EMPLOYMENT TRIBUNALS

Claimant: **Mrs S Begum**
Respondent: **Slough Borough Council**

JUDGMENT

1. The deposit of £30 paid by the claimant under rule 40(1) of the Employment Tribunal Rules must be paid to the respondent under rule 40(7)(b);
2. The claimant shall pay the respondent's costs in the sum of £3000.

REASONS

1. **The issues:** At a final hearing held at Reading between 16 and 19 July 2024, a Tribunal comprising myself, Mr T Hough and Mr J Appleton dismissed the claimant's complaints of unfair dismissal and of disability discrimination under section 15 of the Equality Act 2010. There were no other complaints before us. At a previous hearing, on 7 February 2023, Employment Judge Shastri – Hurst had directed the claimant to pay a deposit of £15 in respect of each of those complaints as a condition of continuing to advance them, and she had paid those amounts accordingly.
2. At the end of the final hearing, the respondent made an application for costs and for payment of the deposit to it under what is now rule 40(7) of the Employment Tribunal Rules 2024 (ET Rules).The attached costs schedule had been provided to the claimant on the first day of the hearing, 16 July 2024, but the written submission was produced on the last day.
3. Given the time by which the application was made, the limited opportunity that the (unrepresented) claimant had to consider the details of the application and her wish to refer to her means, the tribunal gave directions to enable the costs application to be dealt with. The parties agreed orally that the application could be dealt with by me sitting alone "on the papers" to avoid the time and costs of a separate hearing.
4. The parties subsequently provided confirmation in writing that they agreed to the issue of costs being dealt with in this way.
5. The respondent's application is made under what are now rules 40(7) and 74 of the ET rules.
6. It is clear from paragraph 2 of the respondent's application that it is made not only based on rule 40(7) but also on the basis that the claimant's claims had no reasonable prospect of success under rule 74(2)(b) – previously rule 76.

Relevant Law

7. **Rule 40(7)** provides:
(7) If the Tribunal following the making of a deposit order decides the specific allegation or argument against the depositor for substantially the reasons given in the deposit order—

(a)the depositor must be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 74 (when a costs order or a preparation time order may or must be made), unless the contrary is shown, and

(b)the deposit must be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders),

otherwise, the deposit must be refunded.

This has been held to mean that, whilst in the circumstances set out in the Rules the deposit must be paid to the other party (here, the respondent), although the claimant would be treated as having pursued the specific allegations or arguments unreasonably after the deposit order is made, the Tribunal will still have to consider its discretion as to whether, and if so in what amount, to order costs against the claimant – see **Oni v Unison, 2015 ICR D17.**

6. Rule 74 provides as follows, so far as relevant:
74.—(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party...
(2) The Tribunal must consider making a costs order or a preparation time order where it considers that—

(a)a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings, or part of it, or the way that the proceedings, or part of it, have been conducted,

(b)any claim, response or reply had no reasonable prospect of success,

8. **Rule 76** now provides:

76.—(1) A costs order may order the paying party to pay—

(a)the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;

(b)the receiving party the whole or a specified part of the costs of the receiving party, with the amount to be paid being determined—

(i)in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998, or by the Tribunal applying the same principles.

9. According to rule 82: **82.** In deciding whether to make a costs order, preparation time order, or wasted costs order, and if so the amount of any such order, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay.

10. Although the numbering of the ET Rules has changed, in respect of these matters there has been no substantive change, and I consider that the case law decided under the 2013 ET Rules is therefore applicable.

11. Although, where the Tribunal finds that a party has acted unreasonably in the bringing or conduct of the proceedings or that a claim had no reasonable

prospect of success it must go on to consider making a costs order, it has a discretion as to whether to do so and as to the amount of any award. Awards of costs are still exceptional in the Employment Tribunal. Costs are intended to be compensatory and not punitive.

12. If the relevant ground is made out, the Tribunal must go on to consider whether it is appropriate to exercise its discretion in favour of the party seeking costs. According to the case of **Yerrakalva**, [2011] EWCA Civ 1255, the tribunal must look at the whole picture, taking account, for example, of the **nature, gravity and effect** of the unreasonable behaviour which it has identified.

13. This means that the tribunal must identify (a) what conduct is unreasonable, (b) what was unreasonable about it, and (c) must consider its nature, gravity and effect. It is not necessary to identify a direct causal link between the unreasonable conduct and any particular aspect of the proceedings; instead, a “broad-brush” approach should be taken, and the situation should be considered overall.

