Case Number: 1600579/2017

EMPLOYMENT TRIBUNALS

Claimant: **Mrs N Rogers**

Respondent: **Brook Street (UK) Limited**

Heard at: **Cardiff (by video)** **On: 6 January 2021**

Before: **Employment Judge R Harfield**
Members **Mrs W Morgan**
Mrs M Humphries

Claimant: In person
Respondent: Ms Jennings (counsel)

RESERVED REMEDY JUDGMENT

It is the unanimous decision of the Tribunal that claimant is awarded:

(a) Injury to feelings of £4000.00 (of which £800.00 has already been paid and £3200.00 remains payable);

(b) Interest on injury to feelings of £1194.78

(c) Unfair dismissal basic award of £642.00 (which has already been paid)

(d) Unfair dismissal compensatory award made up of:
    (i) Loss of statutory rights of £400.00
    (ii) Past loss of statutory sick pay £2323.10
    (iii) Future loss of earnings of £1120.00

(e) The total due to the claimant taking into account the interim payment already made is therefore £8237.88.

The award is subject to a recoupment order set out below.

REASONS

Introduction and the remedy issues to be decided

1. Following delivery of our judgment on liability issues date 29 November 2019 [43 -78] the remedy hearing took place before us by way of video hearing on CVP on 6 January 2021. We had before us a remedy bundle and remedy witness statements from the claimant and Ms Bennett (for the respondent). We received oral witness evidence from the claimant and Ms Bennett. We received closing comments from both parties. We have not repeated those here but took the parties submissions into account. Page references in brackets [ ] are reference to page numbers in the remedy bundle.

2. The claimant's schedule of loss is at [96] and the respondent's counter schedule is at [97-99]. An interim payment has been paid to the claimant of £1442.30 representing the claimant's basic award of £642.30 (the amount of which is not in dispute) together with the sum of £800 paid as a contribution towards the claimant's injury to feelings award as being the bottom of the lowest *Vento* banding.

3. In short form the claimant is seeking injury to feelings for the one element of her disability discrimination claim which succeeded at the liability hearing. The amount is in dispute with the claimant seeking the middle of the middle *Vento* band at £17,550.00 whereas the respondent suggests the sum of £1500. Interest on that award will also be payable. Credit has to be given for the interim payment.

4. The claimant also succeeded in her unfair dismissal claim and seeks a basic award of £642.30. That is not in dispute and has been paid by way of an interim payment. She seeks the sum of £500 for loss of statutory rights and the respondent offers £300. The claimant also seeks a substantial award for loss of earnings put at the net figure of £33,164.44 for past losses and £13,560.00 for future losses and which would be subject to the overall cap on unfair dismissal compensatory awards. The respondent's position, in short form, is that there is no award for loss of earnings due to the claimant as the claimant would not have been fit for work in any event even if the claimant had not been dismissed. The respondent's secondary position is that if the claimant had been fit for work she did not mitigate her losses by looking for work and that she should have been able to find equivalent work within a 12 week period.

The relevant legal principles

Injury to feelings

5. The Tribunal reminds itself of the long-established guidance in Prison Service v Johnson [1997] ICR 275, that the general principles underlying awards for injury to feelings are as follows:

   • Awards for injury to feelings are designed to compensate the injured party fully but not to punish the guilty party;

• An award should not be inflated by feelings of indignation at the guilty party's conduct;

• Awards should not be so low as to diminish respect for the policy of discrimination legislation. On the other hand, awards should not be so excessive that they might be regarded as untaxed riches;

• Awards should be broadly similar to the range of awards in personal injury cases;

• Tribunals should bear in mind the value in everyday life of the sum they are contemplating.;

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

6. The Tribunal also reminds itself of the relevant *Vento* guidelines. The claimant's claim was presented on 9 August 2017 shortly before the Presidential Guidance on updating the *Vento* bandings came into effect for claims presented on or after 11 September 2017. Paragraph 11 of that guidance provides that claims presented before that date may be uprated for inflation and to reflect the 10% uplift following *Simmons v Castle*. Given the short gap in time between the claimant presenting her claim and the issuing of the Presidential Guidance, that uprating exercise brings the bands close to those set out in that Presidential Guidance which are:

- Lower band of £800 to £8,400 (for less serious cases such as where the act of discrimination is an isolated or one off occurrence);
- Middle band of £8,400 to £25,200 (for serious cases which do not merit an award in the highest band);
- Upper band of £25,200 to £42,000 (for most serious cases such as where there has been a lengthy campaign of discriminatory harassment);
- Exceptional cases capable of exceeding £42,000.

