EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Mrs N Arfaoui	**- V -**	The Lancaster Landmark Hotel Company Ltd

Heard at: London Central **On**: 24-26 September 2018

Before: Employment Judge Baty

Representation:

For the Claimant: Mr T Bashir (solicitor)
For the Respondents: Ms M Tutin (counsel)

RESERVED JUDGMENT

The Claimant's complaints of unfair dismissal, wrongful dismissal, a breach of the right to a written statement of the reasons for dismissal, and a breach of the right to written particulars of employment all fail.

REASONS

The Complaints

1. By a claim form presented to the employment tribunal on 26 March 2018, the Claimant brought complaints of unfair dismissal, wrongful dismissal, a breach of the right to a written statement of the reasons for dismissal contrary to section 92 Employment Rights Act 1996 ("ERA"), a breach of the right to written particulars of employment contrary to section 1 ERA and a breach of the right to an itemised pay statement contrary to section 8 ERA. The Respondent defended the complaints.

2. At the start of this hearing, Mr Bashir withdrew the complaint of a breach of the right to an itemised pay statement and I dismissed this complaint.

The Issues

3. The issues were agreed between the parties and me at the start of the hearing and were as follows:

Unfair Dismissal

4. What was the reason for dismissal? The respondent says that the reason for dismissal was a potentially fair reason under section 98(2) ERA, namely conduct.

5. Was the decision to dismiss the claimant fair and reasonable in all the circumstances? In particular:

    1. Did the respondent have a genuine belief that the claimant was guilty of the misconduct?

    2. Did the respondent conduct such reasonable investigation as was warranted in the circumstances?

    3. Did the respondent have reasonable grounds to believe that the claimant was guilty of the misconduct?

6. Did the decision to dismiss fall within a range of reasonable responses available to a reasonable employer in the circumstances?

7. Did the respondent adopt a fair procedure?

8. If a fair procedure was not used, would the claimant have been fairly dismissed in any event and/or to what extent and when?

9. If the dismissal was unfair, did the claimant contribute to her dismissal by culpable conduct?

Wrongful Dismissal

10. Was the respondent entitled to dismiss the claimant without notice in circumstances where her conduct was sufficiently serious to amount to a repudiatory breach of contract?

Breach of right to written particulars of employment

11. It is agreed between the parties that the claimant received a section 1 ERA statement from 2014 onwards (at which point she became a permanent employee). Did the claimant receive a written statement of the terms of her employment within two months of the commencement of her employment in

relation to the period from 2009 to 2014? The respondent contends that the claimant was not entitled to one as she was on a series of casual contracts only.

Breach of right to a written statement of reasons for dismissal

12. Did the claimant make a request to the respondent for a written statement giving particulars of the reasons for her dismissal?

13. If so, did the respondent provide that statement to the claimant within 14 days of the request?

14. If not, was that failure to provide a written statement unreasonable? If so, what award should the tribunal make?

The Evidence

15. Witness evidence was heard from the following:

For the Respondent:

Ms Harriette Wolff, the Employee Relations Manager at the Royal Lancaster Hotel ("the hotel"), which was the hotel where the claimant worked;

Ms Agnieszka Jaeger, who was until recently the First Floor Manager at the hotel and to whom the claimant at the relevant times directly reported;

Mr Oliver Darwin, the Risk and Procurement Manager at the hotel, who conducted the disciplinary hearing in relation to the claimant and who made the decision to dismiss her; and

Mr Gareth Bush, the Director of Events at the hotel, who heard the claimant's appeal against dismissal.

For the Claimant:

The Claimant herself; and

Ms Vanda Rosa, who was formerly an employee of the respondent, had similar length of service to the claimant and was dismissed for gross misconduct by the respondent around the same time that the claimant was dismissed, although not because of the circumstances and events for which the respondent maintains it dismissed the claimant.

16. Witness statements were provided to the tribunal in relation to all of the above witnesses. In addition, an agreed bundle numbered pages 1 - 298 and an unagreed section of "claimant's documents" numbered 1 - 34 was provided to the tribunal. I read in advance the witness statements and any documents in the bundle to which they referred, plus any documents which the representatives had specifically asked me to read.

17. An Arabic speaking interpreter, Ms Smith, was present to assist as, although she could speak some English, English was not the claimant's first language.

18. At the start of the hearing, Mr Bashir explained that, although Ms Rosa was present in the room, she was not prepared to give evidence unless she was subject to a witness order from the tribunal. The reasons for this were that Ms Rosa had apparently entered into a confidentiality agreement with the respondent and was concerned about the implications for that agreement of her giving evidence.

19. I asked Ms Tutin whether she objected to this. Ms Tutin stated that she considered that Ms Rosa's statement was irrelevant and that she was not even going to cross-examine her on it (although she stated that the respondent did not accept the contents of that statement, which she indicated that the respondent considered to be potentially defamatory). Whilst acknowledging that one of the considerations in relation to whether to grant a witness order was the relevance of the information which the witness could give, I pointed out that, pragmatically, if indeed there would be no cross-examination, Ms Rosa's evidence would take virtually no time and indeed more time may be taken up hearing submissions from the parties about whether a witness order should be granted. I further noted, as Ms Tutin asked me to do, that the fact that the respondent might choose not to object to the granting of the order was no indication that the respondent considered that the contents of Ms Rosa's statement were relevant.

20. On this basis, the representatives consented to my making the order and I decided to make a witness order in relation to Ms Rosa. This was duly produced and served on Ms Rosa in the tribunal that day. By agreement, Ms Rosa's evidence was heard at the start of the evidence on the afternoon of the first day of the hearing, so that she did not have to attend later in the hearing.

21. A timetable for cross-examination and submissions was agreed between the representatives and me at the start of the hearing. Initially, both representatives asked for an amount of time for cross-examination which would inevitably have led to the hearing going part heard without hearing all of the evidence, let alone leaving time for tribunal deliberations, judgment or remedy. In the end, I agreed that the hearing would be on liability only (albeit that the issues set out above in relation to Polkey and contributory conduct would be considered at the liability stage) and limited the representatives to 3 hours cross-examination time for Ms Tutin (largely because the claimant was giving her evidence through an interpreter and more time would therefore be needed) and four hours in total for Mr Bashir. The representatives agreed to this timetable. I periodically reminded both representatives of where they were in terms of the time they had used during their cross-examination.

