



# EMPLOYMENT TRIBUNALS

**Claimant:** Michael Barbrook  
**Respondent:** New City College Limited  
**Heard at:** East London Hearing Centre (via CVP)  
**On:** 17 April 2024  
**Before:** Employment Judge Howden-Evans  
**Members:** Ms S Jeary  
Mr J Webb

**Representation:**  
**Claimant:** In person  
**Respondent:** Mr Pickett, Counsel

## JUDGMENT ON REMEDY

The Tribunal's unanimous decision is that:

1. The Claimant is awarded **£53,256.95** compensation for unfair dismissal (calculated as set out in the appendix attached).
2. In addition, and by consent, the compensation is to be increased by **£174.95** in respect of the Claimant's successful application for a preparation time order.
3. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 do not apply to this award.
4. Interest will accrue at a rate of 8% per annum on any amount of compensation that remains outstanding 28 days after the date of this judgment.

Employment Judge Howden-Evans  
Dated: 17<sup>th</sup> April 2024

**Note**

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

**Public access to employment tribunal decisions**

All judgments (apart from judgments under Rule 52) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents

**Calculations**

Claimant's salary with Respondent:  
Gross pay: £46,731 per annum; £898.67 per week.  
Net pay: £688.49 per week.

Employer's contributions to Teachers Pensions whilst Claimant was with Respondent:  
£11,061 per annum; £212.72 per week

Salary as in new employment (from 25<sup>th</sup> January 2021):  
Gross pay: £30,000 per annum.  
Net pay: £469.70 per week.

The Claimant's Effective Date of Termination ('EDT'): 22<sup>nd</sup> January 2021  
Claimant's age at EDT: 54  
Claimant's service with Respondent: 24 years (statutory cap limits this to 20 years)  
Basic Award statutory cap for maximum gross weekly pay was £538 at the EDT

The Tribunal did not make an award of compensation for breach of contract in relation to notice, as this would have meant double compensating the Claimant for the same period of loss.

The Tribunal limited the loss of earnings compensation to 52 weeks, to reflect a failure to mitigate loss by looking for alternative (higher paid) employment.

The Tribunal awarded 104 weeks' loss of pension contributions (as sought by the Claimant), accepting the Claimant was unlikely to find employment with a comparable pension.

The Tribunal accepted it was just and equitable to award an uplift of the compensatory award of 20% to reflect unreasonable failure to comply with the ACAS Code of Practice.

**Unfair Dismissal Basic Award**

1.5 weeks' gross pay for each complete year in which the Claimant was over 41 years old = 13 years x 1.5 x 538 =	£10,491
1 weeks' gross pay for 7 remaining years = 7 years x 1 x 538 =	<u>£3,766</u>

<b>Total Basic Award</b>	<b>£14,257</b>
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**Compensatory Award**

**Loss of Earnings limited to 52 weeks**

52 weeks x £218.79 difference between weekly net pay with Respondent and weekly net pay with new employer	£11,377.08
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*Less*

<i>Saving on commuting costs for 39 weeks (termtime only) estimated at</i>	<u><i>(£1,500)</i></u>
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**£9,877.08**

plus

loss of 2 years of pension contributions

104 weeks x £212.72 per week	£22,122.88
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loss of statutory rights

£500

Total Compensatory Award (before ACAS uplift)

**£32,499.96**

plus ACAS uplift (20%)

£6,499.99

Total Compensatory Award including ACAS uplift

**£38,999.95**

**Total Award (basic award plus compensatory award)**

**£53,256.95**