Unfair dismissal compensation

7. Under section 118 Employment Rights Act (ERA) where the award sought in a successful unfair dismissal claim is compensation, the award must consist of a basic award and a compensatory award.

8. The basic award is calculated in accordance with sections 119 to 122 ERA. The amount awarded depends on whole years length of service, age and a week's pay. The basic award amount is not in dispute in this case.

9. The compensatory award is governed by sections 123 and 124 ERA. In particular section 123 says, where relevant:

(1) Subject to the provisions of this section and sections 124, 124A and 126, the amount of the compensatory award shall be such amount as the tribunal considers just and equitable and in all the circumstances having regard to the

loss sustained by the complainant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer.

(2) The loss referred to in subsection (1) shall be taken to include –

(a) Any expenses reasonably incurred by the complainant in consequence of the dismissal, and
(b) Subject to subsection (3), loss of any benefit which he might reasonably be expected to have had but for the dismissal. …

(4) In ascertaining the loss referred to in subsection (1) the tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of England and Wales…

Additional findings of fact

10. Since her dismissal, the claimant says she has not been well enough to return to work. On 12 May 2017 the claimant's GP signed her as unfit for work from 4 May 2017 to 1 June 2017 due to anxiety with depression [152]. The claimant says that she went to see her GP after she received her P45 as she felt very upset, overwhelmed and stressed. Her GP advised her to contact her epilepsy nurse for advice and the claimant did so and waited for a call back.

11. On 8 June 2017 the claimant's GP signed her as unfit for work again from 2 June 2017 to 30 June 2017 again due to anxiety with depression [150].

12. On 13 June 2017 [157 -158] Ms Keri John (clinical nurse specialist – epilepsy) wrote to the claimant's GP saying:

"*I met with Nicol today. I arranged to see her urgently as she contacted me extremely distressed, struggling with ongoing seizures as well as significant issues with her mood. She reported that things have generally declined over the last 15 months. This has been associated with personal issues that have occurred and that they are really making her feel very down.*

I understand that she had a couple of more significant seizures in March whilst in work and also more recently in June when she fell asleep on her bed. She is particularly worried about SUDEP and issues around dying. She feels that Zonisamide may have contributed to her feelings (like her head is going to explode when they have increased her doses) however this would also coincide with increased stress and anxiety which she is experiencing anyway.

I can see that she had awful experiences over the years and Dr Lawthorn has previously advised increasing the Citalopram but this does not seem to have been carried out…"

13. Ms John advised the claimant to apply for ESA and referred the claimant to see her neurologist. Ms John also saw the claimant in her own clinic and referred the claimant on to get some help from Epilepsy Wales. Epilepsy Wales helped the claimant with her application for ESA.

14. On 28 June 2017 the claimant's GP signed her off work for a further period until 31 July 2017 due to anxiety and depression and "epilepsy – poor control" [151].

15. After an application process the claimant was successful in her application for ESA which was awarded from 28 July 2017 at a rate of £73.10 a fortnight.

16. On 1 September 2017 Professor Lawthorn (consultant neurologist) in a letter to the claimant's GP [161 -162] noted the claimant had depression which was only partially treated and that the claimant was having severe problems with sleep and variable mood. Professor Lawthorn noted the claimant was suffering from severe headaches and had also had a severe escalation in her seizures which had led to a lot of social withdrawal. Professor Lawthorn noted that the claimant was afraid to be alone in the house with her 18 month old son, was under huge stress with an ongoing tribunal issue and was still really troubled with PTSD and flashbacks following on from a road traffic collision and an event where a man broke into her house.

17. In a separate open letter [159] Professor Lawthorn wrote that the claimant's seizures had worsened following her pregnancy and that they were attempting escalate the claimant's medication to manage her epilepsy better but to date that had eluded the clinicians. She said the claimant should not work shifts or nights and should work alongside people who could attend to the claimant during a seizure.

18. On 21 November 2017 Ms John wrote to the claimant's GP [163 – 164]. She recorded that the claimant had been suffering recurrent problems with headaches which had led to her being hospitalised. She noted that the claimant was experiencing ongoing blank episodes on a daily basis, more so when stressed, which were impacting on the claimant's quality of life. The claimant's medication was to be increased.

