



EMPLOYMENT TRIBUNALS

Claimant: Mrs S Martin
Respondent: Ministry of Defence
Heard at: East London Hearing Centre
On: Thursday 12 March 2020
Before: Employment Judge Jones

Representation

Claimant: In person
Respondent: Mr D Ruck-Keene, Counsel (with Mr I Heaton, Solicitor)

JUDGMENT

The judgment of the Tribunal is that: -

- 1. The Claimant was fairly dismissed. The complaint of unfair dismissal fails and is dismissed.**
- 2. The complaint of unlawful deduction of wages fails and is dismissed.**

REASONS

1 The Claimant was employed by the Respondent as a civilian trainer of its new recruits. She began her employment on 1 June 2014 and her effective date of termination was 2 May 2019. The Claimant's complaint was of unfair dismissal. The Respondent defended this complaint on the basis that the sanction of summary dismissal was appropriate and reasonable to impose for an offence of gross misconduct.

2 The Claimant also complained that she was owed holiday pay for annual leave accrued but untaken and for flexi-leave accrued but untaken.

Evidence

3 The Tribunal heard from the Claimant in live evidence at the hearing. Also on the Claimant's behalf, the Tribunal had written witness statements from William Kelly, Chris Godfrey; from Sandra Bonner, who had also been a civilian trainer and had worked with the Claimant; and from Paul Martin, the Claimant's husband. The Tribunal had an agreed bundle of documents. The Respondent's witnesses were Gordon Thomson, former Head of Training Delivery at the MDP Operational Capability Centre (OCC) where the Claimant worked; Alexander Stewart, former Head of the OCC within which the training department was based, who dismissed the Claimant; and Elizabeth Disher, Head of the MDP Crime Command, who heard the Claimant's appeal against dismissal.

4 The Tribunal makes the following findings of fact from the evidence. The Tribunal focussed on only making findings of fact relevant to the issues that it had to decide.

Findings of Fact

5 The Claimant was one of four civilian trainers who started work for the Respondent in 2014 at its OCC in Wethersfield. The Claimant's letter of appointment was in the bundle and simply confirmed that she was appointed to a Band D role. It was known that the Claimant had no prior experience of policing before this recruitment and she was not expected to have any. Before the Respondent, the Claimant had been employed by the Department for Work and Pensions as a work coach at a Job Centre. The other three civilian trainers had previously worked in very different sectors as they had been employed respectively as a special constable, a prison officer and a border force officer. Mr Thomson gave evidence of recruiting a former estate agent to this role in the past although he was unable to say whether that person was still in post.

6 The MoD's (Ministry of Defence) police officers are specialist law enforcement officers employed by the Respondent. They have similar law enforcement powers to those of the Home Office local police officers. They protect and secure key MoD assets from armed attack or the threat of attack and are usually armed whilst on duty. The Respondent runs the Initial Recruit Course approximately 6 times a year as part of its national recruitment. Each time the course is run, firearms training is included. All the training provided on the Initial Recruit Courses was designed to give students an understanding of the basics of different aspects of their role. The Respondent had 12 trainers at the OCC, 4 of whom were civilian trainers from a variety of backgrounds, as stated above. They all taught on the Initial Recruit Course, which was the introductory level course for the Respondent's new recruits. After completion of this course the recruits go on to 8 weeks firearms training where they become familiar with firearms, among other items. The Claimant and her civilian colleagues did not teach on that more intensive 8-week course. The recruits do not have any practical exams until they have completed that intensive firearms training.

7 Part of the Claimant's case was that, during her employment, she was not given specific training in different aspects of policing. Her requests for such training was refused as the Respondent did not require her to have that knowledge. The job had not been advertised as one for which an applicant would need to have police training or a police background. What was required of her and her colleagues was the ability to train and to pass on knowledge to the recruits, using course materials produced by the Respondent. Mr Thomson's evidence was that in 2016, when he took over the role of Head of Training

Delivery, he became aware that the Respondent's trainers – both civilian and police – did not have any professional qualification in training. The Respondent needed people who were competent in delivering training to teach on its courses. He arranged for the Claimant and her colleagues to complete a course so that they could become qualified in delivering training. The Claimant confirmed that during her employment with the Respondent she obtained a Diploma in teaching and assessment. On that course she learned how to teach to different learning styles of learning, how to create lesson plans and what to include in them; setting up classrooms and conducting assessments.

8 Part of the training for the Diploma was a mentoring programme in which it is highly likely that the Claimant was given the opportunity to shadow other trainers. Once completed she would have been assessed by an external training agency and be authorised to offer training. Mr Thomson could not be sure of the process that was followed before he became the Head of Training Delivery but he was sure that this was the process that he put in place when he took over in April 2016. The Claimant denied that she had benefitted from a mentorship programme but later, during her evidence she confirmed that she had the opportunity to sit in the back of the classroom and observe other colleagues teach. She saw how the students interacted with the trainer and learnt how to teach. The Claimant passed the course and was awarded a Diploma in Training, Learning and Assessment, with Distinction, from the Scottish Police College in June 2017. This was a professional qualification. Mr Thomson considered that it would have provided her with the knowledge and understanding related to learning and that from then on, she would be able to and did deliver the legislative and other parts of the training on the Initial Recruit Course, regardless of her previous background.

9 Since then, the Diploma has developed further and is now run within the ambit of an organisation called Skills for Justice.

10 The Claimant referred to training standards and pre-requisites for police college trainers but the Respondent does not follow the specific college of policing policies as the Initial Recruit Course was not run as part of the college of policing. As stated above, the Respondent's officers are not part of the Home Office police service.

11 The Claimant also confirmed that the Respondent assessed her ability to carry out first aid training, which was training that she had undergone before she joined the Respondent. It was something that she was easily able to do.

12 She confirmed that although she had done some lesson plans in the early days of her employment, when she was doing the Diploma, she would not normally be doing lesson plans. It is likely that she undertook some training on preparing lesson plans as part of the Diploma. Mr Thomson's evidence was that the operational capability centre (OCC) created the lesson plans that the Claimant and her colleagues were to deliver. He stated that all trainers involved in the Initial Recruit Training were expected to deliver legislative training on subjects within the curriculum which included offensive and prohibited weapon legislation and firearms legislation. However, training aids were not essential to the delivery of that training and Mr Thomson did not agree that the Claimant had to bring in her own personal property to aid the training or that it was necessary for her to procure items for training purposes.

