EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4111439/2019

Held in Glasgow on 15 January 2020 (Final Hearing)

Employment Judge I McPherson

Mrs Linda Roberts	**Claimant** **In Person**
Maintenance & Building Preservation Ltd	**Respondents** **Represented by:** **Ms Ruth Moffett - Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that: -

(1) the respondents concede that the claimant was constructively dismissed by them on 13 August 2019, following a meeting with their company directors, Leonard McComb and Alan Key.

(2) having heard parties' evidence on the respondents' argument that the claimant's constructive dismissal was a fair dismissal, on account of redundancy, the Tribunal rejects that argument as not well-founded, and finds that the claimant was unfairly dismissed by the respondents.

(3) in respect of that unfair constructive dismissal, the Tribunal makes a declaration that the claimant was unfairly dismissed by the respondents, and orders the respondents to pay to the claimant a monetary award in the total

sum of **THREE THOUSAND, SIX HUNDRED AND FOURTEEN POUNDS, TWENTY PENCE (£3,614.20)** as compensation for unfair dismissal.

(4) the claimant having been in receipt of Universal Credit after termination of her employment with the respondents, the **Employment Protection (Recoupment of Benefits) Regulations 1996** apply; the prescribed element is **£651.20**, and relates to the period from 13 August 2019 to 15 January 2020; and the monetary award exceeds the prescribed element by **£2,963.**

(5) the respondents having conceded that they failed to provide written particulars of employment to the claimant, as required by **Section 1 of the Employment Rights Act 1996**, the Tribunal orders the respondents, in terms of **Section 38 of the Employment Act 2002**, to pay to the claimant the higher amount of 4 week's pay amounting to **SIX HUNDRED AND FIFTY SIX POUNDS, EIGHTY PENCE (£656.80).**

(6) further, the respondents having conceded that they failed to pay holiday pay owing to the claimant, as required by **Regulation 14 of the Working Time Regulations 1998**, the Tribunal orders the respondents, in terms of **Regulation 30 of the Working Time Regulations 1998**, to pay to the claimant the sum of **ONE HUNDRED AND FOURTEEN POUNDS, NINETY FOUR PENCE (£114.94).**

REASONS

Introduction

1. This case called before me on the morning of Wednesday, 15 January 2020, at 10.00am, for a Final Hearing, further to Notice of Final Hearing issued by the Tribunal to both parties on 15 November 2019, setting aside one full day for the case's full disposal, including remedy if appropriate.

Claim and Response

2. Following ACAS early conciliation between 28 August and 12 September 2019, the claimant, who is representing herself, presented an ET1 claim form to the Employment Tribunal on 2 October 2019, complaining that she had been unfairly

dismissed by the respondents, on 13 August 2019, and stating that she was claiming a redundancy payment from them, and that she was owed holiday pay. She further complained that she had not received any written statement of employment particulars from the respondents, despite having been employed by them for many years.

3. In a detailed, two-page paper apart, dated 30 September 2019, the claimant explained that she believed that the respondents had made a fundamental breach of contract by reducing her hours without any consultation and by doing so completely destroyed any trust or confidence she had and for these reasons she believed that she was constructively dismissed by them. In the event that her complaint was to be successful before the Tribunal, the claimant indicated that she was seeking an award of compensation from the respondents.

4. Her claim was accepted by the Tribunal, on 7 October 2019, and a copy of the claim was served on the respondents, on that date, at their place of business, requiring them to lodge an ET3 response at the Glasgow Tribunal office by 4 November 2019 at the latest.

5. Thereafter, on 1 November 2019, an ET3 response form was lodged, on the respondents' behalf, by Mr Leonard McComb, a director of the respondents company defending the claim, and setting forth the grounds of resistance in a separately attached, two-page typewritten paper apart. That response was accepted by the Tribunal, on 5 November 2019, and a copy was sent to the claimant and ACAS. The file was then referred to an Employment Judge for Initial Consideration.

6. On 6 November 2019, Employment Judge Rory McPherson, having considered the file, ordered that it proceed to a one-day Final Hearing on a date to be determined, and he issued standard case management orders for that Final Hearing, dated 6 November 2019, which were sent to both the claimant, and Mr McComb for the respondents, under cover of a letter from the Tribunal on 6 November 2019.

7. In terms of those standard orders, the claimant wrote to the Tribunal, on 12 November 2019, enclosing a Schedule of Loss, together with supporting

documentation, which she stated had also been sent to the respondents, by recorded delivery letter addressed to Mr Alan Key and Mr Leonard McComb, directors of the respondents.

8. Thereafter, by letter to the Tribunal, dated 19 November 2019, Mr McComb sent copy of a letter sent to the claimant on that date, and that copy correspondence was received by the Tribunal on 20 November 2019. Subsequently, by letter to the Tribunal dated 25 November 2019, but only received at the Tribunal on 6 December 2019, Mr McComb sent the Tribunal a copy of a letter sent to the claimant on 29 November 2019.

9. Finally, by letter from the claimant, addressed to the Tribunal, on 16 December 2019, and received at the Tribunal on 18 December 2019, the claimant intimated to the Tribunal, with copy sent to the respondents, her updated Schedule of Loss as at 15 January 2020, with supporting documentation.

Final Hearing before this Tribunal

10. When the case called before me, for this Final Hearing, the claimant was in attendance, unrepresented, but accompanied by her daughter, Ms J Roberts, for moral support, and as an observer. The respondents were represented by Ms Ruth Moffett, junior associate solicitor with Clyde & Co, Glasgow, who had emailed the Tribunal the previous afternoon, at 16:07 hours, with copy email sent to the claimant, advising that she had very recently been instructed to represent the respondents at this Final Hearing.

11. Following receipt of her firm's instructions in this matter, Ms Moffett attached an "***opening submission***" document that she intended to raise as a preliminary issue at the start of this Hearing, and she stated that she was providing it by email that afternoon to clarify certain issues and to allow fair notice that she would be raising those matters at the start of this Final Hearing.

12. I was advised that the respondents would be leading evidence from one of their directors, Mr Leonard McComb, and that the other director, Mr Alan Key, who was present, and in the hearing room, observing, was not being led as a witness

for the respondents, while the respondents' team was also accompanied by an observer, Ms F McGurran, from their insurers.

13. The claimant confirmed that she would be giving evidence on her own behalf, and that her daughter was not being called as a witness. She added that she had received a hard copy of the respondents' opening submission about ¼ hour before the start of this Final Hearing, just after 10.05am.

14. The claimant had brought to the Final Hearing her own bundle, duly paginated, and indexed, running to some 54 pages. However, only pages 1 to 40 were in the folders provided to the Tribunal, with "supporting documents" at pages 41 to 54 not included. The claimant had, on 12 November and 9 December 2019, written to the Tribunal, with copy to the respondents, enclosing a copy of her supporting documentation, so I had access to that in the Tribunal's casefile.

15. For the respondents, Ms Moffett tendered a separate bundle, extending to 57 pages, to which was added, in the course of the Final Hearing, at pages 58 and 59 of the respondents' bundle, the respondents' comments on the claimant's Schedule of Loss dated 15 January 2020. As this respondents' bundle included the claimant's supporting documents, I treated it as the main bundle for use at this Hearing.

16. Ms Moffett explained that while her index referred to an acknowledgement of correspondence, dated 6 December 2019, as being page 57, there was no page 57 document in her bundle, and it was to be found in the claimant's bundle at page 31, being a letter from the Tribunal.

17. I noted, from the paper apart to the ET3 response, at pages 21 and 22 of the respondents' bundle, that Mr McComb had referred to being contacted by ACAS, and the respondents offering the claimant £1,000 as a goodwill gesture to draw a line under the matter. So too, at page 37, I noted the respondents' letter to the claimant, on 19 November 2019, referring to the claimant having refused a financial offer from them.

18. I stated that, under **Section 18(7) of the Employment Tribunals Act 1996**, anything communicated to a conciliation officer in connection with the

performance of their conciliation duties shall not be admissible in evidence in any proceedings before an Employment Tribunal, except with the consent of the person who communicated it to that conciliation officer. No consent was given by the respondents.

Clarification of issues before the Tribunal

19. Arising from discussion with both the claimant, and Ms Moffett for the respondents, as regards the terms of the respondents' opening submission, I noted that the respondents had conceded that the claimant was entitled to resign, and claim constructive dismissal, but the respondents sought to advance a potentially fair reason for the claimant's constructive dismissal, namely redundancy.

20. In these circumstances, I stated that, rather than hearing from the claimant first, as in the usual alleged constructive dismissal situation where dismissal is denied by the respondents, the Tribunal would proceed by hearing evidence first from the respondents, who had accepted that the onus was on them of leading evidence at this Final Hearing in support of their potentially fair reason for the claimant's constructive dismissal by the respondents on 13 August 2019.

21. Further, and again as detailed in the respondents' written opening submission, the respondents having conceded that the claimant is due a statutory redundancy payment, calculated at £2,463, evidence before this Hearing could be limited to her claims for past compensatory loss, and any future compensatory loss that the claimant might be due, and it was noted that the respondents also accepted that certain further sums were to be paid to the claimant, being (a) the sum of £656.80 in relation to failure to provide written particulars; (b) the sum of £114.94 due in respect of holiday pay; and (c) the sum of £500 in respect of loss of statutory rights.

22. In response to an enquiry from me, as presiding Employment Judge, as to whether or not there was any scope for parties to jointly agree a **Rule 64** Consent judgment, or order, in any of these regards, and as to whether or not any of the agreed sums had been paid to the claimant, Ms Moffett, having taken

instructions, advised that none of the sums agreed for payment had, as yet been paid to the claimant.