14. Although the same test applies to represented parties and unrepresented parties, we should bear in mind that unrepresented parties such as the claimant are unlikely to be as knowledgeable about the law and procedure as represented parties and are unlikely to be as objective about the merits of the case.

15. The tribunal may take account of the paying party’s ability to pay both in deciding whether to order costs and the amount which should be awarded, if any

16. In making my decisions I must give effect to the overriding objective in Rule 3 of the Tribunal rules. This means that I must deal with the case fairly and justly. This includes ensuring that the parties are on an equal footing, dealing with the case in ways which are proportionate to the complexity and importance of the issues, avoiding unnecessary formality and seeking flexibility, avoiding delay (so far as this is compatible with proper consideration of the issues) and saving expense. I have also taken account of the caselaw and examples quoted by the respondent.

Procedure

17. In accordance with the tribunal's directions, the claimant provided a statement on the 13th of September 2024 to which she attached a limited number of Bank statements and other financial information about her outgoings. Unfortunately, when the documents were originally sent to me, the claimant’s statement and attachments from the 13th of September 2024 were not sent to me by the administration. I followed this up when I was next at work on the 6th of January 2025 and received a response from the administration on the 24th of January. Unfortunately, this attached the incorrect e-mail, and I followed this up again when I was at the tribunal on the 6th of February 2025. After a further follow up e-mail from me, the correct e-mail and attachments were finally forwarded to me on 4 March 2025. The respondent responded to the claimant's e-mail of the 13th of September 2024 on 4th of October 2024, providing a further copy of its application for costs and detailed costs schedule. A hard copy had been provided to the tribunal and the claimant on the final day of the hearing. The claimant took the opportunity to respond, as permitted by the directions, on the 18th of October 2024.

18. The documents were, initially, incorrectly forwarded to Employment Judge Reindorf, who pointed this out on the 7th of November 2024, and were first referred to me on the 13th of December 2024. I became aware of the referral on the 19th of December 2024, but due to absence over the festive season. I was

not able to attend to them until the 6th of January 2025, and the matter then proceeded as set out above. I apologise to the parties for the delay in completing this matter, although most of it was outside of my control.

Relevant facts

19. At a hearing on the 7th of February 2023, Employment Judge Shastri-Hurst found that the claimant was disabled from the 25th of June 2020 onwards and therefore that she was disabled when each step of the disciplinary process took place, except for the first step of sending her a letter containing allegations on the 29th of May 2020. Employment Judge Shastri-Hurst clearly set out why she thought that the claimant's claim of discrimination arising from disability had little reasonable prospects of success at paragraph 14 of the reasons for the deposit order. The respondent said that it dismissed the claimant because of a deception that she carried out between about the autumn of 2018 and April 2020; the claimant had informed the respondent that her young daughter was seriously ill, and had used her daughter's alleged ill health and hospital treatment as reasons for not coming to work. The claimant accepted during the disciplinary process that her daughter had not been ill, or in hospital, at all.

20. The claimant sought to argue, therefore, that the reason for her dismissal ("the deception") was something which arose in consequence of her disability. Employment Judge Shastri Hurst found that the deception was over by the 27th of April 2020, when the claimant admitted it. She also found that the claimant was not disabled within the meaning of the Equality Act until the 25th of June 2020. The judge held that the deception could not have arisen in consequence of the claimant's disability as she was not disabled at the relevant time. The judge found that as a result the complaint under section 15 of the Equality Act 2010 had little reasonable prospect of success. That is the basis upon which she ordered the claimant to pay a deposit

21. At the final hearing, we dismissed the complaint under section 15 of the Equality Act for substantially the same reasons as Judge Shastri Hurst – as both parties agreed that the reason for the claimant's dismissal (and the disciplinary action which preceded it) was the claimant's deception, which occurred at a time when the claimant was not a disabled person within the meaning of the Equality Act 2010, it is not possible that the disciplinary action and the dismissal were due to something arising in consequence of the claimants disability. She did not have a disability at the relevant time.

22. In respect of the unfair dismissal claim, the claimant told Judge Shastri Hurst that the only basis upon which she was complaining of unfair dismissal was that the sanction of dismissal was too harsh, that is, that it was outside the band of reasonable responses to the conduct in question.

23. At paragraphs 19 and 20 of the deposit order, the judge set out the relevant test in that respect, that is, whether no reasonable employer would have dismissed in the same circumstances. She points out that the relevant circumstances involve the claimant misleading the respondent for more than a year in relation to a matter which is not trivial. She points out that the claimant told the respondent that her daughter was severely ill in hospital in order to hide her own alleged health issues from them. The judge found that the serious and sustained nature of the deception meant that the claimant had little reasonable prospect of success if she pursued the argument that no reasonable employer would have dismissed her.

24. At the final hearing, we found that in the circumstances, the sanction of dismissal was within the reasonable range of responses and therefore that a hypothetical reasonable employer could have dismissed the claimant. This is substantially the same reason for which Judge Shastri Hurst made the deposit order.

25. In addition, at the final hearing, the claimant sought to argue that the procedure adopted by the respondent in relation to the dismissal and disciplinary process was outside the reasonable range, in other words again that no reasonable employer would have acted as the respondent did. Employment Judge Hawksworth permitted the claimant to add these issues at a subsequent preliminary hearing, in January 2024.

26. At that preliminary hearing, the claimant had not specified exactly how she said that the process was unfair. At the hearing before us, she raised numerous points about procedure which had never been raised before. We found that those issues were without merit for the reasons that we gave at the time and therefore found that the process adopted by the respondent was within the reasonable range. Those arguments added little to the claimant's case, and therefore I conclude that we rejected the unfair dismissal claim for substantially the same reasons as did Employment Judge Shastri Hurst.

27. During the hearing, we heard evidence about the claimant's young family, which is now dependent on her husband's income. I considered it appropriate to take account of the claimants means under rule 80, as she wished me to, as a result.

28. In accordance with the tribunal's directions, the claimant provided various financial documents, including details of two HSBC bank accounts held by herself, payments to her husband by Uber, a HSBC account ending 703 for her husband and of a Natwest account ending in 737.

29. These show that the claimant and her husband appear to pool their finances. The claimant states that her mortgage payments are 939.11 per month and this is verified by a mortgage statement dated the 3rd of March 2024. In addition, the ground rent is £115.00 per month and the family has the usual utilities bills of which I have seen some evidence.

30. Whilst the family's finances are tight according to the evidence I have seen, the claimant's HSBC account ending 8826 was marginally in credit (£49.86) by the 23rd of August 2024. That ending 7938 was also marginally in credit as of the 6th of September. This appears to be a joint account. Her husband's bank account ending 0703 was in credit to the tune of £926.47 by the 27th of July 2024. There was a transfer of £400 from the account ending 7938 into her husband's account ending 0703 in July 2024.

31. The claimant's husband works as an Uber driver. The claimant points out that his income is not guaranteed, and that vehicle repairs are sometimes required, but nevertheless the family are managing without recourse to benefits aside from child benefit. It seems that the claimant's husband's income has increased since the time of the deposit order, as he received a payment of £1789.90 in July and just over £2015 from Uber in August 2024. The family is repaying a loan, partly through the claimant's NatWest account but the above balance figures take account of this. The loan has been spent on bills and other repayments.

32. Whilst, on the evidence provided, the family's finances are tight, I note that there was payment to the value of more than £600 to clothing stores in the month of July 2024 from the husband's HSBC account ending 0703. This seems

surprising given the evidence in the claimant statement of the financial struggle that the family is experiencing, and I am not satisfied, on the balance of probabilities, that a full picture of the family's finances has been provided

APPLICATION OF LAW TO FACTS

33. I have set out above my finding that the tribunal dismissed the claims of discrimination arising from disability and of unfair dismissal for substantially the same reasons given in the deposit order. This means that the threshold set out in Rule 40(7) is made out unless the claimant can show that she did not act unreasonably in pursuing those specific allegations or arguments.

34. I do not consider that she has done so. In her statement provided in the context of the costs application, the claimant stated that she had relied on advice from her trade union representative Mr Rawlings, and that she is not legally represented as she could not afford legal fees. She was not formally represented by her trade union, although her union representative attended to give evidence on her behalf.

35. I appreciate that the claimant is not represented and that she is likely to be less objective than a professional representative would be and would not have similar knowledge of the tribunal's rules and procedures and the relevant law.

36. Judge Shastri-Hurst's deposit order, however, which starts at page 148 of the bundle for the main hearing, was very clear in its reasoning and it was explained to the claimant what the consequences of that order could be if she did not succeed. At paragraph 2, for example, it says that the rationale of a deposit order is to warn the claimant against pursuing claims with little merit, which may leave them open to a risk of costs should they proceed with the claim and lose on the same basis as identified as the reason for making a deposit order.

37. I consider that Judge Shastri Hurst's explanation of why the order was being made was very clear, see for example paragraphs 14 and 15 regarding discrimination arising from disability and paragraphs 18-20 regarding unfair dismissal.

38. The claimant is not unsupported in this matter. As she has pointed out, she has sought advice from her trade union representative throughout and has the support of her family. Whatever the position prior to the making of the deposit order, which was sent to the parties on the 11th of April 2023, I consider that the claimant has not shown any evidence that would rebut the presumption that her continued pursuit of the claims of discrimination arising from disability and unfair dismissal was unreasonable after April 2023.

39. As noted by the respondent at paragraph 26 of the submission provided on the 19th of July, 2024, the respondent also reminded the claimant on several occasions after April 2023 about the effect of the deposit order and the consequences for costs. It reminded her that this was the effect of.an order of the Tribunal rather than any threat by the respondent.

40. The claimant claims that she was prevented from calling witnesses who may have assisted her case, such as Bella Dean. She says that she asked the respondent to call Bella Dean as a witness, but they did not do so. The respondent told the claimant in January 2024 that it was not going to call Bella Dean as a witness. It is a matter for the respondent to decide which witnesses they wish to call. There is no evidence that the claimant was prevented from calling any witnesses, or that she approached them herself to ask them to attend, or that she applied to the tribunal for a witness order. Even if she had, given the tests that the tribunal had to apply it is difficult to see what additional relevant

evidence Bella Dean could have given that would have assisted the claimant. She could not have assisted the claimant with the discrimination arising from disability claim as the tribunal had found that the claimant was not disabled at the time the deception was carried out.

41. Bella Dean had given evidence in the disciplinary process, and her evidence had contradicted that of the claimant and had been preferred to that of the claimant by the disciplinary panel. The disciplinary panel were entitled to take that view, as we explained in our judgment dismissing the unfair dismissal claim. So, anything Bella Dean said was unlikely to assist the claimant. The claimant's allegations about Bella Dean and Michael Jarrett at the final hearing seemed to the tribunal to illustrate the claimant's continuing difficulty in accepting responsibility for the consequences of her own actions, that is her protracted and spiralling deception of her employer between 2018 and April 2020.

42. It was a substantial feature of the claimant’s case at the final hearing that she has been mentally unwell since the deception began in 2018, and as found by Employment Judge Shastri-Hurst, the claimant has been disabled due to anxiety and depression since the 25th of June 2020.

43. In the documents provided for the final hearing, there is a section commencing at page 720 which includes medical and therapeutic records from June 2020 onwards. It is apparent from those documents and the evidence we heard that the claimant had experienced very significant trauma in the past, when her sister was murdered. The has subsequently (i.e. After 27 April 2020) been diagnosed as experiencing symptoms of PTSD as referred to in the documents in the bundle. Medical documentation also refers to the claimant having experienced depression and anxiety in the period from June 2020.

44. I have taken this into account and have concluded that whilst it was not unreasonable for the claimant in all the circumstances to have continued to pursue her claims up until the time of the case management hearing in February 2023, and subsequently until she received the deposit order in mid-April 2023, she has failed to persuade me that it was reasonable for her to pursue the allegations/arguments that were subject to the deposit order, after April 2023 when she received that order. I consider that it was unreasonable for her to do so.

45. She says that she was receiving advice from her union representative Mr Rawlings throughout (although not officially from the trade union) and she was assisted by her grown up son at the tribunal hearing. Her husband also attended to support her. So, she clearly had support from her family. Even if she had difficulty in accepting what the judge said in the deposit order herself, she had sources of advice and assistance around her who could explain it to her. I appreciate that the claimant says that she was not able to afford legal advice, but she has been supplied with details of sources of free legal advice by the Tribunal in addition to the advice that she was receiving from her trade union representative. In my view if she preferred the advice of Mr Rawlings to the reasoning given by Judge Shastri-Hurst it was foolhardy of her (and the family members who were assisting her) to do so, particularly given the very clear explanation provided by the Judge. So, the claimant has not displaced the presumption in Rule 40(7)(a) that she has acted unreasonably by continuing to pursue those allegations or arguments and I must go on to consider, under rule 74(2)(a) whether to award costs against her and, if so, in what amount.

46. In his written submissions provided at the end of the hearing, Mr Lester set out further reasons why he said the claimant should be treated as having acted

unreasonably during the proceedings. So far as points (i) to (iii) are concerned, at paragraph 21, it seems to me that whilst this was unhelpful conduct by the claimant, I do not consider that it was so unreasonable in all the circumstances that it meets the threshold in Rule 74.

47 It is true that the claimant, at the final hearing, pursued allegations which were not part of her pleaded case or the issues, including serious allegations against Mr Michael Jarrett, which the tribunal found to be without merit. Mr Jarrett had been dismissed as a party to the claim at an earlier stage. As early as the first case management hearing, the claimant had been told about the possibility of amendment If she wished to pursue further allegations against him. She did not pursue this, despite having access to advice from her experienced union representative. Although Mr Jarrett was not a party to the proceedings, however, we did hear some evidence from and about him as there was a potential relevance to the fairness of the dismissal process. As the claimant is unrepresented, and given her disability, I do not consider that it was so unreasonable of her to raise issues about Mr Jarrett's involvement in that process as to merit consideration of costs on that basis.

48. Again, whilst I accept that the tribunal found that some of the evidence given by the claimant at the final hearing, including allegations of sex and race discrimination against Mr Jarrett, was not true, taking account of the nature of her disability I do not consider that these matters by themselves merit consideration of costs in the circumstances of this case.

49. Likewise, the claimant did try to rely upon legally privileged documents during the proceedings and was clearly told by Judge Hawksworth on the 22nd of January 2024 that she could not do so. She has attempted to do so again in the context of this costs application, and according to the respondent has even misrepresented the contents of those documents. Whether or not she has misrepresented them, she should not have referred to them at all, and whatever the Respondent's legal advice around the time of the disciplinary proceedings, Judge Shastri Hurst later explained very clearly to the claimant why she thought the allegations before her in the disability discrimination and unfair dismissal claims had little reasonable prospect of success, why she was making a deposit order and what the cost consequences could be.

50. Taking account again of the facts, however, that the claimant is not legally represented, and is disabled by mental impairment, I do not consider that the claimant's conduct in attempting to refer to legally privileged documents, whether by itself or together with the other matters at points (i) to(vi) of paragraph 21 of Mr Lester's submissions (or the additional points in the respondent's response dated 4 October 2024) amount to such unreasonable conduct that consideration of costs is merited in respect of those matters as opposed to her continuation of the allegations and arguments after receipt of the deposit order in April 2023. Having made that finding, for the reasons given above I do not consider that it is necessary in addition to find that those complaints had no reasonable prospects of success. Whilst the claimants additional arguments had little reasonable prospect of success, I do not consider but they never had any reasonable prospect of success, and therefore the respondents arguments under rule 74(2)(b) fail.

51. **Should there be an award of costs?** So, the unreasonable conduct is that the claimant continued with her allegations of discrimination arising from disability and of unfair dismissal after receipt of the deposit order (which included reasons) in April 2023. It was unreasonable for her to do so in accordance with Rule 40(7)

as the Tribunal rejected those arguments and allegations for substantially the same reasons as set out by Judge Shastri Hurst. The judge had set out very clearly why she thought those arguments and allegations had little reasonable prospect of success and what the cost consequences could be if the claimant pursued them.

52 Applying **Yerrakalva,** I must consider the **nature, gravity and effect** of the claimant continuing to pursue those allegations and arguments thereafter. Whilst, as I have pointed out above, the claimant was permitted to raise a broader challenge to the fairness of dismissal by Judge Hawksworth in January 2024 than had been placed before Judge Shastri Hurst in February 2023, in that it was stated that the tribunal would need to consider whether there was any procedural unfairness as well as whether or not the dismissal was too harsh a sanction, those additional arguments regarding procedural unfairness took up significantly less time and involved substantially less evidence than the arguments which were the subject of Judge Shastri Hurst's order. The nature of the unreasonable conduct was the pursuit of the arguments subject to the deposit order in disregard of the Judge's warnings about prospects of success and potential consequences.

53. In my view, the claimant's conduct in continuing with the allegations and arguments that were subject to the deposit order after April 2023 was serious; she had been clearly told about the problems with her discrimination arising from disability claim and the nature of the test that the tribunal would apply in relation to unfair dismissal, which also rendered the prospects of success of the arguments put to Judge Shastri Hurst to be low, was explained to her. She chose to disregard that, and the warning about a potential award of costs.

54.The effect of the claimant's unreasonable conduct was that both parties were, in consequence, required to continue to prepare for a four-day final hearing before a full tribunal panel.

55. This included attendance at the further preliminary hearing in January 2024. The order from 22 January 2024 is found at page 1076 in the trial bundle and was necessary because the final hearing which was previously listed to start on that day had to be postponed. This was because the parties were not prepared for it. Judge Hawksworth found that this was due to delays on both sides. So, the claimant cannot be held solely responsible for the cost of this additional preliminary hearing.

56.It appears that the additional arguments about the procedural fairness of dismissal were first raised at this preliminary hearing on the 22nd of January 2024. If the case had been limited to the additional arguments about unfair dismissal at this stage, the final hearing would have been much shorter and would not have required a full tribunal panel.

51. Looking at the schedule of costs supplied by the respondent, I can see that the bulk of the costs were generated after April 2023, to the tune of roughly £15,000, and that counsel's refresher fees for the 17th to 19th of July were not included. The respondent is a public authority, and I am told that the state of the local authority's finances in this case has resulted in government intervention. The local authority issued a section 114 notice under the Local Government Finance Act 1988 in July 2021. This means that the authority's spending was likely to exceed its resources. The local authority has been put to very significant additional expense which it would not have been had the claimant acted reasonably after having the prospects of the relevant allegations and arguments assessed at the deposit hearing.

52. Whilst, on the evidence I have seen, the claimant's family finances are tight, I do not accept that they are so strained as the claimant suggests in her statement of the 13th of September 2024. If they were, it seems to me unlikely that the family would spend as much as £600 in one month on clothing, which included designer clothing from Bicester village retail outlet. In any case, impecuniosity does not mean that there should not be any awards of costs, it is simply a factor to be taken into account.

53. Taking account of the overriding objective and reminding myself that costs are not intended to be punitive, it does seem to me that it is fair in all circumstances to make a costs award against the claimant. A clear warning about the prospects of success of the main arguments which were advanced at the final hearing had been given by Judge Shastri Hurst and a deposit order and its consequences were clearly explained to the claimant. Despite this, the claimant appears to have disregarded what Judge Shastri Hurst said and, with advice from Mr Rawlings, continued to pursue the allegations and arguments which were the subject of the deposit order. This has caused significant expense in time and money to the respondent local authority. In my view, they ought to receive some compensation for this.

54. As indicated above, I have taken account of the claimant's financial circumstances but remind myself that the fact that a claimant has limited finances is not determinative of whether a costs order should be made, or its amount. The claimant's financial circumstances have improved somewhat since the time of the deposit order according to the evidence provided, and, despite the uncertainty of her husband's income, the family does have limited funds to spare, based on the evidence I have seen. I appreciate that most of this money appears to be the husband's earnings rather than the claimant's, but as I have said, in practise, their finances are pooled. I have decided therefore to exercise my discretion to make a costs award against the claimant.

55. **How much should the award be?** As indicated above, not all the tribunal's time at final hearing was spent on the allegations and arguments which are the subject of the deposit order, but the bulk of it was. I have considered the respondent's schedule of costs, and it is apparent that some of the expenditure took place before April 2023. I have therefore concentrated on the amounts generated after April 2023, when the solicitor involved had a charging rate of £90 per hour, rising to £94.23, which seems a reasonable amount in the circumstances. The disbursements to counsel also seemed reasonable in the circumstances.

56. As noted above, the amount claimed after April 2023 is just under £15,000. I have noted that not all the allegations and arguments considered at the final hearing were those which were subject to the deposit orders, so that some costs would have been generated in any event. Taking account of the state of the claimant's family finances and the other surrounding circumstances, it seems to me that a fair amount to award against the claimant is the sum of £3,000 in addition to payment of the deposit to the respondent. This should provide some compensation to the respondent for the costs unnecessarily expended whilst avoiding too much of an adverse impact on the claimant and her family. I will leave it to the parties to attempt to agree the rate and period of repayment, but based on the figures I have seen, which I consider are probably not comprehensive so far as income is concerned, if this cannot be paid in a lump sum the claimant should be able to repay this at the rate of at least £100 to £150 per month. Please our sums which would appear to be available to her based on the bank accounts and other financial information I have seen. This would mean

that the costs would be repaid within two and a half years, which I consider to be a reasonable period.

57. The deposit order of £30 will be repaid to the respondent.

Approved by:
Employment Judge **Findlay**

Date 07.03.2025

JUDGMENT & REASONS SENT TO THE PARTIES ON
15 March 2025

.....

.....
FOR THE TRIBUNAL OFFICE

Notes

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.

Public access to employment tribunal decisions
Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/