Case No: 6000083/2022

EMPLOYMENT TRIBUNALS

Claimant: **Ms L Wyles**

Respondent: **Cygnet Healthcare Limited**

Heard at: **Leeds** **On:** **5 July 2024 and 11 July 2024 in chambers (without parties)**

Before: **Employment Judge Miller**
Mr L Priestley
Mr W Roberts

Representation
Claimant: In person
Respondent: Mr S Proffitt (counsel)

RESERVED REMEDY JUDGMENT

1. The Tribunal does not make any recommendations.

2. The respondent shall pay the claimant the following sums:

Compensation for past financial losses:	**£4209.58**
Interest on compensation for past financial losses calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996:	**£336.77**
Compensation for future financial losses:	**£2000.34**
Compensation for injury to feelings:	**£8000**
Interest on compensation for injury to feelings calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996:	**£1278.25**

The respondent unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures 2015 and it is just and equitable to increase the compensatory award payable to the claimant by 10 % in accordance with s 207A Trade Union & Labour Relations (Consolidation) Act 1992. The respondent shall pay the claimant the additional sum of	**£1420.99**
Total sum payable	**£17,245.93**

REASONS

Introduction

1. This is our judgment on remedy in this case. The claimant's claim of indirect discrimination related to the application of the respondent's stress management practice including the absence of, or failure to apply, any stress management policy was successful. The claimant's other claims were dismissed.

2. The issues for us to determine are those set out under the heading "Remedy for discrimination" attached as an appendix to our liability judgment.

The remedy hearing

3. The remedy hearing was listed for one day. The claimant provided a witness statement and gave evidence. The claimant also provided additional witness statements from her mother, Theresa Wyles; her friend, Kelly Dobson; and a volunteer who has been supporting the claimant, Christine England. Those witnesses did not attend to give evidence. We have read their witness statements but they are about the impact of the respondent's actions on the claimant. We give them less weight as they did not attend to give evidence, but we observe that in any event the claimant is in the best position to explain the impact of the respondent's actions on her.

4. The claimant represented herself and we again note the competent way in which she did so. The respondent was represented by Mr Proffitt who was not at the liability hearing. We are grateful to Mr Proffitt and the claimant for the helpful way they presented their cases.

Findings of fact

5. We only make such findings of fact as are necessary for our judgment on remedy. Where facts are disputed, we have made our decision on the balance of probabilities. Where necessary, we also rely on the findings in our judgment on liability

Financial losses

6. The claimant's employment with the respondent ended on 8 July 2022. At the end of her employment, the claimant was earning £38,000 per year. The claimant's undisputed calculation of that figure means that she was earning £506.84 net per week. The respondent was contributing £953.52 per year to her pension. This is £18.34 per week.

7. The claimant asserted that she could expect an £8,000 per year pay rise through her employment at the respondent as this is what she had achieved in her first year. We reject this assertion. The claimant projected this from her pay rise in her first year and referred to pay rises other staff had got. Those pay rises were based on changes in jobs in respect of other staff and the claimant's pay rise had been based on the amount of responsibility she had and the impact she had had on the hospital.

8. We find that it was very unlikely that this pay rise would be repeated annually on the basis of the claimant's evidence. She may well have applied for other roles and been promoted, but there was no evidence that this was what the claimant intended and no evidence of any regular or planned pay rises. In our view, the claimant was likely to remain on £38,000 for the immediate future subject to any unforeseen discretionary pay rises.

9. The claimant started looking for work before the end of her employment. She handed in her notice on 8 April 2022 and we have already found that the main reason for that was that she believed that the respondent was failing to adequately address her concerns about the resuscitation policy and training.

10. The claimant applied for the job of LeDeR Review Facilitator (a non-clinical job in the NHS associated with nursing) on or around 23 May 2022 and the claimant was offered this job on 1 June 2022. The job was part time (18.75 hours per week) on NHS Agenda for Change Band 6.

11. That job was withdrawn because of a change in national policy, for reasons wholly unconnected with the claimant, on 2 August 2022. The claimant supported herself on her savings through this period.

12. The claimant then applied for universal credit and was awarded £334.91 per month from 16 September 2022. On 24 December 2022 the claimant was found by the DWP to have limited capability for work (i.e. she was not well enough to be required to look for work but she was well enough to be required to take steps to prepare for work in the future).

