



EMPLOYMENT TRIBUNALS

Claimant: Mrs. K McGuire
Miss T Skitt

Respondent:(1) ADL Plc
(2) Mrs. Pearl Jackson

Heard at: Leeds **On:**12 March 2020
(deliberations 6 April 2020).

Before: EJ Rogerson
Members: Miss. J Lancaster
Mr. M Taj

Representation

For the Claimants: Ms. F Almazedi (solicitor)

For the Respondent: Miss C Brooke-Ward (counsel)

JUDGMENT ON REMEDY

1. Mrs. K McGuire having succeeded in her complaint of being subjected to 9 detriments on the grounds of making protected disclosures and of unfair dismissal for making protected disclosures, is awarded compensation for injury to feelings in the sum of £20,000 incorporating aggravated damages in the sum of £8,000 payable by ADL Plc.
2. Additionally, the parties have agreed the sum of £1,925.00 is payable to Mrs. K McGuire by ADL Plc as compensation for loss of earnings for the unfair dismissal.
3. To those sums we add interest in the sum of £2,365.96 making the total sum awarded £24,291, which ADL Plc is ordered to pay to Mrs. K McGuire
4. Miss T Skitt, having succeeded in her complaint of being subjected to 3 detriments on the grounds of making protected disclosures and of unfair dismissal for making protected disclosures, is awarded compensation of £15,000 incorporating aggravated damages in the sum of £5,000, payable by ADL Plc.
5. To that sum we add interest in the sum £1,693.15 making the total sum awarded £16,693.15 which ADL Plc is ordered to pay to Mrs. K McGuire.

REASONS

Background

1. By judgment dated 11 December 2019, the claimants succeeded in their claims of unfair dismissal for making protected disclosures and for being subjected to detriments for making protected disclosures (9 detriments for Mrs. McGuire and 3 detriments for Miss Skitt). The issue of remedy came before us at a hearing on 12 March 2020.

The Issues

2. The Tribunal had to decide the correct level of compensation that should be awarded to the claimants for injury to feelings for the successful detriment and dismissal complaints. The claimants had succeeded in most of the complaints they had brought. They had provided a schedule of loss and Mrs. McGuire had also provided some wage slips to support the wages claimed.
3. Mrs. McGuire was seeking £45,000 for injury to feelings including aggravated damages and £1925 for loss of earnings.
4. Miss Skitt was seeking £35,000 for injury to feelings, including aggravated damages and made no claim for loss of earnings.
5. The respondents agreed £1925 was payable to Mrs. McGuire for loss of earnings and that £10,000 was the appropriate level of award for compensation for injury to feelings, for each claimant.

The correct identity of the employer

6. An unresolved issue from the last hearing was the correct name of the respondent 'employer' in these proceedings. Either it was 'ADL plc' (respondent 1) or it was Charlton Court Care Home Ltd (respondent 3). At the liability hearing the Tribunal were left with the unsatisfactory position of having to name both respondents in the judgment. The judgment makes it clear to the respondents that they needed to clarify the position to identify the 'employer' and provide supporting evidence, before this remedy hearing.

Conduct of these Proceedings

7. At the liability hearing, we had found Mrs. Jackson on behalf of the respondents, had improperly conducted these proceedings in the following ways:
 - 6.1 She deliberately misled the Tribunal about her previous experience of Tribunal hearings to avoid any censure for her failures (paragraph 4).
 - 6.2 Her approach in defending these proceedings was inflammatory, ignoring any guidance given by the Tribunal.

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She accused the claimants of lying, then of the wrongdoing they had reported, and then of wasting time by bringing these proceedings (paragraph 5, 6 21).

- 6.3 Evidence was deliberately concealed and records were altered to mislead the Tribunal and to try to discredit the claimants. Mrs. Jackson deliberately concealed parts of an inspection report only disclosing parts that were helpful to the respondents' case and to corroborate her statement. She asserted that home had been 'completely exonerated' and therefore the claimants were lying, when she knew that to be untrue.
 - 6.4 She was dishonest and was prepared to go to any lengths to try and portray the claimants in the worse possible light concealing evidence that went in their favor.
 - 6.5 Mrs. Jackson, Miss Hopkinson and the witnesses that attended the hearing were openly hostile towards the claimants during the liability hearing, making it a difficult and unpleasant hearing for them. As we note in paragraph 21 of the judgment, while that kind of reaction might have been expected by more junior staff (given their hostility towards the claimants in the workplace), we expected better behavior from the senior management representing the respondents in these proceedings.
 - 6.6 The hostility and anger towards the claimants was clearly visible throughout the hearing. 2 notable examples were the angry response of Mrs. Hopkinson who accused the claimants of '*wasting 2 weeks*' of her life by bringing these proceedings and Mrs. Jackson (in the context of the letter she sent to Mrs. McGuire) confirming it was a deliberate act that had failed to achieve the desired outcome of preventing her from bringing these proceedings.
8. At the last hearing Mrs. Jackson confirmed that the respondent could have obtained professional representation, but had chosen not to. Given the findings made we had hoped the respondents would have learnt some lessons and changed their ways by taking these proceedings a bit more seriously.
 9. Unfortunately, that has not been the case. Although Ms. Brooke' Ward is instructed to represent the respondents at this hearing, she confirms solicitors were only recently instructed. She accepts the respondents were alerted to this issue prior to this remedy hearing. No one else has attended to assist the Tribunal. She has no evidence to present on behalf of the respondent. She has not been involved previously and has limited knowledge of the case. She confirms the findings made by the Tribunal are not challenged and she cannot assist any further with the correct identity of the 'employer'.
 10. The Tribunal were left without any further evidence or an explanation for the respondents' failure to address the issue.
 11. Miss Almazedi draws our attention to the fact that since the last hearing in October 2019, and despite the respondent having the means to pay for legal representation, Mrs. Jackson has chosen to

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continue to act as the representative until last week. For that reason, to accommodate her 'unavailability', the remedy hearing was delayed until 12 March 2020. It was unreasonable for Mrs. Jackson, a named respondent, to then decide not to 'turn up', or send any evidence or explain her absence. The conduct of the respondents since the last hearing shows complete disregard and contempt, not only towards these claimants, but also to the Tribunal and these proceedings.

