

3. In his Schedule of Loss, the Claimant claimed an increase in his award of compensation for the Respondent's failure to provide a response to the claim, but the Tribunal had no power to make such an award.

4. The Tribunal considered whether it was just and equitable to increase the award under Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 because of an unreasonable failure to comply with the ACAS Code of Practice on grievances. The Claimant raised a grievance about his wages on 16 May 2022. Both the directors of the company responded in writing to his grievance. The responses indicated that the directors were in dispute. One director, Ms Lau, said that she had not received any payroll information about the work the Claimant had done since 1 March 2022 but would process any payment due once that was received. If the Claimant had been doing work for the other director, Mr Ng, as an individual then he should approach Mr Ng for payment for that work. Mr Ng, on the other hand, said that he could not arrange payment of wages because he no longer had access to the company's bank account. Mr Ng also met with the Claimant (and the other Claimants whose claims were considered together with his) and explained that due to a dispute between himself and the other director of the company he could not access the company's bank account to arrange for wages to be paid. The Respondent does not appear to have put anything further in writing to the Claimant after this meeting nor to have notified the Claimant of his right to appeal against the grievance outcome. In all the circumstances, however, the Tribunal did not consider it just and equitable to increase the Claimant's compensation award. The Respondent appears to be a small enterprise where the two directors were in dispute. The Respondent did respond to the Claimant's grievance, albeit that it was not resolved to the Claimant's satisfaction. There would have been no practical benefit to the Claimant in being notified of a right of appeal, given the impasse between the two directors who ran the company.

Employment Judge Cox
Date: 6 June 2023