19. On 21 May 2018 the DWP transferred the claimant from ESA to Universal Credit. She transferred with her existing work capability assessment of limited capacity for work. The letter from the DWP at [153] explains that this means the claimant does not have to look for work but would need to meet with her work coach to take steps to prepare for work in the future.

20. On 14 August 2018 Ms John wrote [165] that she had seen the claimant in November 2017 when due to the nature of ongoing seizures they had increased the claimant's medication and the claimant had also been admitted to hospital due to intense pains she had been experiencing. She said that they had since increased the claimant's medication again due to ongoing events and that increases in medication can create difficulties with side effects. She stated that all of these experiences need to be considered in relation to the claimant's ability to work and making reasonable adjustments.

21. On 8 November 2018 Professor Lawthorn said [166]:

"1. Her mood continues to be problematic. Her son who was born at 36 weeks has recently been diagnosed with autism and this has led to lots of feelings of anxiety and guilt…

2. She also described her concern about the prospect of her dying. She is never alone and we discussed that this is therefore enormously reassuring and no one has ever died of sudden unexpected death in epilepsy when they were attended.

3. The longest time she has been without a grand mal is 3 – 4 months."

22. We do not have records for the intervening year November 2018 to December 2019. On 17 December 2019 Professor Lawthorn said [168]:

"*This is to confirm we have reviewed Nicol in our join epilepsy clinic recently and she has the following problems:*
1. Active epilepsy.
2. Non-epileptic attack disorder.
3. Significant low mood with recent suicidality and crisis intervention.

I can confirm she is not fit for work at the current time. This is not related to any lack of motivation. She is simply both physically and mentally far too unwell to consider this… I would consider that the impediments that would prevent her working are:

a) Unpredictable events
b) Significant anxiety
c) Difficulties with cognitive planning and memory"

23. On 19 December 2019 Professor Lawthorn also wrote to the claimant's GP [169] saying:

"1. Nicol has had a really difficult year. She has lost her grandfather and was very fearful of seeing her father at the funeral. This triggered a mental health crisis. Happily she describes herself as no longer suicidal but is still continuing to struggle with her mood and was very tearful today.

2. We discussed with her that unfortunately uncontrolled mood disorder does increase the risk of both seizures and non-epileptic attacks…

4. I completely agree she is not fit for work…"

24. On 22 January 2020 Professor Lawthorn wrote [171]:

"*She suffers from both intractable epilepsy and non-epileptic attacks. She also has a common comorbidity of mental health problems with mixed anxiety and depression.*

Much of her life events have really worsened her mental health and non-epileptic attacks, also known as dissociative seizures. This problem of worsening mood also in turn is well known to trigger worsening in epilepsy. People with uncontrolled mental health problems are three times more likely to experience

seizures. People with ongoing and difficult negative life events are at greatly increased risk of ongoing non-epileptic attacks.

There can be no doubt that had she not suffered this ongoing problem with life events she would be far more well today than she is."

25. On 28 February 2020 Professor Lawthorn wrote [172]:

"Please can I confirm that Nicol remains unwell and unfit for work. I do not anticipate her being in work before the end of 2020. This has had huge impact on her mental health."

26. The claimant was due to attend a benefits review in September 2020 but due to the coronavirus pandemic this was postponed and the claimant does not know when it is likely to be reconvened.

Discussion and conclusions

Injury to feelings

27. The specific complaint of disability discrimination that was upheld was a failure to make a reasonable adjustment in the failure to provide the claimant with a desk fan. The Tribunal found that the fan should reasonably have been provided by the respondent some time around the 7 March 2017. As recorded in the findings of fact from the liability hearing, the claimant met with Ms Eagle on 28 March 2017 at which meeting Ms Eagle stated that having received the requested GP report that morning she was due to buy the fan that same day. Later on in that meeting the claimant decided to terminate her assignment with SSCL so the fan was not ultimately bought.

