



**Claimant:** Ms J Smith

**Respondent:** Department of Health and Social Care

## OPEN PRELIMINARY HEARING

**Heard by CVP on 1 November 2024**

**Before:** Employment Judge Nicolle

**Representation:**

**For the Claimant:** in-person

**For the Respondent:** Mr T Perry of counsel.

## JUDGMENT

1. The Tribunal does not have jurisdiction to hear the claims of direct race discrimination pursuant to section 13 of the Equality Act 2010 (the EQA) and harassment related to race pursuant to section 26 of the EQA relating to those matters taking place in 2019 and 2020, and referred to in the Respondent's draft list of issues dated 22 October 2024 as "group 1 of unwanted conduct-2019 as pertaining to the S 26 claim and group 1 of less favourable treatment 2019 to 2020 as pertaining to the S 13 claim.
2. The claims were not submitted within the time period provided for by section 123 (1) (a), and nor would it be appropriate for the Tribunal to exercise its discretion on the grounds that it would be just and equitable to do so, pursuant to S123 (1) (b) of the EQA.
3. The Claimant is, however, at her discretion entitled to refer to the 2019 and 2020 incidents as background evidence.
4. For the avoidance of doubt those claims listed under group 2 of unwanted conduct 2023 to 2024 in the Respondent's list of issues continue albeit the Respondent may contend that some of the alleged incidents are out of time but any determination in this respect will be made at the full merits hearing.

**REASONS**

5. Oral reasons were given to the parties. The parties are entitled to request written reasons within 14 days of this judgment being sent to them.

**Employment Judge Nicolle**

**1 November 2024**

Sent to the parties on:

6 November 2024

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For the Tribunal Office:

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