12. Miss Almazedi contends the employer is 'ADL Plc'. The company identified in the contract of employment, the whistleblowing policy, the payment instructions, the reference provided by Miss Hopkinson (on behalf of 'ADL Plc') and the instructions given to Mr. Taylor, to act as agent on behalf of 'ADL Plc'. All the evidence points to 'ADL Plc' as the employer during and after the claimants' employment. If the respondent had other evidence and wanted to clarify the position to suggest that was not the case, they have chosen not to provide it. 'ADL PLC' should be liable to pay compensation.
13. Miss Brooke Ward cannot comment on the documentary evidence or the unchallenged findings of fact made. After taking instructions by telephone, she submits that "Carlton Court Care Home Limited" was the employer but cannot provide any further evidence to support that assertion.
14. We agreed with Miss Almazedi that the respondents have by their conduct in this regard, acted unreasonably and arrogantly. They have not demonstrated any change in attitude since the last hearing. In circumstances where they could have sought professional representation earlier, and assisted the Tribunal to identify the correct employer, they chose not to. Instead Mrs. Jackson's has continued to conduct these proceedings on behalf of the respondents in the same manner. She has not provided any further evidence, she has not attended the hearing and she has not provided any explanation for those failures.
15. In the absence of any further evidence and doing the best we can with the evidence and the unchallenged findings made, we accept the claimants' submission that at all the material times of interaction in the employment relationship 'ADL Plc' has been identified as the employer and was the employer liable to pay the compensation awarded.

Applicable Law.

16. Section 49 of the 'Employment Rights Act 1996' deals with remedies for successful detriment complaints. Section 49(b) provides that:

"the tribunal may make an award of compensation to be paid by the employer to the complainant in respect of the act or failure to act to which the complaint relates."

17. Section 49 (2) provides that:

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“the amount of the compensation awarded shall be such as the tribunal considers just and equitable in all the circumstances having regard to-

- (a) the infringement to which the complaint relates,*
- (b) any loss which is attributable to the act or the failures to act which infringed the complainant’s right.”*

18. The reference to ‘infringement’ reminds the Tribunal to have some regard to the nature of the complaint, when any resultant loss is assessed. The more serious the offence, the more likely it is that feelings will have been injured.

19. Injury to feelings is the main element of the award of compensation the claimants seek. The onus remains on the claimant to establish the nature and extent of the injury caused by the detriments and dismissal.

20. In the case of (1) Armitage (2) Marsden and (3) HM Prison Service -v- Johnson (1997) IRLR 162 the EAT set out five principles to consider when assessing awards for injury to feelings in cases of discrimination:

1 Awards for injury to feelings are compensatory. They should be just to both parties. They should compensate fully without punishing the tortfeasor. Feelings of indignation at the tortfeasor’s conduct should not be allowed to inflate the award.

2 Awards should not be too low as that would diminish respect for the policy of the legislation. Society has condemned discrimination and awards must ensure that it is seen to be wrong. On the other hand, awards should be restrained, as excessive awards could be seen as the way to untaxed riches.

3 Awards should bear some broad general similarity to the range of awards in personal injury cases.

4 In exercising discretion in assessing a sum, Tribunals should remind themselves of the value in everyday life of the sum they have in mind. This may be done by reference to purchasing power or by reference to earnings.

5 Tribunals should bear in mind the need for public respect for the level of awards made.

21. Although medical evidence may support a claim made for injury to feelings, it is not required for an award to be made. As Lord Justice Mummery acknowledged in the Court of Appeal in Vento-v-Chief Constable of West Yorkshire Police(no2)2003 ICR 318 CA, injury to feelings is not a medical term:

“it is self-evident that the assessment of compensation for an injury or loss, which is neither physical nor financial, presents special problems for the judicial process, which aims to produce results objectively justified by evidence, reason and precedent. Subjective feelings of upset, frustration, worry, anxiety, mental distress, fear, anguish, humiliation, unhappiness, stress, depression and so on

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and the degree of their intensity are incapable of objective proof or of measurement in monetary terms. Translating hurt feelings into hard currency is bound to be artificial exercise.... Although they are incapable of objective measurement in monetary terms, hurt feelings are none the less real in human terms. The courts and tribunals have to do the best they can on the available material to make a sensible assessment accepting that it is impossible to explain a particular sum with the same kind of solid evidential foundation and persuasive practical reasoning available in the calculation of financial loss or compensation for bodily injury.

22. Lord Justice Mummery identified three broad bands of compensation for injury to feelings as distinct from compensation for psychiatric or similar personal injury. There is considerable flexibility within each band, allowing tribunals to fix what they consider to be fair, reasonable and just compensation, in the particular circumstances of each case. Regard should be had however to the “*overall magnitude of the sum total of the awards of compensation for non-pecuniary loss made under the various headings of injury to feeling psychiatric damage and aggravated damage*”.
23. The applicable Vento bands at the date of the presentation of these claims (pre-April 2019) are as follows:
- Lower band of £800-£8400 (for less serious cases)
 - Middle band of £8,400 to 25,200 (for cases that do not merit an award in the upper band).
 - Upper band of £25,200 from £42,000 (for the most serious cases), with the most exceptional cases of exceeding £42,000.
24. In **Virgo Fidelis Senior School-v- Boyle 2004 ICR 1210 EAT**, the EAT held that it was appropriate to adopt the same approach to compensation in whistleblowing detriment/dismissal claims as has been taken in discrimination cases. Employment Tribunal’s may award damages for injury to feelings and in doing so, should adopt the general guidelines to discrimination claims as set out in Vento.
25. We also applied the “**Presidential Guidance Vento Bands 2017**” which expressly provide that injury to feelings awards might also be appropriate in certain claims of unlawful detriment and provide the levels for each band as set out above.
26. The claimants also seek aggravated damages as an aspect of injury to feelings. In general, aggravated damages are only appropriate in cases where the respondent has behaved in a “*high-handed, malicious, insulting or aggressive manner in committing the discriminatory act*” (**Alexander-v- Home Office 1988 ICR 685 CA**).
27. Aggravated Damages are compensatory, not punitive and there must be some causal link between the conduct and the damage suffered. In **HM Prison Service -v- Salmon 2001 IRLR 425**, the EAT made it clear that “*aggravated damages are awarded only on the basis, and to the*

extent, that the aggravating features have increased the impact of the discriminatory act or conduct on the applicant and thus the injury to his or her feelings”

28. In **Commissioner of Police of the Metropolis-v- Shaw 2012 ICR 464 EAT** Mr. Justice Underhill identified three board categories of case for aggravated damages:

- Where the manner in which the wrong was committed was particularly upsetting. This is what the Court of Appeal in *Alexander* meant when referring to acts done in a *‘high-handed, malicious, insulting or oppressive manner’*
- Where there was a discriminatory motive- i.e. the conduct was evidently based on prejudice or was spiteful, vindictive or intended to wound. Where such motive is evident, the discrimination will be likely to cause distress than if the same act was inadvertent: for example, through ignorance or insensitivity. However, this will only be the case if the claimant was aware of the motive in question an unknown motive could not cause aggravation of the injury to feelings, and,
- where subsequent conduct adds to the injury- for example where the employer conducts tribunal proceedings in an unnecessarily offensive manner, or “rubs salt in the wound” by plainly showing that it does not take the claimant complaint of discrimination seriously.

