Case No: 2206435/2021

EMPLOYMENT TRIBUNALS

Claimant		**Respondents**
Ms H	**v**	(1) Gizit Limited t/a Elisa Organic and Whole Foods (2) Mr E Babur

Heard at: Central London Employment Tribunal On: 27 July 2022

Before: Employment Judge Norris, sitting alone (via CVP)

Representation:
Claimant – Mr A Iossifidis, Caseworker (North Kensington Law Centre)
Respondents – Did not appear/not represented

RESERVED REMEDY JUDGMENT

The Respondents shall pay the Claimant a total of £27,715.56, calculated as follows:

a. £6,546.96 in respect of loss of earnings from the termination date (26 June 2021) to 1 January 2022;
b. £18,250 in respect of injury to feelings;
c. £1,050.48, being two weeks' pay for the failure to provide a written statement of employment particulars; and
d. Interest, amounting to £1,584 on the injury to feelings award and a further £284.12 on the lost earnings.

WRITTEN REASONS AND ANONYMITY REASONS

Background

1. The Claimant was employed as a shop worker by the First Respondent, a greengrocer, from 5 to 26 June 2021. The Claimant is a British woman of Pakistani origin and a Muslim. The Second Respondent is one of the owners of the shop in which the Claimant worked.

2. The Claimant alleges in summary that during her employment, the Second Respondent:

    a. Swore at or about her in Turkish and English, calling her a "fucking bitch" and a "piece of shit" on 21 June 2021;
    b. Brought alcohol into the shop and played loud music during Friday prayers, refused to allow the Claimant to go to the mosque to pray and said "Fuck Friday prayers, fuck Jummah, this is Jummah[1], my shop is Jummah" on 25 June 2021;
    c. Pointed a large knife at the Claimant and said to her, "…You need to be very careful or I will fuck you over. … I don't like this scarf covering your body, take this off. Take your cap off too. Put some makeup on your face and wear some nice tight clothing", using the knife and his other hand to show curves, and, "Tomorrow you do all this or don't work for me", on 26 June 2021;
    d. Said, "These fucking Paki should not mess with a Turk" on 26 June 2021;
    e. Messaged a former colleague of the Claimant's on 27 July 2021 saying, "Tell that cunt to call me" (referring to the Claimant), "Can u all fuck off. Before I fuck all of u off" and "U pissed me off. I know where u gays lives".

3. The Claimant alleges in summary that the First Respondent:

    a. Withheld the Claimant's wages, including an amount of £305 by way of a "deposit" and other sums. The Claimant had not consented to these deductions;
    b. Failed to pay the Claimant for her accrued but untaken holiday on termination of her employment; and
    c. Failed to provide the Claimant with a statement of terms and conditions as required by Section 1 Employment Rights Act 1996 on commencement of her employment or at all.

4. After the 21 June 2021 incident (paragraph 2(a) above), the Claimant gave two weeks' notice verbally. After the incidents on 26 June 2021 (paragraphs 2(c)-(d) above), the Claimant left the shop and did not return. She entered ACAS Early Conciliation between 27 July 2021 and 9 August 2021 (against the First Respondent) and 1 and 7 September 2021 (against the Second Respondent) and lodged her claim with the Employment Tribunal on 30 September 2021. She claimed discrimination because of race, religion and sex, holiday pay, arrears of pay and "other payments". No response was submitted by or on behalf of the Respondents, or either of them.

5. The Claimant is a survivor of domestic abuse and had left her (now ex-) husband in January 2021 with her children and relocated to London from another area of the UK. She had told the Second Respondent and his business partner about this.