23. Ms Moffett added that she would update the Tribunal as and when any agreed payments were made, in order that the Tribunal might consider whether those matters were still before it for judicial determination, or not, or whether, if resolved extra-judicially between the parties, those parts of the claim might be withdrawn by the claimant, and dismissed by the Tribunal.

24. No other preliminary matters were raised with the Tribunal by either the claimant or Ms Moffett for the respondents.

Evidence led at the Final Hearing

25. On account of that clarification of the issues, I then proceeded to hear sworn evidence for the respondents, from Mr Leonard McComb, who was cross examined by the claimant, and asked questions of clarification by myself as Employment Judge, before, as agreed with both parties, I then elicited the claimant's evidence in chief, by asking her a series of structured and focused questions, designed to elicit the evidence which I required for the purposes of this Final Hearing, and the claimant was thereafter cross examined by Ms Moffett for the respondents.

Findings in Fact

26. I have not sought to set out every detail of the evidence which I heard, nor to resolve every difference between the parties, but only those which appear to me to be material. My material findings, relevant to the issues before me for judicial determination, based on the balance of probability, are set out below, in a way that is proportionate to the complexity and importance of the relevant issues before the Tribunal.

27. On the basis of the sworn evidence heard from Mr McComb, director from the respondents, and the claimant in person, at this Final Hearing, and the various documents included in the two documents Bundles provided to me, I have found the following essential facts established: -

(i) The claimant, aged 63 at the date of this Final Hearing, was formerly employed by the respondents as a part time administration assistant, at their premises in Grangemouth.

(ii) Her employment by the respondents commenced on or about 1 September 2008, and ended on 13 August 2019, when she resigned from the respondents' employment.

(iii) As at the effective date of termination of the claimant's employment with the respondents, which was agreed between the parties as being 13 August 2019, the respondents had a staff of 11 at their premises in Grangemouth, including the two company directors, Mr Leonard McComb, and Mr Alan Key.

(iv) The respondents are a private limited company who are engaged in commercial activities, including timber preservation works and surveys. The respondents were incorporated as a company about 29 years ago.

(v) When the claimant began working with them, around 1 September 2008, as a part time administration assistant, she was engaged by them on the basis of 20 hours per week, and she had been employed by them, on that basis, throughout the duration of her employment, which ended with her resignation on 13 August 2019.

(vi) The claimant's normal working week was a full day on a Tuesday, plus 3 half-days, on Wednesday, Thursday and Friday, making 20 hours over 2.5 days per week.

(vii) Notwithstanding the length of the claimant's employment by the respondents, she has, at no time, received from the respondents, any written statement of particulars of employment.

(viii) Had the claimant been absent from work on grounds of illness, in the absence of any written contract making contractual provision for sick pay, the respondents would only have paid her statutory sick pay (SSP).

(ix) It was agreed by the parties that, for a 20-hour week, the claimant was paid at the rate of £164.20 per week gross, pay before tax, equating to £8.21 per hour, producing net weekly take-home pay of £162.80. No copy payslips vouching these sums were produced to the Tribunal by either party.

(x) As per the copy statement dated 31 March 2019 from NEST, produced at pages 43 and 44 of the respondents' bundle, the claimant joined the NEST workplace pension scheme on 6 January 2016, and both she and the respondents made contributions to that NEST pension scheme. Her NEST retirement date is 2 May 2022.

(xi) Within the respondents' office staff, they employed another member of office staff, Miss Kirsty Taylor, who was employed as a part time accounts administration assistant (otherwise sometimes referred to as accounts administrator) for 30 hours per week.

(xii) Miss Taylor's normal working week was all day Monday, off on a Tuesday, to 3pm on a Wednesday, and 2 full days on Thursday and Friday, making 30 hours over 4 days per week. She was the office manager.

(xiii) Whilst the claimant and Miss Taylor both had different remits, they were expected to know enough of each other's work to provide cover during absences and holidays. This arrangement had been in place since the claimant started working there 10 years ago. Miss Taylor had been employed for about 14 years, and there was somebody else employed, part-time, before the claimant started with the respondents.

(xiv) While the claimant provided administrative support to Mr McComb and Mr Key, including booking surveys, typing up reports, and diary management, Miss Taylor's duties were more extensive in nature, including PR, admin, books and management accounts, tax and VAT returns, bank reconciliations, and payments to sub-contractors.

(xv) While the respondents engaged an external accountant for the company, Miss Taylor provided information to them, and they were only involved at the year-end. Mr McComb stated that there were no written job descriptions, or role profiles, for either job.

(xvi) In April 2019, during a conversation Miss Taylor told the claimant that as her son was turning 18, she would be losing her working tax credit and that her weekly income would reduce by around £95 per week at the end of August 2019.

(xvii) The claimant asked Miss Taylor what she intended to do and she told the claimant that it was her intention to approach both directors, Mr Alan Key and Mr Leonard McComb, owners of the respondents, to ask for an increase in both her hourly rate of pay from £8.25 to £9.00 per hour and an increase in her hours from 30 to 40.

(xviii) To justify the 10 extra hours, the claimant recalled that Miss Taylor said she would suggest that she help Mr Key with council contracts. He had just been successful in April 2019 in obtaining a further substantial contract for the respondents with a council covering a three-year period.

(xix) Miss Taylor thought he would benefit from her assistance in managing the various jobs. She said that she would put her "cards on the table" and, if they refused her request, then she would have to look for further employment.

(xx) Shortly after this discussion between Miss Taylor and the claimant, the claimant came into work one day, again in April 2019, to be told by Miss Taylor that she had her meeting with Mr Key and Mr McComb, and she had advised them of her impending financial loss at the end of August and its implications.

(xxi) According to the claimant, Miss Taylor advised her that Mr Key and Mr McComb had advised her that they could not justify 10 extra hours, nor £9 per hour. They told her the best they could do was to increase her

hourly rate from £8.25 to £8.45, which they did. Miss Taylor told the claimant that she informed them at that time that she would therefore need to look for other employment.

(xxii) There was no further discussion and the claimant's colleague, Miss Taylor, therefore started applying for other work. She attended a number of interviews and asked the claimant to change her hours on two occasions to suit her interview times. She also asked the claimant if she would give her a reference and the claimant agreed to this.

(xxiii) On Monday 29th July 2019, Miss Taylor telephoned the claimant at home to advise her that she had an interview on the afternoon of Friday 2nd August 2019 and asked the claimant to change hours that day. When the claimant agreed to do so, Miss Taylor informed Mr McComb that she had an interview for a job and that she had asked the claimant to cover for her.

(xxiv) The claimant finished up that same day, 2nd August 2019, for a week's holiday and she was due to return on Tuesday 13th August 2019. The claimant then heard from Miss Taylor by text on 6th August 2019 saying that her interview went well and that she hoped to hear that week.

(xxv) On Sunday 11th August 2019, the claimant had a missed a call at home from Miss Taylor. The claimant therefore telephoned her at work around lunchtime on Monday 12th August 2019 to find out why she had phoned. During their phone conversation, Miss Taylor told the claimant that Mr Key and Mr McComb had increased her hourly rate to £9 and her hours from 30 to 40. This had happened the previous week whilst the claimant was on holiday.

(xxvi) Although the claimant was quite surprised, the claimant congratulated Miss Taylor. When the claimant asked her what extra work, they had decided to give her she hesitated and she didn't answer. The claimant thought it was because the two directors were in the office so the

claimant ended the conversation and said that she would see Miss Taylor at work on Wednesday 14th.

(xxvii) The claimant returned to work from holiday on Tuesday 13th August 2019. In the afternoon shortly before her finishing time, both Mr Key and Mr McComb came into the room where the claimant was sitting at her desk. Mr McComb sat down at the claimant's colleague's desk and said, "***we are going to have to change your hours***".

(xxviii) The claimant asked what he meant and he said, "***cut them".*** The claimant asked, "***to what***" to which he replied, "***cut Tuesdays".*** (The claimant worked 8 hours on a Tuesday). The claimant said, "***you mean you are cutting my hours to 12 per week"?*** He replied ***"yes".*** The claimant then said, "***I can't believe this is happening***". He said that they had increased the claimant's colleague's hours to 40 per week as her job was the "***main job"*** and that the claimant was only there ***"as cover".***

(xxix) At this point the claimant became very upset and said "***how can you do this to someone? I have given you 11 years loyal service."*** The claimant then said to Mr McComb "***How many times over the past 11 years have you phoned and text me between 7 and 8 in the morning to come in because Kirsty phoned in sick and I have done it?"*** The claimant even went in on one occasion at 8 in the morning to allow him to play all day in a golf tournament. He agreed that this was true.

(xxx) The claimant then asked, "***How can you justify 40 hours for that job?"*** (her colleague's job). He replied saying "***she will be doing some of that work"*** and pointed to the claimant's desk. He further said that Miss Taylor's job "***had to be 40 hours***" and the claimant therefore asked, "***why has it been 30 hours for the past 11 years?".*** Both Mr Key and Mr McComb could not answer the claimant's question.

(xxxi) At that point the claimant said she knew why it had to be 40 hours. Kirsty Taylor had told them that she needs to work 40 hours because of her financial situation. She felt the company didn't want to lose Kirsty, so they were cutting 8 hours from the claimant to make up some of the 10 hours they had given to Kirsty.

