



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr B Jones

**Respondent:** Powys County Council

**Heard at:** Cardiff **On:** 4 May 2022

**Before:** Employment Judge Ward

## JUDGMENT

1. The extension of time is granted.

## REASONS

1. The claimant complains of harassment related to sexual orientation. The last act complained of was on the 30 October 2020. The claimant entered ACAS conciliation on 26 February 2021, which ended on 1 March 2021. His claim form was submitted on 26 March 2021. The claimant's claim was presented out of time, ACAS conciliation should have commenced by 29 January 2021.
2. The claimant made an application to extend time under s123 of the Equality Act 2010. I heard evidence from the claimant himself and Mr Davis and Mrs Hughes from the Respondents HR department.
3. The ability to extend time under s123 is a wide discretion for the Tribunal to exercise.
4. The claimant presented his claim on the 26 March nearly two months out of time. The reasons for the delay was the impact of the alleged treatment

on the claimant's mental health and what the claimant assumed was an ongoing investigation of his complaint by the Respondent.

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5. An extension of time does not require exceptional reasons, the discretion to exercise is whether it is just and equitable. This requires a balancing exercise of this claimant being unable to pursue his claim compared to the respondent witnesses who will have difficulty recalling the facts and conversations given the delay, to defend the claim. The issue of prejudice is the recalling of events which the claimant demonstrated today that events in 2020 may not be remembered and is a risk to both parties.
6. The claimant was clearly unwell following 30 October 2020 and this impacted on his ability to work to begin with, being signed off work and did not feel 100% better to pursue his claim until March 2021. Undoubtedly the claimant was unwell and recovering in this period.
7. The fact that the claimant's then applied for and obtained other employment did not mean he was capable of applying to the Tribunal.
8. In deciding whether he acted promptly the claimant felt better in February and March 2021 and had some six weeks to consult a solicitor, ACAS and make his claim.
9. I do not feel that the interaction with the Respondents HR department had any real bearing on this decision making abilities.
10. My decision is that it is just and equitable to extend time and permit this claim to proceed.

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Employment Judge Ward  
Dated: 16 May 2022

Sent to the parties on 17 May 2022

For the Tribunal Office Mr N Roche