[1] Jummah is the Arabic/Urdu name given to Friday prayers

Hearings in the case

6. At a Preliminary Hearing (Case Management) (PHCM) on 29 June 2022, the Claimant was represented by Mr Iossifidis. The Respondents did not appear and were not represented. I was satisfied that they had been served with the claim correctly but had failed to enter a response without good, or any, reason and accordingly I entered Default Judgment: against the First Respondent only in respect of the claims of unlawful deductions, holiday pay and failure to provide a section 1 statement; and against both Respondents for religion-, race- and sex-related harassment and constructive dismissal contrary to section 39(7)(b) Equality Act 2010. I awarded the Claimant £758.34 for the unlawful deductions from wages and £178.52 in lieu of the accrued but untaken holiday. I listed a Remedy Hearing in respect of the remaining complaints to take place on 27 July 2022 and reserved it to myself.

7. On 27 July 2022, the Claimant attended with Mr Iossifidis as her representative once more. She had prepared, in line with the directions I had made at the PHCM, a remedy witness statement, and Mr Iossifidis had compiled a remedy bundle which included the Claimant's medical records. Also in attendance at the hearing, which took place by CVP by agreement, was Ms A Whittingham of the Mirror newspaper. In light of the unredacted contents of the bundle and the nature of the claim, we took an adjournment so that Mr Iossifidis could take instructions, and on return he made an application for a Restricted Reporting Order and/or an Anonymity Order. Having considered his application and having invited Ms Whittingham to make any comments, I made an Anonymity Order, including the retrospective deletion from the register of the Claimant's name on the Default Judgment.

8. I heard evidence from the Claimant and submissions from Mr Iossifidis as to remedy and reserved my decision. I record that I displayed the Claimant's witness statement and the documents to which it referred on my screen so that Ms Whittingham could see and hear what the Tribunal could see and hear, and gave her time to read them in full.

The Law on RROs/Anonymity Orders

9. Subsection 11(1)(b) Employment Tribunals Act 1996 (ETA) provides that an Employment Tribunal may, either on the application of a party or of its own motion, make a restricted reporting order (RRO) having effect, if not revoked earlier, until the promulgation of the decision of the Tribunal, in cases involving sexual misconduct. For these purposes, according to subsection (6), "sexual misconduct" includes "the commission of a sexual offence, sexual harassment, or other adverse conduct (of whatever nature) related to sex, and conduct is related to sex whether the relationship with sex lies in the character of the conduct or in its having reference to the sex or sexual orientation of the person at whom the conduct is directed".

10. Article 8 of the European Convention on Human Rights ("Convention") says that:

"(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

11. Article 6 of the Convention provides that in the determination of civil rights and obligations:

"Everyone is entitled to a fair and public hearing… Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice".

12. Article 10 provides that:

"(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority…

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

13. The provisions relating to the anonymisation of parties or witnesses in Employment Tribunal proceedings are set out in Rule 50 of the Tribunal Rules of Procedure 2013 ("Rules"), which provides as follows:

"50. Privacy and restrictions on disclosure

(1) A Tribunal may at any stage of the proceedings, on its own initiative or on application, make an order with a view to preventing or restricting the public disclosure of any aspect of those proceedings so far as it

considers necessary in the interests of justice or in order to protect the Convention rights of any person…

(2) In considering whether to make an order under this rule, the Tribunal shall give full weight to the principle of open justice and to the Convention right to freedom of expression.

(3) Such orders may include-

…

(b) an order that the identities of specified parties, witnesses or other persons referred to in the proceedings should not be disclosed to the public, by the use of anonymisation or otherwise, whether in the course of any hearing or in its listing or in any documents entered on the Register or otherwise forming part of the public record."

14. Such an order under Rule 50 would interfere both with the principle of open justice and the right to freedom of expression. As the Supreme Court said in *A v British Broadcasting Corporation*[2], "It is a general principle of our constitutional law that justice is administered by the courts in public, and is therefore open to public scrutiny. The principal is an aspect of the rule of law in democracy." Quoting from Lord Reed's judgment in that case, the EAT (Simler J) in *British Broadcasting Corporation v Roden*[3] observed that the principle of open justice is accordingly of paramount importance and derogations from it can only be justified when strictly necessary as measured to secure the proper administration of justice.