22. On the afternoon of the first day of the hearing, Mr Bashir spent a considerable amount of time cross-examining Ms Wolff, such that he only had one hour and 20 minutes of his allocation remaining for the other witnesses. At the start of the second day, he applied to have the timetable extended by an

hour. The reasons he gave were that he had only received the joint bundle the previous Thursday and that had caused him to need more time to find pages in it when he was cross-examining. Ms Tutin submitted that there was no reason why he should not have been prepared as he had had all the documents for a long time, albeit the bundle was only finalised relatively late and that was in part due to the claimant's failure to supply documents for it on time. Having said that, she was happy if his cross-examination time was extended by 30 minutes. I considered both parties' submissions.

23. I agreed to extend the timetable for Mr Bashir's cross-examination by 30 minutes, rather than the hour requested. This was partly for the reasons given by Ms Tutin (I did not accept that there was any good reason why Mr Bashir should have been unprepared in relation to the bundle); I also noted that Mr Bashir had asked lots of repetitive questions of Ms Wolff (which I had after a while addressed with him during his cross-examination of Ms Wolff, asking him to move on more than once after he had asked the same or similar question multiple times); furthermore, the timetable was already tight and any significant extension to it was likely to prejudice the ability to complete the evidence and submissions on liability and to allow some time for deliberation by me within the allocated hearing time; in the circumstances, it was not just and equitable to extend any further.

24. Ms Tutin's cross-examination of the claimant began on the afternoon of the second day of the hearing. As noted, she had been allocated three hours to cross-examine the claimant, taking into account the fact that cross-examination would be slower because the claimant was answering via an interpreter. However, right from the start, there was a pattern of the claimant not answering the questions put to her and very often Ms Tutin had to put the same question to the claimant three or four times and, even then, very often did not get an answer to that question. I had to interject myself on many occasions to exhort the claimant to answer the question put to her. I even asked Ms Smith whether, in the course of interpreting, there was any way which the claimant could misunderstand, for example, a general question put to her as being something related to her particular circumstances (as she frequently answered such questions with details about her own circumstances); Ms Smith confirmed that the questions, as interpreted by her, could not be misinterpreted in that way.

25. As a result, by the end of the second day, Ms Tutin had used up over two hours of her cross-examination time and was only about a third of the way through her questions. Mr Bashir acknowledged, in the light of the nature of the claimant's answers, that her time allocation would have to be extended. Notwithstanding that, however, and without any criticism of Ms Tutin's cross-examination questions up to that point, I asked Ms Tutin at the end of the second day to see if she could target her remaining questions more tightly so that the claimant's evidence could be finished by the end of the morning of the final day, failing which there was a real risk that the hearing would go part heard; Ms Tutin agreed to do so.

26. As it turned out, the pattern of the claimant failing to answer the questions put to her continued the following morning. In the light of that, I said to

Ms Tutin that I was happy if, in those circumstances, she moved onto the next question rather than repeating the same question over and over. In the end, Ms Tutin was able to complete her cross-examination of the claimant by the end of the morning of the final day, albeit that involved a total of four hours 50 minutes cross-examination time. The reason that this time was required was entirely because of the claimant's repeated and persistent failure to answer the questions put to her.

27. Mr Bashir asked for 20 minutes to re-examine the claimant. However, the succession of questions which he asked were for the most part questions which were leading, already put in cross-examination (although frequently the claimant had failed to answer the question in cross-examination) or amounted to questions which would generate fresh evidence-in-chief rather than being re-examination questions; such questions are not permissible in re-examination. I stopped a number of questions during Mr Bashir's re-examination on the above grounds. I explained several times what was permitted in re-examination. Eventually, I explained him that, if this continued, I would stop his re-examination completely; he then asked similarly impermissible questions; and I therefore stopped his re-examination. By that stage, he had spent 20 minutes questioning the claimant in any case.

28. Ms Tutin produced written submissions and Mr Bashir provided me with an authority. Both parties then made oral submissions, limited by agreement to a maximum of 30 minutes. The evidence and submissions on liability were therefore completed later in the afternoon of the third and final day of the hearing.

29. Given the amount of time used up for the evidence and submissions, the decision had to be reserved.

The Law

Unfair Dismissal

30. The tribunal has to decide whether the employer had a reason for the dismissal which was one of the potentially fair reasons for dismissal within s 98(1) and (2) ERA and whether it had a genuine belief in that reason. The burden of proof here rests on the employer who must persuade the tribunal that it had a genuine belief that the employee committed the relevant misconduct and that belief was the reason for dismissal.

31. It must then decide whether it is satisfied, in all the circumstances (including the size and administrative resources of the employer), that the employer acted reasonably in treating it as a sufficient reason to dismiss the employee. In conduct cases, it is established law that an employer must hold a genuine belief in an employee's misconduct on reasonable grounds after a reasonable investigation (British Home Stores Ltd v Burchell [1978] IRLR 379). I also refer myself here to a 98(4) ERA and direct myself that the burden of proof in respect of this matter is neutral and that I must determine it in accordance with equity and the substantial merits of the case. It is useful to regard this matter as consisting of two separate issues, namely (a) whether the employer adopted a

fair procedure. This will include a reasonable investigation with, almost invariably, a hearing at which the employee has the opportunity to put their case and to answer the evidence obtained by the employer; and (b) whether dismissal was a reasonable sanction in the circumstances of the case. That is, whether the employer acted within the band of reasonable responses in imposing it. I am aware of the need to avoid substituting my own opinion as to how a business should be run for that of the employer. However, I sit to provide, partly from my own knowledge, an objective consideration of what is or is not reasonable in the circumstances, that is, what a reasonable employer could reasonably have done. This is likely to include having regard to matters from the employee's point of view: on the facts of the case, has the employee objectively suffered an injustice? It is trite law that a reasonable employer will bear in mind, when making a decision, factors such as the employee's length of service, previous disciplinary record, declared intentions in respect of reform and so on.

32. In respect of these issues, the tribunal must also bear in mind the provisions of the relevant ACAS Code of Practice 2015 on disciplinary and grievance procedures to take into account any relevant provision thereof. Failure to follow any provisions of the Code does not, in itself, render a dismissal unfair, but it is something the tribunal will take into account in respect of both liability and any compensation. If the claimant succeeds, the compensatory award may be increased by 0-25% for any failures by the employer or decreased by 0-25% for any failures on the claimant's part.

