EMPLOYMENT TRIBUNALS

Claimant: Ms K J Badon

Respondent: The Secretary of State for Health and Social Care

HELD AT: Leeds **ON:** 9 November 2018
16 November 2018

BEFORE: Employment Judge Wade
Mr R Webb
Ms J Noble

REPRESENTATION:

Claimant: In person
Respondent: Mr Smith (counsel)

RESERVED REMEDY JUDGMENT

1 The Tribunal makes the following awards in respect of the respondent's infringement of the claimant's right not to be unfairly dismissed:

Basic Award :	£11, 736
Compensatory Award:	£ 59, 701.07
Total:	£ 71, 437.07

2 The recoupment regulations do not apply to this award.

REASONS

Introduction

1 Between 18 and 28 June 2018 the Tribunal heard the claimant's claims of unfair dismissal and detriment on trade union grounds. The extempore Judgment with remedy directions were sent to the parties on 2 July 2018 with an Order for the parties to apply for a remedy hearing if agreement could not be reached. The introduction to that Order recorded: "the claimant's unfair dismissal having succeeded in circumstances where the statutory cap on compensation applies"; and

"the Tribunal being without the evidential material to assess what difference it would have made, and what losses can reasonably be considered as arising, had the respondent not terminated the employment on 30 June but on 26 October 2017".

2 The written reasons for our judgment were sent on 31 August 2018 and this reserved decision incorporates the entirety of those reasons. They concluded:

"139 That leave us in the position of needing to deal with remedy. It seems to us that we do not have the evidential material to be able to make an assessment of what would have happened had the claimant's employment continued until 26 October. We do not know what other government posts were available; we do not know what other Department of Health posts were available. We do not know and have not made, an assessment of whether the claimant would have applied for such posts had they been available. We have not had the evidence tested as to whether the posts that were available and highlighted, were in fact, entirely unsuitable, such that the claimant was reasonable in failing to apply for them.

140 The primary remedy for unfair dismissal is reinstatement or reengagement, albeit I note that the claimant has previously said such orders are not sought and that is confirmed again today. There will, then, need to be a Remedy Hearing to address compensation unless the parties can agree compensation.

141To assist that agreement it is clear on our findings that the statutory cap applies in these circumstances; that is not in dispute. It is also clear that all the other matters relating to assessment of remedy such as credit for sums already paid and the loss that might have arisen had the claimant been able to secure a post in that 4 month period, are matters that the Tribunal cannot assess without having a Hearing. Equally there was a direction given at an earlier stage for pensions related loss information to be provided; that was provided and is available and it is for the parties to try and reach some compromise (happy or unhappy), failing that a remedy hearing will be listed."

Evidence and hearing

3 Before this hearing an instruction was given that the parties must not refer to without prejudice correspondence in communications to the Tribunal. The claimant provided the respondent with a statement of her evidence for this remedy hearing a week before the hearing (which contained such a reference). That was ruled inadmissible at the start of this hearing.

4 The respondent provided a written statement from Mrs Lane, from whom we heard at the first hearing, and remedy documents comprising civil service Grade 6 vacancies, available for application in the period 1 July to 26 October 2018. These were provided to the claimant the day before the hearing at very short notice we were told. The parties were given time to reflect on a postponement, in the light of three hours being allocated for the hearing, and the late provision of evidence to the claimant, but they both wished to proceed.

5 In the event there was time for evidence and submissions but not to determine the issues. The Tribunal reconvened today for that purpose.

Issues

6 The claimant again confirmed at the remedy hearing that she did not seek reinstatement or re-engagement. The matters for determination are set out below as headings to our discussions and conclusions, but broadly they entail asking:

6.1 What credit should be given by the claimant for sums already paid from CSCS?

6.2 What losses can reasonably be considered as arising, had the respondent not terminated the employment on 30 June but on 26 October 2017?

6.3 Would the claimant have secured that equivalent post?

6.4 What loss might have arisen had the claimant been able to secure another civil service Grade 6 post in that 4 month period?

Findings and conclusions already reached

7 Many relevant findings and conclusions appear in the written reasons for our liability Judgment. Those most relevant to the remedy issues are these:

"22 The claimant and others entered a "re-deployment period", also envisaged by the HR Framework, from 1 January to 31 March. During January the claimant had fortnightly meetings with Mrs Lane, who was leading the services supporting staff through the HR Framework, and other members of Mrs Lane's team. Mrs Lane advised the claimant she could present a late application for the externally advertised Grade 6 Policy Posts (the "second application"). She was removed from her previous Grade 6 work, but Miss Ismael remained her line manager for all intents and purposes. The claimant taking up a temporary post in a commercial team to undertake a particular project for the duration of her redeployment period.