29. The sort of behavior, that may warrant an award of aggravated damages can include, the manner in which the defendant has conducted the proceedings, as the EAT made clear in **Zaiwalla &Co - v- Walia 2002 IRLR 697**. In that case, the respondent’s solicitors had put in a *“monumental amount of effort”* to an *“inappropriate”* extent and had conducted the proceedings in a manner, *“deliberately designed... to be intimidatory and to cause the maximum unease and distress to the claimant”*.

30. In **Metropolitan Police-v-Shaw** the EAT also reiterated that aggravated damages should be compensatory, not punitive and are an aspect of injury to feelings, not a separate head of claim. J Underhill recommended that tribunal’s use the words *“injury to feelings in the sum of £X incorporating aggravated damages in the sum of £Y*.

Evidence

29. We heard evidence from both claimants which was tested in cross examination. We found them to be credible witnesses who have answered questions truthfully and honestly throughout these proceedings.

30. More than a year after these events they are still very emotional displaying anger, tears distress and upset in their evidence. It is clear these proceedings have been particularly unpleasant for them. We did not find them to be prone to exaggerate their evidence. For example, in their statements they both refer to still feeling upset and concern about the residents, they cared for in the home because they are worried that

nothing has changed. This evidence was raised in cross examination with a view to it, being used against them to diminish the hurt feelings caused by the detrimental treatment. They both stood by the statements made and the feelings expressed in them. We found their evidence presented an honest reflection of their true hurt feelings which includes hurt feelings for the residents.

31. We accepted their evidence and set out below the facts relevant to remedy. For the avoidance of any doubt when we refer in this judgment to the “respondent” we are referring to “ADL PLC” and when we refer to Mrs. Jackson we are referring to the second respondent.

Miss Skitt

32. Miss Skitt made 3 protected disclosures in December 2018, reporting other carers for the neglect of residents (leaving them to sit in soiled pads, or in unsuitable chairs, or leaving them in bed for long periods of time). She reported her concerns to Miss Hopkinson (Registered Care Home Manager). Miss Skitt was subjected to 3 detriments in the form of retaliatory treatment by her colleagues, by Miss Hopkinson who failed to investigate her concerns and left the claimant exposed to further retaliation by the other carers. Miss Hopkinson continued to subject Miss Skitt to detrimental treatment after she had resigned by providing her prospective new employer with a false and damaging reference which resulted in Miss Skitt losing that job. As the employer ‘ADL PLC’ is vicariously liable for that treatment.
33. By way of background, prior to working for ADL Plc, Miss Skitt had worked as a carer for an agency, on a ‘zero’ hours contract. She would drive to individual service user’s homes to provide them with care, on her own or with another carer. She decided to leave the agency to work for the respondent in a care home setting, to improve her working conditions, by having to drive less and having more security in her employment.
34. She was employed by ADL Plc from 4 December 2018 to 9 January 2019. She did not stay for very long in the end but her intention was to stay long term, which is what she has done in her previous role. She had whistle-blown in that role, when she had concerns about a family member stealing money from a service user. She reported her concerns to the agency and the police and was supported by them, in that process. She felt it was important that vulnerable people were protected from neglect/abuse and she felt she had a duty to report her concerns and do the ‘right’ thing.
35. The first detriment she was subjected to, after making her protected disclosures, was the retaliatory treatment by her colleagues after Miss Hopkinson had disclosed her identity to them. She was isolated and ostracised by her colleagues. They refused to work with her and made her feel uncomfortable. She was called a “grass”. She and Mrs. McGuire were in the minority, facing hostility from the majority, supported by management.

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36. She describes how she was *'absolutely horrified when she became the target of nasty bullying'* for doing her job and *'taking a stand when she saw the poor treatment of residents at the home'*. It was *'awful'* when her colleagues refused to work with her. She was *'deliberately and aggressively singled out'*. She felt *'intimidated and very isolated'*. It got her down and she worried about what would happen next. She was anxious about coming to work and would get upset about it at home. Her distress caused distress for her family. It upset her daughter which then made her feel guilty.
37. Previously she had a good sickness record. When she worked for the respondent, she was absent from work more frequently because she was anxious about what her colleagues might do to her at work.
38. The second detriment is the management's response to the protected disclosures made. Miss Hopkinson did not investigate the concerns raised by the claimant, she did not follow the respondent's whistleblowing policies, put in place to encourage and protect whistleblowers. Miss Hopkinson breached confidentiality which left Miss Skitt exposed as the target of bullying which continued until she resigned. Miss Skitt could not understand why management were not protecting her for raising concerns and why her trust had been *'abused'* in this way. She said the management response encouraged the bullying behavior of her colleagues with the aim of forcing her to leave. It was *'deliberate hostile and achieved the intended aim'*.
39. Miss Skitt had started working for the respondent on 4 December 2018 and left on 9 January 2019, on the day Mrs. McGuire resigned. She had only worked for a short period of time, but it was the intensity of the treatment she was subjected to in that short period that left her *'very depressed'*. She had *'nightmares about the intimidation she had faced on shift'*.
40. Since her dismissal she has had to return to her previous employer as an agency worker because of the false damaging reference provided by Miss Hopkinson which described her as *'dishonest and untrustworthy'*. If, she had not persuaded her former employer to take her back, she would not have been able to secure any work in the care sector. She would have had no means of supporting herself financially. As a result, she now has limited work choices which are unlikely to improve because the false reference has not been corrected since the judgment, and no new reference has been provided.
41. Miss Skitt describes the hurt and upset caused by the false reference. She still thinks about this reference now and is unable to forget what happened. She is less willing to try to find employment elsewhere. She still gets upset about the way she was treated and the lengths the respondents had gone to *'blacken'* her name and potentially ruin her working life for good. She was only able to avoid that ruin, by returning to work with her previous employer, who knew she was honest and trustworthy and did not need to rely on the false reference. She says it was *'truly shocking that they did not care how this made her feel and this has caused her a lot of worry and anxiety'*. She says the reference was ***"spiteful, malicious and done with the intention of deliberately***

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harming me". The fact that Miss Hopkinson was prepared to go to these lengths at the time and at the hearing to abuse her position and power, to present her as 'dishonest' was "*shocking and upsetting*" for the claimant.