13. The basis of the finding that the claimant had limited capability for work was based on the claimant's health conditions of Autism Spectrum condition/disorder, Attention Deficit Hyperactivity Disorder, anxiety and depression.

14. The claimant applied for another job on 14 April 2023 – this was a job working in a field relating to autism. That application was unsuccessful. The claimant applied for a further job on 29 October 2023 working for Cloverleaf Advocacy and she was successful in that role. The claimant took the role, from 12 February 2024, on 30 hours per week, hoping she would be able to

increase her hours, but did not feel well enough to do so. The claimant said she was struggling even with the 30 hours.

15. The claimant agreed that she was now paid around £750 per month less than she had been. The claimant's net wages varied from month to month while working for the respondent and in her new role but were in the region of £2200 and £1442 respectively. We therefore find that since 12 February 2024 the claimant's income from her wages if £750 per month on average less than it was when she was working for the respondent. This does not include employer's pension contributions.

16. The claimant let her registration as a nurse with the NMC lapse from 1 February 2024. We find that this was because the claimant could no longer envisage returning to that role. She said that she would require a great deal of therapy to do so, which was not realistically available to her. We accept the claimant's evidence that she would find returning to nursing too traumatic at this time.

Health

17. The claimant first went off sick with stress (as far as is relevant to this judgment) on 29 March 2022. The claimant saw her GP on 5 April 2022 and at that point the claimant was hoping to return to work quickly. She is recorded as saying to her GP "ongoing organisation culture is detrimental to my health. Away from work my mental health is generally good".

18. On 19 April 2022 the claimant had a further consultation with her GP. She had handed in her notice by then and is recorded as saying in her GP notes that she was waiting for updates from her union and the CQC about whistleblowing.

19. On 24 May 2022 the claimant is recorded as reporting to her GP that her work stress and anxiety was related to her whistleblowing case. She says that the respondent is responsible for her mental ill health.

20. There are no other medical records relating to the period immediately after the claimant's employment ended and the claimant said that she was well enough to look for work. In fact, the claimant was actively pursuing a job as discussed above.

21. However, it is clear, and we find, that the claimant was continuing to be unwell and has continued to be unwell up to the remedy hearing.

22. We have considered medical evidence from the claimant's GP and psychotherapist. It is not proportionate to set it out in detail. We have also considered the claimant's witness statement from the liability hearing and the impact statement the claimant has produced for this remedy hearing.

23. We make the following findings.

24. The claimant continues to be very unwell by reason of anxiety and depression. This has had physical impacts on her including weight loss as well as low motivation to look after herself.

25. However, we also find that the main cause of the stress, as is apparent from the medical evidence and the claimant's own witness statements, is the respondent's failure – or rather the claimant's belief or perception of the respondent's failure – to address her patient safety concerns together with an ongoing concern for the safety of patients

26. This anxiety and stress has undoubtedly contributed significantly to the claimant's difficulty in finding full time work on the same salary.

27. The anxiety and stress arose during the course of the claimant's employment. We have found, in our liability judgment, that the way the respondent managed stress at work – the ad hoc stress management approach – did not effectively mitigate or reduce the claimant's stress. We also find, therefore, that part of the reason that the claimant remained unwell and has had difficulty in finding full time work is because of the respondent's ineffective stress management policy that was applied to the claimant.

Injury to feelings

28. The claimant has set out in some detail the impact of the respondent's actions on her psychological wellbeing. We have already referred to the medical evidence.

29. We accept the evidence the claimant sets out in her impact statement about how she is feeling and has felt since her employment with the respondent. However, it is clear that the main impact on the claimant's wellbeing has been the concerns that she reported and the respondent's perceived lack of response to them. That this was the main cause of the claimant's stress and her ongoing ill-health is reflected in the fact that this was the reason for her resignation and formed the main content of her witness statement in the liability hearing.

30. However, the claimant did also say in her statement for the remedy hearing

> "Because concerns I reported were not apparently being meaningfully addressed, each time a new issue came to light there was a cumulative effect on the level of stress I was experiencing. Rather than properly assessing the stress I was reporting to establish the causes; the management approach was to distance me from the issues. They perceived my proximity to the concerns I had raised to be the cause of my stress, only adding to my feelings of frustration as the fundamental concerns remained apparently unaddressed".

31. In oral evidence, the claimant said that the reason she reacted so badly to the stress from the respondent not addressing her concerns (in her perception) was because her stress was not managed well.

32. We find that the claimant has experienced adverse effects of stress including losing motivation to look after herself properly, losing weight, experiencing symptoms of anxiety, and feeling like she can no longer work as a nurse.

33. However, we find that the majority of those issues arise from the claimant's concerns about her patients and her concerns about the respondent's patient care, policies and their responses to that. The failure by the respondent to have and apply a structured stress management policy had a much smaller impact on the claimant's health and wellbeing.

Law

34. The starting point for deciding what remedy the claimant is entitled to is section 124 Equality Act 2010. This says:

> (1) This section applies if an employment tribunal finds that there has been a contravention of a provision referred to in section 120(1).
>
> (2) The tribunal may—
>
> (a) make a declaration as to the rights of the complainant and the respondent in relation to the matters to which the proceedings relate;
>
> (b) order the respondent to pay compensation to the complainant;
>
> (c) make an appropriate recommendation.
>
> (3) An appropriate recommendation is a recommendation that within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect [on the complainant] of any matter to which the proceedings relate …
>
> (4) Subsection (5) applies if the tribunal—
>
> (a) finds that a contravention is established by virtue of section 19 [or 19A], but
>
> (b) is satisfied that the provision, criterion or practice was not applied with the intention of discriminating against the complainant.
>
> (5) It must not make an order under subsection (2)(b) unless it first considers whether to act under subsection (2)(a) or (c).
>
> (6) The amount of compensation which may be awarded under subsection (2)(b) corresponds to the amount which could be awarded by the county court or the sheriff under section 119.
>
> (7) If a respondent fails, without reasonable excuse, to comply with an appropriate recommendation …, the tribunal may—
>
> (a) if an order was made under subsection (2)(b), increase the amount of compensation to be paid;
>
> (b) if no such order was made, make one.

35. In this case, the claimant was successful under section 19 so that we must first consider whether any discrimination was unintentional and, if so, whether to make a declaration and/or a recommendation before going on to consider whether to award compensation.

36. In *JH Walker Ltd v Hussain and others [*1996] IRLR 11 cited in BMA v Chaudhary [2007] EWCA Civ 788, Mummery J said

'intention' in this context signifies the state of mind of a person who, at the time when he does the relevant act (ie the application of the requirement or condition resulting in indirect discrimination),

(a) wants to bring about the state of affairs which constitutes the prohibited result of unfavourable treatment on [the relevant] grounds; and

(b) knows that that prohibited result will follow from his acts.

37. Section 119 Equality Act 2010 says, as far as is relevant,

(2) The county court has power to grant any remedy which could be granted by the High Court

(a) In proceedings in tort

(b) On a claim for judicial review

…

(4) An award of damages may include compensation for injured feelings (whether or not it includes compensation on any other basis).

38. In *Chagger v Abbey National* [2009] EWCA Civ 1202 it was held that

(a) the purpose of compensation is to put the claimant in the position she would have been in, as far as possible, had she not been discriminated against. This can include reducing an award to take account of the possibility that, for example, employment might have ended at some point in any event

(b) Losses must flow directly and naturally from the discriminatory act

(c) Compensation will not be paid where there has been a break in the chain of causation or the claimant has unreasonably failed to mitigate her losses.

39. In respect of an act which might break the chain of causation, we were referred to *Corr v IBC Vehicles* [2008] ICR 372 in which Lord Bingham said

"The rationale of the principle that a novus actus interveniens breaks the chain of causation is fairness. It is not fair to hold a tortfeasor liable, however gross his breach of duty may be, for damage caused to the claimant not by the tortfeasor's breach of duty but by some independent, supervening cause (which may or may not be tortious) for which the tortfeasor is not responsible.

40. We also refer to an extract from *Essa v Laing Ltd* [2004] ICR 746 in which Clarke LJ said

"In all the circumstances I agree with Pill LJ that there is no need to add a further requirement of reasonable foreseeability and that the robust good

sense of employment tribunals can be relied upon to ensure that compensation is awarded only where there really is a causal link between the act of discrimination and the injury alleged. No such compensation will of course be payable where there has been a break in the chain of causation or where the claimant has failed to take reasonable steps to mitigate his loss".

41. It is a question of fact for us as to whether losses flow naturally and directly from the discriminatory act, or if there is an intervening act that breaks the chain of causation.

Injury to feelings

42. The Court of Appeal gave guidance on appropriate awards for injury to feelings at paragraph 65 of the well-known case of *Vento v Chief Constable of West Yorkshire Police* (No.2) [2003] IRLR 102

"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 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.

66. 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.

67. The decision whether or not to award aggravated damages and, if so, in what amount must depend on the particular circumstances of the discrimination and on the way in which the complaint of discrimination has been handled.

68. Common sense requires that regard should also be had to the overall magnitude of the sum total of the awards of compensation for non-pecuniary loss made under the various headings of injury to feelings, psychiatric damage and aggravated damage. In particular, double recovery should be avoided by taking appropriate account of the overlap between the individual heads of damage. The extent of overlap will depend on the facts of each particular case".

43. These bands have been subject to various uplifts and updated amounts are now provided in Presidential Guidance – generally changed each year.

44. For the claimant's claim, the relevant guidance in the case is for claims presented on or after 6 April 2022 and it provides:

    "…a lower band of £990 to £9,900 (less serious cases); a middle band of £9,900 to £29,600 (cases that do not merit an award in the upper band); and an upper band of £29,600 to £49,300 (the most serious cases), with the most exceptional cases capable of exceeding £49,300".

45. When considering an award for injury to feelings, the question for us is what the impact of the discriminatory act has been on the claimant. The purpose is to compensate the claimant, not to punish the respondent. It is a matter for us on the facts before us, but we must have some evidence on which to base the award. The lower band is not only for one off acts – there is flexibility in the bands for us to award what we consider appropriate (*Komeng v Creative Support Limited* [2019] UKEAT/0275/18).

ACAS Uplift

46. Section 207A (2) Trade Union & Labour Relations (Consolidation) Act 1992 provides that

    (2) If, in the case of proceedings to which this section applies, it appears to the employment tribunal that—

    (a) the claim to which the proceedings relate concerns a matter to which a relevant Code of Practice applies,

    (b) the employer has failed to comply with that Code in relation to that matter, and

    (c) that failure was unreasonable,

    the employment tribunal may, if it considers it just and equitable in all the circumstances to do so, increase any award it makes to the employee by no more than 25%.

47. The relevant Code in this case is the ACAS code of practice on Disciplinary and Grievance procedures. It is not disputed that section 207A applies to these proceedings.

Interest

48. Interest is payable on awards in discrimination cases under the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. We have discretion whether to award interest or not but if we do so, interest will be simple interest at 8% per year. For injury to feelings awards, interest will run from the day of the discriminatory act t the date of the calculation of the award and for financial awards, interest will run from the mid-point between the discriminatory act and the date of calculation of the award. If we consider that calculating interest on this basis would cause serious injustice, we can calculate interest for different periods

Conclusions

Declaration

49. The primary remedy is declaration under section 124 Equality Act 2010. We have made a declaration in our liability judgement. We do not make a further declaration that the respondent has discriminated against the claimant.

Recommendation

50. We find that the respondent did not intentionally discriminate against the claimant within the meaning of section 124 Equality Act 2010. We have found that Ms Barnes was trying to do her best for the claimant.

51. However, as the employment relationship has ended, there are no meaningful or useful recommendations that we can make that will obviate or reduce the impact of the discrimination on the claimant. We do not, therefore, make a recommendation and in our judgment it is just to make a financial award to compensate the claimant for the impact of the discriminatory acts of the respondent.

Financial losses

52. The claimant left work because of her perception that the respondent had failed to address her concerns and this had become intolerable – it had a significant impact on the claimant's health. This was the main reason for the end of the claimant's employment.

53. However, in our judgment, had the respondent not discriminated against the claimant by applying its PCP of manging employee stress on an ad hoc basis, it is possible that the impact of the claimant's perception of the respondent's actions on her heath could have been mitigated. There is a possibility that a more structured and effective management of the claimant's stress by the respondent would have enabled the claimant to remain employed, despite her concerns about the respondent's responses to her concerns.

54. There is therefore a causal link between the discrimination and the claimant's job loss. To be clear, there were at least two causes – the primary cause was the claimant's reaction to her perception of the way the respondent addressed her concerns. The second cause was the respondent's failure to adequately manage or help the claimant manage her work related stress, which lead ultimately to the claimant being too ill to remain employed. Although the discriminatory application of the PCP was not the only cause of the claimant leaving her job, it is *a* cause so that in our judgment the claimant's job ending is a natural and direct consequence of the respondent's discrimination.

55. In assessing the extent to which the application of the discriminatory PCP contributed to the end of the claimant's employment, we apply the principles in *Chagger.*

56. The claimant's focus during her employment, when bringing her tribunal proceedings and at the liability hearing was the protected disclosures and the impact on her of the respondent's response to them. This is clear from the claimant's witness statement in the liability proceedings, the claim form and the way the claim was advanced.

57. In our judgment, there is a limited chance that the application of a formal stress management policy, including accounting for the claimant's disabilities, would have kept the claimant in long term employment with the respondent.

58. Balancing all the factors and taking into account that a structured stress management policy might only have extended the claimant's employment, rather than enabling continued long term employment, we apply a 90% reduction to the financial award to recognise our view that even a non-discriminatory stress management policy is unlikely to have been 100% successful in keeping the claimant in employment.

59. We next go on to consider the period for which and the amount of which we should award compensation for financial losses. There are a number of matters to consider: the claimant's decision not to go back into nursing, the claimant's decision to work part-time hours, the withdrawal of the LeDeR job on 2 August 2022 and the time it is likely to take for the claimant to be able to reasonably obtain a salary of £38,000 per year. We also consider the claimant's assertion, set out in her schedule of loss, that she could have expected a pay rise of £8,000 per year through her employment with the respondent.

60. In respect of the claimant's decision not to go back to nursing, we have found that the claimant's decision not to go back to clinical nursing was because it was too traumatic for her to do so. This was not because of an act of the respondent that we have found to be unlawful. However, in our judgment given the claimant's health it was a perfectly reasonable decision. The claimant has not unreasonably failed to mitigate her losses by deciding not to go back to nursing.

61. Similarly, the claimant's decision to work part time is a decision taken for the benefit of her health – she was, and remained at the remedy hearing, too unwell to return to full time work. This is not entirely because of an act of the respondent that we have found to be unlawful. However, we have made our decision on the *Chagger* reduction above and the claimant's inability to return to full time work ins included in that assessment.

62. However, this was also a reasonable decision for the claimant, given her health, and the claimant has not unreasonably failed to mitigate her losses by working part time. In fact, given that the claimant was not required to look for any work to obtain benefits because of her health, it would be surprising if we were to find that she had unreasonably failed to mitigate her losses by at least doing some work,

63. We next consider the withdrawal of the LeDeR job. Having reviewed the cases referred to above and considered the matter as an "industrial jury", in our judgment the withdrawal of the job did not break the chain of causation

of the claimant's losses. There was no intervening act that effectively started the losses again. It was just an unfortunate situation for the claimant that the job she hoped and expected to start ceased to exist. The claimant's circumstances before the offer was withdrawn were the same as they were after and in no reasonable sense can the withdrawal of the job offer be said to break the chain of causation and we find that it did not.

64. Finally, we consider the time it is likely to take the claimant to obtain the same salary that she was receiving with the respondent.

65. The claimant asserted that she would need to obtain a degree which would take three years, and she was also claiming as compensation the cost of that degree.

66. In our view it is not necessary to obtain a degree – and certainly not these days to take time out of work and privately fund a full time degree – to achieve a similar level of remuneration. The claimant is progressing in her new job and the evidence we have seen demonstrates that the claimant is a committed and enthusiastic person who is able to focus on achieving her goals. We cannot, of course, predict the future and this exercise requires a high degree of speculation. However, the claimant's reference to a three year degree is useful and doing the best we can we think that there is a reasonable possibility that the claimant will be in a position to earn the same or a similar amount in around 4 years in total from the date of termination of her employment.

67. We therefore award loss of earnings for 4 years, but reduced by 90% to reflect the fact that the discriminatory act was not the sole or main cause of the end of the claimant's employment. This assessment takes account of the restrictions that claimant has put on her search for work and also includes the possibility that the claimant's employment might have ended at some point even if a non-discriminatory stress management policy had been applied.

68. We award the following sums:

69. From 8 July 2022 until 16 September 2022 the claimant had no income. Her total losses were £506.84 per week wages and £18.34 loss of pension contributions totalling £525.18. This is a period of 10 weeks, resulting in losses of £5251.80.

70. From 16 September 2022 until 12 February 2024 the claimant's income was £334.91 per month, which is £77.29 per week. Although the claimant's universal credit increased each April, we have disregarded that because in our view it is likely that, although we have rejected the claimant's assertion that she would get £8000 per year pay rise, it is reasonable to account for a cost of living type pay rise. We have therefore accounted for this by ignoring the cost of living pay rise in the claimant's universal credit. The claimant's losses for this period are £447.89 per week for 73.5 weeks, which is £32,919.92

71. From 12 February 2024 until 7 July 2026 (four years after the claimant's employment ended) the claimant's losses were £750 per month for her wages plus £18.34 per week pension contributions as we have found

above. This is £191.42 per week for a total of 125 weeks, giving a total of £23,927.50

72. Together, these losses amount to £62,099.22.However, we have found that 10% of these losses are attributable to the respondent's discriminatory acts so that the compensation for loss of earnings payable to the claimant is £6,209.92.

Injury to feelings

73. We consider next the injury to feelings award.

74. In our judgment, the claimant has experienced injury to feelings. The medical evidence is clear about that. However, as we have discussed already the majority of the impact on the claimant has been from the way she perceived the respondent responded to her concerns.

75. The failure to apply a non-discriminatory stress management practice has, however, impacted on the claimant. It was apparent from the claimant's grievance that by this time this was a concern to her. However, we repeat our views above that the claimant; main focus was on the response of the respondent to her concerns.

76. It is always very difficult to separate out the impact of the discriminatory act from everything else the claimant has experienced and it is, again, a highly speculative exercise. However, in our judgment the impact on the claimant of the discrimination that we have upheld falls around three quarters of the way up the lower band. It is not a one off act, but it was not intentional, Ms Barnes was genuinely seeking to help the claimant and the claimant, at least initially, recognised that Ms Barnes had been supportive. It was only latterly that the discriminatory PCP had an impact on the claimant as can be seen from her grievance. We therefore make an award for injury to feelings of £8,000.

Acas uplift

77. We consider next whether to increase the award for failure to apply with the Acas code of practice on disciplinary and grievance procedures.

78. We found, in our liability judgment, that the respondent failed to properly address the claimant's grievance about the respondent's failure to properly address her stress (see paragraphs 198 to 211 of our liability judgment). This grievance was in our judgment related to the matters that formed the claimant's successful discrimination complaint.

79. Paragraph 40 of the Acas code says that employers must decide what action to take following the grievance, This necessarily requires that an employer addresses the aspects of an employee's grievance.

80. In our view the respondent has failed to fully comply with this. It is not, however, a wholesale failure to comply with the code of practice but the respondent has not provided a reason for failing to deliver a full outcome.

81. In our view it is just to award a 10% uplift in the claimant's award.

82. We apply this to the total award of £14,209.92 and award an uplift of £1420.99.

Interest

83. Finally, we consider an award of interest. We award interest on the compensation before the application of the Acas uplift.

84. Interest is payable on the injury to feelings award at 8% per day from the date of discrimination and the date of the remedy hearing. We agree with the respondent that interest must run from the date of termination of employment to the date of the remedy hearing which is a period of 729 days. The interest is therefore calculated as 729 x 0.08 /365 x £8000 = £1278.25

85. Interest on financial losses applies only to losses up to the date of the remedy hearing and is calculated on the midpoint between the date of termination and the date of the remedy hearing. This gives interest for 365 days.

86. Past losses (up to the date of the remedy hearing) are ten percent of (£5251.80 + £32,919.92+ (20.5 weeks at £191.42per week)) which gives £4209.58. Interest on this figure is therefore 365 x 0.08 / 365 x £4209.58= £336.77.

Employment Judge **Miller**

Date 21 July 2024

RESERVED JUDGMENT & REASONS SENT TO THE PARTIES ON

Date: 25th July 2024

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FOR EMPLOYMENT TRIBUNALS