28. The Tribunal acknowledges the respondent's submission that the failure to provide the desk fan in a timely manner could be described as a one off act and that the failure related to a 3 week period. However, in looking at the impact on the claimant the Tribunal notes the importance of providing the fan in terms of helping the claimant manage her condition in the workplace. In particular, the claimant was requesting the fan to try to stop her overheating and reduce the risk of having a seizure in the workplace. The claimant was understandably very worried and anxious about having a seizure in the workplace which not only she would have found acutely embarrassing and was a risk to her health, but also was part of the claimant's wider concern that staff at SSCL were not properly educated as to how to look out for, and deal with, a seizure if she had one. It was therefore part of the claimant's wider concerns about not feeling safe working at SSCL.

29. As recorded in the liability judgment the fan was of such importance to the claimant that she did chase it with Ms Eagle and indeed the claimant's mother even attended at the respondent's premises and offered to pay for it herself. The delay in providing the fan and the claimant having to chase it was therefore distressing and upsetting for the claimant and as we have stated was part of her overall anxiety about having seizures in the workplace and in feeling unsafe and not listened to. That context is important.

30. Taking all of the relevant factors into account the Tribunal awards the claimant the sum of **£4000** by way of injury to feelings.

Interest on injury to feelings

31. The claimant is entitled to interest on that sum. £800 of that was paid by way of an interim payment by 29 June 2020. From 7 March 2017 to 29 June 2020 is 1210 days. At an interest rate of 8% a year the interest due of £212.16 for the £800 element. Interest on the remaining £3200 is due to the date of the hearing. From 7 March 2017 to 6 January 2021 is 1401 days which at a daily date of £0.70 totals £982.62. The total interest due is therefore **£1194.78.**

Basic award

32. The basic award is agreed at **£642.30** and has already been paid to the claimant.

Compensatory award - Loss of statutory rights

33. The Tribunal awards the sum of **£400** to reflect the fact that when the claimant is able to work again she will need to work continuously for at least two years for a new employer to obtain the same range of statutory rights she had with the respondent prior to her dismissal.

Compensatory award – Loss of earnings

34. In our liability judgment we did not find there had been a discriminatory dismissal, only an unfair dismissal. The Tribunal also does not consider that the failure to make a reasonable adjustment in not providing the fan in itself caused the claimant any financial loss. At the point the claimant terminated her assignment with SSCL she knew that Ms Eagle was going to buy a fan that day and there was no reason to suppose one would not be available to the claimant either in that assignment or any future assignment going forward.

35. In short form the Tribunal found that the claimant was dismissed due to an administrative mistake, because an instruction given to stop her "write off" as an employee failed. We held that a reasonable employer would have ensured that the requested succeeded so that the claimant remained "on the books." We further held that a reasonable employer would have taken steps to periodically review where the respondent was with finding or offering assignments to the claimant and have acted proactively in trying to find a suitable position for the claimant including have follow up discussions with the claimant and looking both at opportunities in the public sector and private/commercial side.

36. The central question the Tribunal has to ask itself is what is likely to have happened to the claimant if she was not dismissed and if this respondent had dealt with her lawfully and fairly. We have to compare that with the position the claimant actually was in.

37. We do consider that this employer acting reasonably and proactively would have had jobs to offer the claimant if she had been fit. Ms Bennett told us in evidence

that in general the vacancies on the books were largely in the Newport area. The spreadsheet at [174 – 178] gives some indication of the type of work available and includes administration work, receptionist work, which the claimant potentially would have had the skills for. The claimant could not drive or travel on public transport unaccompanied. However, she was able to get lifts to work locally within the Newport area and did so when working at SSCL. We are satisfied that even if the claimant did not wish to return to SSCL at all that there were other opportunities that could have been offered to her locally by the respondent in the public sector or the private sector and beyond the two specific opportunities that Ms Eagle contacted the claimant about.

38. However, the claimant has, to date, not been well enough since her dismissal to work, whether for the respondent or anyone else. At paragraph 77 of our liability judgment we recorded that for the period between 28 March 2017 and 11 May 2017 the claimant had said she was not ready to return to work and that "she was trying to figure out what was going on with her seizures and whether she could get them under control, and whether she could work full time or part time, when she then received the letter and P45 in the post." From 4 May 2017 and as at the date of her dismissal the claimant was signed off by her GP with "anxiety with depression."

39. The claimant was therefore already unable to work prior to her dismissal. That has remained the case since. As set out above, following her dismissal the claimant's GP continued to sign her as unfit for work until 31 July 2017. Thereafter sick notes were not required as the claimant moved on to ESA and then Universal Credit. The claimant has not as yet been deemed by DWP as being fit for work, only that she is in the category of being required to take steps to prepare for work in the future. During that time the claimant's unfitness for work has continued to be supported by her treating practitioners, as set out above.