33. Where there is a suggestion that the employee has by her conduct caused or contributed to her dismissal, further and different matters arise for consideration. In particular, the tribunal must be satisfied on the balance of probabilities that the employee did commit the act of misconduct relied upon by the employer. Thereafter issues as to the percentage of such contribution must be determined.

34. Under the case of Polkey v AE Dayton [1987] IRLR 503 HL, where the dismissal is unfair due to a procedural reason but the tribunal considers that an employee would still have been dismissed, even if a fair procedure had been followed, it may reduce the normal amount of compensation by a percentage representing the chance that the employee would still have lost his employment.

Wrongful dismissal/breach of contract

35. As to the breach of contract complaint, where the respondent claims that it was entitled to terminate the contract without notice, it is for the respondent to prove on the balance of probabilities that the circumstances existed, for example gross misconduct on the part of the claimant, which entitled it to do so.

Written reasons for dismissal

36. Under section 92(1) of the Employment Rights Act 1996, an employee is entitled to be provided by his employer with a written statement giving particulars of the reasons for the employee's dismissal within 14 days of a request for such

a statement by the employee. It follows that there must be a request from the employee before this section is engaged.

Statement of written particulars

37. Where one of the above complaints succeeds, and there was not in place at the relevant time a statement of written particulars under section 1 ERA, the tribunal may make a further award of between two and four weeks' pay.

Assessment of Evidence

The Respondents' Witnesses

38. The Respondents witnesses were all clear in their responses. They did not deviate from their position when questioned. They were consistent. Without exception, I found them to be credible witnesses. Their evidence tied in with each others' evidence and the contemporaneous documentation. Their answers were also clear, compelling and straightforward in the face of questions which were, at times, confusing for the witnesses.

39. (I do not accept the suggestions made in his submissions by Mr Bashir that the respondent's witnesses were variously not telling the truth and fabricating things. The submissions he made in this respect were simply not borne out by the evidence.)

The Claimant

40. As noted, the claimant persistently failed to answer questions put to her, including even very simple questions which were a matter of a yes or no answer. Furthermore, she frequently and repeatedly appeared to try to put forward things she wanted to say rather than answer the question she was asked. She did not accept things which were obviously the case. Furthermore, the basis of her case, which appeared to be predominantly to suggest that Mr Amer Al Kawadri fabricated the alleged complaint from a hotel guest and, variously, to suggest that various individuals at the respondent were liars and/or were out to dismiss her (it is hard to identify a precise list of whom the claimant implicated, as her evidence varied), developed and shifted, both during the internal proceedings and at this tribunal (in her written witness statement and during cross-examination). Further details, often of a salacious nature, were added at the cross-examination stage. The allegations which she made were (subject to the evidence of Miss Rosa, which I turn to below,) not supported by other evidence but were based on the claimant's assertions alone.

41. For all these reasons, I did not find the claimant a reliable witness and, where there is a conflict between the evidence of the claimant and that of the respondent's witnesses which is not corroborated by other documentary evidence, I prefer the evidence of the respondent's witnesses to that of the claimant.

Ms Rosa

42. As noted, Ms Rosa is a former employee of the respondent. She was dismissed by the respondent for gross misconduct around the time the claimant was dismissed. Whilst the details of the reasons for her dismissal were not provided by either party (nor were they relevant, as it is not suggested that she was dismissed for the same reason as the claimant), I accept the respondent's assertion that she was dismissed for separate reasons. Her witness statement, whilst relatively brief, consists of a long series of unsubstantiated allegations (unsupported by any documentation) about many of the individuals referred to in these proceedings, including Mr Al Kawadri, Ms Jaeger and Ms Beck, the General Manager of the hotel. The allegations are extensive and are often of a salacious nature. The witness statement concludes with a short paragraph praising the claimant. None of this information, as provided by Ms Rosa in her witness statement, was before any of the decision-makers when they made their decisions in relation to the claimant's dismissal and appeal and is therefore not relevant to the reasonableness or otherwise of the decisions which they made. Furthermore, the sheer volume of these allegations in itself, and relating to so many different individuals, makes it inherently unlikely that the material is true and the statement has the appearance of having been designed to fit in with the succession of scandalous allegations now being made by the claimant. For these reasons, I do not give any weight to the evidence given by Ms Rosa or accept on the balance of probabilities the truth of anything she sets out in her statement.

Findings of Fact

43. I make the following findings of fact. In doing so, I do not repeat all of the evidence, even where it is disputed, but confine my findings to those necessary to determine the agreed issues.

44. The respondent is the operator of the Royal Lancaster Hotel, a luxury five-star hotel in London. The hotel accommodates guests from all over the world, including the Middle East, and has a number of sister hotels across the UK and internationally.

45. The claimant was employed from 2008 by the respondent. Initially, she was employed under the terms of "casual agreements". Ms Wolff confirmed in cross-examination that employees engaged under such agreements were treated the same way as permanent employees, save that they were on "zero hours" contracts, where the hotel was not obliged to provide them with work. In practice, however, the claimant was given a great deal of work by the respondent throughout her employment from 2008 onwards. Casual employees were provided with the same sort of policies as permanent employees and I have seen numerous of examples of these signed by the claimant dating from the period when she was a casual employee. The respondent was not able to produce any of the contracts provided to the claimant from her period as a casual employee. However, the claimant accepted that she was given contracts by the respondent during this period. Furthermore, from the subsequent documentation, the respondent clearly regarded the claimant's period of continuous employment as

dating from 2008, so it clearly regarded her as having been employed by the respondent from 2008 onwards. For these reasons, I do not accept Ms Tutin's submission that the claimant was not an employee during the period from 2008 to 2014 but find that she was an employee during this period.

46. In November 2014, the claimant became a permanent employee of the respondent and signed a permanent contract. She also signed various other policies of the respondent, which I will return to in due course. Whilst the claimant had carried out other duties at times during the period prior to 2014, she was employed by the respondent at least from 2014 onwards as a Food and Beverage Attendant in the In Room Dining ("IRD") department at the hotel.

47. The hotel accommodates and serves a large number of guests each year, including high profile and high net worth individuals. It is critical that the hotel respects the privacy and ensures the safety of its guests. It has in place standard operating procedures ("SOPs") to ensure staff are aware of how to access a guest room without disturbing the guest. The SOP for accessing a guest room states that:

"1 **Accessing to a guest room**

1.1 Knock loudly or ring the doorbell.
1.2 Announce your department ("Good evening <guest name>, this is Room Service."), and wait ten seconds.
1.3 Knock again, if there is no answer and once more if there is still no answer.
1.4 If there is no reply, enter the room making sure that you announce yourself loudly as you enter, put the tray/trolley in a fitting place, and then leave discreetly.
1.5 When the guests answer, greet him, using his/her name and ask him if you can come in."

