worthy of respect in a democratic society.

74. The Claimant therefore fails on Grainger 5.

75. For the reasons set out above, the Claimant's allegation that her belief in social and environmental justice amounts to a philosophical belief under s.10 of the Equality Act 2010 fails.

76. Her claims under that heading all fail and are dismissed.

Out of Time

77. In light of the above, there now only remains one issue which could be potentially out of time in the Claimant's remaining claims against the Respondent.

78. The Respondents argue through Mr Arnold that the Claimant's claims in religion or belief discrimination, which all come in her second claim, are out of time and that certain of them set out at paragraph 28(i), (ii), and (iii) are out of time.

79. As these claims now stand as dismissed, it is not necessary for me to determine the time point on them.

80. The only time point remaining relates to one of the Claimant's claims in direct sex discrimination, that appearing in the List of Issues at paragraph 30(ii).

81. At the Preliminary Hearing in May of 2025 where this issue was discussed, it was agreed that at this Preliminary Hearing the question of time would be considered under Rule 52(1)(b) of the Employment Tribunals Rules of Procedure 2024, rather than as a strike out under Rule 52(1)(c). Thus, it was a substantive consideration on time rather than as part of a Strike Out Application.

82. This was made clear at that Hearing and in fact I specifically in my Orders made it clear that the Claimant's evidence should include evidence that related to the consideration of whether any of the Claimant's claims were out of time. At paragraph 2 of my Orders I make it clear that the Claimant was to provide a written Witness Statement to deal with not only the issue of whether the Claimant had a philosophical belief under s.10 of the Equality Act 2010 but also, whether the Tribunal should extend time under the just and equitable principle.

83. The only time aspect left for consideration remains the claim set out in the List of Issues under paragraph 30(ii) being one of the acts of less favourable treatment relied upon by the Claimant under her claim for direct sex discrimination. This is stated as follows:

> "The Respondent's failure to effect a handover from Lauren Gibbons and Alan Carter and Chris Valdus in December of 2023. The Claimant relies upon this as an act of direct discrimination because of sex."

84. Mr Arnold points out to me that this claim was raised in the Claimant's first claim, where Day A was 2 May 2024 and Day B was 13 June 2024. Claim one was issued on 8 July 2024 and thus any complaint prior to 3 February 2024 is potentially out of time.

85. This allegation relates to December of 2023 and is therefore potentially out of time.

The Law

Time Limits for Discrimination claims

86. Section 123 of the Equality Act 2010 provides:

> **123. Time Limits**
>
> (1) Subject to 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.
>
> (2) Proceedings may not be brought in reliance on section 121(1) after the end of—
>
> (a) the period of 6 months starting with the date of the act to which the proceedings relate, or
>
> (b) such other period as the employment tribunal thinks just and equitable.
>
> (3) For the purposes of this section—
>
> (a) conduct extending over a period is to be treated as done at the end of the period;
>
> (b) failure to do something is to be treated as occurring when the person in question decided on it.
>
> (4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

87. Section 140B of the Equality Act 2010 provides an extension of time to ensure that the period between the date when the prospective Claimant contacts ACAS and the date when the prospective Claimant receives (or is treated as having received) the ACAS Early Conciliation Certificate does not count toward the three month primary limitation period.

Conduct extending over a period

88. An act will be regarded as extending over a period if an employer is responsible for an "ongoing" situation or a "continuing state of affairs" which can be contrasted with a "succession of unconnected or isolated specific acts" – **Commissioner of Police of the Metropolis v Hendricks [2003] ICR 530**, (paragraph 52). When considering whether separate incidents form part of an act extending over a period "one relevant but not conclusive factor is whether the same or different individuals were involved in those incidents" – **AZIZ v FDA [2010] EWCA Civ.304**.

89. In **Hale v Brighton and Sussex University Hospitals NHS Trust UKEAT/0342/17**, the EAT considered the issue of a state of affairs when deciding whether separate acts relied upon form part of a continuing act.

90. A Tribunal may decide that some acts should be grouped into a continuing act while others remain unconnected – **Lyfar v Brighton and Sussex University Hospitals Trust [2016] WCA Civ.1548**. In this case the Court of Appeal considered the Claimant's seventeen alleged individual acts could be divided into four continuing acts and only one of those acts was in time.

91. In **Okoro v Taylor Woodrow Construction Limited [2012] EWCA Civ.1590**, the Court of Appeal asked itself whether the allegations focus upon events at one point in time, albeit spread over a few days or whether they focus upon that which Mummery LJ in Hendricks called a continuing state of affairs.

Just and equitable to extend time

92. Where a claim is presented after the relevant time limit (here three months), a Tribunal may still have jurisdiction if in all the circumstances it is "just and equitable" to extend time. The Claimant bears the burden of persuading the Tribunal that it is just and equitable to extend time – **Robertson v Bexley Community Centre [2001] UKEAT/1516/00**.

93. The burden is not a high one – **Abertawe Bro Morgannwg University Local Health Board v Morgan UKEAT/0320/15**.

94. As I have indicated above it is for the Claimant to persuade the Tribunal that it is just and equitable to extend time and in that sense there is clearly a burden on the Claimant; however, it is not a burden of proof which needs to be satisfied as when a party seeks to prove a fact or circumstance.