40. The question for the Tribunal is how that situation compares with what the situation would have been if the claimant had not been dismissed. The claimant's case is that being dismissed had a profound effect on her mental health and in turn impacted on her seizures such that that inability to work should be attributed to her dismissal.

41. The Tribunal is not able to agree with the claimant on that point. We do not consider that there is medical evidence before us clearly stating that the claimant's ill health and consequent inability to work was materially attributable to her dismissal by the respondent. We say this for a variety of reasons. Firstly, the claimant was already struggling with work prior to her dismissal. In particular, as set out above, she told us at the last hearing that she felt unable to work in late March, April and early May 2017 because she was struggling to get her epilepsy under control and was trying to figure out the implications for her in terms of being able to work. She told Ms Eagle that she did not think she would be able to work full time. The claimant was therefore already struggling to cope with her condition and work prior to being told about her dismissal.

42. Secondly, by 13 June 2017 Ms John noted that the claimant was struggling with ongoing seizures and significant issues with her mood and that the claimant had

said things had generally declined over the last *15 months (*our emphasis) and that this had been associated with personal issues which had occurred. Ms John noted that the claimant was particular worried about the risks of sudden death. She talked about the claimant having had "awful experiences *over the years"* (again our emphasis). Ms John did not at that time, which was only a month after the claimant's dismissal, attribute the poor state of the claimant's health her dismissal but to longer term factors and the claimant's ongoing seizures. We touched upon some of the other potential factors in our liability judgment such as worries during the claimant's pregnancy, her epilepsy becoming difficult to control after pregnancy, the claimant's worries about being in work and what would happen to her if she had a seizure and how people would, she felt, judge her, a period of marital difficulties, and a break in at her home. As we record in our liability judgment, the claimant previously had a sickness absence period in March 2017 about which she said personal issues in her life had caused her stress which in turn led to seizures. The claimant was therefore facing very significant stressors.

43. Thirdly the other medical evidence available since that time does not directly attribute the claimant's ongoing inability to work as being due to or materially influenced by her dismissal. By September 2017 Professor Lawthorn was recording that the claimant was having problems with sleep, headaches and a severe escalation in seizures. She noted the claimant's fears about being alone to care for her son, the stress from these Tribunal proceedings, and notably also PTSD and flashbacks from a road traffic collision and a break in. She talked again about the difficulties in controlling the claimant's epilepsy following pregnancy. Professor Lawthorn did not mention the claimant's dismissal in itself. By November 2018 Professor Lawthorn noted that the claimant's son had been diagnosed with autism which had led to lots of feelings of anxiety and guilt and again she noted the claimant's genuine and understandable worries about dying. By December 2019 Professor Lawthorn was noting the claimant's difficulties with copying with unpredictable events, and that she had significant anxiety and difficulties with cognitive planning and memory. Professor Lawthorn did not say anything about attributing these things to the claimant's dismissal. In 2019, sadly the claimant also suffered other adverse life events.

44. In her letter of 22 January 2020 Professor Lawthorn does say that much of the claimant's life events have really worsened her mental health and dissociative seizures and that worsening mood triggers worsening epilepsy. She says that if the claimant had not suffered an ongoing problem with life events the claimant would be "far more well today than she is." However, that is what Professor Lawthorn attributes to "life events." It is not something she directly attributes to the claimant's dismissal. Again she does not actually refer to the claimant's dismissal.

45. Having therefore given the issue careful consideration, our judgement is that even if the claimant had not been dismissed and even if she had remained on the respondent's books and contacted by the respondent about potential work, the claimant would have been well enough to take it. In our judgement, if the claimant had not been dismissed then her health and her inability to work would still have taken the same course.

46. We also looked at it another way and also asked ourselves whether there was any real chance, if the respondent had not dismissed the claimant, of the claimant hypothetically having, to date, been fit for work. For the same evidential reasons set out above, we were unable to conclude that there was any such chance.

47. It is therefore our judgement that if the claimant had not been dismissed and the respondent had considered her for job opportunities, the claimant would in any event, to date, have not been in a position to take them. We consider on the evidence available, that the claimant's ill health and her inability to work, would have followed the same course in any event.