48. The SOP for guest room security makes clear that any abuse of the master key leading to guest security failure may amount to gross misconduct. Ms Wolf said in evidence that it was "drilled into" staff how they should approach rooms and guests, in respect of which they receive regular training. The claimant indicated at this hearing (for the first time) that she had not received any training, indeed she repeatedly made this point in her evidence, even when she wasn't being asked. However, as it is surprising that, if this was the case, the claimant did not raise the issue of training at either of the two investigatory meetings, the disciplinary meeting or the appeal meeting, and in the light of my findings regarding the respective reliability of the evidence of the claimant and Ms Wolff, I find that the claimant was trained regularly on these issues. In any event, as noted, any suggestion of an absence of training was not put before either the disciplinary or appeal managers and was raised for the first time only at this hearing.

49. Guests may provide tips and gifts to staff at the hotel, some of which may be substantial. In order to protect the hotel and its staff, there is a "pass out" system in operation. Any gifts from guests must be shown to the employee's Head of Department or line manager and declared on a pass out form. No items may leave the property until the Head of Department or line manager has signed and dated the pass out form. The claimant had signed the pass out policy. Furthermore, I have seen evidence that she was specifically told what to do by a security officer called Marshall. I do not, therefore, accept the claimant's

assertion at this tribunal that she was not aware of the pass out policy, but rather find that she was aware of that policy.

50. In August 2017, a female guest at the hotel, who was a member of the Qatari Royal Family, made a complaint to Mr Amer Al Kawadri, the hotel's Middle East Sales Manager. Mr Al Kawadri reported this to Ms Sally Beck, the hotel's General Manager. The guest was asked if she would put the complaint in writing but declined to do so. Ms Beck and Mr Al Kawadri therefore visited the guest in her room. The guest set out her complaint verbally in Arabic to Mr Al Kawadri, who translated for Ms Beck. The guest, who spoke some English, confirmed to Ms Beck that Mr Al Kawadri's translation was correct.

51. Whilst there was a complaint about the quality of the IRD service in general, the majority of the complaint was about the claimant. The guest complained that:

> 1. The claimant, who had delivered IRD to the guest and her husband, had behaved in an overly familiar way and asked for tips, stating that she needed money as her husband was on benefits and she had spent her money on holiday. Whilst they were usually happy to give tips, they were reluctant to do so given the issues they had encountered with the IRD service;
>
> 2. The claimant had entered the room without permission whilst the guest's husband was asleep. Furthermore, the guest also said that during a stay at the hotel in April 2017, the claimant had entered the room using the master key, without waiting for the door to be opened, and disturbed the guest who was not fully dressed. When the guest expressed her surprise to the claimant, the claimant responded by saying "it's okay, we're both women"; and
>
> 3. On one particular occasion, the claimant had spoken inappropriately to the guest about her manager, Ms Agnieszka Jaeger, the First Floor Manager. She said Ms Jaeger had come to the guest room with the claimant to apologise about the IRD service. The guest said that after Ms Jaeger had left the room, the claimant stayed to tell her that Ms Jaeger did not like her and regularly complained about her.

52. The guest asked Ms Beck not to investigate the complaint until she and her family had left the hotel out of fear that the claimant would take retribution, for example by poisoning their food. Consequently, the complaint was not investigated until after the guest had checked out of the hotel on 28 August 2017.

53. Ms Beck forwarded an email to Ms Wolff setting out her recollections. Mr Al Kawadri provided his account to Ms Wolff, which she then typed up and returned to Mr Al Kawadri to check, and he duly confirmed its accuracy to her. No signed copy of that statement was provided to this tribunal. Ms Wolff thinks that the original signed copy was sent to the claimant during the subsequent investigation and that that is why the respondent does not have a signed copy in its possession. The claimant maintains she was never given such a copy. For

the reasons of respective reliability of evidence referred to above, I prefer the evidence of Ms Wolff and find that there was a signed copy of the statement and that it was sent to the claimant and that the respondent did not therefore have a signed copy.

54. The above account of the complaint is disputed by the claimant who, at this tribunal, maintained that, variously, there never was a complaint by the guest in the first place; that Mr Al Kawadri translated incorrectly and therefore made up the complaint and Ms Beck did not know any better because she didn't speak any Arabic; that actually it was a plot by a large number of persons at the respondent to remove her; that Mr Al Kawadri had a vendetta against the claimant because she would not share her tips with him; that she was aware that Mr Al Kawadri was diverting guests to competitor hotels of the respondent in exchange for commission; and that there was a plan by the respondent to try and get all of its staff onto zero hours contracts and that its dismissal of her was part of that.

55. I do not, however, accept any of these explanations. Firstly, the very fact that there are so many of them and that they are so different casts doubt on the veracity of all of them. Secondly, none are backed up by any documentary or other corroborative evidence (save for the statement of Ms Rosa which I have discounted for the reasons above). Thirdly, it is surprising that many of these explanations were not raised until a late stage of the process, for example at the disciplinary hearing itself. Fourthly, in relation to the allegations about Mr Al Kawadri, I accept the respondent's submission that it is simply not credible that he would make up such a complaint regarding a member of the Qatari Royal Family, which would be very embarrassing for the hotel, and that there is no reason for either he or Ms Beck to risk their senior roles at a prestigious hotel by producing purportedly dishonest statements.

56. By contrast, there are two corroborative accounts, from Ms Beck and from Mr Al Kawadri, which support the details of the complaint as set out above. In addition, I do not accept the hypothesis that Mr Al Kawadri made up the account and Ms Beck was none the wiser because she didn't speak Arabic because, on Ms Beck's own account, the guest spoke some English and was able to confirm that Mr Al Kawadri's translation was correct.

57. I therefore accept that the complaint occurred as set out above.

58. After the guest and her family left the hotel, the matter was investigated. The claimant was invited to an investigation meeting on 11 September 2017 which was conducted by Ms Jaeger, her line manager, and was facilitated by Ms Aideen Whelehan, HR manager, with notes taken by Ms Kate Watson, HR coordinator. The claimant at this tribunal hearing (for the first time) has disputed the notes of this meeting (and indeed those of the second investigatory meeting, the disciplinary hearing and the appeal hearing). However, she never disputed the accuracy of the notes at any point previously, which is surprising if she really did think that some of the things they contained were inaccurate. There is no dispute that the notes of these meetings were made contemporaneously. For

these reasons, and my findings on the respective reliability of the witness evidence, I find that the notes of all of these meetings are indeed accurate.