15. Simler J went on to explain that so far as anonymity orders are concerned, three Convention rights are engaged and have to be reconciled: "Article 6 which guarantees the right to a fair hearing in public with a publicly pronounced judgment except where to the extent strictly necessary publicity would prejudice the interests of justice. Secondly, Article 8 which provides the qualified right to respect for family and private life. Thirdly, Article 10 which provides the right to freedom of expression, and again is qualified." She observed that in the case of *In re S (A Child) (identification: Restrictions on Publication)* [4] , Lord Steyn had described the balancing act to be conducted in a case involving those conflicting rights. He had confirmed that neither article has as such precedence over the other. Where the values under two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual cases necessary and justifications for interfering with or restricting each right must be taken into account and finally the proportionality test must be applied to each.

16. The Court of Appeal observed in *R v Legal Aid Board, ex parte Kaim Todner*[5] that interference in the open justice principle for a limited period is less objectionable than a permanent restriction on disclosure and that it is not unreasonable to regard a person who initiates proceedings as having

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[2] [2014] 2 WLR 1243

[3] UKEAT/0385/14

[4] [2004] 3 WLR 1129

[5] [1998 EWCA] Civ 958

accepted the normal incidence of the public nature of such proceedings so that in general such a party has to accept the embarrassment and reputational damage inherent in being involved in litigation and is in a different position to a witness who has no interest in the proceedings and so has a stronger claim to be protected by the courts if liable to be prejudiced by publicity.

17. This latter point has been considered more recently by the Employment Appeal Tribunal (Lord Summers) sitting in Scotland in the case of *A v Burke and Hare*[6], a case concerning a former stripper who brought a claim for holiday pay arising from her work as such. The EAT considered that the principle of open justice required the claimant's name to be published and that despite evidence of stigmatisation of strippers, that did not justify an anonymity order. There had been no or no sufficient evidence to establish that the claimant in that case had a reasonable apprehension of verbal abuse and the threat of assault and it was not possible to identify

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circumstances where such serious harms might occur. The authorities show that "social opprobrium" is not regarded as sufficient to justify an anonymity order.

18. Although the claimant's GP records in *A v Burke and Hare* referred to an episode of depression, the claimant in that case said that if her name was disclosed publicly in a judgment her mental health would suffer and the EAT observed that the Respondents' interest in naming the claimant was because she had stated she would abandon her claim if she was not granted anonymity, the Tribunal nonetheless considered that the evidence was insufficient to counter the principle of open justice. It cited three common manifestations of that principle: cases are to be heard in public, judgment is to be given in public and the names of those who contest cases or who give evidence in them are to be given to the public. Derogations from the principle must be shown to be necessary and it is not sufficient that the derogation is "desirable". Article 8(2) acknowledges that the right to privacy may have to give way if it is necessary.

The Claimant's application for an RRO/Anonymity Order

19. The Claimant relied on section 11 ETA 1996 and on Article 8. In relation to the former, Mr Iossifidis observed that the Tribunal had entered judgment in the Claimant's favour as to the allegations of sexual misconduct, specifically the comment at 2(c) above. In relation to the latter, he submitted that the Claimant's history of domestic violence was relevant and that there was a concern that her ex-husband might thereby find details of the case online. He submitted that details of the case could still be reported and there is no need to anonymise the names of the Respondents. There would be minimal impact on other Convention rights, the public interest and/or the public's understanding of cases.

20. Ms Whittingham had no additional observations or submissions to make.

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[6] EA-2020-SCO-000067-DT

Discussion and conclusion

21. I have had regard to the following documents, relied on by the Claimant in support of her application:

    a. The Claimant's medical records, in which it has been observed that she "fled a family home of domestic violence" in January 2021 and had had to relocate with her children for safety, in addition to documenting the impact that the conduct complained of by the Respondents has had on the Claimant, giving further details of her mental health and the nature of and reasons for her clinical history including a diagnosis of PTSD. There is also reference (by name) to health conditions of her children and other domestic issues involving them;

    b. The WhatsApp messages contained in the bundle including those quoted at paragraph 2(e) above;

    c. The Claimant's remedy statement setting out the details of the psychological impact that the conduct complained of has had on her, including the use of strong anti-depressant medication, therapy and the installation of CCTV at her residential address.