(xxxii) Mr McComb said, "***you are not busy enough and we can't justify paying you for 20 hours".*** The claimant said, "***you can't justify 20 hours if you take work from me to give to Kirsty".***

(xxxiii) The claimant became very agitated and said that she could barely live on what the respondents paid her, and how could she survive on less than £100 per week. At this point Mr Key laughed and said, "***why don't you go and try to claim benefits?".*** The claimant then said to both that they were in fact "***sacking me***", which they denied. The claimant said that they were putting her in an impossible position and that as far as she was concerned, they were sacking her because by their action they left the claimant no alternative but to leave.

(xxxiv) The claimant was very upset and felt that there was nothing else she could say. They were adamant that the claimant's hours were being cut. The claimant got up, put her coat on and told them ***"I'm leaving"*** and further said to both directors "***you have no honour***". The claimant left the premises.

(xxxv) On 18th August 2019 the claimant received a text from Miss Taylor saying "***tried phoning the other night. Hope you're ok***". The claimant did not respond to this text.

(xxxvi) The claimant then received a recorded delivery letter from the respondents on 21st August 2019. She had to pick it up from the Post Office as she was out, at her GP, when delivery was attempted on 20 August 2019. A copy was produced to the Tribunal at page 32 of the claimant's bundle, and page 33 of the respondents' bundle.

(xxxvii) This letter, dated 19 August 2019, confirmed that they had spoken to the claimant on 13th August 2019 intending to "***reduce your hours due to the fact that there is not enough administration work to justify a 20-hour administration assistant position".***

(xxxviii) That letter went on to say that, at no point, did they say they were firing her nor paying her off, but "***simply discussing reducing your hours. You left stating you wouldn't be back and we have had no further communication from you***".

(xxxix) The letter went on to say that the respondents had not heard from the claimant and that if they did not hear from her by Monday 2nd September 2019, they would assume that she was not returning, and they would send the claimant her P45 accordingly.

(xl) Mr McComb, in his evidence to the Tribunal, stated that it was intended to increase Miss Taylor's hours from 30 to 40 per week, as from 1 September 2019. However, as the claimant walked out on 13 August 2019, they had to advertise for a temporary 12 hours per week post, as Miss Taylor was going on holiday in October 2019.

(xli) Further, Mr McComb advised, while they got a new employee to replace the claimant, she stayed for only 3 to 4 weeks, and then went off to a full-time job elsewhere, leaving only Miss Taylor in the respondents' office now.

(xlii) This letter from the respondents, dated 19 August 2019, had crossed in the post with the claimant's resignation letter to the respondents which the claimant sent to them by post on 20th August 2019. An unsigned copy was produced to the Tribunal at page 33 of the claimant's bundle, and page 34 of the respondents' bundle.

(xliii) The claimant advised the Tribunal that she posted the respondents a signed version of her resignation letter. The claimant stated in her resignation letter that: ***"I am writing to give you formal notice of my***

resignation… on 13th August 2019. I feel that I was left with no choice but to resign."

(xliv) She stated that the respondents had acted without any consultation and presented their decision to cut her hours from 20 to 12 a week as a *fait accompli*. She further added that in doing so they had destroyed her trust and confidence in working for the company. She further advised them that she intended to seek advice on her current position.

(xlv) In her evidence to the Tribunal, the claimant stated that she resigned the day she left the respondents' office, on 13 August 2019, but she did not confirm that in writing until the following week, as she stated that she was not well, and she had to wait for a doctor's appointment.

(xlvi) The claimant received a further letter from the respondents on Friday 23rd August 2019, or maybe Saturday 24th. In this letter, dated 21 August 2019, and posted to her, postmarked 22 August 2019, a copy of which was produced to the Tribunal at page 34 of the claimant's bundle, and page 35 of the respondents' bundle, the respondents stated that the meeting on 13th August 2019 was their "***first consultation regarding your reduced hours***".

(xlvii) The claimant felt it wasn't a consultation, it was an imposition. They then went on to say that ***"for over a year there had not been enough work"*** for the claimant's job. The claimant felt this statement was a clear attempt to justify their action. If the claimant did not have enough work for over a year, she queried why would they give her colleague 10 extra hours to do extra work when the claimant could have carried out that extra work within her 20 hours?

(xlviii) Further, the claimant felt that the respondents tried to justify the 10 hour increase to the claimant's colleague's hours by saying that there was a need for Miss Taylor's hours to be increased due to "***an increased level of sub-contractors etc."***

(xlix) However, the claimant highlighted that the "sub-contractor" work, which the respondents maintain required 10 extra hours, refers to the "multi-trades council" contract which began in April 2019, when Mr Key won the contract. This was around the time Miss Taylor had approached them for an increase. She had been doing the "sub-contractor" work within her 30 hours for 4 months. If it required an extra 10 hours, the claimant queried why were Miss Taylor's hours not increased in April 2019 when she started doing the work?

(l) The claimant advised the Tribunal that she would gladly have undertaken extra work rather than be paid 8 hours less. She has 46 years' office administration experience and there was no work in the respondents' office that the claimant could not have undertaken if necessary. This was never offered as an option.

(li) The letter continued that "***we have all worked well together for 11 years"*** and that there was "***no reason why that cannot continue***", and ended by stating that "***we would be willing to have a further consultation"*** and that the claimant should "***If you wish, you can contact us to arrange a suitable appointment"***.

(lii) The claimant did not take up the offer made in the respondents' letter of 21 August 2019 to arrange an appointment to have a further consultation with them. Their first letter, of 19 August 2019, had asked about her intentions – the respondents did not offer her a meeting until their next letter of 21 August 2019.

(liii) She did not meet with the respondents. In her evidence, she advised the Tribunal that the respondents had no grievance policy, so she felt a meeting would have been more discussion, and it felt to her ***"like going into the lion's den",*** as there would be no third party to act as an independent.

(liv) Instead, she went to the Citizens Advice Bureau in Grangemouth, before going to ACAS, and she began early conciliation, which ran between 28 August and 12 September 2019.

(lv) On 27th August 2019, the respondents advertised a part time administration assistant job at 12 hours per week in the local Job Centre. Somebody saw it there, and told the claimant about the job advert.

(lvi) The claimant saw this as being her old job, from which she had resigned, although Mr McComb explained in evidence to the Tribunal that the advert clearly states (as per the copy produced at page 35 of the claimant's bundle, and page 36 of the respondents' bundle) that it is ***"temporary possibly leading to permanent".***

(lvii) The respondents recruited a temporary employee to fill that 12 hours a week post, but the Tribunal was advised that that employee, a female, had since left the respondents' employment to obtain full-time employment elsewhere. No specific evidence was given of the start or end dates of that employee's temporary employment by the respondents.

(lviii) The Tribunal was further advised, in Mr McComb's evidence at this Final Hearing, that since that temporary employee left, Miss Taylor has been completing all of the respondents' administrative work, as well as her other duties, and that this is proving sufficient.

(lix) Since her employment with the respondents ended, on 13 August 2019, the claimant advised the Tribunal that she has been suffering with stress and depression due to the position she now finds herself in.

(lx) The claimant is now faced with trying to find other employment which she thinks is going to be extremely difficult. She advised the Tribunal that, being 63 years of age and less than 3 years from retirement, she had had thought she would be employed by the respondents until retirement.

(lxi) After her employment with the respondents ended, on 13 August 2019, the claimant has not secured any new employment with another employer. In cross-examination, she stated that she had had no odd

jobs, no temporary jobs, and no earnings from any other job, whether casual, temporary, bank, or whatever.

(lxii) The claimant stated that that was because she is unwell, and she referred to the fit notes from her GP, from 20 August 2019 to 13 January 2020, all stating that she is not fit for work due to stress.

(lxiii) In particular, the claimant spoke of being on anti-depressants, and the stress being caused by losing her job, at her age, and questions about her future for the next few years, and finding a new job.

(lxiv) Further, in cross-examination, the claimant stated that it will take her time to start applying once this Tribunal case is over, and she can start looking. She spoke of being so stressed and depressed that she cannot look now, as she could not conduct herself at any interview. Once this case is resolved, the claimant stated that she can build her confidence back up again, and get another job for the next 2 to 2 &1/2 years.

(lxv) While she stated she has a CV, the claimant stated that she has not updated it since she resigned from the respondents' employment, and that she had not looked, other than occasionally, for other office jobs. She had not applied for any office jobs, despite 46 years' experience. She further stated that she has not been well enough to do training courses, and that her GP does not think she is fit to work at present, as she is on anti-depressants.

(lxvi) The Tribunal finds that the claimant has failed to mitigate her losses. In evidence, she admitted to the Tribunal that she has not made any applications for work since 13 August 2019, a five-month period to date of this Final Hearing. Her failure to do so is unreasonable in all the circumstances.

(lxvii) She did not take up the respondents' offer on 21 August 2019 of a further meeting to discuss her case, and she took no steps to seek alternative employment with a new employer. She has 46 years' office

administration experience. She has prepared for this Tribunal herself, and represented herself.

(lxviii) Further, the claimant advised this Tribunal that she needs to rebuild her confidence, and get back to applying for jobs, and going for interview. She stated that she has no intention of staying on anti-depressants for the rest of her life, and added that she could carry on working after retirement age.

(lxix) She further stated that she felt it would not be easy to get a new job, at her age of 63, and that it was a "***tall order***" for her to get a new job. On that basis, with her loss of confidence, and how she sees the job market, the claimant stated that, while she hopes she is wrong, her estimate is 52 weeks for her to get a new job.