13 Mr Stewart confirmed that the training for the Diploma should allow every trainer to be able to move into classes and teach any lesson – given that lesson plans were already

prepared for them. Every trainer should be prepared for every lesson. To be awarded the Diploma, Mr Stewart's belief was that the Claimant had been assessed in the workplace and completed numerous recruit course, which incorporated the full training syllabus and which meant that she would have had training/attended lessons on prohibited weapons.

14 The Claimant had conversations with her line manager, Elizabeth Richardson about being given some training on firearms and on policing. Documents in the bundle shows that she asked to be allowed to attend courses on mental health and the Respondent's First Aid '*Train the Trainer*' course. The Respondent did not agree for her to attend the mental health course because although her request showed that she had an interest in expanding her knowledge and her skills, it did not require her to have that training and because of the costs involved. Another relevant factor was that other members of staff had already attended the training. As a result, the Claimant was not authorised to go on those courses. In the minutes of a meeting that the Claimant attended with Mr Thomson and Ms Richardson on 31 August 2017, it was recorded that the Claimant had been advised to attend the Leadership and Management Course Mental Health afternoon session instead, which she was considering attending.

15 The Claimant and Ms Richardson had a difficult working relationship. The Claimant complained that she was frequently belittled by Ms Richardson and told that she was not right for the job and that she did not have sufficient experience to pass on to her students. She described Ms Richardson as treating her as an 'emotional punchbag' by shouting at her across the open office or taking her into a side room to shout at her. The Claimant's evidence was that it was Ms Richardson who told her that she should look to make her lessons more interesting by making them as hands-on as she could. The Claimant stated that she was advised that to make up for her lack of experience, she should source and bring practical things into the classroom, which she could talk about with the students. The Claimant did not say that she ever showed Ms Richardson what she brought in to class to see if the items were suitable and the Tribunal did not hear from Ms Richardson as she was no longer with the Respondent, having since retired.

16 Ms Richardson's role was to manage the Initial Recruit Course. It was her job to ensure that all curriculum subjects were planned and delivered by allocating trainers to each course.

17 The lesson plan for 'Going Equipped' was in the bundle. Under the heading 'Resources' it stated "*(ask steph 48 hours prior for locksmith tools)*". It also stated that the classroom should be prepared for the relevant number of students and that the area should be risk assessed and a copy of the risk assessment must be in the classroom before the session begins. The trainer was to get props for 'Going Equipped'. That lesson plan was dated January 2016, which was before Mr Thomson became Head of Training Delivery and before Mr Stewart took up his post. Mr Thomson stated that he would not have accepted this lesson plan if he had been the person responsible for checking the lesson plans at that time as it was not appropriate or necessary to have built in to the lesson that the Claimant should be expected or asked to bring in props. It was not clear whether this lesson plan was rewritten as part of the overhaul of materials for the new Diploma that Ms Bonner referred to in her witness statement or what was meant by the term '*locksmith tools*'. It was unlikely to include prohibited weapons.

18 The materials for the Firearms Legislation course was also in the tribunal bundle. It stated that the aim of the training was '*to enable students to understand and deal with*

offences relating to firearms, shotguns, air weapons and crossbows'. By the end of the session students were expected to be able to: - explain and give examples of the terms, definitions and powers in respect of a firearm and ammunition in accordance with the Firearms Act; to summarise the definition of a shotgun; outline the powers available to deal with offences relating to them; explain the powers in respect of search, seizure and certification for a Section 1 firearm and shotguns; summarise the offences in terms of possessing and trespassing with a firearm; and explain and give examples of offences in accordance with the Crossbows Act 1987.

19 The resources for the training was a PowerPoint presentation and a lesson plan. Students were expected to take notes. At page 64G it stated that the trainer should show a selection of firearms, obtainable from the Firearms Training Centre (FTC) to the students. Mr Thomson confirmed that what that meant was that the trainer was not required themselves to source and show firearms themselves but that they should ask the FTC to come along and show the weapons. Trainers were not authorised to do so themselves as they did not have the appropriate licence. That is why the FTC was mentioned in the trainer notes. The Claimant confirmed that as a civilian, she was not allowed to handle any of the firearms. It was her case that she only had to give this lesson once at short notice and without a firearms officer there with the weapons. She felt that this made it difficult to deliver the lesson. The Respondent's case was that it was highly unlikely that she only had to deliver it once in her time with the Respondent, while based at the OCC.

20 At the end of the lesson, the students would be provided with the Student Notes. The Student Notes for the lesson on Firearms Legislation contained a section on Prohibited Weapons. It stated that they are considered extremely dangerous. It also referred specifically to an electric stun gun and described it as a prohibited weapon because it discharges an electric current. A taser also came within this category.

21 These notes were created in March 2016. It was the Claimant's responsibility as part of the training team to fully understand and be able to teach this lesson. All trainers, including the Claimant were required to understand all the lesson plans as they had to be able to teach every lesson of the syllabus. The Claimant's case was that she had never read these notes. In her witness statement Ms Bonner stated that both her and the Claimant taught sessions at Wethersfield covering all aspects of communication skills, legislation and other areas such as first aid in the 17-week programme of training offered to the Respondent's new recruits.

22 In his witness statement, the Claimant's husband stated that over the course of her employment he had given her a variety of items from his tool collection which she took to work to use as demonstration pieces to show in her lessons at the Respondent. He stated that he had helped her to load these items into the cars of police inspectors and other senior officers when they were car sharing with the Claimant and based on that, he believed that they had full knowledge that these items were being taken to the training school to show the students. Ms Bonner confirmed that she was aware that the Claimant brought props in to assist her with the delivery of the training materials. I did not hear evidence as to whether the Claimant sought permission to bring props in with her. It is likely that she took the fact that certain senior officers may have seen her load props into her car as tacit approval of her bringing those props into the training session. She also stated that she was told that as she was using these things to train students she would

have a lawful excuse for carrying them. I do not know if she was discussing a specific item when she was told that.

23 The Claimant stated that she used various props that she brought in to work for the 'Going Equipped' and 'Offensive Weapons' training. The Claimant would sometimes demonstrate her props to her colleagues before taking them into a session with the students. Mr Godfrey referred in his witness statement to using some of the props that the Claimant brought in to show something that had been used for housebreaking/burglary. He was aware of the props that the Claimant brought in and thought that it was common knowledge that she did this. Mr Kelly confirmed that he was aware that other trainers had brought in locksmith's sets of keys for a going equipped lesson or used empty beer cans for a lesson on offences committed whilst intoxicated. It is likely that neither of those were offensive or prohibited.

24 Mr Stewart stated that he was aware of a box of props held at the OCC the contents of which was available to trainers under a specific signing out process. He did not agree that they were needed and explained that when he did training he would use photos, which in his experience, worked just as well. Mr Thomson confirmed that he was aware that there was a box of training aids which was kept at Wethersfield, which could be accessed by trainers who were permitted to use the training aids to assist with their delivery of their session. The trainer would need to request the OCC admin team to open the locked cupboard to allow access to the training box.

25 Mr Stewart's evidence was that there were strict protocols for the handling of prohibited weapons. There were very limited circumstances in which a stun gun or other prohibited weapon should be brought onto the Respondent's property. If an employee had a legitimate reason to bring a weapon onto the premises it would need to be authorised by the head of the establishment, there would need to be a process by which this happened and it would need to be secured in the armoury. Prohibited weapons were not kept in the prop box.

26 While on holiday in America the Claimant purchased a stun torch which she intended to use as a demonstration article for her students in the 'Offensive Weapon' lesson. She brought it unchallenged through Customs into the UK. The Claimant assumed that it was an offensive weapon which she was allowed to have, in her capacity as a police trainer.

27 On 21 February 2019 the Claimant brought the stun torch in to work. She showed it to two of her colleagues in the office and demonstrated how it worked, before taking it into the Offensive Weapons lesson. The stun torch had an operation cord without which it could not operate. The Claimant's evidence was that she kept the cord detached and only put it in when she was demonstrating the weapon to the other trainers and to the students. Her colleagues realised this to be a prohibited weapon but said nothing to her about that at the time. It is likely that one of those colleagues, Mr Friel reported the Claimant to professional standards after she had gone into the lesson. Officers were waiting for her at break time when the Claimant was arrested by MoD officers for being in possession of the stun torch.

28 The Claimant was taken to Chelmsford police station, processed and spent the day held in custody. At the police station the Claimant was advised by a duty solicitor. She also spoke to 2 of the Respondent's officers. Her evidence was that she was told that

if she accepted a caution that would be the least damaging thing that she could do. The Claimant did so and a document recording the caution was at page 65 of the tribunal bundle. It set out that the Claimant would receive a caution for “*possess a weapon for the discharge of a noxious liquid/gas/electrical incapacitation device/thing*”. It also set out the terms and consequences of the simple caution for her. Those were: - that it would form part of her criminal record and may thereafter influence how she is dealt with by the police if she were to commit an offence in the future; that the police would maintain a record of the delivery of the caution; that it might be cited in any future criminal proceedings; that it might need to be disclosed if a prospective employer needed her to have a DBS check; that her fingerprints and other identification data would be held on databases linked to the police database and that, if she was in a notifiable occupation, the police were obliged to inform her employer that she had accepted a simple caution.

29 The document then went on to set out a declaration that she signed to indicate her agreement to be formally cautioned for the above offence. The Claimant’s signature was recorded on the form.

30 On 25 February, Mr Turnbull training manager wrote to the Claimant and informed her that in view of her having received a police caution, she was suspended from duty with pay from 25 February.

31 On 5 March, the Claimant was invited by letter to a formal meeting under the Respondent’s misconduct policy. The letter was from Mr Stewart and he told her that the meeting would consider an allegation of gross misconduct, because she had received a simple adult caution after she admitted being in possession of a prohibited weapon. The letter also stated that because the offence took place within the workplace, this was also a significant breach of security and health and safety rules. The Claimant was advised that summary dismissal was a possible outcome of the meeting and that she had the right to be accompanied by a work colleague or an accredited trade union representative. She could bring witnesses to the hearing, if she notified Mr Stewart in advance.

32 A further letter dated 18 March confirmed that the date for the meeting was now 25 April. It also stated that in accordance with the Handling Arrests, Charges, Police Cautions and Criminal Convictions Policy and Process; it was necessary for the Respondent to consider its effect on her following her receipt of a police caution.

33 In a letter of advice from the Respondent’s HR advisor, Mr Ginn to Mr Stewart on 14 March; he advised that the purpose of the meeting was not to decide whether the Claimant was guilty of the offence as she had already admitted it and accepted a caution for the possession of the prohibited weapon. The purpose of the meeting was to consider the effect of the caution on her service within the Respondent’s training department. Therefore, the only documentation required was a copy of the caution.

34 The meeting eventually took place on 2 May 2019. The Claimant was accompanied by Steve Robinson, her trade union representative. Mr Stewart was accompanied by Mr Ginn and there was also a notetaker present.

35 Mr Stewart confirmed in the hearing that he applied the MoD’s policy found at page 241 of the bundle. This was called ‘*How to: Assess the level of misconduct*’. It was created in 2014. When assessing the appropriate level of action to take, line managers were advised of the factors to consider when deciding the level of seriousness of

misconduct. Those were: the degree of the misconduct i.e. physical violence would be considered gross misconduct; the impact on others and the department; damage to property value, financial or material loss; culpability; intent and breach of the Civil Service Code. Misconduct was categorised into informal action, minor misconduct, formal action and serious misconduct. Serious misconduct was defined as either repeated minor offences or significant breaches of the standards expected. Included in that category are certain types of criminal offences/convictions. Gross misconduct was a separate category. It was described as serious enough to destroy the working relationship between the employer and employee and its likely sanction was dismissal. A significant breach of security, significant breach of health and safety rules and significant or repeated breaches of the Civil Service Code or Official Secrets Act were all included in the list of examples of gross misconduct.

36 Mr Stewart's evidence was that he made the decision on the Claimant's continued employment and that Mr Ginn was there to advise him. HR would only intervene to advise him if his decision was fundamentally flawed, which in this case, he did not believe that it was.

37 At the start of the meeting, Mr Stewart confirmed that what he wanted from the Claimant and her representative was evidence of character and any points in mitigation. When he was invited to present the Claimant's case on mitigation, Mr Robinson stated that the Claimant had good intentions when she brought the item into work as she wanted to provide good quality training for her students. The Claimant talked about the box of weapons that she had collated which she brought to offensive weapons class to enable students to experience them. She thought that bringing in the stun torch/gun would also benefit them as they would gain a hands-on experience of it. She stated that she never intended to hurt anyone and that she was very careful to ensure that safety measures were in place when the students handled the gun.

38 The stun gun/torch had been stored in a box. The Claimant told Mr Stewart that she had previously brought other items such as baseball bats, 3 1/2-inch knives, longer knives, folding knives, flick knives and a Kubotan to class. She was asked whether those were kept in the office and she said that they were not although a catapult was and that she would also normally bring in a crossbow.

39 She went on to apologise and stated that she had not realised that the stun gun/torch was a prohibited weapon. She stated that if she had, she would have brought it in to the firearms class rather than to an offensive weapons class. Mr Stewart's live evidence was that he had not expected her to say that. He expected her to say that if she had been told that it was a prohibited weapon she would have handed it in to a police station or given it over to an officer. He was concerned by her statement that she would have taken it to a different class. The Claimant told Mr Stewart that other members of staff were aware that she was taking such items into lessons. The Claimant explained in detail what happened on the day on 21 February and informed Mr Stewart that she had demonstrated the torch to her colleagues before she went into class and had not been challenged. She also confirmed that she had intentionally set it off in class to show the students.

40 Mr Stewart did not recall the Claimant giving him the names of the other trainers who she showed to stun torch to before going in to class. Her recollection was that she gave those names to the Respondent's officers who arrested her when she came out of

class on 21 February. The notes of the misconduct meeting show that the Claimant did not name the other trainers who saw her with the stun torch before she went into the lesson as they are not recorded.

41 Mr Stewart adjourned the hearing to consider his decision. He consulted Mr Ginn on procedure. He was advised that the gross misconduct was the acceptance of a police caution. He assessed the policy on the effect of the caution on the Claimant's continued employment. In his evidence he stated that what weighed heavily on his mind when he came to make his decision was the significant breach of security, the significant breach of the Health & Safety rules and the significant breach of the Civil Service Code demonstrated by the Claimant's conduct in the workplace. He considered the Claimant's length of service and that he would have expected her to know the security issues involved in bringing this type of weapon to the establishment. He considered the impact of the caution on others in the department and for the department in terms of reputational damage. He concluded that in those circumstances a written warning was unlikely to be an appropriate sanction.

42 When the hearing resumed, Mr Stewart confirmed that he had considered the facts and the Claimant's mitigation. He stated that he was satisfied that as a well-established MoD employee and trainer, the Claimant had breached the security of the establishment and the local Health & Safety legislation. She had bypassed and ignored basic MoD policy and practice. He noted that the Claimant, as a police trainer, stated that she was not aware that this weapon was prohibited despite the definition of prohibited weapon being both a key component of the aims and objectives of lessons she would have been aware of and the fact that it was not an offensive weapon, which is what she had been teaching about. Her statement that if she had known that it was prohibited she would have brought it into a firearms lesson instead indicated that she had a significant lack of understanding of her role and the expectations placed on her as a police trainer. Lastly, he decided that under the Civil Service Code, the Claimant's responsibility to retain the confidence of all those with whom she had dealings would have been irreparably damaged.

43 It was for those reasons that Mr Stewart decided that the Claimant should be dismissed with immediate effect.

44 In the Tribunal hearing, Mr Stewart confirmed that the Claimant had not relied on 'lack of training' in the misconduct hearing as the reason why this had happened. However, his evidence was that even if she had, he was aware of the training and the shadowing/mentoring processes that had been in place when she trained and would have expected the Claimant to be familiar with the materials she was teaching on as the Initial Recruit Course, which included information on offensive and prohibited weapons, among other things.

45 A letter dated 9 May was sent to the Claimant to confirm her dismissal. She was also advised of her right to appeal against her dismissal. The letter was not significantly different from what Mr Stewart told her in the meeting. The Claimant was advised that she had 10 days in which to exercise her right to appeal. In the letter Mr Stewart also expressed some concern about the Claimant's statements in the hearing about her colleagues' awareness of the stun gun on the day she brought it in and the other items she had brought in to the OCC. He informed her that those allegations would be investigated.

46 The Claimant's appeal was submitted on 11 June 2019. In her letter of appeal, the Claimant referred to her lack of training on policing and the fact that she had not read the student notes for the lesson on firearms. She stated her belief that the stun gun was an offensive weapon which she would have had authority to carry as a trainer. She stated that if she had known that it was a prohibited weapon, she would not have bought it or brought it back with her from America. She gave a list of all the other weapons she had previously brought in to the classroom and stated that they were all demonstrated to and handled by her students, including knuckle dusters and several other tools designed to look like everyday objects. She stated that these were brought in to work with the full knowledge of her line managers and that she had never been questioned about any articles that she had brought in for demonstration to her class. She also stated that other trainers had used these items.

47 She described the circumstances of her bringing the stun torch into work, charging it and demonstrating it. She stated that she had unintentionally brought it on to the OCC premises and breached security. She now realised that it was a serious error of judgment to have done so. She stated that she had considered the implications for the safety of her students and had made sure that they were never in danger. She understood that she had let herself and her family down through what she had done which had led to her being arrested and having the family home searched, which caused stress to everyone involved. However, the Claimant contended that the penalty of dismissal was too severe and that a written warning would have been more appropriate. She asked for the decision of gross misconduct to be revisited and an alternative disciplinary sanction to be applied.

48 The Respondent's Professional Standards Department (PSD) investigated the allegations the Claimant made that she demonstrated the stun torch to other trainers before she went into the class and that managers and other trainers were aware that she brought various offensive weapons into work but failed to challenge her on them. The Claimant did not provide names in the disciplinary hearing and as the investigation came from a report from Mr Stewart, the investigation recorded that the Claimant had not provided names. The Claimant had not been asked for further information about this before the investigation was conducted. The investigation report was in the bundle.

49 The report was not entirely accurate as it recorded that the Claimant had a taser and everyone in the hearing agreed that what she had was not a taser but a stun torch/gun. It also recorded that allegations were made but that they did not relate to a specific named person when the Claimant's evidence was that she did at least give the names of the other trainers to the MoD's officers who arrested her. That information may not have filtered through to her line managers. The investigation report noted that possible breaches of standards may have occurred if the training staff and managers were aware of the Claimant's possession of illegal weapons but took no action to challenge her and/or report the matter. Possible breaches of professional standards could be in relation to Challenging and Reporting Improper Conduct which could be interpreted as a positive obligation to question the conduct of colleagues that they believe falls below the expected standards and if necessary, challenge, report or act against such conduct. If they felt that they could not question or challenge a colleague directly, officers should report their concerns through a line manager, a force reporting mechanism or other appropriate channel. Officers were reminded of these standards.

50 The report recommended that the OCC training department should learn from this experience. All props for training should be kept in a locked cupboard and all should be

approved for use, registered and audited by OCC Senior Management. All training delivery staff were to be made fully aware of the departmental procedures for the use of props and that those procedures should be properly adhered to.

51 The investigation report was reviewed by Mr Thomson. He concurred with the decision that no further action should be taken against any individual but that the wider learning outcomes should be widely reinforced within the OCC. The file would be closed.

52 The Claimant's appeal was delayed as it was accidentally sent to an officer who was on leave. The Claimant's case was that the other officer had refused to deal with it. It was eventually forwarded to Ms Disher. There was a further delay which was caused by the need to identify a trade union representative or friend to accompany the Claimant and then in trying to find a convenient time when all could attend. In the end, the Claimant decided to attend without a friend or trade union representative accompanying her. She also revised her grounds of appeal but there were no substantial amendments.

53 The Respondent's letter of invitation was sent on 2 July 2019 and the appeal hearing was on 18 July. The Claimant was informed in the invitation letter that the Respondent was going to review the decision-making process that resulted in her dismissal and decide whether it was reasonable. The appeal was not going to be a full re-hearing of the case. Ms Disher considered the appeal under the Respondent's Criminal Offences, Convictions and Police Cautions Policy, which was in the tribunal bundle.

54 In the appeal hearing the Claimant complained about her lack of training in police matters. She complained that she had only purchased the item to show her students and that it was sold in the USA as a self-defence piece and not really seen as a dangerous weapon. She referred to the fact that she had been searched at the Airport on her arrival and nothing had been said to her about it. She went through the list of weapons that she had brought into class in the past, which she claimed that Ms Richardson and others knew that she had but who said nothing to her about it.

55 She had no new evidence to give Ms Disher about the police caution and she had no issues with how Mr Stewart ran the misconduct hearing that resulted in her dismissal. She stated that she considered the decision to terminate her employment to be a bit harsh as she knew of her students and some police officers in the Metropolitan Police who had police cautions but continued to be employed.

56 The Claimant showed Ms Disher some photos of weapons that she had brought in to work.

57 Ms Disher ended the meeting and informed the Claimant that she would consider her representations and let her have a decision within 5 working days.

58 Ms Disher's decision was to uphold the decision to dismiss as she considered that it was the most appropriate penalty. She concluded that the Claimant's employment was closely connected with the offence which meant that it was reasonable to expect her to understand the risks, legislation and on-site requirements for possession of a prohibited weapon. She also considered that a police caution was only issued when someone fully and freely admits the offence. The Claimant had stated to her in the hearing that there were people employed in the Respondent who had police cautions but the Claimant seemed not to appreciate the difference between a caution given in relation to an officer's

private life and those that impinged on the work/workplace as the Claimant's did. The Claimant was working on the Respondent's premises, on duty, when the offence occurred. The Claimant had committed a significant breach of security by bringing the specific item onto the establishment and admitted to doing so on a regular basis with other items. Those actions breached Health & Safety and Civil Service rules and regulations. Ms Disher noted that although the Claimant claimed that her actions were based on a lack of knowledge, she had been a police trainer for more than 4 years and had a training Diploma. She was concerned about the Claimant's continued apparent lack of understanding of the severity of the incident.

59 As a trainer, the Claimant was in a position of trust. The Respondent's students and staff must have confidence in her ability to perform her duties responsibly, in line with policy and procedure and with due regard to civil codes of conduct. Ms Disher considered that the relationship between the Claimant, the MoD, and in particular the Ministry of Defence Police (MDP) had been irreparably damaged. Furthermore, she concluded that the reputation of the MDP/MoD and Civil Service would be tarnished should an employee or officer have against them a police caution for possession of a prohibited weapon, especially when the nature of offensive and prohibited weapons was so closely connected with her employment.

60 The Respondent wrote to the Claimant on 24 July to notify her of the outcome of her appeal hearing. The normal practice would have been to reconvene the meeting and inform the Claimant of the outcome of her appeal but Ms Disher was aware that the Claimant would be travelling home alone after the hearing so she decided to send it to her in writing. This was preferable to informing her of the decision before she left which might have caused her distress and impact her ability to drive home safely.

61 The Claimant's last day of employment was 9 May 2019, which was the date of her letter of dismissal from Mr Stewart.

62 There was an enhanced DBS certificate in the bundle which showed that a search on the Claimant name had been returned showing an entry under the heading "Police Records of Convictions, Cautions, Reprimands and Warnings". The Claimant's caution for possessing a prohibited weapon on 21 February 2019 was recorded under that heading.

63 It was the Claimant's case that she had not been paid 15 days holiday and 2 days flexi time totalling 124 hours. Mr Stewart confirmed that the Claimant was paid in full following her termination of employment. The pay advice on page 82 shows that the Claimant was paid £920.65 as an Annual Leave payment. The Respondent then deducted a sum described as "Payment on Account" of £645.09 from that amount and the remainder was subject to deductions for tax and national insurance. The Payment on Account was dated 2 May 2019. In her claim form the Claimant stated that the Respondent made a payment to her for her annual leave but this payment was retracted. It is likely that this is a reference to the deduction for the Payment on Account which can be seen on her pay advice. It was not retracted as the Claimant was paid the net sum after deductions.

64 Paragraph 25 of the Respondent's Flexible Working Hours statement, which is part of its Statement of Civilian Personnel Policy, stated that when an employee leaves the department, the Respondent's flexible working hours scheme accounts will be returned to zero before they are closed. If an individual fails to reduce their accounts to

zero before leaving, this will result in the loss of pay for the hours owed. Credit hours will not normally be paid if owed at the end of employment.

Law

Unfair Dismissal

65 The Respondent has the burden of proving the reason for dismissal and that it is a potentially fair one. The Respondent submitted that the Claimant was dismissed for gross misconduct.

66 The Claimant accepted the Respondent's reasons for her dismissal. Her case was focussed on the sanction that the Respondent imposed for her gross misconduct. She submitted that the decision to dismiss her fell outside of the range of reasonable responses open to the Respondent because everyone had been aware that she had brought offensive weapons into work and she had never been challenged about them. Also, that two colleagues had seen her demonstrate the item before she went into the class and had not said anything to her. The Claimant believed that these circumstances should have alleviated her punishment to some degree.

67 The law considered by the Tribunal started with the seminal case of *BHS v Burchell* [1980] ICR 303, where a three-stage test was outlined for tribunals in assessing complaints of unfair dismissal. The employer must show that: -

- (a) he believed the employee was guilty of misconduct;
- (b) he had in his mind reasonable grounds which could sustain that belief, and
- (c) at the stage at which he formed that belief on those grounds, he had carried out as much investigation into the matter as was reasonable in the circumstances.

68 This means that the employer does not need to have conclusive direct proof of the employee's misconduct but only a genuine and reasonable belief of it, which has been reasonably tested through an investigation.

69 If the Tribunal concludes from all the evidence that this is the case; then the next step for the Tribunal is to decide whether, taking into account all the relevant circumstances, including equity, the size of the employer's undertaking and the substantial merits of the case, the employer has acted reasonably in treating it as a sufficient reason to dismiss the employee. In determining this, the Tribunal should be mindful not to substitute its own views for that of the employer. Whereas the onus is on the employer to establish that there is a fair reason, the burden in this second stage is a neutral one. The *Burchell* test applies here again and the Tribunal must ask itself whether what occurred fell within "the range of reasonable responses" of a reasonable employer. The law was set out in the case of *Iceland Frozen Foods v Jones* [1982] IRLR 439 where Mr Justice Browne-Wilkinson summarised the law by pointing to the words of section 98(4) ERA (Employment Rights Act 1996) themselves and then stated that the tribunal must consider the reasonableness of the employer's conduct, not simply whether they (the members of the tribunal) consider the dismissal to be fair as the tribunal must not substitute its decision as to what was the right course to adopt for that of the employer. He stated that

in many (though not all) cases there is likely to be a band of reasonable responses to the employee's conduct within which one employer might reasonably take one view and another quite reasonable take another and the function of the Tribunal, as an industrial jury, is to determine whether in the particular circumstances of each case the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band the dismissal is fair: if the dismissal falls outside the band it is unfair.

70 The Claimant accepted that the acceptance of the caution and the caution itself amounted to gross misconduct. Her main contention in bringing her claim was that the sanction of summary dismissal was too severe. She relied on these points in mitigation - her assertion that she was not adequately trained in policing to be able to recognise that this was a prohibited weapon, that her sole intention in bringing it to work was to demonstrate it for her students, that her colleagues had seen her with the weapon and said nothing to her about it and lastly, that she had made sure to keep the item with her always and only put the pin in when demonstrating it for the students. She submitted that these points support of her contention that she should have been given a final written warning as opposed to summary dismissal as an appropriate and reasonable punishment.

71 During the hearing the Claimant submitted that she should have been moved to somewhere else in the civil service rather than being dismissed as this has ruined her career. She had worked in the civil service for 26 years. She accepted that her acceptance of a caution was contextual to her employment as a police trainer and that it was serious but she submitted that she ought to have been downgraded/moved or dealt with short of dismissal.

72 The ACAS Code of Practice on Disciplinary and Grievance Procedures recognises that an employee might be dismissed even for a first offence where it constitutes gross misconduct.

73 *Harvey* points out that the nature of the industry may dictate that some misconduct, not apparently serious, may justify dismissal for a first offence. In the case of *Siraj-Eldin v Campbell Middleton Burness & Dickson* [1989] IRLR 208, Ct Sess, the question arose of whether the dismissal of an employee for taking alcohol on board an off-shore oil rig could constitute a fair dismissal in circumstances where it was a first offence and the alcohol had been kept in a locked suitcase. The Inner House of the Court of Session held that a reasonable employer could fairly dismiss in these circumstances. This was because there was evidence that possession of alcohol on an oil rig is considered so serious that no mitigating circumstances are accepted.

74 However, this was very much the exception. In the case of *Taylor v Parsons Peebles NEI Bruce Peebles Ltd* [1981] IRLR 119, EAT the employee had worked for 20 years without incident. He was dismissed after being in a fight with another employee who was also dismissed. The employer's policy was to dismiss anyone who deliberately struck another. The tribunal felt that it had to find that the dismissal was fair as the policy had been applied equally between the two employees. The EAT upheld the employee's appeal. Lord MacDonald stated as follows: -

"The proper test is not what the policy of the respondents as employers was but what the reaction of a reasonable employer would have been in the circumstances. That reaction would have taken into account the long period of

service and good conduct which the appellant was in a position to claim. It is not to the point that the employer's code of disciplinary conduct may or may not contain a provision to the effect that anyone striking a blow would be instantly dismissed. Such a provision no matter how positively expressed must always be considered in the light of how it would be applied by a reasonable employer having regard to the circumstances of equity and the substantial merits of the case'..... This is not to say that the conduct can be condoned but to apply a rigid sanction of automatic dismissal in all circumstances is not in our view what a reasonable employer could have done'

Unlawful Deduction of Wages

75 The burden is on the Claimant to prove that the Respondent owes her outstanding holiday pay and pay for flexi-time worked.

76 Section 13, Employment Rights Act states that an employer shall not make a deduction from a worker's wages unless the deduction is required or authorised by statute or a relevant provision of the employee's contract or the worker has previously signified in writing his agreement or consent to the making of that deduction.

77 Subsection 2 states that a relevant provision in a worker's contract, means a provision of the contract comprised in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question.

Applying Law to Facts

Unfair Dismissal

What was the reason for dismissal?

78 The first issue for the Tribunal is to decide what was the reason for dismissal. The Claimant accepted that she was dismissed because she accepted a police caution for the possession of a prohibited weapon. The police caution was for possession of the stun torch/gun. The Claimant accepts that she committed gross misconduct and that it was fair to categorise it as gross misconduct.

79 The Claimant had never denied being in possession of the stun gun or that she had it on the Respondent's premises to demonstrate it to her students. She did not deny being given a police caution which would not have been possible unless she had admitted the offence of being in possession of a prohibited weapon. In those circumstances, it was reasonable for the Respondent not to conduct any further investigation into this matter. In fact, Mr Stewart did probe further in the misconduct meeting and the Claimant confirmed that she had been in possession of it at work and that she had made it operational or fired it up, in the presence of her colleagues and then again in the classroom.

80 This was the reason for the caution. No further investigation was required. It is not disputed that the Claimant had accepted a caution for possession of a prohibited weapon and that she committed gross misconduct.

81 It is therefore this Tribunal's judgment, that the Respondent had a reasonable belief that the Claimant had committed gross misconduct.

Was summary dismissal a reasonable and appropriate/fair punishment for this act of gross misconduct?

82 The Respondent did not proceed straight to the Claimant's dismissal. The Respondent followed its disciplinary process and conducted a misconduct meeting with the Claimant to consider her mitigation and the surrounding circumstances as those would determine the band of reasonable responses open to it as the Claimant's employer.

83 The Claimant and her representative were told at the start of the misconduct meeting that the meeting was mainly for them to present mitigating points to Mr Stewart that he could consider and which would determine the sanction applied, including helping her to retain her employment.

84 In this Tribunal's judgment, Mr Stewart considered all the Claimant's points in mitigation. He did not accept the Claimant's point that she should not be dismissed because this was something that she did on a regular basis. Instead, that point went against the Claimant as it gave Mr Stewart serious concerns about the Claimant's understanding of her role and of the training that she provided to students on the Initial Recruit Course. I am clear that the Claimant was not required to bring in weapons to the class as a teaching prop. The fact that she did so and had not been challenged about it prior to the incident did not mean that she was expected or required to or that senior managers were aware that she did so.

85 The Tribunal heard about 3 types of weapons that were taken into the classroom at the Respondent. Firstly, there was a box of props at the OCC that was usually locked up and for which a trainer would need to seek assistance to get access to it. Items kept in the prop box were things that although not strictly required, would be used by the Claimant and colleagues to demonstrate to students. There were no prohibited weapons in the prop box.

86 Secondly, there was another set of items that the Claimant brought in to work, which she confirmed to Mr Stewart were not kept on the premises. Some of those were used by other trainers to demonstrate to their students. There was no evidence that the Claimant's colleagues used prohibited weapons in their classroom. Thirdly, even before she brought the stun gun into work, the Claimant had previously brought in weapons that were prohibited. That was a cause for concern for Mr Stewart. He was concerned that the Claimant had not been teaching the offensive weapon course properly. There was no requirement on the Claimant to bring any weapons in to class. I accepted the Respondent's evidence that photographs were entirely appropriate and sufficient. The Claimant's students would go on to more in-depth firearms training in due course. There was also no need for her to bring prohibited weapons to an offensive weapon class. There was no requirement for her students to handle prohibited weapons at this stage of their training, even if they were keen to do so.

87 Whether other officers or senior officers were aware of the Claimant bringing in offensive and prohibited weapons is separate from the fact that she did so, for which she must take responsibility. The Respondent took seriously her statements that others knew about her bringing in other weapons in the past and had said nothing and that others knew

about the stun gun and said nothing directly to her. The Respondent investigated those allegations. The result of the investigation was everyone was reminded of their responsibility in relation to the policy/standards on Challenging and Reporting Improper Conduct, to challenge others when they are observed doing something wrong or if they feel unable to do so, they were reminded of the avenues through which to report such matters. That did not absolve or excuse the Claimant of her responsibility for her actions.

88 Another of the Claimant's mitigation points was that she did not know and should not have been expected to know that this was a prohibited weapon. It is this Tribunal's judgment that the Claimant taught the offensive weapons class on the Initial Recruit Course and that it is highly likely that she taught the firearms lesson on more than one occasion. It is also this Tribunal's judgment that she was expected to be familiar with all parts of the course and to be able to walk into any lesson and teach it, if instructed to by her managers. The firearms lesson and in particular, the student notes were clear on what are prohibited weapons and what are offensive weapons. It was reasonable for the Respondent to expect the Claimant to be familiar with all the materials on the course. She was part of the teaching team for the course. Part of the training for the Diploma was that all members of the teaching team became familiar with all the materials so that they could go into any lesson and teach it, from those materials.

89 Another point she put forward as part of her mitigation was that she did not have sufficient knowledge of policing to be able to do her job. She brought this up later and not at the misconduct hearing but Ms Disher considered it and Mr Stewart addressed it in his evidence. It is this Tribunal's judgment that the Respondent has proved that the Claimant was not required to and did not need to have training or knowledge of policing in order to do her job. The materials for the course was prepared for her by someone else. All the Claimant and her colleagues were required to do was to teach from the prepared materials. She was not expected to be able to teach anything outside of the curriculum. That is why the Respondent has and continues to recruit non-police civilians to teach on the Initial Recruit Course. The only training the Claimant required was the ability to teach, which is why the Claimant and her colleagues were required to undertake the Diploma.

90 Any other knowledge, such as the Claimant's First Aid training or the knowledge that the former police officers who were also trainers had, would have been a bonus or a nice add-on but were not necessary.

91 In those circumstances, it is this Tribunal's judgment that the Respondent refusal to allow the Claimant to undergo mental health or any other additional training bore no relationship to the circumstances that led to her dismissal. The Claimant was sufficiently trained and had the resources to be able to do her job. She was not required to bring in dangerous and prohibited weapons to her place of work. She was also not expected to do so. Even if senior officers and colleagues saw her with prohibited weapons and said nothing to her about them or even if they joked with her about them as she alleges, that did not mean that the Respondent approved of or sanctioned her bringing those items into work or into the classroom.

92 The Claimant accepted that the act of bringing in a prohibited weapon onto the Respondent's premises and accepting a caution for doing so were acts of gross misconduct.

93 It is this Tribunal's judgment that Mr Stewart considered all the points that the Claimant submitted in mitigation at the misconduct meeting. It is also this Tribunal's judgment that Mr Stewart's decision was that the acceptance of a caution for possession of a prohibited weapon represented significant breaches of the Respondent's security, of the Claimant's obligations under the Civil Service Code and the Health & Safety regulations. The Claimant confirmed in the hearing that she did not have permission to handle prohibited weapons/firearms and that if those needed to be shown in class they had to be brought in by officers from the FTC. The stun gun/torch was not an offensive weapon so there was no good reason for the Claimant to have taken it into the lesson.

94 In this Tribunal's judgment, even though this was the Claimant's first offence, it was within the band of reasonable responses open to the Respondent to terminate her contract for this offence (the case of *Taylor* above). The Tribunal's job is not to decide whether in the circumstances, it would have made the same decision as the Respondent. As the Tribunal, it is my job to decide whether, in the particular circumstances of this case, the decision to dismiss the Claimant was the reaction of a reasonable employer. As in the case of *Siraj-Eldin* referred to above, the Claimant's action in bringing the prohibited weapon to work was a very serious matter. It is this Tribunal's judgment that this was one of the exceptional cases referred to in that case. The Claimant did a very serious and criminal act, which is why she accepted a caution for it. In addition to the breaches above, it was appropriate for Mr Stewart to consider reputational damage on the Respondent and on the department if the Claimant continued her employment. The nature of the industry in which the Claimant worked made it even more serious.

95 The Claimant had been fully equipped to do her job. She had been given the training for the Diploma and she was provided with the materials from which to teach. She had been properly trained, mentored and certificated to provide training on the course. The indisputable fact was that she brought on to the Respondent's premises a prohibited weapon, with no permissible reason for doing so. The Respondent accepted that she brought the weapon to work to use as a prop in an offensive weapon class but it was not an offensive weapon, she was not required to do so, it was not necessary and she did not have permission to do so.

96 It was reasonable for the Respondent to expect that given the contents of the firearms training and the offensive weapon training that she had been responsible for teaching; the Claimant would know that this was a prohibited weapon or that if she was unsure, she would check before bringing it to work. Even if she did not know, her ignorance was not reasonable. She was in a responsible position and it was part of that responsibility for her to check that she had the authority to bring the weapon on to the Respondent's premises. She failed to do so. The Claimant's case was that the Respondent failed her in that it did not check what she brought on to the premises. In this Tribunal's judgment, the responsibility was on her to check that she was bringing the correct teaching materials to work. The responsibility was on her to ensure that she had permission to bring the weapons and other items to work that she did. The control of weapons inside the Respondent's establishments is important and would have been stressed as important during the Claimant's employment. She was not a new employee and confirmed in the hearing that she knew that the FTC would bring certain weapons to the premises if required and that the prop box was kept under lock and key. It was reasonable for the Respondent to assume that she would understand from those facts that the handling and possession of weapons was controlled within the Respondent's

premises. The Claimant failed to check first and brought a prohibited weapon on to the Respondent's premises, for which she received a police caution.

97 In all the circumstances, it was within the band of reasonable responses open to the employer to consider that, given the caution and that the Claimant's role was to teach new recruits about offensive and prohibited weapons, it could not allow her to continue with her employment. In this Tribunal's judgment, the Respondent considered the Claimant's mitigation before coming to the decision to terminate her employment. Mr Stewart rejected her points that she had not had sufficient training or lacked knowledge about policing. It was reasonable to reject those points. It is likely that Mr Stewart accepted the point that her colleagues to whom she had demonstrated the weapon ought to have told her something or alerted their managers faster. Also, her point that her purpose in bringing the weapons on to the Respondent's property was to demonstrate to the students. Nevertheless, he considered that she had committed a serious offence for which she had received a caution and that the offence was contextual to her employment, given the Claimant's responsibilities for training on prohibited and offensive weapons. It was reasonable that that consideration outweighed her good intentions in bringing the weapon on to the premises.

98 In the circumstances, it is this Tribunal's judgment that the Claimant's dismissal was for holding a caution, which she received in February 2019 and for bringing a prohibited weapon on to the Respondent's premises. Her dismissal was within the band of reasonable responses open to the employer.

99 There was no evidence that any delays in the appeal process were deliberate or that they affected the Claimant unfairly. The Respondent tried to accommodate her trade union representative and when that proved difficult, she agreed to have the appeal on her own. The Claimant had no new facts to submit to her and had no complaints about the way in which Mr Stewart conducted the misconduct meeting. Her new point to Ms Disher was that she thought that there were officers employed at the Respondent who had accepted police cautions. It is likely that the Respondent considered each person's situation on an individual basis and that a caution for a matter in an officer's private life was different from a caution as closely connected with her employment as the Claimant's caution was to hers. The Claimant did not give Ms Disher any reason to reconsider Mr Stewart's decision. At the appeal hearing she continued to give the Respondent cause for concern as she continued to demonstrate a lack of understanding of the severity of the incident. She showed Ms Disher photographs of items she had brought to work previously, some of which had been prohibited and all of which were unnecessary for her job. Ms Disher confirmed Mr Stewart's decision.

100 In all the circumstances, it is this Tribunal's judgment that the decision to dismiss the Claimant, which was confirmed on appeal, was within the band of reasonable responses, open to a reasonable employer and was fair.

101 The question for the Tribunal was not whether there were any other sanctions that could be imposed on the Claimant such as a final written warning, demotion or re-allocation, as the Claimant suggests. The question for the Tribunal in this complaint of unfair dismissal is whether the sanction of summary dismissal was within the band of reasonable responses open to the Respondent given the circumstances of the Claimant's misconduct, her job, the effect of her continued employment on the Respondent and its public reputation, equity and the size and administrative resources of the Respondent. in

this Tribunal's judgment, taking all those aspects of this case into consideration, summary dismissal was within the band of reasonable responses open to this employer. The Claimant was employed to teach about weapons and her actions in bringing a prohibited weapon into class and accepting a caution for it, went to the heart of her contract and was gross misconduct for which it was reasonable to dismiss her summarily.

102 The Tribunal's judgment is that the dismissal was fair. The Claimant's complaint of unfair dismissal fails and is dismissed.

Holiday pay and Flexi-time pay

103 The Claimant failed to prove that there is any money due to her from the Respondent.

104 The Respondent showed that the Claimant was owed some holiday pay and some flexi-time. However, the Respondent's Flexible Hours Statement, which formed part of the Claimant's terms and conditions of employment contained a term that stated that if flexi-time is unused at the termination of an employee's employment, that time would be lost and the employee would not be paid for it. That is what happened to any time that the Claimant was owed as flexi-time. The account was closed and any flexi-time held in it was lost.

105 This is permissible if the clause allowing the non-payment is contained in the Claimant's contract, a copy of which had been supplied to the Claimant well before the deduction was made. It is this Tribunal's judgment that the Respondent's Flexible Working Hours statement, which is part of its Statement of Civilian Personnel Policy was incorporated into her employment contract with the Respondent. It is likely that the Claimant was given a copy of the contract and the statement well before her termination of employment.

106 In relation to holiday pay, the Respondent paid the Claimant some money for outstanding holiday she had accrued but which she had not taken. The Claimant was paid the gross sum of £920.65. The Respondent was entitled to deduct tax and national insurance from that amount. It also deducted an amount related to a Payment on Account. It is likely that the Claimant knew what this Payment on Account related to as it was not a matter that she explored at the Tribunal hearing. The Claimant was paid the net sum.

107 In this Tribunal's judgment, the Claimant is not owed any money by the Respondent and her complaint of unlawful deduction of wages fails and is dismissed.

Employment Judge Jones
Date: 24 July 2020