22. For the purpose of considering this application, I find that the Claimant has been previously exposed to physical and/or mental harm, not at the hands of the Respondents but at the hands of a third party, which she has had to relocate to avoid. She now takes stringent precautions to avoid further exposure to the same source of violence.

23. The Claimant is recorded as having asked her GP in March 2021 and on multiple occasions thereafter to include only core items in her summary care record. For reasons that are not given, her GP overrode this. Her full and unredacted medical records from January 2021 onwards were then included in the bundle for the remedy hearing, setting out both her present and previous home addresses. I have no doubt that if the Claimant's representative had given thought to this aspect of preparation for the remedy hearing or had recollected that it was to be held in public, those records would have been heavily redacted, as to which there could have been no objection. The Claimant had an entirely reasonable expectation of privacy when she had her medical appointments, the first of which pre-dated her employment with the Respondents, and indeed that expectation was heightened even beyond what might normally be applicable in a doctor's appointment in light of the more than usually sensitive nature of the discussions.

24. This is not a case where what goes on in Tribunal may be "embarrassing and painful for those involved" (*Griffiths v Tickle & Others*[7]) or where the application of the rule of open justice might only "result in distress and

[7] [2021] EWCA Civ 1882

embarrassment to the litigating parties" *(Gallagher v Gallagher (no.1) (Reporting Restrictions)*[8]. It is not merely a question of "reputational damage inherent in being involved in litigation", "stigmatisation" or "social opprobrium"; none of these factors was relied on specifically by the Claimant in any event. It goes, I find, much further than all of those.

25. Firstly, the Claimant is statutorily entitled, by virtue of section 11(1)(b), to an RRO as a consequence of the nature of at least one of the complaints she has made. It is clear that Parliament intended by that section to protect the identity of those bringing complaints about sexual harassment and other similar conduct related to sex, at least up to the point where judgment is promulgated. Such an order was not requested on the previous occasion, when the default judgment was issued but could be made retrospectively (see *X v Y*, to which I return below).

26. Secondly, I conclude that there is a real risk or "reasonable apprehension" on the part of the Claimant that reporting of not only the facts of this case but also of her identity could lead to her being traced by her ex-husband. The Claimant has been supported, according to her medical records, by multiple agencies since removing herself from the situation of domestic violence, relocating to and within London. There is a clear and cogent likelihood that the publication of her name not only on the GOV.UK database of judgments but also in any press report that might appear, in conjunction with her former place of work, could attract her ex-husband's attention and enable him to locate her. Unlike in *A v Burke & Hare*, therefore, it is very easy to identify circumstances where serious physical and/or mental harm might well occur, in a very practical rather than hypothetical manner and against not only the Claimant but also her children.

27. Therefore, it seems to me that this is one of the cases where there is indeed a conflict between two or more Convention articles, and that the balance is tipped by Claimant's fear of further domestic violence in favour of her rights and against the principle of open justice.

28. In *X v Y*[9] anonymity was granted where a claimant brought a claim for arrears of wages but sought an order to protect his mental health in relation to issues arising from his gender reassignment. Cavanagh J observed (quoting from *Roden*) that "it is clear that the principle of open justice is paramount and that there have to be clear, cogent and proportionate grounds" before an Employment Tribunal can take any steps which conflict with that principle.

29. Cavanagh J further noted that the Equal Treatment Bench Book refers to the "real and constant risk of negative attention and unpleasant treatment" faced by transgender persons, and also to the fact that anonymisation is a much less drastic measure than (for example) preventing the public

[8] [2022] WLR(D) 259
[9] [2020] IRLR 762

disclosure of any aspect of the proceedings, concluding that the claimant's Article 8 rights to privacy far outweighed the very limited impact on the Article 6 open justice principle; and there, as here, no Article 10 rights of freedom of expression were significantly engaged. He said that there would be no reason to think that the press or the public would have any interest in the time limit issue that was the reason for discussion of the claimant's transgender status in *X v Y* and nor would there be any negative impact on the respondent from anonymisation in that case.