(lxx) The claimant has relied on receipt of State benefits, and she has not made any efforts to re-enter the jobs market to find suitable new employment, e.g. by updating her CV, submitting applications to prospective new employers, and / or seeking to be retrained in another skill.

(lxxi) As per the copy documents produced at pages 45 to 48 of the respondents' bundle, the claimant has been in receipt of Universal Credit, a State benefit, after termination of her employment with the respondents.

(lxxii) In her evidence, the claimant advised the Tribunal that she receives £63.85 per fortnight as Universal Credit, and that she also receives a Personal Independence Payment ("PIP") at the rate of £22 per week. She stated further that she has been in receipt of PIP for possibly 6 to 7 years, and she received PIP while employed by the respondents.

(lxxiii) Further, the claimant is also in receipt of a monthly pension from Falkirk Council, as per the copy pension advices produced at pages 53 to 55 of the respondents' bundle, showing £196.86 per month.

(lxxiv) It relates to her former service with that Council as a retired local government officer, with 12 years' service decades ago, and it is not related to her former employment with the respondents. While employed by the respondents, she was in receipt of that pension from that former employer. That pension was deferred until last year when she reached 63 years of age.

28. At this Final Hearing, the claimant stated that she sought compensation from the respondents, in terms of her updated Schedule of Loss as at 15 January 2020, a copy of which was included in the claimant's bundle at pages 39 and 40, and in the respondents' bundle at pages 40 and 41. It was in the following terms:

SCHEDULE OF LOSS AS AT 15TH JANUARY 2020

CONSTRUCTIVE DISMISSAL

BASIC AWARD

Effective Date of Termination (EDT)	*13.08.2019*
Age at EDT	*63*
Number of years' service at EDT	*10*
Statutory week's pay	*£164.20*
15 weeks x £164.20 per week	*£2463.00*

COMPENSATORY AWARD

I am still unemployed and have been unable to work due to ill-health since the end of my employment.

PAST LOSSES

Loss of Earnings

Net Pay: £162.80 per week

Length of time out of work: 22 weeks	*£3581.00*

Less Income Received

I have a monthly pension from previous employment:

£196.67 per month x 3 (August 2019 – January 2020)

-£1180.00

FUTURE LOSSES

I have an ongoing loss of £162.80 per week.

I estimate that this loss will continue for a period of 12 months. Although I have over 46 years office administration experience, given my age of 63 years and being less than two and a half years from retirement, I submit it is likely to take me longer to find work than a younger worker.

TOTAL FUTURE LOSS (52 x £162.8) *£8465.00*

LOSS OF STATUTORY RIGHTS

I would have to work two years to regain protection from unfair dismissal and I submit it would be appropriate to award £500 to reflect my loss of statutory rights.

£500

TOTAL COMPENSATORY AWARD ***£11366.00***

HOLIDAY PAY

My leave year: 1st January – 31st December

Amount of holiday accrued at EDT: 12.5 days

Amount of holiday taken: 10 days

Number of days holiday owed: 2.5 days (14 Hours)

14 x £8.21 per hour

TOTAL *£114.94*

AWARD FOR FAILURE TO

PROVIDE A WRITTEN STATEMENT OF PARTICULARS

I was not provided with a written statement of my terms and conditions of employment as required by Section 1 of the Employment Rights Act 1996.

I argue that an additional award of 4 weeks' statutory pay should be made.

TOTAL 4 weeks x £164.20

29. In a document entitled "***Respondent's comments on Claimant's Schedule of Loss",*** as handed to the Tribunal, with copy to the claimant, at this Final Hearing, and added into the respondents' bundle as pages 58 and 59, the respondents accepted the claimant's calculation of a basic award at £2,463.00; they disputed her past losses quantified at £3,581.00, and submitted that she was due £2,347.70, comprising 4 weeks' net pay @ £162.80 = £651.20, plus 18 weeks' SSP @ £94.25 = £1,696.50, less other amounts of income received by her.

30. This document from the respondents needs to be read along with paragraph 3.10 of Ms Moffett's written closing submissions, the terms of which are detailed below, at paragraph 44 of these Reasons, making it clear that these figures are the maximum that the respondents accept the claimant should be found entitled to.

31. Further, the respondents disputed the claimant's asserted future losses quantified by her at £8,465.00, and stated that she was due "***none***", and that her past and future losses should be capped at her gross annual wage stated to be £8,538.40. I pause to note that as net wage is £162.80 per week, that figure, multiplied by 52, should compute as £8,465.60.

32. Finally, the respondents confirmed that they accepted the claimant's figures of £500 for loss of statutory rights; £114.94 for holiday pay; and £656.80 for an award for failure to provide a written statement of employment particulars. Adding

them to the accepted £2,463 for basic award, they computed the total for accepted claims as £3,734.74.

33. In her evidence to the Tribunal, the claimant stated that she was seeking the amounts shown in her Schedule of Loss as at 15 January 2020, and she further stated that she did not accept the disputed items identified by the respondents in their comments document.

34. The claimant confirmed, at this Final Hearing, that she remained unemployed, and she had been unable to work due to ill health since the end of her employment with the respondents on 13 August 2019.

35. Four copy Med 3 fit notes from her GP, certifying to her unfitness to work, were produced to the Tribunal, at pages 39 to 52 of the respondents' bundle, where the claimant's GP has stated that, from 20 August 2019 to 13 January 2020, the claimant's case has been assessed and, on account of "***stress"***, the GP had advised the claimant that she is not fit to work.

36. As the claimant was not employed by the respondents, from and after 13 August 2019, she did not show these fit notes to the respondents as her former employer. She provided them to the respondents as part of her documents bundle.

37. While, by the respondents' letter to the claimant, of 19 August 2019, copy produced to the Tribunal at page 33 of the respondents' bundle, the respondents asked her to let them know her intentions, they also stated that:

> ***"If you have left our employment, please let us know in writing. However, if we haven't heard from you by Monday 2 September, we will assume you are not returning and will send your P45 accordingly."***

38. At this Final Hearing, it was conceded by the respondents that no P45 had been issued to the claimant, but that arrangements would be made by the respondents to do so as soon as possible after the close of this Final Hearing. A P45 was subsequently issued to her by the respondents, on Friday, 17 January 2020, and

a copy sent to the claimant and the Tribunal. It gives 13 August 2019 as the claimant's leaving date.

Tribunal's assessment of the evidence

39. In considering the evidence led before the Tribunal, I have had to carefully assess the whole evidence heard from Mr McComb, on behalf of the respondents, and the claimant in person, and to consider the many documents produced to the Tribunal, in the separate bundles of documents lodged for this Final Hearing. My assessment of that evidence is now set out in the following sub-paragraphs: -

(1) Mrs Linda Roberts: Claimant

(a) Given the respondents' concession that there had been a constructive dismissal, and the fact that they led evidence first at this Final Hearing, the claimant was the second witness to be heard by the Tribunal, after I had heard evidence from Mr McComb, on behalf of the respondents.

(b) The claimant gave her evidence clearly, and confidently, referring, when appropriate, to the relevant documents in her bundle, or the respondents' bundle. When she came to be cross examined by Ms Moffett, acting as the respondents' solicitor, the claimant's answers to her questions did not undermine her evidence in chief, where her position remained consistent, under cross examination, with the narrative of her claim as set forth in her ET1 claim form, and her own later evidence in chief at this Final Hearing.

(c) Overall, the claimant came across to the Tribunal as a credible and reliable witness and, where there was a dispute as between her evidence, and that of Mr McComb, as to what was discussed at the meeting on 13 August 2019, I have preferred the claimant's evidence, which had the ring of truth to it, and it was generally consistent with her narrative of events in the

paper apart to her ET1 claim form, as spoken to by her in her own evidence at this Final Hearing.

(d) Commenting on the respondents' defence to her claim, as pled at this Final Hearing, the claimant stated that their case that her work had diminished "***just doesn't stack up to scrutiny",*** given the new work coming into the business, and she further commented that it "***makes no sense how to run their admin office."***

(e) Further, the claimant was adamant that the respondents had cut her hours to maximise Miss Taylor's, and that they had invented statements about her work. Under cross-examination by Ms Moffett, solicitor for the respondents, the claimant stated that she disagreed with the proposition put to her that her 20 hours per week role was quiet, and not busy.

(f) She commented that there were periods when she was busy, and that with building work, and time of the year, there had always been peaks and troughs in the respondents' business throughout her employment there.

(g) When asked about playing computer games, the claimant accepted that she did so, on occasions, if she didn't have work to do, but not all the time, and she also stated that when she asked Miss Taylor for other work, if nothing was given, Miss Taylor had told her to spread some papers across her desk, as that is what she did.

(h) She added that she did work, when there was work to be done. She stressed that she never refused to do any work for the company, but she lacked confidence in doing certain things, e.g. card payments, and she further explained that she is not the most confident of people, and she was basically fearful she would make a mistake with a financial matter, but she felt that,

with more training and experience, she could have done Miss Taylor's job.

(i) When it was suggested she was unwilling to do things, the claimant cited a key document she had prepared, on 26 June 2019, to update a risk assessment and method statement for Clackmannanshire Council.

(j) She detailed how, with Mr Key being on holiday, she had spent the best part of that day typing up a 14 page, very professional document, of which she felt proud, but Mr McComb barely glanced at it and told her to put it on Mr Key's desk when he came back. While recognising that she is not a saint, the claimant stated that she received no positive feedback from that work done for the respondents, where she was trying to help out.