23 The claimant received support from "Working Transitions", which provided support to members of staff in completing applications and other matters, including outplacement support. The claimant's second application again did not meet the required capability threshold.

24 The claimant also had approval to complete an adult education certificate, during this period, ultimately funded by the respondent, enabling her to pursue posts in that field…….

26 On 14 March 2017 there was a "Redundancy Mitigation Review" meeting attended by Mrs Lane, Mr O, Chair of the Departmental Trade Unions Consultative body ("DTUS"), Ms J, of the Cabinet Office, Mr M, National PCS representative and Mr D, Secretary of DTUS. This meeting was required by the "Cabinet Office & National Trade Union Committee Protocol for handling surplus staff situations" ("the Protocol") before any notice of compulsory redundancy could be issued and Cabinet Office approval was, in effect, required for those notices. Notice to the claimant, subject to consideration of grade 7 posts with pay protection, was approved. Grade 7 was the grade below the claimant's former post.

27The claimant received the outcome of her grievance appeal from Mr Williams; it was apparent to him that she did not wish to consider grade 7 posts.

28On or around 29 March the claimant was offered voluntary redundancy terms ("VR"), which were less generous terms than those offered under VE, which she declined in due course. On or around 30 March the claimant met again with Mrs Lane, as part of their regular re-deployment support meetings, and declined consideration of grade 7 posts with pay protection; the claimant herself had originally identified that as a possibility, but on reflection at that point in her career, she did not consider it "the right thing" and the respondent did not then go on to offer her any such post and she did not seek them out….

30 *On 3 April 2017 the claimant met with the National Offender Management Service ("NOMS") concerning possible recruitment, or possible re-deployment, to that department. By the end of April the claimant knew there were no available vacancies at NOMS, not least because of the election, and the general uncertainty created by it.*

31 In the re-deployment period the claimant had been provided with vacancies in other departments of state, where the threshold for appointment against the civil service competency measurement was set at 20, but apart from the NOMS post she did not make any applications…

35 Also in May the claimant was in discussions with PCS about possible employment for 50% of her time as a paid official, twinning that with a possible job share grade [6] post with the respondent, but she did not explore the possible job share with Mrs Lane…

36 The claimant's employment ended on 30 June 2017. She was one of only two Grade 6 and below staff, dismissed by the respondent by virtue of these events. She accessed her civil service pension from 1 July and she used some of her compensatory payment from the Civil Service Compensation Scheme ("CSCS") to address the actuarial reduction to benefits in accessing that pension before the age of 60.

37 On 26 October 2017 the claimant received the remainder of a compensatory payment from CSCS to replicate the VE terms, because other litigation had decided that must be paid to all those exiting….

43 At the beginning of this exercise the department employed around 1800 people. The programme of change was subject to the Protocol, with which all departments of state had to comply, and the use of CSCS as a means of mitigating the hardship from potential job losses was, in effect, conditional on compliance with the Protocol.

44The HR Framework implicitly acknowledged that dismissals arising would be on a "no fault" basis: it was not the fault of staff that these changes were taking place – they could have been working, meeting expectations and performance management targets for years, and yet face dismissal from the service through a raised selection bar. …

63 The Voluntary Exit programme above, to support the restructuring, was made available through the "Civil Service Compensation Scheme 2016", which stated: "Voluntary Exit (VE) can be offered in the interests of workforce efficiency and where employers wish to reduce staff numbers, to support organisational change, address promotion blockages and where there is limited efficiency. There is no compulsion for individuals to accept the offer, it is an agreement between the employer and the employee….

85 Of those areas of knowledge and belief, we have to ask ourselves, what caused the respondent to dismiss the claimant? That gives us our principal reason.

86 Taking into account all the circumstances it was clearly a belief related to the claimant's capability, as assessed by written applications, that caused those present to decide that the claimant should be given notice of compulsory redundancy (with one caveat). It is simply incredible, that is wholly unlikely, that the full time officials present would endorse (as they did) the dismissal of a representative if they

considered for one minute that her trade union activities had played any part in the assessment of her scores.

87 The grounds of the belief of those present at the meeting were those scores, as maintained through a fast track complaint, and a grievance….

112 We know that there were only 60 internal applicants for the new grade 6 policy posts, marked by Mr Howitt's first panel in November. That was insufficient to fill those posts and we know that on 1 December, the Department announced the commencement of a recruitment exercise.

113 All posts were reported as filled at the point that the RMR meeting attendees decided on 14 March to give the claimant notice.

114 On balance, if the 1996 Act permitted us to identify a hybrid reason, (that is a mix of redundancy and capability) which was the sense of Mr Smith's submission, then we would do so. Or, had a different restructuring approach been taken such that a "capability" bar had not been used, and we could have identified "some other substantial reason" which was not capability related, we would have done so.

115 Acknowledging that there is often more than one reason, as there is here, but we must identify the principal one, our judgment is that the principal reason for the claimant's dismissal was related to the respondent's belief (as held by those in the RMR) in her capability to undertake the work she was employed to do in a grade 6 policy post. That belief arose in circumstances of a raising of the bar within the Department and a reduction in numbers of posts.

131The final matter of alleged unreasonableness, (also asserted as a detriment), is the imposition of CILON on the claimant.

132There are numerous representations[1] to the staff at large through the communications exercises and in the respondent's published programme that redeployment would continue through the notice period.

133 The notice period was published to be six months. It was governed by the Civil Service Compensation Scheme. This was a fluid situation (given the potential withdrawal and cap on those terms) and it might be said that they had changed, but the reasonable expectation that was generated for staff was three months of redeployment, and six months of notice during which redeployment would continue. <u>That, in our judgment, is part of the measures to be taken into account in assessing whether a capability bar with the prospect of capability dismissals of long serving staff was within Section 98(4) reasonableness</u>.

134The Civil Service Compensation Scheme guidance provided that CILON was to be used in exceptional circumstances. The Cabinet Office meeting, significantly, discussed each of six people who might be given notice to end their employment by the department, did not give approval to the use of CILON (with its associated costs) in relation to any particular individual. The discussion with the Unions at that time highlighted that the position on redeployment support might change from the published position, depending on individual efforts to find other alternative employment and the likelihood of that reaping benefit, and the chance of securing a role. That change from the published position introduced new considerations, which were then imposed upon the claimant.

[1] 1115, 1143, 1172.

135 CILON was imposed not only when the published position was different, but in circumstances where the claimant had explained at length, and on a number of occasions why she wished to remain in employment for the duration of her notice. The decision was originally made by Mrs Lane, but the judgment in the end was made by Mr Vineall in light of those discussions, and maintained by him when he communicated the appeal decision on the 23 May.

136 We accept entirely that Mr Vineall made that decision in good faith, for the reasons he explained his letter to the claimant, including that she had made no applications for other employment and that her other work had come to an end or would shortly do so.

*137We consider all the circumstances in the round, including that the claimant had not made any applications, and she had decided against grade 7 redeployment. We also consider and adopt our reasons for concluding it was not outside the band of reasonable responses for the respondent to maintain its published process in other respects (as regards slotting in or deploying the claimant to a post). In regards to CILON, however, the respondent **was** prepared to depart from its process. The impact and hardship for the claimant was being deprived of the opportunity to apply for any other opportunity in another government department that might arise in the following four months.*

138 In our judgment this, in all the context above, puts the dismissal outside the band of reasonable dismissals for capability in all the circumstances: this was, in effect, a "no fault" dismissal for which all reasonable means of avoiding dismissal, including what might happen during a published notice period, ought reasonably be permitted. The unfair dismissal complaint is well founded and succeeds. The claimant's [complaints] 92 Act complaints are dismissed.

Findings and conclusions arising from this hearing

27 It was not in dispute that the claimant's ultimate payment from CSCS was £83,546.48 and that her salary (for 365 days) was £59,861. The 52 week cap equivalent of her salary is therefore: £59,701.07.

Before the claimant's employment ended

28 In its submissions the respondent described the claimant's approach to finding a new post as "shunning support". During the initial three month redeployment period Miss Ismael introduced the claimant to a temporary post dealing with infant death. The claimant chose instead to take up the temporary commercial post she sourced herself (see above). That decision did not amount to "shunning" Miss Ismael's support. It was a rational and reasonable decision in light of the claimant's own recent bereavement and the potential effect of infant death work on her resilience.

29 Neither did the claimant "shun" other redeployment support, from Mrs Lane, or otherwise. She undertook work with Working Transitions and an adult education certificate to accrue new skills, with a potential aim of offender management work.

30 The Tribunal knows that there were Civil Service grade 6 posts outside the Department of Health sent to the claimant between January and 30 June for which she did not apply. The respondent has not put to her in this hearing that had she applied for specific posts in that period, she would have secured a particular post. We make no further finding about those matters because they do not take us any

further, albeit they were discussed on the last occasion. The reasons why the claimant did not apply for posts in that period may help us reach conclusions about what would have happened if the respondent had permitted her the full redeployment period.

31 We accept the claimant's evidence that from January to June 2017 her main focus was to challenge the respondent's decisions and position in relation to DH2020 and its effect on her. She held the view that she had made waves and that was the reason for her treatment and that she was being bullied from the department (see also our reasons to reject the claimant's 92 Act complaints). She also held the view that the respondent was obliged to offer her suitable alternative employment without competition. All of these matters are part of the context which explain her decisions not to make applications to other departments in that period.

32 The respondent's contention was that the claimant had decided to retire. This was apparent in her lack of efforts to secure alternative civil servce posts in the January to June period; that the claimant held a "retirement" party at a venue on the Department's large Leeds site, Quarry House in June 2017; and that she so described herself later (see below).

33 These matters do not displace the claimant's evidence, supported by all the contemporaneous documentation at the time, that it was no part of her life plan to retire in June 2017. Had that been her intention she would have accepted VE at an early stage and exited gracefully. The opposite was the case: she wanted to work for as long as she could and to continue to enjoy the successful civil service career she had enjoyed until DH2020 with its associated financial security. She fought her dismissal through all possible channels. She sought to remain employed for her full notice period. That was not the conduct of someone who wished to retire all along.

<u>After the claimant's employment ended</u>

34 The claimant applied for a paid post working for a local Member of Parliament but was not successful. She took up voluntary work at the Swarthmore Adult Education College, where she had undertaken her Adult Education Certificate and became a trustee. In December 2017 the claimant described her occupation as "retired" on the details appointing her to that post.

35 She has not applied for paid employment since her employment ended, other than the post above and perhaps one other. The reason for that, she told the Tribunal, was the strain these events had put on her confidence, and that she was seeking to re-build that through voluntary work and thereby to improve her chances of securing an appropriate paid position. She currently works as a voluntary Company Secretary to a social enterprise and with another charity or social enterprise concerning leadership. She also assists her sister with care for her elderly mother. She will manage around those caring responsibilities if she is able to secure a paid post in the future, as she has in the past. She will also be able to access an NHS pension from her earlier working life in due course, in addition to her civil service pension.

36 The CSCS rules are such that if a Civil Service appointment is taken up within a year, any compensation must be re-paid (or partially re-paid). Put another way, the claimant could have taken up civil service work from 1 July 2018 repaying any ofher CSCS payment. She has not done so.

37 Her decision to access her pension early, (that is earlier than the scheme permits at 60) by buying out the actuarial reduction, is not a decision which can be reversed. Abatement rules provide that any Civil Service pension in payment cannot, with subsequent civil service earnings, exceed her previous salary of £59, 861. The effect is that the claimant could have applied to re-join the civil service in a part time capacity, or at a reduced salary level, from 1 July 2018, notwithstanding accessing her pension, but only in that reduced or part-time capacity.

The claimant's asserted losses

38 At an earlier stage the claimant was ordered to provide evidence of her asserted loss, including pension loss, arising from her dismissal. Albeit not an expert's report complying with the usual safeguards, that evidence struck the Tribunal as considered and entirely probable. It established that: comparing the position the claimant was in by these events, to the position she would have been in, had she continued to work to the age of 65 her net loss at 65 was £183.986.32. That loss was expected to reduce over time to £111, 625.89 at age 85, and £87,093.58 at age 90. That loss calculation also gave credit for the claimant's CSCS payment and her use of part of it to ameliorate her pension position.

39 The claimant's state pension age is 66. Her evidence at this hearing was that she would have wished to work to 66, to take her state and occupational pensions at the same time. A further remedy calculation document for this hearing, developing the earlier financial adviser evidence, also calculated her net lost wages to 66 as an additional £382.380.78, but without giving credit for the pension in payment throughout that time. The first document was the reliable evidence of likely loss, in conjunction with our other findings.

The civil service job market between 1 July 2017 and 26 October 2017

40 There were many (hundreds) of Civil Service Grade 6 posts advertised in this period. The evidence was contained at pages 201 to 235 of our bundle. The difficulty was that the claimant had only received that disclosure a very short time before this hearing. Mrs Lane's evidence was that she had focussed on four generalist posts in a reasonable location, from the hundreds available for which the claimant's skills may have been a match, or words to that effect. She had included more detailed job specifications and competencies required for those four only. They were put to the claimant on the basis that she would not have succeed in obtaining them because she did not have the relevant competencies or experience.

41 In relation to two education related posts (addressing the Brexit implications for the higher education sector, and early years education implementation), she was clear that her experience and track record would have been applicable to those posts and we accepted that evidence.

42 The Cabinet Office Protocol was also clear on the need to avoid compulsory termination of civil servants if redeployment could be arranged. The result was that a DOH displaced civil servant meeting the lower competency bar of 20 (an average score of 4 per competency) would be appointed before external candidates to such vacant posts. The practical application of the Protocol was born out by the numbers of DOH individuals who secured redeployment. The claimant's second application for the DOH Grade 6 post achieved the required score of 4 per competency after her work with Working Transitions (but not the higher DOH standard). The Tribunal has therefore concluded that had the claimant **applied** for available and relevant posts

between 1 July and 26 October, she would have secured such a post, including either of the two education posts to which we have referred.

43 The far more difficult question to determine on the evidence, is, had the respondent issued a letter in April giving notice to expire on 26 October, or had there been a change by Mr Williams or Mr Vineall revoking the earlier notice expiring on 30 June, and replacing it with notice to expire on 26 October 2017, would the claimant have changed her approach and made those applications.

44 The claimant's evidence was that she had not decided she wished to leave the Civil Service altogether, nor that she wished to retire (see for instance her interest in the NOMS role before the election slowed matters down). The early termination meant she had to make quick decisions about her pension so that she was not financially disadvantaged in that context. She had felt bullied by the process, but once she reached the end of her challenges to it in May, and if she been given extra time until 26 October, she would have applied for posts because she then had the time to focus on finding that new job.

45 In assessing evidence of this kind, the Tribunal has to tether its conclusions to known facts in context. We also deploy our industrial experience. That experience tells us that when people suffer career blows, as the claimant undoubtedly did, their resilience and equilibrium is damaged for a period. Over time that denial and sense of grievance typically reduces, and the onset of the financial realities of life tend to lead people to make financially rational decisions.

46 We also weigh in our deliberations that before 30 June, knowing that she was due to leave at that time, and with the added blow of having been sent home by Mr Vineall, the claimant did not have a change in mind set such that she applied for posts in that short window. That is not surprising because her resilience was low and in fact she was certified unfit for work due to workplace stress from 20 June until 1 July. Further, the financial reality emerging in the period did not persuade her to accept or pursue grade 7 posts with pay protection.

47 Weighing all the relevant matters and background, would she have pursued the Grade 6 civil service posts with more time? We have concluded that her evidence is reliable on that and accords with our industrial knowledge. She has done complex and difficult work in the past and has shown great resilience in the face of adversity before, and delivered countless work previously (see our findings on her track record).

48 On balance, tethering matters to what we know, but also to what was likely to have been the position had longer notice been given, we have concluded the claimant would have applied for available posts and would have secured such a Grade 6 post in another department, maintaining her civil service pension and working on to retirement at 65, absent the usual vicissitudes of life which we cannot predict.

49 The events which have transpired since 30 June do not greatly assist us with determining, on the balance of probabilities what would have happened, because the claimant did suffer the blow of an early exit, and one which we have found to be an unfair dismissal. Consequently it is to be expected that her trajectory has been different and she will reasonably take longer to rebuild her confidence and tackle the losses she faces.

Discussions and conclusions

The Basic Award

50 The parties agreed the sum of £11, 736 was the correct sum calculated by reference to the claimant's length of service and age.

Did the Employment Rights Act 1996 Section 122(4) require the Basic Award to be reduced by the payment made to the claimant pursuant to the Civil Service Compensation Scheme (CSCS)?

51 Section 122 (4) (b) relevantly provides: "*The amount of the basic award shall be reduced.. by the amount of ….. any payment made by the employer to the employee on the grounds that the dismissal was by reason of redundancy (whether in pursuance of Part XI or otherwise).*"

52 Boorman v Allmakes LTD [1995] IRLR 553 explains the principle that the predecessor to Section 122(4) only applies where the Tribunal has found that the principal reason for dismissal is redundancy. See paragraph 16 Lord Justice Evans:

"As Mr Boorman put it in argument, s.73(9) was intended to apply in cases of redundancy in fact, not in other cases which the employer chooses to describe as redundancy, even if the employee accepted that description at the time"

53 The submission on behalf of the respondent was broadly, that as the Tribunal had recognised that the reason for dismissal was a hybrid reason which included redundancy, the deduction must apply: this was not a case where redundancy was a smoke screen or sham.

54 The respondent did not rely upon any authority concerning a "hybrid" type finding on reason for dismissal, or where, as here, we found that there were more than one reason and that capability was the principal reason. The claimant contended that we had found the principal reason was "some other substantial reason" (when we had not) and that the deduction should not apply.

55 We have to apply the statutory language to these facts, acknowledging that they are different from those in Boorman. It follows that we properly look to the "ground" of payment; the CSCS provides for payment on grounds both of efficiency and redundancy. The principal reason for dismissal was capability, which falls within "efficiency" in these circumstances.

56 The most relevant findings of our previous reasons are 44, 63, 114, 115 and 133. Albeit we determined that the respondent had need for fewer Grade 6 post holders at the particular point in time the dismissal decision was taken (at the RMR meeting), the principal reason for claimant's dismissal was because she had not met the competency bar and was not eligible for the available posts, and there had been external recruitment. In these very unusual circumstances and taking into account the entirety of our previous reasons, we consider that the CSCS payment was made on the ground of efficiency, as was permissible, to enable those who did not meet the competency bar to be let go with a compensatory payment. Albeit redundancy was part of the overarching picture, the payment was on the ground of the reason we have found, namely capability, as was permissible by CSCS. We do not therefore make a Section 122 (4) deduction.

57 The respondent's alternative position was that we should reduce the Basic Award to nil because of the claimant's conduct in "shunning the support that was offered to her". We are against the respondent's factual case on this, as our findings above describe. We do not agree with the characterisation of the claimant's conduct, and we do not consider there is anything in the claimant's conduct which "*was such*

that it would be just and equitable to reduce or further reduce the amount of the basic award"(Section 122(2)).

The Compensatory Award

58 The findings above largely resolve this matter. The pension abatement rules mean that the claimant's proven losses, which give credit for the CSCS payment, are not now recoverable by means of obtaining a Grade 6 Civil Service post.

59 The respondent did not put to her a case on an unreasonable failure to mitigate her losses, **which identified steps which, had she taken them,** she would by now have mitigated that loss or diminished it, and that she was unreasonable in failing to do so. Its only mitigation case was that her choices to undertake voluntary work amounted to such failures. That does not meet the respondent's burden on such a submission. In any event the claimant's position on seeking to rebuild her confidence and earnings in the situation she now faces struck us as reasonable. In reality it is only by very different and substantial earnings (such as the publication of a novel to which the claimant referred, or other non Civil Service employment) that the claimant will reduce those losses or extinguish them.

60 Albeit the claimant's losses have not been calculated using the 2017 Presidential Guidance on Pension Loss, or Ogden tables so as to fix on a sum now which will compensate the claimant for substantial losses, we have to determine: "*such amount as the Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer"* (Section 123(1)).

61 It is not proportionate in a capped case, when the claimant has succeeded in her principal remedy case and in all the circumstances of this case, to embark on either such analysis when we are satisfied by cogent evidence that she has sustained losses beyond that cap. The Compensatory Award which we make is £59,701.07.

62 The claimant made reference in her remedy document to legal costs and to the increased hurt caused by the fact that her termination date (30 June) accorded with the anniversary of her bereavement, and that the latter was a matter of a breach of the respondent's duty of care to her. These matters do not properly fall into our assessment of either Basic or Compensatory Award on the findings we have made in this and the previous hearing. Nonetheless we have taken into account the claimant's strength of character against adversity throughout. It has informed our conclusion that she would have secured an alternative post had the redeployment policy provided for in the respondent's frameworks been afforded to her.

_____

Employment Judge JM Wade
Date: 20 November 2018

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.