30. In this case there is some limited press interest, although I am sure Ms Whittingham would not object to me noting that the reason why she attended this hearing was that the case she originally planned to attend had settled. She therefore requested, and was given, the joining details for the present case. That is of course entirely right and proper, but it does not mean that this case is of any wide public significance.

31. In any event, there is no restriction on the press reporting the details of the claim and the outcome; the case was heard and judgment is being given in public. I conclude however that the Claimant should not have to choose between a remedy for unlawful conduct through multi-faceted discrimination and the preservation of her own and her children's safety. The critical issue in this case is that the Claimant has made this application not just to save herself social embarrassment, which would not justify the derogation from the principles of open justice, but because there is a clear and cogent likelihood that her safety and that of her children will be jeopardised. It is therefore not only desirable but necessary to anonymise the Claimant in order to protect her and her family's Article 8 rights. There may be

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embarrassment for or on behalf of the Respondents, who have chosen not to defend the claim or to attend the hearings, but they are not to be anonymised.

32. In the circumstances, it was both impractical and unnecessary to make an RRO. I made it clear that the original Judgment bearing the Claimant's name which had already been uploaded to the website would be removed and the anonymised version substituted.

The law on remedy

33. Mr Iossifidis had helpfully reminded me of the principles in relation to remedy, which may be shortly summarised as follows (taken, to the extent relevant, from *Munir v Shaw & Lisle Catering Limited*[10] which as Mr Iossifidis noted, is one of the "instructive" rather than "binding" authorities cited and reflecting the principles in *Armitage, Marsden and HM Prison Service v Johnson*[11]):

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[10] 1800364/2017

[11] [1997] IRLR 162 EAT

a. An award of compensation in a discrimination case is designed to put the individual so far as possible in the position he or she would have been in but for the discrimination.

b. Awards for injury to feelings are compensatory, not punitive. The aim is to compensate a claimant fully for the proven, unlawful discrimination for which a respondent is liable. The severity of the treatment can be even more important than the period of time over which the treatment continued.

c. There is a need for public respect for the level of awards made.

d. The crucial consideration is the effect of the unlawful discrimination on the claimant, bearing in mind the range of awards in personal injury cases, to which the compensation awarded should bear some broad similarity. The representative value of the sum in everyday life should be born in mind.

e. Where multiple allegations of discrimination are proven, a global award covering them all will usually be a sensible means of avoiding double-counting and over-compensation (*ICTS (UK) Limited v Tchoula*[12]).

f. If a prohibited act has made worse an active pre-existing condition, the claimant recovers compensation only for the additional injury caused by the act. A claimant may suffer injury greater than would have resulted to an ordinarily robust person, because of some physical or mental vulnerability ("the egg-shell skull rule").

g. The Tribunal will have regard to the well-established bands of compensation for injury to feelings as originally articulated by the Court of Appeal in *Vento v Chief Constable of West Yorkshire Police (No.2)* [13] , now annually considered and uprated by the Joint Presidential Guidance. In this instance, the Fourth Addendum is the applicable one (claims presented on or after 6 April 2021).

h. The original *Vento* bands were explained thus:

"Employment Tribunals and those who practise in them might find it helpful if this Court were to identify three broad bands of compensation for injury to feelings, as distinct from compensation for psychiatric or similar personal injury.

i) The top band should normally be between £15,000 and £25,000. Sums in this range should be awarded in the most serious cases, such as where there has been a lengthy

[12] [2000] IRLR 643
[13] [2003] IRLR 102

campaign of discriminatory harassment on the ground of sex or race. This case falls within that band. Only in the most exceptional case should an award of compensation for injury to feelings exceed £25,000.

ii) The middle band of between £5,000 and £15,000 should be used for serious cases, which do not merit an award in the highest band.

iii) Awards of between £500 and £5,000 are appropriate for less serious cases, such as where the act of discrimination is an isolated or one-off occurrence. In general, awards of less than £500 are to be avoided altogether, as they risk being regarded as so low as not to be a proper recognition of injury to feelings.