(k) When asked whether she was aware that Miss Taylor was now doing all the admin work for the respondents, the claimant stated that as she and Miss Taylor have no contact, she has no idea what Miss Taylor is now doing for the respondents. The claimant accepted that Miss Taylor's role was more senior than hers, and she agreed that there were key differences in their roles and responsibilities, describing Miss Taylor's role as more finance based.

(l) I felt the claimant's answers in reply to cross-examination were plain and straight forward, and that she did not seek to be evasive or equivocal. She made concessions, where appropriate to do so, and fully set out her position in reply to Ms Moffett's questions to her. She came across as an honest and accurate historian of the various events which had taken place, and I found her evidence to be convincing, with the exception of her evidence about mitigation of loss.

(m) In that regard, I noted that the claimant's evidence was that she had been unable to work due to ill-health since the end of her employment with the respondents on 13 August 2019. Her first GP fit note was issued on 20 August 2019.

(n) The fact of the matter is that while her GP certified her as unfit to work, from and after 20 August 2019, due to "***stress***", I have found that the claimant unreasonably failed to mitigate her losses, by failing to make any applications to find new employment. She raised these Tribunal proceedings against the respondents, and sat back, doing nothing proactive to seek out new employment.

(2) Mr Leonard McComb: Respondents' director

(a) The respondents' only witness was Mr McComb, aged 62. A joiner to trade, he explained that he is a self-taught building preservation surveyor, rather than a chartered surveyor. He formed the respondents as a company, about 29 years ago, and he described his qualifications in dealing with people as self-taught.

(b) His evidence in chief was elicited by questions asked by the respondents' solicitor, Ms Moffett, and, in giving his evidence, and referring, where appropriate, to appropriate documents in the respondents' bundle, Mr McComb's evidence was often vague, with no clear recollection, in particular, of the meeting with the claimant on 13 August 2019.

(c) He recalled him and Mr Key having a "***talk***" with the claimant "***sometime in the beginning of August 2019."*** He described it as a "***discussion"***, rather than a formal meeting, and recalled that "***it didn't last long***", later quantifying that as "***10 minutes max."*** As it was "***just an informal discussion really***", Mr McComb stated that is why no note was taken of the meeting held with the claimant on 13 August 2019.

(d) As such, while Mr McComb spoke to the terms of the various letters exchanged between the parties, and included in the bundle, the terms of which were not in dispute, his lack of recall about the critical meeting of 13 August 2019 led me to have a question mark as to his reliability in that regard.

(e) Further, while Mr McComb spoke of there being a redundancy situation, in respect of the claimant's job with the company, his evidence was all anecdotal, and, other than a redacted purchase order dated 23 July 2019 from Clackmannanshire Council, produced at page 56 of the respondents' bundle, in respect of carrying out damp & rot works as per a contract, the respondents produced no written, contemporary evidence, vouching the respondents' workload, or turnover, despite him referring to the fact that there were monthly management accounts prepared by Miss Taylor.

(f) He described the use of sub-contractors going up 3-fold, and maybe more, ongoing, but his evidence was vague, without any meaningful specification or quantification of the increase in this aspect of Miss Taylor's work. While he spoke of "***doubling our turnover",*** his evidence was again vague and unspecific.

(g) In the respondents' ET3 response, lodged by Mr McComb, on 1 November 2019, the grounds of resistance were set forth in the paper apart, copy produced to the Tribunal at pages 21 and 22 of the respondents' bundle.

(h) It was stated there that: ***"At this time, we had a review of our business and discussed the roles and responsibilities of everyone in our company. Part of our discussion was the role of Mrs Roberts. For some time we had been aware that Mrs Roberts didn't have enough work to keep her busy for 20 hours per week and was sitting with nothing to do for a large part of her working week. While Miss Taylor has made***

us aware that Mrs Roberts did occasionally ask her if she needed help with anything, she never asked us if there was anything she could help with. Mrs Roberts states that she would have been happy to carry out extra work but to be frank, her attitude and demeanour at work dies not support that. She carried out her administration duties adequately but, on the whole, seemed very unwilling to carry out any duties outwith that. We also had doubts as to her competency to carry out any extra tasks that were more complicated than her usual administration duties."

(i) While not formally the claimant's boss, Mr McComb described Miss Taylor as the person who was in charge of the admin office, sometimes referred to as the office manager, and he further described the business set up as "***quite casual but we're still here after 29 years."***

(j) Mr McComb stated that the respondents' review of their business, and job roles and responsibilities, was done by him and Mr Key, in discussion, but "***nothing was detailed***", and the review was never committed to a written format, as one might expect of an employer reviewing their business.

(k) Despite the ET3 response description of the claimant, which he had written as their defence to the claim, and his oral evidence that she was often playing computer games whilst at work, when she had nothing else to do, as reported to him by Miss Taylor, Mr McComb accepted in evidence before this Tribunal that the respondents had never taken any disciplinary, or other, non-punitive action against the claimant, and that her disciplinary record with the respondents was clear of any default.

(l) He stated that they had never taken any pro-active action with regard to the claimant's work, and that their business was

"***quite laid back, not a family company, but like a family company***", and "***we just let it go."*** Further, he stated that she just did her job, but probably could have done a bit more, and while she didn't seem keen to expand her role, "***we never pushed it",*** and they didn't ask her to learn new skills.

(m) In his evidence in chief, Mr McComb described the claimant as maybe doing about 20% of the total admin work, with Miss Taylor at 80%, although he recognised that that did not fit with the 20 hours / 30 hours per week split between the two jobs.

(n) He further stated that it was "***obvious we didn't have enough work for Mrs Roberts***", and he described that as a situation which has existed, "***for a good spell, maybe a year or two.***" Also, he described the claimant as being "***not that busy in the last year."*** His evidence in this regard was vague, and lacked any meaningful specification, or quantification.

(o) Overall, I did not find Mr McComb to be a convincing, or confident witness, and where his evidence was at odds with that of the claimant, as regards that meeting of 13 August 2019, I preferred the claimant's recall of events.

Issues for the Tribunal

40. Given the respondents' opening statement, the issues before the Tribunal were restricted, compared to what they might otherwise have been, the respondents previously having resisted the claim in its entirety. In light of that clarification of the issues, the issues before the Tribunal at the start of the Final Hearing for my determination were as follows:

(i) Given the respondents' concession that the claimant was entitled to resign and claim constructive dismissal, on 13 August 2019, was that dismissal a fair dismissal, for the potentially fair reason of redundancy advanced by the respondents?

(ii) If not a fair dismissal, to what compensation, if any, is the claimant entitled for any unfair constructive dismissal?

(iii) What further sums, if any, is the claimant due from the respondents for other sums outstanding to her as at the end of her employment, in particular for the admitted failure to provide written particulars of employment, and in respect of unpaid holiday pay?

Parties' closing submissions

41. With the claimant being an unrepresented, party litigant, I explained to her briefly, the professional obligation on Ms Moffett, as the respondents' solicitor, to make closing submissions to the Tribunal on the facts and the law, and further explained that is why Ms Moffett had provided to the Tribunal, with copy to the claimant, the following list of case law authorities, and copy judgments, as follows:

1. **Polkey v AE Dayton Services Limited [1988] ICR 142 (HL).**
2. **King v Eaton Limited (No.2) [1988] IRLR 686 (CSIH).**
3. **Williams v Compair Maxam Limited [1982] IRLR 81 (EAT).**
4. **Wood v Mitchell SA Limited [2010] All ER D49: [2010] UKEAT/00018/10 (EAT).**

42. When the evidence closed, at around 3.05pm, I stated to both parties that, as Ms Moffett, the respondents' solicitor, had helpfully prepared a written closing submission on behalf of the respondents, rather than having her read it out, word for word, and thereafter invite the claimant to reply, insofar as she felt able, and it appropriate to do so, it might be best to adjourn, to allow the claimant, in peace and quiet, to read and digest the terms of the written submission by Ms Moffett and, having done so, to then reconvene the public hearing, and invite the claimant to make whatever oral representations she felt appropriate. This approach was agreed by both the claimant, in person, and Ms Moffett, solicitor for the respondents.

43. Before adjourning, I advised Ms Moffett that, when I would come to hear from her, in reply to whatever oral submissions the claimant might make, I would wish her to address me on the relevant law on mitigation of loss, as set forth by the Employment Appeal Tribunal in **Cooper Contracting Limited v Lindsey [2015] UKEAT/0184/15; [2016] ICR D3,** where the then President of the EAT, Mr Justice Langstaff, had summarised the relevant law, in 9 principles as set forth at paragraphs 16 (1) to (9) of his judgment. Ms Moffet stated that she was not familiar with this authority, but she would be able to access it online during the adjournment.

44. It is convenient, at this stage, to note and record the terms of Ms Moffett's written submissions for the respondents, as follows:

*"1. **FACTS***

1.1 I would invite the Tribunal to find that there was clearly a situation where the requirement for purely administrative tasks had reduced at the respondents' company. This was for a variety of reasons as per the evidence we have heard today.

1.2 Meanwhile the requirement for more technical work and accounts work was increasing. This was particularly the case since the respondents won the Council contracts in July 2019.

1.3 As such, there was in substance less of a requirement of work to be done in terms of purely administrative work.

1.4 The Claimant had not been busy in her 20 hour a week role for some time. As per the Response form it is stated –

"For some time we had been aware that [the Claimant] didn't have enough work to keep her busy for twenty hours per week and was sitting with nothing to do for a large part of her working week. While Miss Taylor [the only other employee] has made us aware that [the Claimant] did occasionally ask her if she needed help with anything she never asked us if there was anything she could help with."