42. It left Miss Skitt in the position, where she was unable to avoid discussing with others what had happened to her and the terrible experiences she had gone through. To the prospective new employer provided with the reference, she had to try and explain that she was not dishonest/untrustworthy. They felt they had to accept the reference and she lost the job. This was a '*horrible*' time for her, she was '*humiliated and stressed*'. All she wanted to do at the time was try and forget it but this has left her a '*bag of nerves*'.
43. She describes how '*unpleasant*' the hearing was because of the '*hostility*' and '*sheer hate*' expressed towards her at the hearing by the other carers and management, when all she had tried to do what was the right thing. It has '*taken its toll on her*' and she has been '*incredibly hurt*' at the treatment. She has not sought any medical treatment for her symptoms but has tried to cope with the effects herself without treatment.
44. Since the false reference and false letter of dismissal no apology has been provided by the respondent. No attempt has been made to correct the reference to enable the claimant to widen and improve her prospects as she had intended and to lessen the hurt feelings. This has left the claimant with the only option of working at the agency, where she does not have to rely on the reference because her employer knows she is honest and trustworthy.
45. The deliberate nature of this act by Miss Hopkinson, the damaging lasting effects of the false reference and the false dismissal letter created to damage Miss Skitt's reputation are aggravating features of the detrimental treatment which have increased the impact of the hurt feelings.

Mrs. McGuire

46. We found that Mrs. McGuire had been subjected to 9 detriments on the grounds of making 6 protected disclosures, raising concerns about the safety and wellbeing of the residents in the care home. Those disclosures included the disclosure made about Carer P, who had thrown porridge at a resident, and Carer B who was in the process of taking a resident outside inappropriately dressed, before Mrs. McGuire intervened. She had reported her concerns of neglect to senior management. Miss Hopkinson failed to follow the whistleblowing policy. She disclosed the claimant's identity to the other carers resulting in retaliatory treatment which continued until Mrs. McGuire resigned.
47. The 9 detriments Mrs. McGuire was subjected by the other carers, by Miss Hopkinson, Mrs. Jackson and Mr. Taylor are:

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1. Carer B (refusing to work with her and accusing her of telling tales) (December 2018).
 2. Carer B “squaring up to her” (December 2018).
 3. Carer B telling Miss Hopkinson that the claimant had bullied her.
 4. 5 other carers, refusing to work with her not talking to her and accusing her of telling tales (December 2018)
 5. Carer P refusing to work with her and giving her dirty looks.
 6. Miss Hopkinson moving her to work downstairs after Christmas 2018.
 7. Miss Hopkinson providing a negative verbal reference.
 8. Mrs. Jackson writing to her on 10 January 2019 making spurious allegations, threats and generally using an intimidating tone.
 9. Mrs. Jackson instructing Mr. Taylor to approach her and question her purporting to be from the CQC, accusing her of theft, insisting she had to attend a meeting with him and texting her.
48. By way of background before working for the respondent Mrs. McGuire had a long gap from work of more than 10 years to raise her family. She was eager to return to work and was pleased to get permanent employment at the care home. She worked for the respondent from 16 September 2018 to 9 January 2019. She was passionate about her job and full of enthusiasm. It was much more than a job for her, it was a vocation. She put her heart and soul into the job. She believed the residents should be treated like members of her own family. She felt genuine affection for them and enjoyed their company.
49. Her evidence in this regard was supported by the examples given in our reasons in the liability judgment. The occasion when the claimant invited one resident into her home to spend Christmas day with her and the fact she was awarded “Carer of the Month” in December 2018. She set high standards for herself and she expected the other carers, to do their jobs properly. She describes how it was *‘not an easy thing to do, to raise your concerns about the resident’s care, when you have just started a job and you want to be a part of the team and fit in’*.
50. Mrs. McGuire’s strong feelings towards the residents and her ‘sense of responsibility’ were part and parcel of her character and came across clearly at both hearings. This made her very upset and angry at the neglect she witnessed. She was very vocal in challenging it by whistleblowing internally and externally to the CQC. She put her head above the parapet expecting her employer to deal with the disclosures properly to protect the residents and to protect her.
51. At first, she describes feeling a sense of relief in reporting her concerns because she found that seeing the treatment of the residents was *‘very distressing’* and when she went home she would keep thinking about the way things were at the home. She was upset and could not *‘switch off’*. One of the things that affected her most about the treatment she was subjected to, was the *‘sense of shock and disappointment that the people in a position of power that she trusted to protect the residents and to protect her had abused her trust and did not do the right thing’*.

52. She found the animosity following her disclosures '*really upsetting*'. She felt '*genuine distress*' when she went home at night and as the weeks went on she was more and more '*disturbed and alarmed*'. She did not expect the '*backlash*' that came with her reporting. She naively thought the managers would want to know. They would investigate and would stop the mistreatment she reported.
53. She found it unpleasant and '*upsetting and hard to hear evidence*' at the hearing where blame for the mistreatment was deflected onto the residents and onto the claimants.
54. This has '*shaken her confidence*' and added to the distress and hurt she feels now. She did not expect the '***vicious and hostile behavior that followed it made her feel totally demoralised and isolated and very intimidated***'.
55. She was very hurt and upset that Kelly Hopkinson breached her duty of confidentiality and '*encouraged a situation where her colleagues felt able to take their resentment out on her by refusing to work with her and accusing her of telling tales*'. Miss Hopkinson would have known that disclosing her identity was going to have this effect so feels it was a "***deliberate act on her part. She did not seem to care that this meant she would become the target of resentment and hate by her colleagues***". This was a '*real slap in the face and she was highly intimidated by this behavior*'.
56. She was viewed as a 'snitch' by Carer B and the other carers which was genuinely upsetting and quite a shock. The abuse of power by the manager made the situation worse and even more serious. The claimant felt she deserved better treatment and it was wrong for managers to allow this to happen because it would discourage the reporting of concerns. The claimant was very uncomfortable and very disturbed and still thinks about it now.
57. Mrs. McGuire describes Brandy Rumsey (Carer B) as an "*intimidating figure at the best of times*" and "*very scary*". She recalls how Brandy was "*consumed with rage*" when she squared up to her. She knew the claimant had reported her and the claimant believes she was empowered by management's inaction, to behave in the way she did. When Brandy tried to suggest the claimant had bullied her she felt very frustrated and hurt by the false accusations which management accepted, when it was the claimant who was being bullied. The hostility at work was horrible. Brandy continued the hostile treatment at the hearing '*not seeming to care for the fact it was horribly stressful and extremely upsetting*'.
58. After Brandy had squared up to her, Miss Hopkinson subjected Mrs. McGuire to a further detriment by moving her away from the residents she had enjoyed working with. She then lied about the reason for doing it. Her actions meant she and the residents she cared for who had enjoyed her company were separated and both lost out. Mrs. McGuire felt bad about that.

59. She describes the '*strong emotions*' she felt following her disclosures which fundamentally affected her home-life. Her constant anxiety impacted on her relationship with her husband resulting in her leaving her home and ending the marriage. In her witness statement she refers to her separation and says that he '*had to put up with me crying and anxious most times when I came home from work*'. She does not say the detrimental treatment caused the breakdown of the marriage. In cross examination when asked about the separation she said "*a lot of it was that I was going home upset crying he couldn't handle it he told me to leave. I was bringing it home. It was affecting our relationship I had been with him 20 years*".
60. Ms. Brooke'Ward invites us to make a finding that the detrimental treatment did not cause the breakdown and was unlikely to be the only factor in the breakdown of a marriage of 20 years, given the short period of time the claimant worked for the respondent.
61. The claimant agrees it was not the only factor it was the catalyst to her leaving the family because she was 'bringing home' the upset caused by the detrimental treatment at work.
62. The claimant moved out of the family home and is still homeless and dependent on family and friends. She has also lost a substantial amount of weight caused by all the stress of the treatment. She was '*traumatised*' by the detrimental treatment by her colleagues and management. It was '*humiliating*' to be the subject of dirty looks and upsetting being told that people would not work with her. She is still '*shocked at the sheer nastiness of what went on and does not think she will ever feel the same again about the workplace*'.
63. After she resigned, Kelly Hopkinson provided a negative verbal reference which was an '*attempt to tarnish her name and reputation to deliberately cause more damage*'. It made the claimant feel like she would have to '*give up*'. She could not believe Miss Hopkinson was doing this after she had left the job and she '*still feels hurt and angry that this negative reference caused her to lose out on employment*'. She had to find agency work on a zero hours contract when she was not intending to do that. She had to use other referees to be able to even stay in care work. All of it seems wrong when all she had done was carry out her duty of care as a care worker according to the law. It was a '*horrible feeling trying to get work and feeling afraid about the reference issue*'.
64. There are 2 post-employment detriments caused by Mrs. Jackson in sending the intimidating and threatening letter to the claimant on 10 January 2019 and instructing Mr. Taylor to call the claimant. We found these to be serious detriments and reminded ourselves of the findings made. The references to paragraph numbers are to the numbers in the liability judgment. The content of the letter is set out at paragraph 117. Mrs. Jackson had the opportunity to reflect on the letter before sending it (it was dictated over the phone and her secretary read over the contents of the letter and asked Mrs. Jackson if she still wanted to send it). Mrs. Jackson had carried not carried out any investigation to establish the facts before she sent the letter (paragraph 119) and in the

letter accused the claimant of being 'malicious' and 'threatened' legal action.

65. We had found "*It is unfortunate that Mrs. Jackson did not take the time to pause and think before sending the letter. That was a theme we saw throughout her evidence and presentation of the case. She did not listen ...she did not heed guidance...she continued to make very serious personal accusations against the claimants.....even when the evidence was clear...she did not defer from her approach*" (At paragraph 121).
66. At the liability hearing it was put to Mrs. Jackson that her purpose in sending the letter was to intimidate and threaten Mrs. McGuire so that she would not take any further action. Her angry response to that question was "*well it didn't stop her did it*". After sending the letter an angry Mrs. Jackson instructed Mr. Taylor to contact the claimant.
67. Mr. Taylor was an experienced former police officer called to give evidence on this one issue. He failed to provide any account of it in his statement. He understood from the instructions Mrs. Jackson gave him that she was angry with Mrs. McGuire. She had 'taken' against her and wanted his help. The verbal instructions Mrs. Jackson gave him were conveyed in the same tone as the letter (paragraph 130).
68. Mrs. McGuire had provided a detailed account of the call which we accepted and set out in full at paragraph 131. Mr. Taylor falsely introduced himself as the head of the whistleblowing team at CQC. He was persistent and the claimant found the call '*extremely intimidating and threatening*'. When the claimant '*smelt a rat*' and refused to see him, he accused her of stealing confidential documents. She told him she had done no such thing, told him he was trying to intimidate her and was not to call her again. The claimant describes the effect of the phone call as particularly upsetting and intimidating referring to it as a '*very low point*'. She felt '*violated by it, it left her shaken*'. She had by this point had to deal with both Mrs. Jackson and Mr. Taylor trying to frighten her off.
69. The claimant found the "*sheer animosity that was directed towards her very difficult to deal with. It was so confrontational and aggressive with no regard for her feelings and the effect this matter has had on her life*". The claimant has in error omitted to expressly refer to Mrs. Jackson's letter in her evidence. She is dyslexic and thought it was in her statement. She asks us to, and we do read her reference to the effects of the "*sheer animosity and aggression*" as a general statement that applies to describe both the effects of Mr. Taylor's phone call and Mrs. Jackson's letter.
70. The two detriments are connected acts instigated by Mrs. Jackson to intimidate the claimant and frighten her off pursuing matters further. As we found at paragraph 130, Mr. Taylor understood Mrs. Jackson was angry with the claimant and wanted his help to protect the home '*at any cost*'.

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71. Mrs. McGuire describes the ‘horrible’ atmosphere at the hearing which made her nervous about coming back to the tribunal. She found Carer B and others continued to exhibit their hostility towards her not seeming to care for the fact it was “horribly stressful and extremely upsetting for her”. The way that Mrs. Jackson and Kelly Hopkinson “conducted themselves and the lies they told about the claimants have added to the hurt feelings”. Their behavior was “truly shocking and the lengths they were prepared to go to not disclosing evidence that put them in a bad light and making up all kinds of things” about the claimants was “very hard to listen to and brought back many memories of the feelings of intimidation”. The claimant was shocked at the ‘level of arrogance displayed and felt sad that the respondent had not seemed to have learnt anything and was continuing to be so defensive’. She felt awful thinking that “they may not have changed they seemed to be in denial about what went on”. Miss Hopkinson’s comments that they had “wasted 2 weeks of her life” were “very inflammatory”. The claimant says it was “really felt awful to witness this kind of attitude with no guilt whatsoever about the residents or anything else they had done”.

72. The claimant is still ‘very apprehensive’. It was a distressing experience and she ‘is fearful of being singled out and treated badly in the future if she does the right thing. The feelings of fear are always in the back of her mind’. While she understands raising these kind of issues is ‘protected’ the ‘character assassination’ that followed her disclosures has been ‘horrendous’. She is nervous and jumpy and still has nightmares. She is very tearful and emotional when she thinks about it and was worried about coming back for the remedy hearing and would not have done so without the support of her solicitor.