95. A litigant can hardly hope to satisfy this burden unless he proves an answer to two questions, as part of the entirety of the circumstance which the Tribunal must consider. The first question in deciding whether to extend time is why is it that the primary time limit has not been met and insofar as it is distinct the second is, the reason why after the expiry of the primary time limit the claim was not brought sooner than it was.

96. In considering whether to exercise its discretion to extend time, the Tribunal is entitled to take into account anything that it deems to be relevant – **Hutchinson v Westward Television Limited [1977] IRLR 69**.

97. Time limits are intended to be applied strictly and there is no presumption in favour of extending time and it is intended to be the exception and not the rule – **Bexley Community Centre (trading as Leisure Link) v Robertson [2003] IRLR 434**.

98. There is a very broad general discretion conferred on Tribunals to decide whether it is just and equitable to extend time – **Adedeji v University Hospitals Birmingham NHS Foundation Trust [2021] EWCA Civ.23** and the best approach is for the Tribunal to assess all the factors in the particular case which it considers relevant to whether it is just and equitable to extend time, including in particular the length of and the reasons for the delay.

Conclusions

99. The Claimant was Ordered to provide a written Witness Statement on whether the Tribunal should extend time on the just and equitable principle.

100. She has failed to do so, instead producing a lengthy statement running to some 244 pages which did not in any way refer to the time issue.

101. During cross examination the Claimant conceded that there are considerable resources on the internet to assist her in filing the claim. She even said that they were "very helpful".

102. She also conceded in cross examination that there was the Government website which describes time limits by reference to the three month time limit and she accepted that she had seen that part of the website.

103. She even volunteered, "I did better than that". The Claimant described how she had contacted a pro-bono team in Leeds who had informed her of the

strict time limit of three months. In cross examination she accepted, "of course I had an understanding of time limits".

104. There is only one act of the four acts the Claimant relies upon in pursuance of her claim for direct sex discrimination which is subject to scrutiny as to time.

105. I have already explained above that on its face 30(ii) is just over a month out of time.

Did that act form a course of conduct extending over a period?

106. In cross examination the Claimant did accept that she was not able to link Ms Gibbons' act (an alleged failure to do a handover) with the other alleged acts found at 30(i), (iii) and (iv).

107. She also conceded in cross examination that Ms Gibbons was not involved in any of the other complaints of sex discrimination.

108. She accepted and it appears to be the case from the List of Issues that the other complaints of sex discrimination had a different nature or quality to an alleged failure to handover upon going on maternity leave. The Claimant said, "absolutely yes".

109. The nature of the allegation is of a different tenor to the other allegations and different actors are involved.

110. Accordingly, I do not find that 30(ii) was part of a course of conduct extending over a period of time. It was clearly an allegation relating to a failure to do a one off act, namely a handover by an individual who does not appear as an alleged actor elsewhere.

111. For that reason, s.123(3) is not engaged.

112. Claim 30(ii) is therefore out of time.

Whether to extend time on the just and equitable principle

113. The Claimant has provided no evidence as to why the claim was presented late and no explanation to assist the Tribunal in deciding whether it should exercise its discretion. The Witness Statement is silent despite a specific Order pursuant to the Preliminary Hearing of 12 May 2025 that she deal with it.

114. She has made it clear that she was very well aware of time limits in discrimination claims in answering questions in cross examination.

115. It is for the Claimant to provide evidence to assist the Tribunal in arriving at a decision whether to exercise its discretion or not.

116. There has been no reason given for the delay.

117. The Claimant sought professional legal advice and I am asked to consider by Mr Arnold that the merits of the claim are poor.

118. He asked me to consider that it is very unlikely that Lauren Gibbons who was about to go on maternity leave, took it upon herself by failing to provide a handover to Chris Valdus because the Claimant was a woman. This appears to be far fetched, especially in the light of paragraph 78 of the Claimant's Particulars of Claim in claim 2:

> "I also found in Lauren Gibbons a manager who was trauma informed and willing to keep me safe. She understood that I was vulnerable to attack from men at home and at work."

119. It is also the Respondent's position as pleaded in their Grounds of Resistance that such a handover occurred in any event.

120. The Tribunal does need to balance these factors against the other factors such as prejudice to the Respondent, which is low and the length of time by which the Claimant is out of time, which is about a month.

121. In all the circumstances, taking into account all of the factors mentioned above and the Claimant's failure to provide any explanation, I do not find that it is just and equitable to extend time to validate claim 30(ii). The claim is out of time by about a month. The Claimant knew of the time limits, on the face of it the claim appears weak and although prejudice to the Respondent is low, as it has to deal with so many other claims being pursued by the Claimant, it is not on balance just and equitable to extend time to validate claim 30(ii).

122. The claim is out of time, the Tribunal has no jurisdiction to hear it and it is dismissed.

123. There will be a further Preliminary Hearing case management discussion to be conducted by CVP with 1 day allowed to further case manage the remaining claims in the matter. That will take place at 10 am on **20 January 2026** at the Bury St Edmunds Employment Tribunal and be conducted by CVP before a Judge sitting alone. Details of the CVP link will be provided to parties nearer the time.

Approved by:

Employment Judge KJ Palmer

Date: …30 October 2025…….

Sent to the parties on:
3 November 2025.

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For the Tribunal Office.

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