There is, of course, within each band considerable flexibility, allowing tribunals to fix what is considered to be fair, reasonable and just compensation in the particular circumstances of the case."

i. The award is based on the statutory tort of discrimination and a respondent is liable for injury caused directly by the discrimination. If the injury is caused by multiple factors, a respondent is only liable if its contribution has been material, and to the extent of its contribution.

j. There is a different approach for interest on an award of injury to feelings (see the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996) and an award to compensate for financial loss.

Findings of fact – Remedy

34. The Claimant's unchallenged evidence, which I accept, was set out in a witness statement signed by her and dated 26 July 2022 and in oral evidence to the Tribunal on oath.

35. The Claimant has pre-existing conditions of fibromyalgia and myalgic encephalomyelitis (ME) as well as PTSD from a traumatic incident when she was a child.

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36. Both during and after her employment, the Second Respondent's conduct was such as to cause the Claimant anxiety and depression. The abusive conduct began two days into her employment, on 7 June 2021, when the Second Respondent told her "If you fuck up, I will fuck you up". On 11 June he shouted at her and was aggressive in relation to the Claimant recording her hours on an app rather than on a piece of paper. On 12 June he accused her of being "trouble" and of taking drugs on his premises, without foundation.

37. On 13 June the Second Respondent shouted that the Claimant was delaying the opening of the shop by changing the layout, referring to her as the "worker". On 20 June he told the Claimant he was withholding half her

previous week's wages as a deposit for a two-week notice period. When the Claimant endeavoured to explain the law in relation to notice periods as she understood it, the Second Respondent replied "Fuck this country's laws. I don't give a fuck about the law. I AM the fucking law. You do as I say, everyone else does". The remainder of the prohibited acts are set out in the summary at paragraph 2 above.

38. For around four or five months after she left the First Respondent, the Claimant suffered from sleeplessness. She was inactive during the day, remaining in her pyjamas. Her anxiety increased the pain from her fibromyalgia, for which she was referred to the Community Pain Service and caused the skin on her wrists and ankles to become itchy and tough.

39. The Claimant's treatment by the Second Respondent caused her to be fearful of men in positions of power and more generally. She was able to secure work with a friend of her present partner in January 2022 but left after three weeks as she believed he was trying to manipulate her. The Claimant confirmed that she has not brought a claim against that employer.

40. While the Claimant concedes that her previous experiences with her exhusband contributed to her feelings, she says it was the conduct of the Second Respondent that left her feeling that she could not cope and seeing all men, especially those with power over her, as a threat. When men look at her in public, or the Claimant perceives that they have made contact with one of her children, she can become angry. She observes that her children would come to the shop when she worked for the Respondents. Her children became angry when they overheard the way the Second Respondent spoke to her.

41. The Claimant took diazepam to control her depression and anxiety in the aftermath of her employment with the Respondents. I asked from where she had obtained this, since it was not prescribed by her present GP. The Claimant told me that this had been prescribed previously when she was in the abusive relationship, and she had not used it all. She would save it for the times she "needed to knock [her]self out" and halved the tablets to make them last longer. She did not want to keep going back to her GP and asking for more. Her self-medicating and "mum being knocked out" impacted on the children, she felt. She said that she was supposed to be caring for them, not the other way round, and she became irritable with them.

42. The family moved house again and her eldest child, who had been caring for the others, got a job. Since November 2021, the Claimant has been taking citalopram and feels better; her family life is now "mostly back to normal" although she describes how her relationship with men in general remains stressful. The Claimant's social life was heavily impacted by the discrimination she encountered with the Respondents and she is fearful now of both the Second Respondent and her ex-husband. She feels that she will be able to carry out delivery jobs as she would feel safe in the car and could get home or to her children if she needed to. However, she has felt too depressed to search for employment.

43. A letter from her GP and her medical records corroborate the Claimant's evidence that she required numerous follow-up appointments for mental health support in the year since her employment with the First Respondent ended, which also impacted on her ability to seek further employment and on her family life. She was later commenced on antidepressant medication for stress (her medical records indicate sertraline 50 mg per day in August 2021 with a switch to citalopram at 10 mg per day initially, later increased to 20 mg in July 2022) and was signposted to psychological therapies (talking/group therapy and awaiting individual therapy, according to the witness statement).

44. With effect from 7 October 2021, the Claimant received housing support. From 7 November 2021, and as a result of the conduct complained of, her medical conditions worsened and the Claimant was not physically capable of working six days a week, as she had done for the Respondents. All these findings are taken into account in the calculations below.

Remedy discussion and conclusions

45. The figures on which the calculations are based are that the Claimant earned £87.54 per day or £525.24 per week (£27,387.58 per annum) when she worked for the Respondents. The Claimant was eligible for Universal Credit Work Allowance at different rates during the relevant calculation period. The amount to be earned is £573 per month if the person does not receive housing support, or £344 if they do. Universal Credit is further reduced by 55% (taper rate) for any income in excess of the work allowance.

46. I raised with Mr Iossifidis whether account should be taken of the Claimant's starting new work as set out at paragraph 35 above, and if so, to what extent that might impact on her claim for loss of earnings. Over an adjournment he took instructions and confirmed that the Claimant does not pursue losses after 1 January 2022.

47. Therefore, I award the Claimant her past losses from the date of termination (26 June 2021) and taking into account the impact of Universal Credit as set out above, her total past loss is £6,546.96. Interest at the applicable 8% rate is £284.12.

48. I accept the Claimant's submission that the middle of the middle *Vento* band is the appropriate place to position an award for injury to feelings in this case. The period of unlawful treatment was comparatively brief but its impact was considerable and long-lasting. The Respondents were made aware of the Claimant's particular vulnerability but nonetheless subjected her to abusive and discriminatory conduct of more than one type, starting almost from the date she commenced work and escalating in severity until she was forced to leave. It is appropriate to make a global award, in the circumstances.

49. I take particular account of the Claimant's:

a. Stress disorder and lack of sleep in the immediate aftermath of her resignation;
b. Increased pain, anxiety and depression for four to five months and ongoing, including commencing anti-depressants on new prescription, self-medicating using drugs previously prescribed and undertaking counselling;
c. Anxiety around men and in particular continuing trust issues, leading to an inability to sustain work for a man or in a male-dominated environment, and in public spaces;
d. Reduced engagement in social activities and family life, including increased irritation with and a reduction in levels of care for her children;
e. Loss of confidence.

50. I do not consider that the Claimant has exaggerated the effects of the treatment on her physical and mental health. I asked whether she claimed that the impact on her confidence as a result of the Second Respondent's treatment of her meant that she had been less tolerant of her subsequent employer's conduct. To her credit, she did not. She has limited her losses to the period when she was out of work only and has taken account of the effects on her income of the different benefits for which she was eligible. She has not sought to ascribe to the Respondents any element of loss for which they are not jointly directly and wholly responsible. By contrast, they have not apologised nor have they sought to engage in the Tribunal process.

51. The middle *Vento* band for the relevant period was £9,100 to £27,400. Accordingly, I award £18,250 being the mid-point of that band. Interest at the applicable 8% rate is £1,584.00.

52. Finally, I award the Claimant two weeks' pay for the failure to provide a written statement of particulars, that is £1,050.48, being the minimum amount applicable pursuant to section 38 Employment Act 2002. £27,715.56 is the total payable by the Respondents under the above heads, in addition to the amounts already ordered to be paid pursuant to the Judgment dated 29 June 2022.

Employment Judge Norris
Date: 7 August 2022

JUDGMENT AND REASONS SENT TO THE PARTIES ON
08/08/2022

FOR THE TRIBUNAL OFFICE