59. During the first investigatory meeting, the claimant denied ever having entered the guest's room. However, she later stated that she had seen the guest's husband in his pyjamas and that the guest had showed her back to her following an operation. The claimant was asked to explain the SOP for accessing a guest room. She said she never entered a guest room without knocking and waiting for several seconds.

60. Whilst there was no CCTV footage of the claimant accessing the guest's room, she was shown footage of herself at around the time of the complaint in relation to her accessing another guest's room. (Whilst what was provided to the subsequent disciplinary hearing and to this tribunal was a succession of still photographs from this CCTV footage, the claimant was shown the actual CCTV footage at this meeting.) The footage showed the claimant accessing a guest room by using the master key to open the door before she had knocked and subsequently being asked to leave by the guest. The claimant initially contended that she was replenishing the mini bar and the room was empty and she had knocked on the door, but later accepted that it was wrong that she entered the room straight away without knocking first.

61. (At this tribunal hearing, for the first time, the claimant suggested (on numerous occasions, even when she was not being asked about it) that she deployed her master key to check whether it was working before she knocked on the room door, as, she claimed, many of the master keys didn't work. As well as being inherently implausible, this explanation was only deployed for the first time at this hearing and, if it was true, it is highly surprising that the claimant did not say anything about it during the investigation and disciplinary and appeal hearings. I do not, therefore, accept that this was true.)

62. During the first investigatory meeting, the claimant alleged that she brought Mr Al Kawadri a lot of guests to the hotel, in respect of which he received a bonus but she did not, which she felt was unfair. She denied she had been overly familiar with guests, but stated that they were her "friends". She said she was given presents, jewellery, money and had been taken to dinner by one guest in their car. She also said she gave guests her mobile phone number so they could call her and make reservations.

63. Further investigations were carried out. Mr Al Kawadri confirmed that the claimant had approached him to indicate she could bring guests to the hotel in return for commission or money and that he had told her repeatedly that the hotel could only take bookings from registered travel agents and would not pay her. Mr Al Kawadri also confirmed that no deductions were made to the hotel bill of the guest who had complained about the claimant. Ms Jaeger also asked the rest of her team if they were aware of any complaints relating to the claimant. A member of staff explained that another guest had complained to her that the claimant had asked for tips, which made him feel uncomfortable.

64. On 15 September 2017, there was a further complaint about the claimant. The owner of the Royal Lancaster Hotel visited the hotel and its restaurant with his family. Mr Ben Purton, the Director of Food and Beverage, accompanied the owner to the restaurant. He walked ahead and discovered a fully set IRD trolley outside, which appeared abandoned. The trolley was taken back to the IRD department, while the owner and his family use the guest toilets. Shortly afterwards, the claimant emerged from the guest toilets. It transpired she had left the trolley in the corridor to use the toilet, even though she was not supposed to leave a fully set trolley alone or use guest toilets. Mr Purton's account of this incident is set out in a contemporaneous email from him.

65. The claimant was invited to a second investigation meeting on 25 September 2017. Prior to the meeting, despite the fact that she had been asked to keep the investigation confidential, the claimant approached Ms Watson, whilst Ms Watson was with a guest, and asked her why HR was carrying out an investigation and said the hotel would need to speak to her solicitor.

66. The meeting was conducted by Ms Jaeger and facilitated by Ms Wolff, and notes were taken by Ms Watson. The passing out policy was discussed. The claimant said that she "never signed" gifts out, even though she said at that meeting that she been given gifts including diamond watches and a headscarf. Ms Jaeger explained the additional allegations which had come to light since the earlier investigation. The claimant did not accept it was inappropriate to leave a fully loaded trolley or use the guest toilets.

67. The claimant became increasingly angry in the meeting, interrupting Ms Jaeger and Ms Wolff repeatedly and shouting.

68. When the CCTV footage was discussed, the claimant changed her version of events by stating that there had been a guest in the room, who had allowed her to come into the room. The claimant accepted she had misused the master key in accessing the room.

69. The claimant was asked why she had given her mobile phone number to guests. She said she gave them a number when they stayed at the hotel and would be called by them to take reservations. When instructed by Ms Wolff not to give her mobile phone number to guests, the claimant said she would inform guests that she had a "problem with HR". It was explained that this was an unprofessional response.

70. The original complaint by the Qatari guest was discussed. The claimant insisted that the guest should be brought to her, presumably so she could question her. Again it was explained that this was unprofessional.

71. They discussed the allegation that the claimant had spoken about Ms Jaeger to the guest. Ms Jaeger said that, in relation to that incident, she could not recall the claimant having left the guest's room with her. The claimant became extremely angry, telling Ms Jaeger repeatedly to stop lying and raising her voice, such that Ms Wolff had to tell her that, if she didn't calm down, she would call guest safety and suspend the claimant and that the claimant needed

to calm down. The claimant again called Ms Jaeger a liar and said that she would "ask god to punish" her.

72. After an adjournment in which the evidence was considered, the claimant was notified that the matter would proceed to a disciplinary hearing. She was told that there were three key areas of concern, namely unprofessional behaviour with guests, misuse of the master key and asking guests for tips. In response, the claimant suggested there was no evidence and she had rights as she was "not in Somalia". The implication was that Somalia had no system of human rights. Ms Wolff told the claimant to stop referring to Somalia and said that it was racist. The claimant at this hearing has suggested that this was not what she meant by her reference to Somalia; however, that was not the impression which Ms Wolff had at the time and, in the light of my findings concerning the respective credibility of the witnesses and the way that the interchange is recorded in the meeting notes, I accept that the implication of the comment was indeed as stated above.

73. On 25 September 2017, the claimant was invited to a disciplinary meeting to consider the guest complaint regarding unprofessional and disrespectful behaviour and misuse of the master key, as well as the wider issues which had come to light. She was provided with a number of documents, including the investigation meeting minutes, statements from colleagues, CCTV stills and policies which she had signed.

74. The claimant was then absent from work on sick leave for a number of weeks and the disciplinary meeting was postponed.