73. She has not sought any medical treatment and has tried to manage the effects, herself and has tried to move on, but has found this difficult when she has lost so much. She is still tearful when she thinks about what has happened and the lack of remorse shown. Although she did not get any apology or any reassurances this would not happen again, she feels if made now, it would not be sincere.

74. She says it will always shock and sadden her that they did not seem to care at all. Their main concern seemed to be to try and use whatever means they could to intimidate and bully the claimants and to try and ‘cosy up’ to the CQC to cover up the mistreatment of residents. She ends her statement:

“I consider the conduct towards me and Miss Skitt to be of the most serious kind it was high handed deliberate and designed to force me out. It was not accidental or trivial it was targeted and deliberately intimidating and hostile trying to make me as scared as possible and also trying to destroy my reputation and prevent me from earning a living after I left”

Submissions

75. Ms. Almazedi accepts the claimants were not employed for a long period of time but relies upon the ‘intensity’ of the treatment they were

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subjected to and its effect to support the level of award sought. The claimants were vulnerable carers, with no power, reliant on their managers who had the power to act, to address their concerns and to protect them. There was at the home, 'mob rule' with Carer B and others allowed to act as they wished, to bully the claimants because the managers did want to upset them.

76. The claimants were in the minority, isolated and intimidated and facing hostile working environment each day. They were subjected to detriments, by number of individuals. The claimants are principled people, who believe in doing the 'right thing' and have been treated appallingly for that. The conduct they were subjected to is so serious it should fall into the top band of Vento.
77. In support of that, Ms. Almazedi refers to extracts from the cases of **Giwa-Amu -v- Department for Work and Pensions ET1600465/17** an age and race discrimination case where an award of £35,000 was made for injury to feelings of which £7,500 was for aggravated damages. **Randerson -v Engineering & Technology Board t/a Engineering UK ET/2201768/15** a disability discrimination case where £25,000 was awarded for injury to feelings and personal injury was awarded and **Hastings -v- Kings College Hospital NHS Foundation Trust ET/2300394/16** a race discrimination case where an award of £33,000 was made for injury to feelings and £40,000 for personal injury
78. The extract provided of **Giwa-Amu**, gives very limited details about the findings made. It was a case of race discrimination brought by an administration officer working for the DWP. During a '1' month training period, Ms. Giwa-Amu was singled out and repeatedly humiliated by colleagues. She became the target of the group banter and was ostracised from the group. After speaking to a colleague about the bullying, the colleague breached her confidentiality and purposefully distorted her account. Ultimately, Ms. Giwa-Amu felt unable to complete the training. She went on sick leave and was dismissed for poor attendance. The extract states the "*Tribunal in considering remedy for the discriminatory acts had regard to number of individuals causing Ms. Giwu-Amu significant distress. Regarding aggravated damages the Tribunal had particular regard to the breach of confidence and the post dismissal detriments*".
79. Ms. Almazedi relies on this case to support an award in the top band of Vento. She submits this was not a single incident but a campaign which intensified involving multiple people including senior levels of management. It was shocking for the claimants that those in power should consciously act in the vindictive way they did, in response to the claimants raising genuine concerns about the residents. If ever there was a case that falls into the top band, this was that case.
80. The feeling of hostility and intimidation was ever present in this case. Documents that exonerated or supported were deliberately kept back. False Documents were created to bolster the respondents case (a false letter of dismissal) and to try to deliberately mislead the Tribunal. Other aggravating features of the respondent's conduct is the dishonesty of witnesses and the concealment and alteration of

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evidence. The outrageous way in which Mr. Taylor tried to impersonate the CQC to follow the line instigated by Mrs. Jackson to frighten off the claimants. Miss Hopkinson using the 'cosy' relationship she had with the CQC inspector to tarnish the claimants' credibility and to label them as troublemakers. There has been a blatant attempt to silence two very vulnerable people who had done the right thing by whistleblowing. In response to those disclosures the claimants have been harassed and driven out of their jobs and then subjected to post employment detriments to cause them the maximum amount of damage in the future. To have their reputations attacked in this way and to face the hostility the claimants have had to face at the hearing is very hurtful and falls into the most serious category.

81. While Ms. Almazedi accepts that awards should not be punitive. These claimants have been honest reliable and transparent throughout these proceedings, in complete contrast to the respondents. The crying and upset seen during these proceedings is real. It reflects the real hurt and damage caused by the treatment they were subjected to which will be with them forever. Both claimants have, despite the respondents' actions managed to find work. They have been stoic in trying to get on with life even though the effects continue to impact on them. It is of public importance that whistleblowing particularly in the care sector is encouraged. The claimants were brave enough to put their heads above the parapet. They should be compensated appropriately, in the light of all the detriments they were subjected to, which include the loss of a job that was very important to them both for different reasons.
82. Ms. Almazedi does not invite the Tribunal to make a split award to reflect concurrent liability for the acts of ADL Plc and Mrs. Jackson. The schedules of loss do not do so and no representations were made as to how any award should be split. Ms. Almazedi seeks an award against ADL Plc, in the top band of Vento (£25,200 from £42,000) of £45,000 for Mrs. McGuire and £35,000 for Miss Skitt to include aggravated damages.
83. For the respondents, Ms. Brooke'Ward reminds the Tribunal of the judicial college guidelines to bear in mind the need to consider the level of awards made in personal injury cases (Chapter 4 deals with psychiatric and psychological injury). There is no medical evidence in this case and with those guidelines in mind, she submits these cases fall in the middle band of Vento, at the lower end.
84. She submits that the claimants did not attend their GP and have not had to have any medical treatment to treat the effects. They have had very short periods of employment when they were subjected to detrimental treatment. To support the level of award claimed they have referred in their witness statements, to feelings and upset about how the residents were treated. These hurt feelings for the residents are not relevant to any award of injury to feelings. There is a lot of anger and upset in this case and the Tribunal must distinguish between upset for the residents and how they are treated, and the claimants hurt and upset. While Ms. Brooke'Ward is not playing down the upset they say it caused them individually as set out in their statements, the upset and stress they describe, is nowhere near the upper Vento band.

85. She referred the Tribunal to 4 authorities: **Ms. C -v- The Governing Body of Warren School and one other** a first instance decision of the Employment Tribunal: **Lipton Group Limited-v- Cudd UKEAT/0360/14: ICTS(UK)Ltd-v- Tchoula (2000) IRLR 643** and **The Governing Body of St Andrews Catholic Primary School& Ors-v- Blundle UKEAT/0330/09**. She relies on these authorities to put the award in the middle band of Vento.
86. In that middle band of Vento (£8,400 to £25,200) the respondent's assessment of the appropriate amount is £10,000 for each claimant, the lower end of the middle band. She makes no submissions on aggravated damages.

Conclusions

87. The remedy issues for the tribunal to decide are: what is the appropriate Vento band? Is it the middle band as the respondent contends or the higher band as the claimant contends? Once we decide the band where in that band should the award fall? Should aggravated damages be awarded and if so how much? How much interest is due on the awards made.
88. The only real challenge to the evidence on hurt feelings is whether the references made in the claimant's witness statements about their upset about the residents' treatment, goes against them to diminish the effect of their hurt feelings for the detriments/dismissal?
89. We do not agree that this evidence goes against them. By making these references about the residents, the claimants are providing an honest reflection of their hurt feelings which include the feelings and concerns they still have for the residents. Throughout these proceedings, it has been clear that the claimants were and are genuinely concerned about the residents. To expect them now not to make any mention of those feelings, as a part of their evidence of hurt feelings, would be untrue and artificial.
90. The claimants are not considering their hurt feelings in a vacuum, without any context. The context is the home, the way the residents were treated and the way the claimants were treated for raising their concerns. It would have been surprising if they had made no mention of their feelings about the residents when those feelings drove them to whistle-blow. Their honesty goes in their favor, not against them. It made the evidence they gave about the hurt feelings caused by the detriments and dismissal, more, not less persuasive.
91. As to the comparison Ms. Almazedi seeks to make with this case and Giwa-Amu, it is a first instance decision which represents nothing more than another Tribunal's assessment on a set of facts, made by that Tribunal very briefly summarised in the case report provided. It does not help inform this Tribunal of the appropriate award to make based on the facts of this case. We have to do the best we can, on the particular circumstances of this case and the available material before

us to make a sensible assessment of the injury to feelings in order to make a just and equitable award.

92. Dealing then with the appropriate Vento bands. Despite Ms. Almazedi's very strong and persuasive arguments, we do not agree on the evidence presented to us that the hurt feelings in this case fall within the top Vento band of £25,200 to £42,000. Although it was a serious case it did not, on the evidence before us, merit an award in the upper band. There is no medical evidence at all provided which might have supported the case for a higher band award. We are left with the evidence of significant hurt feelings over which we have accepted. In assessing the appropriate value to put onto those hurt feelings we did have regard to JSB guidelines on the level of awards made in personal injury cases. 'Moderate' psychiatric damage e.g. 'work related stress' can fall into that category with a range of awards from £5,500 to £17,900. 'Moderately Severe' psychiatric damage where the debilitating effects are more severe falls in the range £17,900 to £51,400.
93. Based on our assessment we agree with Ms. Brooke Ward that the claimants' cases fall within the middle band of Vento of £8,400 to £25,200. She suggests £10,000 for each claimant putting it at the lower end of the middle band.
94. Before we arrive at our assessment on the appropriate amount to award for injury to feelings, we will consider aggravated damages as part of the total sum awarded. This is so that we can have regard to the *"overall magnitude of the total sum"* awarded.
95. Ms. Almazedi has invited the Tribunal to make an award of aggravated damages for the reasons she gives which we have set out in her submissions. Ms. Brooke Ward makes no separate submissions on aggravated damages.
96. We have set out the guidance given by the EAT in **Commissioner of Police of the Metropolis-v- Shaw 2012 ICR 464 EAT** which we apply. Firstly, we considered the manner in which the wrong was committed and whether that manner was particularly upsetting for the claimants. We found that when the claimants reported their concerns to Miss Hopkinson, the most senior manager at the home, they did not expect her to disclose their identities to the other carers. This breached confidentiality, abused their trust and exposed them to the hostile retaliatory treatment they were then both subjected to, until they resigned. The claimants were in the minority singled out by the majority. There were reprisals and a 'mob rule' culture with senior managers turning a blind eye to what was going on. Miss Skitt was labelled a 'grass' which is a sinister term when used against a fellow employee in the workplace context. She was afraid of what was going to happen to her when she went to work. Her sickness absence increased because she had to use this as a means of avoiding these colleagues at work. Miss Skitt described the treatment as *"deliberate and hostile and that it achieved the intended aim of forcing her to leave."*

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97. Another aspect of the treatment that we considered was the manner in which the wrong was committed. For Miss Skitt the false and damaging reference provided by Miss Hopkinson falls into this category of case. The written reference provided to the prospective new employer describes her as “dishonest and untrustworthy”. It is difficult to think of 2 words that could be more damaging to any employee’s prospects of getting another job. Miss Hopkinson used those words deliberately to cause maximum damage to Miss Skitt’s future employment prospects and to tarnish her character knowing they were untrue. She knew the job Miss Skitt had secured would be lost and that no employer would employ her with that reference. This was *‘spiteful and vindictive’* conduct which was particularly upsetting and damaging for Miss Skitt. She has only been able to avoid the financial ruin it would have caused, by returning to work for her former employer, who knows her to be honest and trustworthy.
98. Miss Hopkinson also breached Mrs. McGuire’s confidentiality exposing her to hostile treatment by Carer B who squared up to her, *‘consumed with rage’*. This was particularly intimidating and upsetting for her. Management response to this treatment was divisive and did not protect her. In fact, Miss Hopkinson punished the claimant by moving her away. She accepted Carer B’s accusation that the claimant was the bully in that situation. Her response gave the other carers, the green light to continue the retaliatory treatment when she could have stopped it by treating the complaints more seriously and confidentially as she was required to do under ADL Plc’s whistleblowing policies. Mrs. McGuire was also subjected to the extremely intimidating and threatening letter, which was an intentional act by Mrs. Jackson (sent after she had the opportunity to reflect upon it and change the content). She also instructed Mr. Taylor who proceeded to make the extremely intimidating phone call to Mrs. McGuire purporting to be from the CQC. Neither the letter or the phone call needed to be handled in the manner they were. These were deliberate, oppressive highhanded acts carried out by/for Mrs. Jackson with the sole purpose of frightening her ‘off’. This was deliberately done, as Mr. Taylor put it, to *‘protect the home’* at any cost.
99. The second category of case, where aggravated damages should be considered is where there was a discriminatory motive- i.e. where the conduct was evidently based on prejudice or was spiteful, vindictive or intended to wound. Where such motive is evident, the discrimination will be likely to cause more distress than if the same act was inadvertent: for example, through ignorance or insensitivity. Miss Skitt accurately describes the reference provided by Miss Hopkinson as a *‘spiteful and vindictive’* act. Miss Hopkinson knew when she provided it that it was false and damaging. To then add salt to the wound she intentionally created a false letter of dismissal to discredit Miss Skitt and to try to mislead the Tribunal. Miss Hopkinson knew it was a false letter. Miss Skitt knew it was false letter, but it might have been accepted by the Tribunal. It was another example of the lengths the respondent was prepared to go.
100. For Mrs. McGuire the intimidating and threatening phone call and letter also fall within this second category. These acts were

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deliberate acts based on Mrs. Jacksons prejudice towards Mrs. McGuire they were intended to 'wound' they were not inadvertent or accidental.