1.5 This is further evidenced by the fact that a new employee temporarily started on 12 hours a week but has since left the respondents to obtain full time employment elsewhere. Since then Miss Taylor has been completing all of the respondents' administrative work herself. This is proving sufficient, however it is accepted that have an additional person to provide holiday and sickness absence cover would be preferable.

1.6 The respondents met with the Claimant on Tuesday 13th August 2019 and did state that they were reducing her hours from 20 hours to 12 hours. It had been the respondents' intention to have a discussion with the Claimant as to the reduction of her hours and the respondents was prepared to be flexible when agreeing any reduction.

1.7 The Claimant resigned immediately on being told of the respondents' intention to reduce her weekly hours. The respondents concedes that having evinced an intention not to be bound by the terms of the contract, the Claimant was entitled to resign and claim constructive dismissal in response (which is what she did).

1.8 The respondents wrote to the Claimant and stated that it was willing to have a further consultation meeting. The Claimant failed to engage further.

1.9 However, the respondents maintains that the substance was that there was less of a requirement for the administrative role to be done. In substance therefore the respondents asserts that there are sufficient facts for the Tribunal to find that there was a redundancy situation.

1.10 Accordingly, as per the legal section below, the respondents seeks to advance a potentially fair reason for the Claimant's constructive dismissal, namely redundancy.

2 LAW

2.1 REDUNDANCY

2.1.1 Definition of Redundancy

As the Tribunal is well aware, the statutory definition of redundancy is set out in section 139(1) of the Employment Rights Act 1996 ("ERA"):

"…an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to –

(a) the fact that his employer has ceased or intends to cease –

(i) to carry on the business for the purposes of which the employee was employed by him, or

(ii) to carry on that business in the place where the employee was so employed, or

(b) the fact that the requirements of that business –

(i) for employees to carry out work of a particular kind, or

(ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

As such, the respondents asserts that the Claimant's 20 hours a week role was in fact redundant, though the procedure that they adopted at that first meeting on 13th August 2019 was inadequate. To that extent, Polkey v AE Dayton Services Ltd [1988] ICR 142 and King v Eaton Ltd (no 2) [1998] IRLR 686 are relevant.

You will note that the Claimant resigned without giving notice and did not take up the offer made in the letter of 21st August 2019 to engage in a further consultation meeting. Had the Claimant done so, the respondents would have been likely to have engaged advice on the procedure to follow. The substance of the redundancy situation would have been discussed within that procedure.

2.2 Redundancy Procedure

As the Tribunal is well aware, guidelines to assist in determining whether dismissal for redundancy is fair were set out in the case of Williams v Compair Maxam Ltd [1982] IRLR 81 at paragraph 19:

2.2.1 The employer will seek to give as much warning as possible of impending redundancies so as to enable the union and employees who may be affected to take early steps to inform themselves of the relevant facts, consider possible alternative solutions and, if necessary, find alternative employment in the undertaking or elsewhere;

2.2.2 The employer will consult the union as to the best means by which the desired management result can be achieved fairly and with as little hardship to the employees as possible. In particular, the employer will seek to agree with the union the criteria to be applied in selecting the employees to be made redundant. When a selection has been made, the employer will consider with the union whether the selection has been made in accordance with those criteria;

2.2.3 Whether or not an agreement as to the criteria to be adopted has been agreed with the union, the employer will seek to establish criteria for selection which so far as possible do not depend solely upon the opinion of the person making the selection but can be objectively checked against such things as attendance record, efficiency at the job, experience, or length of service;

2.2.4 The employer will seek to ensure that the selection is made fairly in accordance with these criteria and will consider the representations the union may make as to such selection;

2.2.5 The employer will seek to see whether instead of dismissing an employee he could offer him alternative employment.

It is accepted that this was not gone through in this case. However, if that had been gone through then given that the Claimant was the only Administrative

Assistant in the respondents and given the facts this would have led to a fair dismissal by reason of redundancy.

The respondents is now aware of the appropriate redundancy procedures and will of course follow these in due course.

3 REMEDY

3.1 The Claimant's gross weekly pay was £164.20 and net weekly pay was £164.80.

3.2 The respondents has in telephone conversations with her conceded that the Claimant is due a statutory redundancy payment calculated at £2,463.

3.3 The respondents accepts the sum of £656.80 in relation to failure to provide written particulars.

3.4 The respondents accepts the sum of £114.94 is due in respect of holiday pay.

3.5 The respondents accepts the sum of £500 in respect of loss of statutory rights.

3.6 In the event that the claim succeeds the respondents relies upon the Claimant's supervening ill health to reduce the scope of any compensation awardable.

3.7 Reference is made to Wood v Mitchell SA Limited [2010] All ER D 49 in which the Tribunal awarded compensation up to the date the Claimant became unfit to work due to a supervening illness. The EAT held that the Tribunal had erred in treating any loss after the date as not attributable to the dismissal. The Tribunal ought to have considered, among other things, for how long (after the onset of the illness) the Claimant would have been employed and what sick pay or other benefits she would have received during this period.

3.8 Furthermore, the Claimant would only have been on SSP with the respondents and so her loss is only SSP for up to a maximum of 28 weeks. The current rate of SSP is £94.25 per week.

3.9 It is submitted that given the size of the respondents and the roles involved in the review of the business that the consultation period would have lasted around a week or two weeks. It is submitted that in the circumstances this would have been a fair process. However, the respondents also acknowledges that typically a fair process could take around 4 weeks and so the loss suffered by the Claimant should only be for 4 weeks of net pay. Reference is made to Polkey in this regard.

3.10 The Claimant has failed to mitigate her losses. It appears that the Claimant has not made any applications for work since 13th August, a five-month period, being 22 weeks. It is highly likely work is or would available in the local area for work the Claimant would be able to carry out and that would be similar to her role for the respondents. Whilst the net wage loss for a 22 week period up to this week of the hearing is 22 x £164.80 = £3,625.60 the Claimant is not due this amount in terms of past wage losses. In the event, the Tribunal finds that the Claimant should be entitled to past losses for more than the 4 weeks net pay, it is submitted that the maximum for past wages losses should be 4 weeks x £164.80 = £659.20 to reflect the time for a fair redundancy process to occur and then SSP thereafter at £94.25 per week for 18 weeks.

3.11 In terms of future wage losses, it is likely that the Claimant's health will improve rapidly after the Tribunal has been resolved and she will be able to secure new work. It is submitted that as the Claimant appears to not have attempted to apply for any work to date, the Claimant's prediction of the length of time it will take to obtain another job is pessimistic. As such there should be no award for future wage loss. In any event the maximum compensatory award the Claimant would be entitled to would be her gross annual wage of £8,538.40.

4 Conclusion

The respondents entirely accepts that the procedure adopted was inadequate. However, the substance of a redundancy situation existed. The respondents has attempted to resolve this matter prior to the Full Hearing without success. The respondents accepts that a sum is due to the Claimant but that the sum claimed is entirely excessive given the facts, law and remedy issues as above."

Claimant's Reply

45. When the Hearing resumed, after having provided the claimant an opportunity during the adjournment to read Ms Moffett's written closing submission, I heard from the claimant in reply.

46. The claimant stated that she was just looking for a fair judgment from the Tribunal, and that the way she was dealt with, and what the respondents were saying at this Final Hearing in evidence, just did not stand up to scrutiny, because why would a business on the up, say that the work required from her post was diminishing. She added that she was "***disputing that all the way***", and that, at the meeting on 13 August 2019, the respondents had imposed a 40% pay cut on her, reducing her hours from 20 to 12 per week.

47. Further, the claimant added, she understood why Miss Taylor's job was very important to the respondents, and she agreed with Mr McComb's evidence that Miss Taylor was "***grossly underpaid***", but the claimant further stated that she was looking for compensation for the fact that she is now in the position that she is in, and that this was not necessary, and that it should not have happened to her. She stated that she sought judgment on all her heads of claim, and for all the sums in her updated Schedule of Loss.

48. The claimant further stated that she still sought 52 weeks' future loss of earnings, as it may take her that period of time to find new work, and that her health had become bad because of what had happened to her by the respondents, but that might not continue after this case before the Tribunal had been finally resolved.

Reply for the Respondents

49. When Ms Moffett came to reply, on behalf of the respondents, she confirmed that she had the opportunity to read the EAT's judgment in **Cooper Contracting Limited,** and she accepted that the burden of proof is on the wrongdoer, and that a claimant does not have to prove that they have mitigated loss, but she submitted that the claimant here had acted unreasonably based on the evidence heard at this Final Hearing.

50. While she accepted that the respondents had not given the claimant any notice of other jobs available in the local job market that she might have applied for, Ms Moffett stated that the respondents had tried to discuss matters with the claimant, but the claimant had not applied for any new role, or any other employment, even a couple of days per week, and she had not taken steps to put herself into the market place by updating her CV, or going to a training course, or a temporary employment agency.

51. While the claimant had stated in evidence that she had been off sick, Ms Moffett submitted that the medical evidence produced to this Final Hearing, being notes from the claimant's GP, did not support her failure not to search for work for the 22-week period between effective date of termination, and date of this Final Hearing. Further, she added, there had been no medical evidence produced to this Tribunal to say that the claimant is not fit for work at all, and even the Med3 certificates from her GP, produced to this Tribunal, do not show what the claimant can, or cannot do.

