



**Claimant:** Paul Bannon

**Respondent:** BAQUS Group Limited

**Heard at:** Southampton Employment Tribunal (Via VHS)  
**On:** 8<sup>th</sup> September 2022

**Before:** Employment Judge Lang

**Representation**

Claimant: In person

Respondent: Mr. D. Jones (solicitor)

**REMEDY JUDGMENT**

Award

1. The tribunal having previously found that the claimant was unfairly dismissed and having found there should be a Polkey reduction in sum of 50%, the respondent is ordered to pay to the claimant **£22,568.74**. That sum having been calculated as follows:
  - a. Basic Award: **£nil**. The Respondent has made a redundancy payment to the Claimant and therefore pursuant to section 122(4) of the Employment Rights Act 1996 no further sum is owed.
  - b. Compensatory award: **£22,568.74** having been calculated in accordance with Annex 1.
  - c. Of the award £1,983.74 is subject to taxation and is the gross amount for that element with a 20% rate having taken.

Recoupment

2. The Recoupment Regulations 1996 apply to the above awards. The information required by Regulation 4 (see also Annex 2 to this Judgment) is as follows:

(a)	Monetary Award	<b>£22,568.74</b>
(b)	Prescribed Element	<b>£763.23</b>
(c)	Dates of the periods to which the Prescribed Element is attributable 23 <sup>rd</sup> September 2020 – 25 <sup>th</sup> May 2022	

(d)	The amount by which the Monetary Award exceeds the Prescribed Element is	£21,805.51.
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Costs

3. The claimant having confirmed he is not asking the Tribunal to make a costs order.

Employment Judge Lang  
Date: 14 September 2022

Judgment sent to the parties: 15 September 2022

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

## Annex 1: Calculation of compensatory award

### Loss

The tribunal having awarded the claimant's loss from 23<sup>rd</sup> September 2020 until 25<sup>th</sup> May 2022 that being a period of 87 weeks.

The net weekly loss for the claimant having been agreed in the amount of £791.45 comprising of £644.59 pay, £30.77 pension contribution £127.09.

$£791.45 \times 87 \text{ weeks} = £68,856.15.$

### Income:

Total income of £24,379.92

Claimant's income from January to December 2021: £8,624.00

Claimant's income from January to May 2022: £8,100.92

(an average of the earnings from January through September having been taken to give a monthly average of £1,620.18 x 5 months to provide the average income for the period January to May 2022.

Retained profit from Claimant's business £7,655

No adjustment for projected income/ loss for 2022.

No deduction for the £763.23 received in benefits due to the recoupment provisions.

### Calculation

Gross loss £68,856.15 less total income £24,379.92 = net loss £44,476.23

Less 50% Polkey reduction  $£44,476.23 / 2 = £22,238.12$

### Grossing Up

Having taken account of the payment received for redundancy (£9,415.00) and the allowance of an award before tax £30,000) this judgment exceeds that sum by £1,653.12.

Taking account the Claimant's tax status the sum of £1,653.12 is grossed up by 20% to give a figure of £330.62, and total figure for that element of £1,983.74.

### Total Sum

The total sum therefore  $22,238.12 + £330.62 = \mathbf{£22,568.74}$

**ANNEX TO THE JUDGMENT  
(MONETARY AWARDS)**

Recoupment of Jobseeker's Allowance, Income-related employment and support allowance or Universal Credit

The following particulars are given pursuant to the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, SI 1996 No 2349, Reg 4.

The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any Jobseeker's Allowance and other specified allowances paid to the claimant after dismissal in respect of the compensatory award for unfair dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

**The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.**

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.