101. The third category of case for considering an aggravated damage award is where subsequent conduct adds to the injury, for example, where the employer conducts tribunal proceedings in an "*unnecessarily offensive manner*", or "*rubs salt in the wound*" by plainly showing that it does not take the claimant complaint of discrimination seriously. We have already set out at the beginning of this judgment some of the respondent's improper conduct of these proceedings (see paragraph 6). Ms. Almazedi has drawn our attention to other matters in her submissions and we set out below the conduct which we have considered under this category:

- The dishonesty of witnesses/ the respondents' representative (Miss Hopkinson/Mrs. Jackson).
- The attempts made to deliberately mislead the Tribunal and discredit the claimants by concealing/altering documents.
- Documents that exonerated or supported the claimants case were deliberately withheld.
- False documents were created to mislead the Tribunal and to bolster the respondents' case.
- Relationships and communication with external bodies (CQC) were used to dishonestly discredit Mrs. McGuire and present a false and damaging picture of her to the CQC. These communications were then included in the bundle to try to mislead the Tribunal and bolster the respondent's case.
- Open hostility at the hearing was shown towards the claimants by witnesses and management (Miss Hopkinson Mrs. Jackson).
- Comments made at the hearing showed the claimants these proceedings were not being taken seriously (Miss Hopkinson's comment that she had wasted 2 weeks of her life in attending the hearing).
- Mrs. Jackson defending this proceedings in an unnecessarily offensive and arrogant manner, falsely accusing the claimants of lying/mistreating the residents.
- Mrs. Jackson ignored the guidance given by the Tribunal at the hearing to desist. She chose to continue with the same approach from the beginning to the end of the hearing.
- The failure to take matters seriously after the liability hearing by learning lessons from the matters highlighted in the judgment and reasons.
- Not appointing legal representation in good time for the continued to defend these proceedings in the same arrogant manner, causing the remedy hearing to be delayed to a date she could attend and then not attending or explain her failure to attend.

- No apology/correction of false reference provided to demonstrate that matters were being taken seriously.

102. This catalogue of treatment shows that the respondent has not and is not taking the complaints seriously. As in **Zaiwalla &Co -v- Walia 2002 IRLR 697**, a lot of time and effort has been spent by Mrs. Jackson in her conduct of these proceedings trying to attack and intimidate the claimants, to cause them maximum unease and distress rather than treating the complaints seriously and defending the claim in a more measured and honest way. Although, Mrs. Jackson is not a solicitor, the respondent was/is in her hands, out of choice, not necessity.

103. We have found aggravating features falling into all three categories and such a long list is unusual to find in one case. It does in our view justify an award of aggravated damages for the additional distress caused to the claimants by this conduct. Miss Skitt describes how *'unpleasant'* the hearing was because of the *'hostility'* and *'sheer hate'* expressed towards her at the hearing. It has *'taken its toll on her'* and she has been *'incredibly hurt'* at the treatment. She has not received an apology/corrected reference She did not have any further contact with the respondent after her resignation. Our assessment is that the appropriate award for aggravated damages is £5,000. We agree with the respondent's assessment of £10,000 for injury to feelings for the 3 detriments/dismissal making the total award in the sum of £15,000. To that sum interest is added in the sum of £1693.15.

104. We calculate interest using 21/12/2018-19/5/2020 515 days with a rate of interest of 0.08% giving a daily rate of £3.29 multiplying the daily rate with the number of days for the injury to feelings award.

105. For Mrs. McGuire we consider the appropriate award for aggravated damages is £8,000. Mrs. McGuire was more persistent in pursuing matters after she resigned. She reported her concerns to Mrs. Jackson and the CQC. This made her the sole target for the targeted intimidation that followed. That treatment was deliberate and premeditated and was intended to frighten her off. Miss Hopkinson's email contact with the CQC was done for one reason only, to try discredit and tarnish Mrs. McGuire's character before any CQC investigation. The emails were included in the hearing bundle, to try to mislead the tribunal to persuade them to believe the false picture created. Mrs. Jackson sent an intimidating and threatening letter (which did not work) and Mr. Taylor's intimidating and threatening call (to protect the home at any cost). A concerted campaign was operated by senior management and Mrs. Jackson. She is as Director, able to use the power and means she had at her disposal to frighten the claimant off. In our assessment this further targeted treatment towards Mrs. McGuire, warranted a higher award of aggravated damages for.

106. The 9 acts of detrimental treatment carried out by numerous individuals employed by the Respondent have had a huge impact on Mrs. McGuire's family/personal life. This treatment has contributed to the breakdown of her marriage. It has had a huge impact on her

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personally and on her confidence. There has been no apology given. No attempt has been made to show her they have changed their ways in the light of the findings made. They are, as far as she is concerned, still in 'denial'. This job was her chance after a '10' year family break to get back to doing something she loved. She put her heart and soul into it. The worry and stress and hurt are still clearly visible in her presentation at both hearings. She has lost the job she loved, lost weight, lost her confidence and found the personal attacks on her very distressing. She sums it up in her evidence when she states: *"It was not accidental or trivial it was targeted and deliberately intimidating and hostile trying to make me as scared as possible and also trying to destroy my reputation and prevent me from earning a living after I left"*

107. In our assessment we consider the effects justify an award of £12,000 for injury to feelings. Looking at the totality of the award made £20,000 is closer to the top end of the middle band, which was a more appropriate level of award for Mrs. McGuire, to reflect the extent of the hurt and upset she suffered.

108. To that award of £20,000 for injury to feelings we add interest in the sum of £2,257.53. We also add £1925 for loss of earnings with interest in the sum of £108.43. This makes the total award in the sum of £24,291,

109. We calculated the interest using the period 21/12/2018-19/5/2020. 515 days at a rate of interest of 0.08% gives a daily rate of £4.38. By multiplying the daily rate with the number of days we get a figure of £2,257.63. For the loss of earnings, we used the midpoint to calculate the number of days. From 5/9/2019 to 19/5/20 this is 257 days multiplied by the daily rate of 0.42 pence gives a figure of £108.43.

Employment Judge Rogerson
19 May 2020