75. On 16 October 2017, Ms Wolff wrote to the claimant, primarily concerning two issues which were of concern to the respondent and which had arisen in the interim.

76. The first of these was that on 29 September 2017 the claimant's husband had come to the respondent's HR office to drop off a medical certificate in relation to the claimant; he had become abusive and threatened Mr Al Kawadri, accusing him of complaining about the claimant and lying; Ms Wolff and a colleague had had to step in to ask the claimant's husband to leave; the claimant's husband had then told Mr Al Kawadri that he would wait outside for him and gestured towards the door; and then accused Ms Wolff's colleague of making the claimant stressed, depressed and that the respondent was lying about the claimant and that he would see them in a tribunal court. (In evidence before this tribunal, the claimant denied that this had happened as described; however she was not present whereas Ms Wolff was and the above account is taken from the 16 October 2017 letter which Ms Wolff sent; I therefore accept that the incident happened as described.)

77. Secondly, Ms Wolff noted in her letter that the claimant had broken confidentiality surrounding her case on several occasions; this included that Mr Al Kawadri had come to see Ms Wolff on more than one occasion stating that the claimant had approached him questioning why he was lying and why he had made up his statement, as well as approaching him one evening as he was

leaving the hotel with his wife and child; that the claimant approached a member of the HR team over a weekend when she was staying in the hotel with family; and that a further member of the IRD team had complained the previous week that the claimant had been complaining about him and involving him in the case. Ms Wolff again made clear that the claimant was not to approach colleagues about the case.

78. The letter also proposed potential adjustments to enable the disciplinary meeting to take place.

79. The claimant did not respond to Ms Wolff's letter.

80. Ms Watson was subsequently approached by a visibly distressed female member of staff, who said that she had been sent four voice messages by the claimant. She said she did not wish to open the messages as she was scared of the claimant. With the colleague concerned, Ms Watson listened to the messages. The claimant, in those messages, accused the colleague in question of lying and asked God to do something bad to a further colleague, Mohammed. In the final message, the claimant told the colleague not to show the messages to anyone and to delete them. This event is documented in a statement signed by Ms Watson on 6 November 2017 and an email from Ms Watson to Ms Wolff on the same date setting out the contents of the four messages; I have no reason to doubt the contents of those documents and accept that this happened as set out above.

81. The disciplinary meeting was rearranged for 16 November 2017. It was chaired by Mr Oliver Darwin, the Risk and Procurement Manager. The claimant was accompanied by Mr Colin Gadsdon, a trade union representative. It was facilitated by Ms Wolff and notes were taken by Ms Watson. However, the meeting was adjourned shortly afterwards at Mr Gadsdon's request. It transpired that the claimant had not provided Mr Gadsdon with any papers, so he was unable to prepare for the meeting. (At this hearing, the claimant suggested that she had given Mr Gadsdon the papers; however, this is not reflected in the contemporaneous documentation and, in the light of my concerns regarding the reliability of the claimant's evidence, I find that she did not give Mr Gadsdon the papers and that the hearing was adjourned at Mr Gadsdon's request for the reasons above.)

82. The disciplinary meeting was then rearranged for 1 December 2017. A further invitation letter was sent. That letter was clear that the disciplinary hearing would cover not only the original issues of the complaint but also further investigations regarding the claimant's professionalism and work and the potential breaches of confidentiality surrounding the case and the claimant's discussions with other colleagues in the hotel.

83. Mr Gadsdon informed Ms Wolff that he was no longer representing the claimant. She initially asked to be accompanied by a work colleague, Mr Gamal Soliman; however, the respondent told the claimant that he could not attend as her companion because he had been involved in the investigation. The claimant

then asked a further colleague, Youssef, to accompany her, but he was not available.

84. At the disciplinary meeting, the claimant was accompanied by a work colleague, Maureen Dulice, the Back of House Manager. Notes were again taken by Ms Watson.

85. At the disciplinary meeting, the claimant alleged for the first time that Mr Al Kawadri and Mr Mohammed Hassanin, Food and Beverage Attendant, had told her that they were referring guests to other hotels in exchange for commission and asked her to join them; that she had refused; and that they had made up allegations about her conduct as revenge. Later in the meeting, she said that Mr Al Kawadri wanted to take revenge because she refused to share her tips with her.

86. The CCTV footage was discussed again. The claimant changed her version of events again and now said that the guest had told her to "come back [later]".

87. The claimant became angry in the meeting, interrupting Mr Darwin persistently and shouting at him. She accused a number of guests and colleagues of lying and said Mr Al Kawadri had acted like "Satan". She continued to refuse to engage with the issues or accept she had done anything wrong. In particular, she refused to accept that it had been inappropriate to tell Ms Jaeger that "God would punish" her, to refer to Somalia derogatively and to threaten her colleagues. She derided the female colleague to whom she had sent the voice messages. (The claimant suggested in her evidence at this tribunal hearing that she had not become angry at all and that it was Mr Darwin who was aggressive and she also suggested that her various references to God "punishing" people were incorrect and that she actually said that God would be "watching" the people in question. However, this is not reflected in the minutes of the various meetings and has only been brought up at the stage of this tribunal hearing; for these reasons, and my findings regarding the reliability of the claimant's evidence, I do not accept any of the claimant's assertions in this respect but find that what happened at the meeting was as set out in this paragraph above and that the claimant did refer to God "punishing" people.)

88. The meeting adjourned for Mr Darwin to consider the evidence. He considered that the claimant:

> 1. Was the subject of a number of complaints in relation to her overly familiar and unprofessional conduct with guests, which highlighted a pattern of behaviour. The claimant had maintained that many colleagues and guests were lying but there was significant evidence to show the claimant acted inappropriately and unprofessionally with guests on other occasions. There was no reason to disbelieve the original guest who had complained. Her behaviour in relation to that guest was backed up by the evidence of the complaint from the other guest who said she asked for tips from him. Furthermore, at no point did the claimant seem to understand that this was wrong.

2. Had failed to follow the pass out procedure and had accepted presents, including jewellery and money. He considered this was very close to bribery which was illegal and against hotel policy.

3. Had acted disrespectfully towards her line manager Ms Jaeger, on a number of occasions, calling her a liar repeatedly and in this respect he referred to the religious points (a reference to the "God punishing" comments).

4. Had broken confidentiality surrounding her case, when she had been advised not to talk about investigatory meetings, including threatening colleagues such as, in particular, the colleague to whom she sent the voicemail messages, noting that this had caused distress to the colleague and noting the claimant's lack of understanding of why this was inappropriate.

5. That this amounted to gross misconduct, that the claimant's defence was that everyone was lying, that she had been unwilling to listen to him so that he had no faith that her behaviour would change.

89. Mr Darwin communicated this to the claimant when the meeting reconvened, spending half an hour doing so, whilst the claimant continued to push back on what he was saying.

90. Taking the above factors into consideration, Mr Darwin considered that the claimant's conduct amounted to gross misconduct and that summary dismissal was appropriate. He considered her length of service and treated her as if she had a clean disciplinary record (albeit, unbeknown to him, the claimant had previously been issued with a written warning in relation to separate issues concerning the respondent's holiday policy), but considered that, in the light of the above, those concerns were outweighed.

91. The claimant did not request written reasons for her dismissal.

92. By an email of around 5 pm on the day of the disciplinary hearing, Mr Al Kawadri informed the respondent's HR team that when he had been passing opposite the hotel that day, he met the claimant and she abused him vocally and also threatened him with a gesture and that he wanted to share this with them because it made him feel very uncomfortable.

93. The claimant's daughter emailed Ms Wolff late on 1 December 2017, stating

"After today's outcome, I think I have made a decision to personally take you and your entourage to court for such an unfair dismissal which LACKED evidence. Your professionalism is extremely poor and you have no idea what you are talking about, nor have you worked ethically towards this case. We will see each other in court."

94. A letter setting out the reasons for dismissal was subsequently prepared. There was a delay in this being sent to the claimant because Ms Wolff was off

sick (and the claimant was notified by the respondent of the reason for this delay). Notwithstanding that, the letter was provided to the claimant on 15 December 2017. The letter is a very detailed and thorough analysis of the evidence and the reasons for Mr Darwin's decision to dismiss.

95. At this hearing, Mr Darwin's evidence was that, whilst the issues which arose directly from the guest complaint were things which potentially amounted to gross misconduct, he would probably not have dismissed for those alone. However, combined with the subsequent behaviour of the claimant, in particular towards her colleagues, and her inability to understand that what she was doing was wrong, there was a complete loss of trust and confidence in the claimant and dismissal was therefore the only appropriate sanction.

96. The claimant appealed by email of 23 December 2017. There were a number of grounds to the appeal, principally: firstly that the entire story was concocted by Mr Al Kawadri and Mr Hassanin; secondly, that the claimant was denied the employee of her choice at the disciplinary hearing (Mr Soliman); thirdly, that there was a lack of evidence; and fourthly that the claimant was open to all ethnic groups and religions (which was taken as a criticism of the allegations about her religious and ethnic comments).

97. Mr Gareth Bush, the Director of Events, chaired the appeal meeting, which took place on 18 January 2018. Notes were taken, which the claimant signed. Mr Bush asked the claimant to explain her grounds of appeal. After listening to her, he adjourned to consider is decision. He decided to uphold the decision to dismiss. He considered the grounds which she had raised. He did not consider that she had provided any supporting evidence for her appeal which backed up these assertions. He confirmed his decision in writing by letter of 23 January 2018.

98. Following the claimant's dismissal, the respondent investigated her allegations against Mr Al Kawadri. He denied that there was any arrangement to refer guests to other hotels for commission or that the claimant had been approached as part of such an arrangement. He explained that certain guests had been taken to the respondent's sister hotels while extensive refurbishments were underway. He denied that he had offered the claimant any cut of the commission for taking guests elsewhere. There was therefore no evidence beyond the claimant's assertion to support her allegations and the investigation was closed.

99. When questioned in cross-examination, Ms Wolff stated that the events described above concerning the claimant were very distressing for her and others at the respondent. In particular, she herself genuinely felt fearful of what the claimant or members of her family might do, in the light of not only the claimant's behaviour but of the behaviour of her husband and her daughter as set out above. Ms Wolff was for the most part a composed and confident witness; however, when pressed on these issues she became tearful when recalling the impact on her of having to deal with this situation. In the light of that and her answers and the behaviour of the claimant and her family as set out above, I find that Ms Wolff, and indeed others at the respondent (such as the

colleague to whom the claimant sent the voicemail messages), were caused genuine distress by the behaviour of the claimant and/or her family.

Conclusions on the issues

100. I make the following conclusions, applying the law to the facts found in relation to the agreed issues.

Unfair Dismissal

101. The reason for the claimant's dismissal was clearly misconduct, as evidenced by the facts found above. It is clearly evidenced by the dismissal letter and the appeal outcome letter and supported by the witness evidence of the four respondent witnesses. As set out in my findings of fact above, I do not consider that any of the many alternative reasons for dismissal put forward by the claimant formed any part in the reason for dismissal.

102. Mr Darwin had a genuine belief that the misconduct for which he dismissed the claimant had occurred, which is again evident from the evidence and his dismissal letter. He had no reason to disbelieve the guest complaint, which was backed up by evidence of a similar nature from another guest and there was no good reason for the guest to fabricate or exaggerate the complaint. Furthermore, the claimant accepted that she had not followed the pass out procedure. There was no dispute that she had made the religiously comments towards Ms Jaeger (notwithstanding her attempt at this tribunal to row back from those comments) or broken confidentiality in the case, even if she denied that it was inappropriate.

103. The respondent conducted an extensive investigation. The claimant complains at this hearing that further allegations were added in due course. That is true. However, it is in the nature of investigations that the investigator should investigate and pursue whatever relevant material is there and, if further matters arise that warrant disciplinary proceedings, then such disciplinary proceedings may be pursued. In addition, many of the subsequent allegations were caused by the claimant's own behaviour during the investigation process; it is entirely appropriate that these should have been added to the allegations to be considered at the disciplinary hearing.

104. At this point, I address submissions made by Mr Bashir, and which form much of the evidence in the claimant's witness statement, that HR were looking for further material in relation to the claimant. He cited various examples from emails from HR and others which he suggested showed that HR were biased and trying to build a case against the claimant. Without going through all of them, examples include Ms Wolff in a list of action points in the investigation asking Ms Jaeger to speak to another employee again for "some more details, the more the better, as to why guests felt uncomfortable". However, as Ms Wolff explained, the employee in question was reluctant to come forward with more details and what she was doing was seeking further information to give a fuller picture of the case; this is entirely appropriate in the context of an investigation. Slightly bizarrely, Mr Bashir also focused on an email from the security officer, Mr

Islam, in relation to a request from Ms Wolff regarding what pass out records he had for the claimant; Mr Islam began his reply "I sincerely hope that we have some records of her" and Mr Bashir suggested that that showed some form of bias. The respondent's witnesses confirmed that Mr Islam is someone who is particularly polite and that is just an example of his written style; I accept that, but even if that were not the case, I see nothing in this quotation to indicate any form of bias. Finally, in an email of 12 September 2017 replying to Mr Al Kawadri, Ms Whelehan states "can you think of any other guests who have mentioned Najat's behaviour that might be willing to give an account of Najat asking them for money being pushing? It would really strengthen the case. Only if they had mentioned to you that she was making them feel uncomfortable?" The request to Mr Al Kawadri is in itself not controversial and what one would expect in the context of an investigation into a particular type of behaviour, to check if that behaviour is corroborated by other examples. The reference to "strengthen the case" on its own makes it look like a request for information that would corroborate the case against the claimant (unlike other examples of requests for further information in the bundle where the relevant person in the respondent has talked about information "to build a case either way"). However, it is a one-off brief email in the context of an extensive investigation and I do not find that this phraseology on its own indicates that Ms Whelehan (or anyone else in HR) was biased against the claimant. It certainly does not mean that the investigation was unreasonable. Furthermore, it is ultimately the disciplinary officer who takes the decision as to whether to dismiss on the evidence and not HR.

105. I therefore consider that the investigation was thorough and was reasonable in the circumstances.

106. As to the reasonableness of Mr Darwin's belief, many of the allegations were either accepted by the claimant or were uncontroversially true based on the notes of what the claimant said at the meetings. These include the fact that she breached the pass out policy, the religious comments she made and some of the behaviour to Ms Jaeger, and the fact that she breached the confidentiality of the investigation. As to the original complaint, Mr Darwin was perfectly entitled to accept that the complaint made by the guest had substance. There was no reason for the guest not to tell the truth and parts of what she said were corroborated by another guest (regarding the claimant asking for tips). Furthermore, Mr Darwin was entitled to accept the evidence of two senior managers, Ms Beck and Mr Al Kawadri, that the guest in question made the complaint in question. Mr Darwin therefore had a reasonable belief that the misconduct took place.

107. The claimant and her representative (and her family) have throughout the process repeatedly suggested that the claimant was dismissed based on no evidence. That is manifestly untrue. In case there is still any confusion on their part, the standard of proof that applies is that Mr Darwin should, "on the balance of probabilities", have a reasonable belief that the misconduct took place (it is not a criminal standard of proof that the conduct must be proven "beyond reasonable doubt"). It is not necessary that the Qatari guest or indeed the other guest must have been brought to give a statement and give evidence in order for Mr Darwin to come to the conclusion that, on the balance of probabilities, the claimant did

what was set out in the complaint (nor could it have been reasonably expected that the respondent would require this of the guests). Mr Darwin was entirely justified in reaching the conclusion that the misconduct was proven on the balance of probabilities on the basis of the evidence before him.

108. I consider that it was not unreasonable for the respondent not to permit the claimant to have Mr Soliman as her companion at the disciplinary hearing, given that he had been involved in the investigation.

109. No other breaches of procedure have been alleged nor have I found that there were any. The dismissal was not therefore procedurally unfair.

110. I consider that the decision to dismiss fell well within the range of reasonable responses open to a reasonable employer. The breaches of the master key and pass out policies could amount to gross misconduct in any event (albeit Mr Darwin said that he would not have dismissed for these reasons alone, but for the other behaviour of the claimant). However, notably, the claimant failed to apologise for her behaviour in relation to these issues or any of the other issues at any stage. Instead, she accused her colleagues of lying and failed to understand why her conduct was wrong. It was entirely reasonable for Mr Darwin to conclude that, when considering her length of service and disciplinary record, these were outweighed by the fact that the claimant had behaved the way that she had during the incident and the disciplinary process and had given no indication that similar things would not occur in the future. Mr Darwin's conclusion that he therefore had a complete lack of trust and confidence in the claimant's ability to carry out a role professionally and not repeat her conduct was a reasonable one. He was reasonably entitled to conclude, therefore, that summary dismissal was the appropriate sanction.

111. The claimant's dismissal was, therefore, not unfair and her claim for unfair dismissal therefore fails.

112. It is not, therefore, strictly necessary to consider the additional issues concerning Polkey and contributory conduct; however, I do so for completeness' sake.

113. I have found that there were no procedural failures in the dismissal. However, even if there had been, the claimant would on the basis of the misconduct proven against her have been dismissed in any event and I would have therefore made a reduction of 100% in the compensatory award under the principles in Polkey.

114. Furthermore, the claimant entirely contributed to her own dismissal by her own conduct. The dismissal was entirely a result of her conduct towards guests and colleagues, breach of company policy and confidentiality surrounding the case. Therefore, had the dismissal been unfair, I would have made a reduction of 100% in both the basic and compensatory awards for unfair dismissal.

Wrongful dismissal/breach of contract

115. As set out in my findings of fact above, the respondent has proven that, on the balance of probabilities, the conduct for which the claimant was dismissed did take place. That conduct amounts to a repudiatory breach of contract, for the reasons set out above; in summary, all trust and confidence in the claimant was lost as a result of her behaviour. The respondent was therefore entitled to terminate the contract summarily, without notice. There was therefore no breach of contract and no wrongful dismissal and the complaint of breach of contract/wrongful dismissal therefore fails.

Written reasons for dismissal

116. The claimant made no request for written reasons for dismissal and therefore section 92 ERA is not even engaged and this complaint fails at the first stage.

117. In any event, the respondent provided detailed written reasons for the claimant's dismissal on 15 December 2017, in other words 14 days from the date of dismissal. This complaint would therefore have failed for this reason too.

Written statement of particulars

118. An award for a failure to provide a written statement of particulars can only be made if one of the above claims succeeds; none of them have succeeded so no award can be made.

119. However, in any case, the claimant accepted that she was provided with contracts when she was a casual employee and I therefore accept that she was provided with a written statement of particulars. Therefore, had any of her other complaints succeeded, there would have been no grounds for making an award under this heading as there was no failure to provide such particulars.

Conclusion

120. All of the claimant's complaints fail.

_____
Employment Judge Baty

Dated: 27 September 2018

Judgment and Reasons sent to the parties on:

28 September 2018

…….....
For the Tribunal Office