52. Finally, having taken instructions from her clients, Ms Moffett stated that the respondents accepted that no P45 had been issued to the claimant, and she explained that was because the respondents had been hoping to resolve matters with the claimant, and get her back to work, but when it became clear that she had resigned from their employment, Ms Moffett stated that the continuing failure to issue the claimant with a P45 was due to what she described as "***an administrative oversight***" by the respondents.

53. Ms Moffett added that a P45 would be issued forthwith to the claimant, and copied to the Tribunal for information, and that it was agreed by the respondents that the claimant's leaving date, and therefore the effective date of termination of her employment, would be shown as 13 August 2019.

Reserved Judgment

54. In closing proceedings at just after 4.00pm, I advised both parties that I was reserving my judgment, which would be issued in writing, with reasons, in due course, after time for private deliberation in chambers.

55. On 17 January 2020, Ms Moffett wrote to the Tribunal, with copy to the claimant, enclosing the claimant's P45. Her email was referred to me for instructions, and, by reply issued on my instructions, by the Tribunal clerk on 20 January 2020, I noted that a P45 had now been issued to the claimant.

56. As regards the respondents' confirmation that they had no objection to a **Rule 64** Consent Order being granted, in relation to the claims that are now undisputed by the respondents, I stated that I could not issue a **Rule 64** Judgment or Order, of consent of both parties, unless I was satisfied that it is a joint application, and that I thought it fit to make such a Consent Order.

57. As there was no draft **Rule 64** Order submitted by the respondents' solicitor, and accordingly no view expressed by the claimant as to whether or not she agreed the terms of any proposed **Rule 64** Consent disposal, I stated that I could take no further action meantime.

58. In the absence of a draft **Rule 64** Consent proposal, that both parties had indicated their agreement to, parties were advised that I would proceed on the basis that all heads of claim were to be dealt with in the final Judgment, unless, either parties agreed a **Rule 64** Consent disposal, which the Judge thereafter agreed to, or, in the event of payment to the claimant of any of the agreed sums, the claimant withdrew those heads of claim, which the Tribunal would then dismiss under **Rule 52**.

59. Both parties were requested to let the Tribunal know, within the next 7 days, whether or not a proposed **Rule 64** Consent proposal was to be submitted for the Judge's consideration. Ms Moffett did not reply to the Tribunal's letter, within 7 days as requested. By email to the Tribunal dated 20 January 2020, copied to Ms Moffett for the respondents, the claimant advised that she wished a Judgment to be issued on all heads of claim. Thereafter, on 6 February 2020, Ms Moffett confirmed to the Tribunal that there was no joint consent to any **Rule 64** Order. Accordingly, I have proceeded to issue this Judgment and Reasons, as per the claimant's wishes that I should deal with all heads f claim in my Judgment.

Relevant Law

60. Ms Moffett's written closing submission for the Tribunal, as reproduced earlier in these Reasons, at paragraph 44 above, made certain reference to the relevant law. With the claimant being an unrepresented, party litigant, she did not address me on the relevant law, and I did not expect her to do so, but I explained to her that it was my responsibility, as presiding Judge, to apply the relevant law to the facts as I might find them to be in reviewing the evidence led before the Tribunal.

61. As such, I have required to give myself a self-direction, in the following terms, as regards the relevant law. As constructive dismissal is conceded by the respondents, I need not rehearse all of the relevant law on that subject. Suffice it to say, here, that **Section 94 of the Employment Rights Act 1996** sets out the right not to be unfairly dismissed, and **Section 95(1)(c)** sets out the test for what is commonly referred to as a "***constructive dismissal***".

62. As constructive dismissal is conceded, and so a dismissal has been established, the Tribunal must consider the fairness of that dismissal, under **Section 98**, which requires the employer to show the reason for dismissal, and that it is a potentially fair reason under **Sections 98(1) and (2),** and where the employer has established a potentially fair reason, then the Tribunal will then consider the fairness of the dismissal, under **Section 98(4),** and whether, having regard to the size and administrative resources of the employer's undertaking, the employer acted reasonably or unreasonably in treating it as a sufficient reason for

dismissal, and was dismissal fair bearing in mind equity and the substantial merits of the case. A constructive dismissal is not necessarily an unfair dismissal: **Savoia v Chiltern Herb Farms Ltd [1982] IRLR 166**.

63. Redundancy is a potentially fair reason under **Section 98(2)(c),** and the definition of "***redundancy"*** is set forth at **Section 139**, as reproduced in Ms Moffett's closing submissions. As per the judgment of the House of Lords in **Murray v Foyle Meats Ltd [1999] ICR 827**, **Section 139** asks two questions of fact : (1) whether there exists one or other of the various states of economic affairs mentioned in the statutory provision, and (2) a question of causation, whether the dismissal is wholly or mainly attributable to that state of affairs.

64. While the respondents submitted that the claimant had failed to mitigate her losses, Ms Moffett's closing submission did not reference the relevant statutory provisions, nor any applicable case law, except for **Wood v Mitchell SA Limited**, cited by her at paragraph 3.7 of her written closing submission, reproduced earlier, at paragraph 44 of these Reasons.

65. I referred to **Cooper Contracting Ltd v Lindsey,** as detailed earlier in these Reasons, at paragraph 43 above. I refer here, briefly, to **Section 123(4) of the Employment Rights Act 1996**, which provides that in ascertaining the claimant's loss sustained in consequence of the dismissal, insofar as that loss is attributable to action taken by the employer, the Tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law.

66. **Section 123(4)** applies only to the compensatory award, and there is no corresponding provision relating to the basic award. While, under **Sections 122(2), and 123(6),** any basic or compensatory award for unfair dismissal can be reduced on the basis of contributory conduct or fault by a claimant, there was no such argument presented in this case by the respondents.

67. It is a fundamental principle that any claimant will be expected to mitigate the losses they suffer as a result of an unlawful act by giving credit, e.g. for earnings in a new job (mitigation in fact), and that the Tribunal will not make an award to cover losses that could reasonably have been avoided (mitigation in law). An

unfairly dismissed employee is expected to search for other work, and will not recover losses beyond a date by which the Tribunal concludes that that individual ought reasonably to have been able to find new employment at a similar rate of pay.

68. A claimant is expected to take reasonable steps to minimise the losses suffered as a consequence of the unlawful act. It is insufficient for a respondent merely to show that the claimant failed to take a step that it was reasonable for them to take: rather, the respondent has to prove that the claimant acted unreasonably. There is a difference between acting reasonably and not acting unreasonably. If the claimant has failed to take a reasonable step, the respondent has to show that any such failure was unreasonable.

Discussion and Deliberation

69. In carefully reviewing the evidence in this case, and making my findings in fact, and then applying the relevant law to those facts, I have had to consider the questions that I set forth earlier in these reasons, under "***Issues for the Tribunal".*** I now deal with each of those questions in turn.

Given the respondents' concession that the claimant was entitled to resign and claim constructive dismissal, on 13 August 2019, was that dismissal a fair dismissal, for the potentially fair reason of redundancy advanced by the respondents?

70. Having carefully considered the whole evidence led before the Tribunal, I am not satisfied that the respondents have shown that there was a redundancy situation as at 13 August 2019, nor that there was a fair dismissal on grounds of redundancy.

71. The Job Centre advert, placed on 27 August 2019, stated "***temporary possibly leading to permanent***", which suggests that, even at that stage, some 2 weeks after the claimant had left after the meeting with Messrs McComb and Key, and she had resigned from their employment, confirmed in her letter of 20 August 2019, the respondents were still unsure of their staffing needs.

72. It has long been established, since the Court of Appeal's judgment in **Abernethy v Mott, Hay and Anderson [1974] IRLR 213**, that a reason for dismissal is a set of facts known to the employer or beliefs held by them which cause them to dismiss the employee. Here, of course, the redundancy reason was only put forward by the respondents, via their solicitor, on the eve of this Final Hearing, when Ms Moffett was instructed to act on their behalf.

73. It was not previously argued by the respondents, either in the ET3 response lodged by their director, Mr McComb, nor in his further correspondence with the claimant and Tribunal. The claimant, in these circumstances, not unnaturally, states that this is, in effect, a sham reason, and not the true reason.

74. On the limited evidence given by the respondents' Mr McComb, at this Final Hearing, I am not satisfied that, on balance of probability, I should accept Ms Moffett's invitation, at paragraph 1.1 of her written closing submission, that "***there was clearly a situation where the requirement for purely administrative tasks had reduced at the Respondent's company."***

75. Indeed, on Mr McComb's evidence, Miss Taylor is doing both admin and finance related tasks, and she is now the only employee in the respondents' admin office. The paucity of evidence provided to the Tribunal by the respondents does not allow me to make a finding that the requirement for more technical work and accounts work was increasing, particularly after the respondents won Council contracts in July 2019, nor that there was in substance less of a requirement of work to be done in terms of purely administrative work.

76. Contrary to Ms Moffett's paragraph 1.9, that there are "***sufficient facts for the Tribunal to find that there was a redundancy situation"***, I am not so satisfied. Even if the respondents had provided more evidence, to vouchsafe their assertion that there was a redundancy situation, they have not satisfied me, as a question of causation, that the claimant's dismissal on 13 August 2019 is wholly or mainly attributable to any of the various states of economic affairs set forth in **Section 139**.

77. As the respondents concede, at paragraph 1.7 of Ms Moffett's written closing submission, the claimant resigned immediately on being told of the respondents'

intention to reduce her weekly hours, thus evidencing an intention on their part not to be bound by the terms of the employment contract between the parties, and so the claimant was entitled to resign and claim constructive dismissal in response, which is what she did.

If not a fair dismissal, to what compensation, if any, is the claimant entitled for any unfair constructive dismissal?

78. The respondents have accepted, at section 2 of Ms Moffett's written closing submission, that they did not follow the appropriate redundancy procedures, as per **Williams v Compare Maxam Ltd**, but, if they had gone through those procedures, then given the claimant was the only administrative assistant, this would have led to a fair dismissal by reason of redundancy. On that basis, the respondents seek a **Polkey** reduction to the claimant's compensation for unfair dismissal.

79. I have considered the respondents' arguments most carefully, and I am satisfied that there is a proper basis for the **Polkey** argument set forth at paragraph 3.9 of Ms Moffett's written closing submission.

80. The respondents fairly acknowledge that while a 1 to 2-week consultation period might, given the size of the respondent company, and the two roles involved in the admin team, have been a fair process, typically that could take around 4 weeks. I agree with that assessment as being fair and reasonable in all the circumstances. As such, I agree with Ms Moffett that the loss suffered by the claimant should only be for 4 weeks' net pay, being £162.80, multiplied by 4, producing **£651.20.**

81. The basic award is agreed as being **£2,463.00,** and that amount is subject to no reductions. While, at paragraph 3.2 of Ms Moffett's written closing submission, it is stated that "***The Respondent has in telephone conversations with her conceded that the Claimant is due a statutory redundancy payment calculated at £2,463",*** it was not explained, or indeed explored in evidence, with whom, or even when, there were telephone conversations with the claimant to that effect.

82. Be that as it may, had the claimant been dismissed for redundancy, and paid a redundancy payment, **Section 122(4)** would have required the amount of the basic award to be reduced by the amount of the redundancy payment. The sum payable to the claimant would have been the same in either event, whether calculated under **Section 119** for a basic award, or **Section 162** for a redundancy payment, both being based on the claimant's age, length of service, and weekly gross pay.

83. While there is a statutory presumption that an employee who has been dismissed has been dismissed for redundancy, unless the contrary is proved, as per **Section 163(2) of the Employment Rights Act 1996,** that presumption only applies in claims for a redundancy payment, and not in unfair dismissal claims. This case is not pled by the respondents as being one where they seek to resist making a redundancy payment by proving, on balance of probabilities, that the dismissal was not for redundancy,

84. Here, the respondents argue that redundancy was a fair reason for dismissal. I have, however, rejected that argument as not well-founded on the facts established before this Tribunal.

85. The claimant, in her Schedule of Loss, seeks **£3,581.00** as past loss of earnings for 22 weeks. The respondents dispute liability in that amount. Had the claimant been subject to a fair consultation process, and dismissed as redundant 4 weeks later than she was, then she would not have been an employee entitled to SSP for the remaining 18 weeks. As such, I have not awarded her anything more than 4 weeks.

86. As it is not clear whether the claimant's "***stress***", as recorded by her GP, was work related stress due to her resignation from the employment of the respondents, or some other supervening illness due to other causes, I have awarded 4 weeks' net pay, and not reduced it to SSP rates for weeks 2 to 4. Her GP only certified her from 20 August 2019. I consider 4 week's net pay to be a just and equitable amount in all the circumstances, as per **Section 123(1).**

87. While, in her Schedule of Loss, the claimant sought to deduct **£1,180.00** (rather than what, arithmetically on her figures, should have been £1,118.02, being 6

months @ £196.67, her narrative, while detailing ***"x3 (August 2019 – January 2020)"***, is incorrect is as that is a period of 6 months. In any event, as that was deferred pension from previous local government service, it is not income received from new employment, and so the claimant should not have sought to net that amount off.

88. The next disputed area is the claimant's claim for 52 weeks future loss, quantified at **£8,465.00** (rather than £8,465.60, being 52 multiplied by net weekly wage with the respondents at £162.80).

89. In this regard, as per the principles in **Cooper Contracting Ltd v Lindsey**, I have considered (1) what steps the claimant should have taken to mitigate her losses ; (2) whether it was unreasonable for her to have failed to take any such steps ; and (3) if so, the date from which an alternative income would have been obtained.

90. As Lady Wise, the EAT judge held, at paragraph 26 of her judgment in **Donald v AVC Media Enterprises Ltd [2016] UKEATS/0016/14**, re-affirming the applicable law as set out in **Cooper Contracting**: ***"What the wrongdoer must prove is that the claimant acted unreasonably."***

91. As per my findings in fact, I am satisfied that the claimant has failed to mitigate her losses. In evidence, she admitted to the Tribunal that she has not made any applications for work since 13 August 2019, a five-month period to date of this Final Hearing. Her failure to do so is unreasonable in all the circumstances.

92. She prays in aid that she has been unwell, but the only evidence produced has been four fit notes from her GP, which say no more than "***stress***", without clarifying further what type of stress, e.g. work related, or some other, which might well be depression given she spoke of being on anti-depressants, but in the absence of a detailed medical report from her GP, or the GP attending and giving oral evidence on her behalf, the Tribunal, and the respondents, are both unclear as to what the claimant can, or cannot do, by way of work.

93. While she, as an unrepresented party litigant, has commendably pursued this claim, unassisted, except in the very early stages when she had some advice

from the Grangemouth CAB, the fact of the matter is that she has shown by her correspondence with the Tribunal, and the respondents, and her preparation for, and attendance at this Final Hearing, that she is capable of some form of working, dealing with paperwork, and relating to other people.

94. Further, while the claimant advised this Tribunal that she needs to rebuild her confidence, and get back to applying for jobs, and going for interview, the fact of the matter is that it is within judicial experience that many claimants before this Tribunal, having been dismissed, manage successfully to seek alternative new employment, and return to paid employment, while still pursuing a Tribunal claim against their former employer.

95. Having raised these Tribunal proceedings, the fact of the matter is that the claimant sat back, doing nothing proactive to seek out new employment. She unreasonably failed to mitigate her losses.

96. I agree with Ms Moffett, at paragraph 3.11 of her written closing submission, that the claimant's prediction of how long it might take her to get a new job is pessimistic. The claimant herself has spoken of the effect of her lack of confidence, as well as the jobs market, and her concern that prospective employers might prefer younger employees. In that assessment, it seems to me that she has left out of the equation her lengthy experience of over 4 decades in administrative work.

97. Had she applied for jobs, in the aftermath of her resignation on 13 August 2019, and not obtained any new employment, and had she produced appropriate vouching of her reasonable attempts to secure new alternative employment from that date, then I am confident that the respondents would not be running their arguments that she has unreasonably failed to mitigate her losses.

98. I agree with Ms Moffett, again at her paragraph 3.11, that in terms of future wage losses, it is likely that the claimant's health will improve once this case has been concluded, and the claimant in her own evidence recognised that too.

99. Had the claimant taken earlier, proactive steps to secure new employment, she might well, by now, have found new employment. As she unreasonably failed to

do so, I have decided that there should be no award to her for past losses after 4 weeks, and no award whatsoever for future wage loss.

100. As the respondents accept, as per paragraph 3.5 of Ms Moffett's written closing submission that **£500** is appropriate for an award in respect of loss of statutory rights, I have added that amount into the compensatory award, which now totals **£1,151.20**, being **£651.20** past losses (and not £659.20, as per paragraph 3.10, where Ms Moffet, having correctly stated it should be net pay, has mistakenly used the gross weekly pay of £164.80), plus **£500** for loss of statutory rights.

101. In these circumstances, adding in the basic award of **£2,463**, that computes as a total monetary award of **£3,614.20** payable by the respondents to the claimant, subject to recoupment, as detailed in the accompanying Recoupment Notice.

What further sums, if any, is the claimant due from the respondents for other sums outstanding to her as at the end of her employment, in particular for the admitted failure to provide written particulars of employment, and in respect of unpaid holiday pay?

102. As these matters were the subject of concession by the respondents in Ms Moffett's opening statement, and not disputed in their comments on her Schedule of Loss, I can deal with both of these matters fairly shortly.

103. The respondents have accepted the claimant's basis of calculation, as per her Schedule of Loss, and not disputed the sums of **£656.80 or £114.94**, as per paragraphs 3.3 and 3.4 of Ms Moffett's written closing submission.

104. In these circumstances, I have made awards in those two agreed amounts to the claimant, having referred above, in my Judgment, at paragraphs (5) and (6) respectively, to the relevant legal basis for making such awards.

Closing Remarks

105. As the respondents employ many staff, the Tribunal trusts that, in light of their many failures in this case, they will take appropriate steps to review their employment practices and procedures, and ensure proper compliance with their legal obligations as an employer going forward. That should include issuing

written particulars of employment to all employees, if not already actioned by them.

106. Further, the Tribunal was pleased to note, from Ms Moffett's written closing submissions, that the respondents are now aware of the appropriate redundancy procedures and will follow them in due course, should a redundancy situation ever arise in the future, and that they entirely accepted that the procedure adopted in this case, with the claimant, was inadequate. I am sure that lessons will have been learned, and appropriate remedial action will follow, if not already actioned.

107. Now that this Judgment has been issued in her favour, the Tribunal trusts that it will help restore the claimant's self-confidence, and allow her to move on with her life, and hopefully successfully seek to re-enter the jobs market in early course.

Employment Judge : I McPherson
Date of Judgment : 11 February 2020
Date sent to parties : 11 February 2020