THE EMPLOYMENT TRIBUNALS

Claimant **Respondent**

Mr G Ekhator **v** **OCS Group Limited**

Heard at: London Central **On**: 23 & 24 February 2022

Before: Employment Judge Glennie

Representation:
Claimant: Mr D Curwen (Counsel)
Respondent: Ms A Niaz-Dickinson (Counsel)

JUDGMENT

1. **The complaint of victimisation contrary to the Equality Act 2020 is dismissed on withdrawal.**

2. **The complaint of unfair dismissal is well-founded.**

3. **The basic award and compensatory award for unfair dismissal shall both be reduced by 75% on account of the principle in Polkey and/or contributory conduct.**

4. **If not agreed between the parties, the remaining issues as to remedies shall be determined at a further hearing.**

REASONS

1. By his complaint to the Tribunal the Claimant, Mr Ekhator, made complaints of victimisation and unfair dismissal. The victimisation complaint was withdrawn at the commencement of the hearing and, with the Claimant's consent, is dismissed on withdrawal. The Respondent, OCS Group Limited, disputes the remaining complaint of unfair dismissal.

2. I decided to hear and determine the issues as to liability first, reserving my judgment at the conclusion of day 2 of the hearing. The issues to be determined at this stage are as follows:

   2.1 What was the reason or, if more than one, the principal reason, for the Claimant's dismissal.

   2.2 Was this a reason falling within subsection (2) of section 98 of the Employment Rights Act 1996, or some other reason of a kind such as to justify the dismissal of an employee holding the position which the Claimant held.

   2.3 Did the Respondent act reasonably or unreasonably in treating this as a sufficient reason for dismissing the Claimant. Where the reason relied on is a reason related to conduct the Tribunal will consider:

      2.3.1 Whether the Respondent held a genuine belief that the Claimant had committed the relevant conduct and whether there were reasonable grounds for that belief.

      2.3.2 Whether the Respondent carried out a reasonable investigation and followed a reasonable procedure.

      2.3.3 Whether dismissal was within the range of reasonable responses.

   2.4 If the dismissal was procedurally unfair, is there a chance, and if so what chance, that the Claimant would still have been dismissed if that had been corrected.

   2.5 Did the Claimant contribute to his dismissal by his own conduct and, if so, to what extent.

Evidence and findings of fact

3. I heard evidence from the following witnesses:

   3.1 Mr Kartik Arya, Operations Manager.

   3.2 Mr Stuart Dawson, Senior Regional Manager.

   3.3 The Claimant.

4. There was an agreed bundle of documents, and page numbers that follow refer to that bundle.

5. The Claimant's employment as a Courts and Tribunals Security Officer ("CTSO") began with the Respondent's predecessors, "Mitie", on 18 October 2014. His employment transferred to the Respondent on 1 April

2020. From 2014 onwards he worked at various court and tribunal buildings around London. At the time of the events with which this claim is concerned he was working at Field House, near Chancery Lane, where the Respondent provided security services to HMCTS.

6. At the commencement of the hearing I informed the parties that I have sat at Field House on occasions, but have no particular knowledge of the security arrangements there, and no acquaintance with anyone mentioned in this case. The parties had no objection to my continuing with the hearing.

7. The role of a CTSO is to maintain order and judicial security, and to protect users of the relevant building, including members of the public and staff. The role involves responsibilities and powers beyond those of a security officer at commercial premises. A CTSO has powers of search, restraint and removal of individuals when necessary, and of confiscation of prohibited items.

8. The Claimant worked on the nightshift from 19.00 to 07.00, Monday to Friday.

9. A document entitled "Assignment Instructions" and known as "AI" at pages 198-222 set out the security requirements and practices at Field House. These included a description of the premises (there being 8 floors) and the CTSO's responsibilities and powers, summarised above. At page 202 the normal working hours for HMCTS staff were specified as 0730 – 1800. At page 215 the CTSO's job was described as including patrolling and recording information in the Daily Occurrence Book ("DOB") such as visitors, confiscated items and incidents. At page 218 the document stated that patrols would take place at times agreed with the supervisor or manager.

10. There was also displayed at Field House a poster (page 125) which gave a summary of the duties of the nightshift CTSO. A patrol of the site was to be carried out between 1930 and 2000 (this apparently indicating the start time rather than the duration, as the Claimant estimated that a full patrol would take around 45 minutes). The poster specified that this was to include checking all floors, ensuring all taps are off, switching off any lights, and securing the judges' gate. There were to be hourly calls to the Respondent's helpdesk, and then a final patrol at 0630 when the lights should be switched on and the judges' gate unlocked.

11. On 3 July 2020 the Claimant raised a grievance against his supervisor, Clive. It is not necessary to deal with this in great detail, but essentially the Claimant made complaints such as that Clive was not working his full hours, was leaving the site unattended, and had made duplicates of keys. The grievance was not upheld: its significance in the present proceedings is that the Claimant believes that Clive held a grudge against him because of it and wanted him to lose his job.

12. On 26 January 2021 a complaint was made against the Claimant by a member of HMCTS staff at Field House. This complaint, which was at pages 86-87, read as follows:

"On Monday morning security informed me that a judge and lawyer left the building on Friday 22nd February night at 12:27 AM (Saturday 23rd) according to the log. Upon investigation it appears that a patrol was logged at 8:50 PM but no mention of anyone still in the building. It was later confirmed by the judge that in fact another judge was also with them and left a little earlier, after 8:00 PM. All staff and judiciary should be out by 7:00 PM, so this should have been logged.

"There is no evidence that security approached the party of two or logged their details whilst conducting his patrol at 8:50 PM, therefore I am inclined to allege the guard did not complete his required duties. Had there been a fire or other serious incident, the guard would not be able to provide confirmation that the building was clear.

"The judge and lawyer have been spoken to separately but I am not filled with confidence that this guard is conducting his patrols. [Clive] has mentioned that he has previously raised similar concerns, so clearly this is not the first time. As you may be aware we have SIAC cases in this building, 24 security is in place to ensure the building is secure, I believe the guard has failed to carry out his duties and my preference would be that he is replaced with immediate effect, however, I understand that there may need to be an investigation."

13. On 29 January 2021 Clive sent an email to Mr Arya at pages 89-90 setting out a timeline of events drawn from the CCTV footage taken at the building. This supported the details given in the client's complaint, stating that the CCTV from the site showed the Claimant leaving the office at 19.46, locking the judges' gate at 19.47 and returning to the office at 19.48; then leaving the office at 23.10, being see pm the 2nd floor, and returning to the office at 23.20. Clive added: "no cameras on 3, 4, 5 floors. Each floor takes 2 mins to patrol. I'm sure he did not patrol those floors includin[g] basement which got cameras 1, 2 and 18 which he was not visible."

14. The complaint led to an investigation meeting conducted by a manager named Anish on 4 February 2021. The invitation letter to the Claimant at pages 92-93 and cited the following allegations:

- Failure to follow correct procedures and processes.
- Serious breach of trust and confidence.
- Bringing the company into serious dispute.

15. The letter said that this arose from a customer complaint where the Claimant "failed to follow correct procedures and securing the building out of hours" but did not give any other details or the date of the incident. Anish was additionally provided with the email from Clive giving the timeline set out above.

16. There were notes of the meeting at pages 94-98. In the present hearing the Claimant denied that these were accurate, but did not give any details of the respects in which he thought they were inaccurate. He did not at the time dispute the accuracy of the notes, as he subsequently did in relation to the disciplinary hearing. Although the notes do not record the date of the incident under investigation, it is apparent that the Claimant knew which night was in question. The notes recorded the Claimant as stating following matters, among others:

    16.1 He had previously been told by a supervisor named Raphael that some people would be working later hours than normal because of lockdown, and he was not to be bothered if there were people still working when he was on shift.

    16.2 Someone named Christy had called and said that "they are still in the building" and would be working late.

    16.3 At 00.30 he had seen two people trying to leave. He recognised the lady as a member of staff. He let them out and recorded this in the DOB.

    16.4 He had checked everywhere and not seen the two people.

    16.5 He locked the judges' gate at 19.43 and did another patrol at 23.10 He opened the judges' gate at 06.30.

    16.6 The Claimant did not remember if anyone had called to say that they were still in the building.

    16.7 Another judge had left at around 20.00 / 20.30.

    16.8 He did not know that the other two people were still in the building.

    16.9 A full patrol takes around 45-55 minutes.

    16.10 The Respondents could check the security swipe card system in order to see his movements around the building.

17. Following the investigation meeting the Claimant made a complaint about Anish. This was not in the event of great significance to the issues that I had to decide, as it was mainly based on the misapprehension that he had been suspended without pay.

18. On 5 February 2021 at pages 106-107 Mr Arya sent to the Claimant an invitation to a disciplinary hearing on 11 February 2021. The allegations were identified in the same terms as in the investigation meeting letter. There were enclosed with the letter the interview notes, the DOB log, the HMCTS complaint email of 26 January 2021, and the relevant CCTV footage. At this stage I observe that, although the letter itself did not

identify with any precision what the substance of the allegations was, this was apparent from the complaint email.

19. There were notes of the disciplinary hearing at pages 130 onwards, and a copy with the Claimant's amendments at pages 140 onwards. I noted the following points:

19.1 The Claimant stated that it had never been said that if people remained beyond 19.00 he should turn them out.

19.2 He said that Clive was trying to get him out, and that he had provided the information to the client.

19.3 When Mr Arya asked the Claimant whether, had he carried out the patrols, he would have seen the two individuals, he replied "yes".

19.4 The Claimant repeated what he had said at the previous meeting about Raphael telling him that there would be people working late.

19.5 The Claimant said that he had done his first patrol at 7.45, that he had wanted to do floors 3, 4 and 5, that he had probably been interrupted by something, and wrote 8.50. He did floors 3, 4 and 5 at 11.00, and this patrol lasted until 11.35.

19.6 On page 133 the notes record: "I know some people were there by the judges' side but I did not go there to tell them to leave". When asked why he did not put anything in the DOB to say they were there, the Claimant said he did not know. This makes it clear that when the Claimant said "I know" that they were there, he meant that he knew at the time. He said that he forgot to log the 23.00 patrol.

19.7 On page 135, the Claimant was recorded as saying that on the second patrol he knew there were people still in the building: he did not check on them because he had been told not to remove them. At page 137, he was recorded as saying that he did not check again after the judge left at around 20.00 or after the two individuals left at 00.30.

20. Mr Arya sent his decision to the Claimant in a letter dated 19 February 2021 at pages 160-162. He set out the three allegations as previously recorded and gave his findings in the following terms:

- Failure to follow correct procedures and processes – in review of the evidence that I reviewed along with yourself, there is clear evidence to support that you failed to carry out your responsibilities as a security officer on the night of the 22nd January 2021, in that you failed to carry out a through [presumably, thorough] patrol of the building which led to persons remaining on site without being detected. It was evident from our meeting that that you stated that you only make an observation on areas where the lights are off,

which could mean that detailed checks are not carried to establish if there are any issues or concerns, on that particular floor. Additionally, it was also evident despite the comment made about forgetting to log the correct entries into the DOB that the fundamental task was not carried out, as you claimed that that you were aware of these persons being in the building however, there is no mention of the additional patrol that you carried out.

- Serious breach of trust and confidence – due to the strength of information that has been brought to me, my major concern is that you have failed to carry out the set task of a security officer.

- Bringing the company into serious disrepute – your failings of that evening had resulted in a complaint that was generated by the customer.

21. Mr Arya added in the letter that "there is a clear indication to me that you used a guide, however, with the number of years that you have worked at this site you have failed to carry out the tasks outlined within the site-specific instructions". He also wrote, with reference to what the Claimant had said about Clive's involvement, "…you referred that this complaint was expedited by another colleague….and you noted that this was a result of a complaint that you had raised previously. After consideration all the information, this situation was not a result of anyone's directly involvement bar the customer who has supplied us with the required information……"

22. Mr Arya expanded on his reasoning in his witness statement. What he said included the following:

    22.1 The patrols that the Claimant had carried out lasted only a few minutes. The shortcomings in his patrolling meant that people had remained on site out of hours, undetected.

    22.2 The Claimant did not know who the individuals remaining on site were.

    22.3 In the event of a fire, the Claimant would not have been able to provide confirmation that the building was clear. This seemed to me to be something of an over-simplification of the position. On the Claimant's account, had a fire occurred before 23.00, he presumably would have had to say that he did not know whether the building was clear, as he had not patrolled all of it; after that time, he would have said that there were two people in the building.

    22.4 The Claimant had admitted not checking areas where the lights were off.

    22.5 The Claimant had not completed the DOB accurately.

23. When cross-examined Mr Arya said that the issue of previous failings, as suggested in the complaint, was of no significance, in that he would have made the same decision whether or not there had been previous incidents. He said that he had not been aware of any previous concerns. I accepted Mr Arya's evidence on this point. Although Mr Curwen suggested that Mr Arya had deliberately omitted mention in his witness statement of the allegation of previous failings in order to distance himself from Clive, I found this unlikely. I found it plausible that Mr Arya would be concerned only with the incident in hand and not with previous possible incidents which evidently had not been investigated at the time.

24. The Claimant sent a letter of appeal on 24 February 2021 (page 167). In this he summarised the events that had led to the disciplinary hearing, and said that this was the first time that he had been the subject of such proceedings. He said that he had been following policy and procedure, had never been provided with written express instructions, and had received conflicting instructions. The Claimant continued that the "the charge is that I did not approach judge and lawyer (party) whom over stayed (which is a common occurrence)", and that he had been told "not to disturb them as they do important work". (It seemed to me that this was not in fact the allegation, and that what the Claimant wrote reflected the point he had made in the investigation meeting about being told not to turn out those who had overstayed). The Claimant said that he had done as instructed by logging their departure in the DOB.

25. The Claimant wrote further that he had not been given any warnings; that Mr Arya had accepted that the specific instructions were unclear; and that the sanction was too severe and disproportionate.

26. The appeal was heard by Mr Dawson on 8 April 2021. There were notes of the hearing at pages 183 to 186. The Claimant again said that he had been told not to remove people who had stayed in the building beyond time, but just to record when they left. When questioned by Mr Dawson, the Claimant said he did not know the names of the two people, but he knew their positions (i.e. a judge and a lawyer). Mr Dawson said that it was important to know by name who was in the building for reasons of fire safety, to which the Claimant replied that he could evacuate them without knowing their names.

27. When cross-examined, Mr Dawson said that it had not concerned him that Clive had not provided a statement, as he was duty bound to escalate the issue, and that he could not speculate as to whether Clive may have had an ulterior motive. Mr Dawson said that the main point was that there had been a systematic failure to carry out the relevant duties.

28. Mr Dawson decided to dismiss the appeal, giving the outcome in a letter dated 6 May 2021 at pages 193-194. He said that the evidence showed that the Claimant had failed to carry out a comprehensive patrol of the building, which led to persons remaining on the site without being detected. Mr Dawson continued that it was not acceptable only to make an

observation of areas where the lights were off, and that there had been a failure to log the correct entries on the DOB. In the latter connection, Mr Dawson referred to a failure to record the presence of the two people on site, or the additional patrol that the Claimant had conducted.

29. So far as his evidence to the Tribunal is concerned, the Claimant said little in his witness statement about the events of the night in question. He stated that he carried out all patrols as instructed, without giving any further details, and that he completed the DOB correctly by logging the court staff out of the building. The Claimant asserted that if there was misconduct, it was minor, and could have been resolved by training, which he had not received since 2014.

30. In his oral evidence the Claimant repeated the point about training. He agreed that, when carrying out the initial patrol at 19.30 – 20.00, he should check all floors. The Claimant said that the phone call he received was from the judge who was working late, and that he saw the two individuals when he made the patrol at about 23.00. He said that he had never said that he did not know that the two individuals were present in the building: he saw them and he knew they were there. The Claimant stated that he first knew they were there when he saw them during his 23.00 patrol. He said he would not normally record in the DOB the presence of people in the building.

The applicable law and conclusions

31. Section 98 of the Employment Rights Act 1996 includes the following provisions:

(1) In determining……whether the dismissal of an employee was fair or unfair, it is for the employer to show –

(a) The reason (or, if more than one, the principal reason) for the dismissal, and
(b) That it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(2) A reason falls within this subsection if it –

(a) ……
(b) Relates to the conduct of the employee,

(3) ….

(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –

(a) Depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and
(b) Shall be determined in accordance with equity and the substantial merits of the case.

32. In **British Home Stores v Burchell [1978] IRLR 379** the Employment Appeal Tribunal defined the test to be applied in the case of a dismissal for misconduct. The Tribunal has to consider whether the employer had a genuine belief that employee was guilty of the alleged misconduct; whether there was a reasonable basis for that belief; whether a reasonable investigation was carried out (including whether there were any procedural failings); and whether dismissal was within the range of reasonable responses.

33. At all stages of the **Burchell** test the standard to be applied is that of reasonableness. The Tribunal must not attempt to substitute its own view for the decision of an employer who acted within the range of reasonable responses.

34. I first considered the Respondent's reason for dismissing the Claimant. I accepted that this was as stated by Mr Arya. The latter concluded that the Claimant had not carried out his duties properly as he had not carried out adequate patrols, had not checked areas where the lights were off, and had failed to record the presence of the two individuals in the DOB. The three bullet points in the dismissal letter were, perhaps, repetitive in that the findings of breach of trust and confidence and bringing the company into disrepute did not add anything substantial to the primary finding that the Claimant had failed to carry out his duties; but they did not detract from that.

35. I found that Mr Arya genuinely believed that the Claimant had committed the misconduct and had reasonable grounds for that belief. The Claimant's own account at the disciplinary hearing included failing to visit floors 3, 4 and 5 during his first patrol; not checking areas where the lights were off; and not recording the presence of the two individuals in the DOB until they left the building.

36. Mr Curwen criticised the investigation and the decision on a number of grounds. These included criticisms based on the role of Clive. I agreed with Mr Curwen that it appeared from the complaint and the timeline drawn from the cameras that Clive had brought to the client's attention the entry in the DOB and the fact that the first patrol had made no mention of anyone in the building. I did not agree that it could be said to be a fact that Clive had lied about previous incidents in order to get the Claimant into trouble. Although the Claimant's evidence in the present hearing was that there had not been any previous incidents, this issue had not been investigated at the time.

37. I accepted that, as Mr Curwen submitted, it might have been that the client would not have complained and asked for the Claimant to be removed had they not been told that this was not the first time that he had fallen short in his duties. In the absence of their discovering the relevant material in some other way, it is certain that the client would not have complained had Clive not drawn the DOB entries to their attention. It is the case that Clive was not interviewed, nor was his role in the matter the subject of any investigation.

38. On this point, I agreed with Ms Niaz-Dickinson's submissions that Clive's role was in truth peripheral, and that the disciplinary investigation was concerned with the Claimant's conduct, rather than with how that came to light. I found that what was required of the Respondent was a reasonable investigation of what the Claimant did or failed to do, and that even if Clive had drawn this to the client's attention out of malice, that would not significantly affect the question of the Claimant's conduct.

39. Mr Curwen submitted that there had been a lack of training of the Claimant. Although the Claimant's evidence, which was not disputed, was that he had had no training since 2014, I found that this was of no relevance to his failure to carry out a full first patrol: at no point did he suggest that he did not understand that he was required to visit all floors in the building.

40. I found the position to be different regarding the DOB. I agreed with Mr Curwen's submission that entries by other individuals also showed deficiencies in recording as required by the Respondent. The colleague who took over from the Claimant on the Saturday morning recorded an individual arriving at 10.10 am, but apparently did not record that person's departure, and failed to record the carrying out of any patrols. I found that there had been a failure to fully investigate how the DOB was used and what training or instructions had been given with regard to this. I will return shortly to this aspect, and its impact on the fairness or otherwise of the dismissal.

41. Mr Curwen pointed out that the Claimant had asserted that there would be evidence from the swipe card system that would show his movements around the building, and that this evidence had not been obtained. The Respondent's witnesses said in their oral evidence that they believed that there had been an unsuccessful attempt to obtain this, although their evidence on this was somewhat vague and given at second-hand. I concluded that there had not been a significant failing in this regard: Mr Arya had sufficient from the Claimant's own account to be able to conclude that he had not carried out a full first patrol.

42. Finally, Mr Curwen argued that the Respondent should have investigated where the two individuals were in the building, as the Claimant could not reasonably be accused of failing to see them if they were in a location where they could not be seen. It is not easy to imagine where such a location might have been. I concluded, however, that this was not really the point, since on the Claimant's account he did not visit all of the floors in the

building on his first patrol, but did see the two individuals when he carried out the second.

43. There were no purely procedural criticisms as such beyond the aspects discussed above: there was an investigation, a hearing, and an appeal.

44. I then considered whether, in the light of the above, the Respondent had carried out a reasonable investigation. I reminded myself that I should consider the process as a whole, and that what is required is a reasonable, not a perfect, investigation. Another way of putting the question is to ask whether the investigation fell outside the range of reasonable investigations that an employer could undertake in the circumstances.

45. I found that the failure to investigate fully the issue as to the DOB and the training and instructions given about it rendered the investigation unreasonable in that regard. This was a significant element in Mr Arya's decision. He did not say, for example, that the failure to carry out the first patrol properly was such that the apparent failings in completing the DOB scarcely mattered. As I have described above, it is evident that there were deficiencies in the use of the DOB by the Claimant's colleague on the next shift. I found that a reasonable employer would have enquired further into the use of the DOB and the instructions and training given about it; and that no reasonable employer would have decided that the Claimant had committed misconduct in this regard without making those enquiries.

46. I next considered whether dismissal was within the range of reasonable responses. This was the first occasion on which the Claimant had been the subject of disciplinary action in over 6 years with the Respondent and its predecessor. As I have found, there was a failure to fully investigate the DOB aspect of the complaint, and it may have been that such investigation would have revealed that no, or little, criticism of the Claimant was merited on that score. Even putting this aspect aside, however, the Claimant had substantially failed in the performance of his duties in not carrying out the full first patrol. There was some confusion in the Claimant's accounts of when and how he became aware of the presence in the building of the judge and the lawyer. The point about the patrol, however, is the obvious one that it should be carried out in order to check that the building is secure and to establish whether anyone is still present, etc.

47. I concluded that some employers might have decided that as this was, or should be treated as, a first offence, a (possibly final) warning would be sufficient. I could not, however, say that dismissal fell outside the range of reasonable responses. There had been a substantial failing on the Claimant's part, with no real mitigation, and which had led the client to request his removal from the premises.

48. My finding as to the failure to carry out a reasonable investigation means that the complaint of unfair dismissal is well-founded. There remain for consideration the principle in **Polkey** and the issue of contributory conduct.

49. **Polkey** requires the Tribunal to determine what would have happened if any particular failing (including, as here, a failure to conduct a reasonable investigation) had been rectified. This is necessarily a hypothetical exercise, but the Tribunal is bound to conduct it.

50. Based on the evidence I have heard, I consider it likely that a full investigation of the DOB issue would largely have exonerated the Claimant. As I have set out above, entries in the book made by a colleague also seem to have involved deficiencies according to the Respondent's expectations. I was not referred to any clear instructions or document setting out how the book was to be used. The Claimant had recorded the two individuals leaving the building, in accordance with the instructions that he said he had been given.

51. I concluded that, had these matters been investigated, Mr Arya would not have concluded that the Claimant was seriously at fault with regard to the DOB. He would still have found that there had been a failure to carry out a full first patrol and, in my judgement, would still have decided that this alone was a serious failing. I concluded that there was a 75% prospect that dismissal would still have been the sanction applied and (for the reasons given above) that this would have been within the range of reasonable responses. Any compensatory award should therefore be reduced accordingly.

52. I then considered the issue of contributory conduct. The test under section 122(2) ERA (regarding the basic award) and section 123(6) ERA (regarding the compensatory award) is that the Tribunal should apply such reduction as it considers just and equitable. I had in mind **Lenlyn UK Limited v Kular UKEAT/0108/16**, where the Employment Appeal Tribunal identified the risk of double-counting occurring where deductions are made for **Polkey** and contributory conduct where there is overlap in the relevant circumstances.

53. I concluded that there was very substantial overlap between the considerations under **Polkey** and with regard to contributory conduct. The point is essentially the same: that is, that the Claimant failed to carry out a full first patrol, and that this is an essential element of the job. Had it stood alone, I would have assessed contributory conduct also at 75%. I concluded, however, that it would not be just and equitable to apply a second reduction of 75% to the compensatory award. I found that the justice of the case was reflected in a single reduction of 75%, in effect "concurrently" under both principles. The basic award, however, should also be reduced by 75% under section 122(2).

54. It may be that the parties will be able to agree on remedies in the light of this judgment. If not, they should write jointly to the Tribunal with their available dates for a remedies hearing, together with a time estimate and details of any further case management orders sought.

Employment Judge Glennie

Dated: ……..4 April 2022……...……..

Judgment sent to the parties on:

04/04/2022.

For the Tribunal Office