48. We therefore have to ask ourselves what would have happened between the claimant and the respondent if this same period of ill health had occurred. In our judgement the claimant would have initially been signed off work by her GP as happened in any event. It is likely that those sickness certificates would then have continued. Under paragraph 9.3 of the claimant's contract of employment she was entitled to Statutory Sick Pay (SSP). There is nothing before us to say that she would not have received that.

49. The claimant was an individual with a known disability signed off work by her GP. We do not consider that this respondent, if acting fairly and lawfully, would have been quick to terminate the claimant's contract. Paragraph 9.4 of the contract of employment gives the respondent the right to refer an employee for an occupational health assessment. It is likely that as the claimant's ill health continued that the respondent would have activated this and it is likely that the opinion received would be (in accordance with the views of the claimant's treating practitioners) that she was at that time unfit for work with an uncertain prognosis.

50. We remain of the view that this respondent would not have been likely to be quick to dispense with the claimant's services bearing in mind that she could rest on the books at no real cost once SSP had been exhausted. There would also have been no particular reason for the claimant to have brought the contract to an end if it could subsist in the background.

51. The claimant told us that she is hopeful that she will return to work this year and that there are signs of her health improving. She told us, and we accept, that she has a strong work ethic, has always worked since leaving school and really struggles with not being in a position to earn and support her family. We accept that it is likely that at some point in 2021 she will therefore be able to return.

52. In our judgement it would be just and equitable in all the circumstances having regard to the loss sustained by the claimant in consequence of her dismissal, and in so far as that loss is attributable to action taken by the respondent, to award the claimant her past loss of SSP which she would have received for a 26 week period between 4 May 2017 and 2 November 2017. 26 weeks at £89.35 a week totals past losses of **£2323.10**. It does not seem likely that sum would have been taxable in the claimant's hands as it is likely her taxable income in that tax year would have fallen under the threshold. The gross and net figure should therefore be the same. We are satisfied that if the respondent had not dismissed

the claimant, and the claimant had still suffered ill health and an inability to work the claimant would have remained on the respondent's books during that time eligible for that amount. We have not offset from that the claimant's social security benefits because a recoupment order will need to be made.

53. We also consider it likely that if the respondent had not dismissed the claimant she would still rest on their books now. It would be at no real cost to them. It is difficult to be certain about what the future world of work will be for the claimant as there are so many uncertainties. However, as stated, she has a good work ethic and has good transferrable skills. We consider it likely that once she is fit for work she will find equivalent work to that which she was undertaking for the respondent within a 8 to 12 week period. If the claimant were still on the respondent's books at that time it is clearly very difficult to be certain about what opportunities there would be. However, the Tribunal does consider that being already on the books would be likely to confer some advantage in terms of the speed of being able to return to agency appointments. To the best that we can assess it we consider the claimant would, if with the respondent, return to agency appointments in a 4 to 8 week period. In the circumstances we award the claimant a 4 week future loss of earnings which is the difference between the two scenarios.

54. It is very difficult to assess what the earnings figure for that period would be and we therefore consider it is appropriate to use the claimant's earnings that she earned with the respondent prior to dismissal. The claimant was receiving net weekly pay of £280. 4 x £280 = **£1120.00**

55. The claimant is therefore awarded:

(f) Injury to feelings of £4000 (of which £800 has already been paid and £3200 remains payable);
(g) Interest on injury to feelings of £1194.78
(h) Basic award of £642 (which has already been paid)
(i) A compensatory award made up of:
    (j) Loss of statutory rights of £400
    (iv) Past loss of statutory sick pay £2323.10
    (v) Future loss of earnings of £1120.
(j) The total due to the claimant (before recoupment) taking into account the interim payment already made is therefore £8237.88.

Recoupment

56. Pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996 the above calculations have been undertaken without regard to the claimant's receipt of ESA and Universal Credit which Jobcentre Plus may potentially recoup. The attached Annex explains the workings of the recoupment provisions.

57. The monetary award is £9679.88 (or £8237.88 after interim payment).

58. The prescribed element is £2323.10.

59. The date of the period to which the prescribed element relates: 4/5/2017 to 2/11/2017.

60. The amount by which the monetary award exceeds the prescribed element £7356.78 (or £5914.78 after interim payment).

Employment Judge R Harfield
Dated: 22 February 2021

JUDGMENT SENT TO THE PARTIES ON

23 February 2021

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FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS