



EMPLOYMENT TRIBUNALS

CLAIMANT: Dr Turton

RESPONDENT: Mid Kent College

HELD AT: London South (by CVP) **ON:** 8-10 September 2025
2 October 2025
6-7 October 2025 (in chambers)

BEFORE: Employment Judge Hart, Mr Dixon and Ms Forecast

REPRESENTATION:

For the Claimant: Mr Horan (Counsel)

For the Respondent: Mr Pincott (Counsel)

RESERVED **REMEDY JUDGMENT**

The unanimous Judgment of the Tribunal is that:

The respondent is ORDERED to pay the Claimant the following sums as compensation for the proven acts of discrimination:

1. Past loss of earnings of **£53,551.47.**
2. Future loss of earnings of **£27, 942.87.**
3. Injury to feelings of **£29,000.**
4. Personal injury of **£8,000.**
5. Aggravated damages of **£5,000.**
6. Interest on past loss of earnings, injury to feelings, personal injury and aggravated damages totalling **£15,396.61.**
7. Sum for grossing up of **£38,266.33.**

REASONS

INTRODUCTION

1. These are our unanimous reasons.
2. Dr Turton (the Claimant) was employed by the Respondent, a further education college, as a Psychology Lecturer, from 26 August 2014 until 31 August 2022 when she took voluntary redundancy. Dr Turton has Asperger's Syndrome (Autism Spectrum Disorder), Severe Complex Post Traumatic Stress Disorder and ADHD.
3. Dr Turton (the Claimant) succeeded in the following claims at the liability hearing on 21-30 October 2024 and 31 October-1 November 2024:
 - 3.1 Three complaints of **harassment related to disability** that:
 - 3.1.1 In December 2021 Ms Woodman (another lecturer) would mock the Claimant's disabilities by tapping her head to indicate that the Claimant had 'mental problems' (**issue 6.1.6 (3.2.1)**).
 - 3.1.2 Ms Woodman spread fabricated information about the Claimant in respect of false racist remarks which led to a student complaining and rumours circulating (**issue 6.1.1 and 6.1.6 (3.2.3)**)?
 - 3.1.3 On 21 April 2022 at around 4.45pm when the Claimant returned her chair to the staffroom she was shouted at by Ms Woodman and Dr Peet who tried to force her to communicate with them (**issue 6.1.4**)
 - 3.2 Two complaints of **direct disability discrimination**:
 - 3.1.1 That the Respondent subjected the Claimant to a redundancy procedure (**issue 3.2.7**).
 - 3.1.2 The Claimant was dismissed by way of voluntary redundancy (**issue 3.2.8**).
 - 3.3 A complaint of a **failure to make reasonable adjustments**.

THE HEARING

4. The remedy hearing took place over 6 days. The parties attended on days 1–4. Days 1-3 was evidence, day 4 was for submissions and days 5-6 was for panel deliberations. Both parties were represented by counsel: Mr Horan for the claimant and Mr Pincott for the respondent. They are thanked for their assistance, cooperation and representation during the hearing.
5. The following reasonable adjustments were put in place for Dr Turton:

- 5.1 The attendance of a family member throughout the hearing as support. They sat behind Dr Turton when she was giving evidence.
 - 5.2 Scheduled breaks every 45 – 60 minutes when giving evidence.
 - 5.3 That if Dr Turton felt overwhelmed she could leave the room without having to ask for permission, and the family member could provide the Tribunal with any necessary updates.
 - 5.4 In advance of the hearing the respondent confirmed that it had provided Dr Turton with a general outline of the themes of its questions. We confirm that Mr Pincott's questioning of Dr Turton was at all times appropriate and respectful.
 - 5.5 On 8 September 2025, during her cross-examination the claimant became overwhelmed and proceedings had to be halted. That evening at 19:02 Dr Turton sent her counsel an email attaching a 3 page document of thoughts that she wished the tribunal to take into account. Mr Horan drew the fact of the email to our attention the next morning. In discussion with both counsel it was agreed that they would consider the email and whether or not it was appropriate for the tribunal to take it into consideration. The email was then provided to us on conclusion of Dr Turton's evidence on the understanding that it was a matter of tribunal discretion as to how much weight to put on evidence that has not been subjected to cross-examination.
6. During the hearing we were provided with, or had access to, the following documents:
- 6.1 A joint agreed hearing bundle of 420 pages, the references to page numbers in this Judgment are to the pages in this bundle.
 - 6.2 A medical bundle of 3,205 pages (provided as an electronic copy only). References to page numbers with the prefix "M/" are to pages in this bundle.
 - 6.3 The liability bundle, references to page numbers with the prefix "L/" are to pages in this bundle.
 - 6.4 A remedy witness statement bundle.
 - 6.5 The liability witness statement bundle.
 - 6.6 Dr Turton's email of the 8 September 2025.
 - 6.7 Mr Horan's written submission on remedy on behalf of the claimant.
 - 6.8 Mr Pincott's written submissions on remedy on behalf of the respondent.
7. The claimant called herself, Mrs Turton (her mother) and Ms Epps (her daughter) to give evidence on her behalf. The respondent called Ms Le Poidevin (Director of Curriculum) and Dr Mawby (Executive Director of Curriculum and Quality).
8. We also heard from Dr Singh (the joint expert) having granted the respondent's application for the reasons provided orally at the hearing. The respondent has agreed to pay the cost of Dr Singh's attendance.
9. Following the conclusion of the evidence we heard oral submissions which supplemented those provided in writing. Judgment was reserved.

10. On 18 November 2025 the parties were sent a draft embargoed judgment for consideration. We have taken into account the parties' corrections in finalising this judgment.

REMEDY ISSUES

11. The remedy issues were as set out in the CMO of the 18 April 2023: **pg L/63-68**. They are reproduced in Appendix A.

THE LAW

12. There was no real dispute between the parties as to the correct law to be applied. The Respondent provided detailed legal submissions (which were agreed by the Claimant) and which we adopted.
13. Under the Equality Act 2010 section 124(6) and 119(2) any award of compensation is to be assessed under the same principles as apply to torts. The central aim is therefore to put the claimant into the position, so far as is reasonable, that she would have been had the statutory tort not occurred. Dr Turton is entitled to be compensated for all harm caused directly by the act of discrimination, whether or not it was reasonably foreseeable: **Essa v Laing Ltd** [2004] IRLR 313.

FINDINGS OF FACTS, DISCUSSION AND CONCLUSION

The joint expert

14. Dr Singh is a consultant psychiatrist who has considerable experience of assessing individuals with autism, Complex PTSD and ADHD. She was jointly instructed by the parties and was provided with the liability judgment and Dr Turton's medical records. She conducted a consultation with Dr Turton on 1 and 8 July 2025. She produced a report and answered detailed written questions from both parties: **pgs 133-172** (report) **and 178-201** (questions). She also attended this hearing to give evidence.
15. Dr Singh told us that she based her expert opinion not just on what Dr Turton had told her but also her demeanour and behaviour, and using her own clinical experience and assessment. She confirmed that it is possible to discern whether a subject was exaggerating their symptoms and stated that in Dr Turton's case there was no evidence of this. We considered her to be a helpful and knowledgeable expert.

Apportionment

16. Dr Turton has pre-existing conditions of Asperger's Syndrome (autism spectrum disorder), severe complex post-traumatic stress disorder and ADHD. Further Dr Turton has a history prior to the events in question, of depression and anxiety.

17. At the liability hearing we found that some of the acts, but not all the acts, that Dr Turton relied upon proven (Judgment). Therefore it was a live issue before us as to whether, and to what extent, the harm that has been caused to Dr Turton was attributable to the respondent's wrongdoing: **BAE Systems (Operations) Ltd v Konczak** [2017] EWCA Civ 1188. The burden is on the respondent to raise the issue of apportionment.
18. One of the first questions before us was whether the harm was divisible. Dr Turton described the impact of her treatment at work as being cumulative and that it was not possible for her to consider each act of discrimination and those acts which were found not to be discrimination separately, not least because she has Complex PTSD which meant every time it was triggered the past trauma was also triggered.
19. Dr Singh was clear in her report and her oral evidence that her conclusions about the harm caused would remain the same even if only the upheld findings of harassment and failure to make reasonable adjustments had occurred, as these were substantial stressors in themselves: **pg 190**. Further Dr Singh stated, in response to panel questioning that there was no rational basis for apportioning harm in this case since it was all "*part of the continuum which could not be separated*".
20. The respondent did not seek to persuade us that the harm was divisible stating that this was a matter for the tribunal. Based on the evidence provided by Dr Singh we find that the injury was not divisible and therefore there is to be no apportionment.

When did Dr Turton intend to retire?

21. Dr Turton was 62 years old at the date of her voluntary redundancy on 31 August 2022. She stated in her schedule of loss that she would have remained at work up to her 71st birthday on 17 June 2031. In evidence she informed us that this would have coincided with paying off her mortgage and was the age that her father had retired from teaching. In her original liability statement, Dr Turton had stated that she had planned to work full-time until retirement age, and then like her father part-time until she was 70 years of age [para 91]. Although she later stated that she planned to work until she was 71 years [para 98]. Faced with these inconsistent accounts, we considered that her account in her liability statement at paragraph 91 to be most accurate, and find that she intended to retire when she was 70 years old. Further that she would have moved to part-time working from state retirement age, which for Dr Turton was 17 September 2026 (66 years old): **pg 231**. We did not accept that she would have had to continue to work full time after this date for financial reasons. We noted that on 22 February 2022 Dr Turton had made a capital payment in order to reduce her mortgage term (**pg 230**) and considered that had she remained employed by the respondent she would have continued to pay off her mortgage early. Further her particulars of claim had claimed future loss of earnings of only 4 years and 1 month and her original schedule of loss had claimed future loss of earnings of 96 weeks, both of which equated to loss of full-time earnings up to the date of state retirement age: **pgs L/23 and 1513**.

Whether Dr Turton would have retired before her 70th birthday due to ill-health

22. Dr Turton has the following longstanding neurodevelopmental and trauma-related conditions: **pg 161**.
- a) Complex Post-Traumatic Stress Disorder (C-PTSD);
 - b) Attention-Deficit/Hyperactivity Disorder (ADHD);
 - c) Generalised Anxiety Disorder;
 - d) Moderate Major Depressive Disorder; and
 - f) Chronic musculoskeletal pain and post-operative recovery – including fibromyalgia-like symptoms and recent left knee replacement.

Dr Turton accepted that she has had these conditions for most of her adult life. They had affected her at work and in her personal life (see remedy statement paras 4-9). However she stated that before she had always been able to bounce back.

23. Dr Singh concluded that on the balance of probability it was unlikely that Dr Turton's employment would have ceased by reason of ill health if the proven acts of discrimination had not occurred: **pg 167** [report para 112]. Dr Turton's conditions were well-managed and did not prevent her from working effectively as a psychology lecturer for many years: **pg 168** [report para 114-116]. In response to written questions by the respondent, Dr Singh acknowledged that there had been significant episodes of anxiety and depression prior to 2021. However the "critical medical distinction" was that prior to December 2021 these episodes were "episodic and recoverable allowing Dr Turton to return to and sustain employment": **pg 196**. Dr Singh concluded that it was medically likely that Dr Turton would have been able to continue in work with the appropriate adjustments and that the discrimination was the decisive factor in her prolonged incapacity over and above her background predisposition: **pg 193**.

24. Whilst Dr Turton may have remained medically fit to remain at work until retirement, we noted that she had had significant periods of sickness absence during her employment with the respondent. Excluding sickness absence, which was connected to the discriminatory acts, she had been signed off sick for 44 days in 2018, and 48 days in 2021, albeit in other years it was much less. It was therefore likely that over the next 8 year period Dr Turton would have had at least two significant periods of absence. We considered it likely that the respondent would have continued to support her through these periods, however there is a chance that they may not have been willing to do so. There is also a chance that she may have wished to leave for other personal reasons, either in her work life or home life. She stated that she had faced bullying at work several times from managers and colleagues. We considered that opting to work part-time on a 0.5 FTE post from 1 September 2023 (see paragraph 35) would have significantly reduced the stress on her caused by work and her colleagues and help her manage her sickness absence. Further it would provided her with personal time to deal with any other life events. She came across as a committed and determined lecturer and we considered that it was likely that she would wish to continue to manage her conditions and to work as a lecturer. Therefore we considered that there was a 10% chance that between 1 September 2023 and her 70th birthday in 2030 Dr Turton would have either

been dismissed or opted to leave for either ill health or other work related or personal reasons (this is referred to as the withdrawal factor).

Whether Dr Turton would have been made redundant in 2022?

25. In our liability judgment we found that the decision to subject Dr Turton to a redundancy procedure was an act of discrimination. This was because, the burden having shifted to the respondent, the respondent had *“not provided any explanation as to why they included Dr Turton in the “at risk” pool”*: **pg 96** [Judgment para 209]. This was based on the evidence of the respondent’s witness, Ms Ockleford, who could not explain why Dr Turton, who was a specialist psychology lecturer, was placed into the ‘at risk’ redundancy pool: **pg 78** [Judgment para 115].
26. Mr Pincott submitted that the consequence of the Tribunal’s finding was that Ms Bateman (a specialist biology lecturer) should have been placed into the “at risk” pool along with Dr Turton. In other words had the respondent included Ms Bateman there would have been a one in four chance that Dr Turton would have been made redundant. We considered that this is a misinterpretation of our Judgment. The issue that we were asked to determine was whether the respondent “subjected Dr Turton to a redundancy procedure” (issue 3.2.7). We concluded that the inclusion of Dr Turton in the “at risk” pool, was an act of discrimination. In other words she should not have been placed into the pool at all. This was because on the evidence before us Dr Turton’s circumstances were no different from that of the other specialist lecturer, Ms Bateman, who had been excluded from the pool. We considered that our liability decision and reasons should have been clear to the respondent and that is how it was understood by the claimant (see Dr Turton’s remedy statement para 24). In any event our decision should be read in the light of the issue that we were asked to determine.
27. We do not consider that Dr Turton would have decided to resign had it not been for the discriminatory act of placing her in the redundancy pool. This is because she loved her job. Also had Dr Turton not been placed at risk either Dr Peet or Ms Woodman would have been made redundant, removing one of the discriminators. We consider that the most likely person to have been made redundant would have been Ms Woodman, since Dr Peet had been employed longer and had taken on additional responsibilities which led to her promotion to Curriculum Manager in December 2022.

Whether Dr Turton would have been made redundant in 2023 or thereafter?

28. Dr Mawby (Executive Director of Curriculum and Quality) came across as a straightforward and knowledgeable witness, and his evidence was supported by the contemporaneous documents. We have therefore accepted his evidence regarding student numbers, funding and the future of the HE Access courses.
29. We find that there has been a significant decline in the number of students doing the Access to HE courses over a seven year period. We were referred to

student enrollment spreadsheets which recorded the number of students by academic year as follows (**pages 378- 385**):

- academic year 2018/19: 224 students;
- academic year 2019/20: 160 students;
- academic year 2020/21: 167 students;
- academic year 2021/22: 102 students
- academic year 2022/23: 72 students; and
- academic year 2023/24: 76 students.

Dr Mawby stated in evidence that for the academic year 2025/6 the respondent had recruited 55 students to date and that they expected to get to 60 students.

30. Whilst the sharp decline in student numbers in 2022/23 may be in part attributable to what was going on at the college at the time, there had already been a decline prior to that year and the decline has continued. Dr Mawby stated that the trend was not an anomaly and reflected a decline across the FE sector. He was confident that HE Access would survive but that the course would not need full time specialist teachers for the foreseeable future. He informed us that psychology teaching on the HE Access course is currently the equivalent of an 0.5 FTE post.
31. Over the same period there has also been a drop in adult funding rates from £2,178,915 for the funding year 2018/19 (**pg 363**); £2,231,206 for the funding year 2022/23 (**pg 345**); to £1,774,446 for the funding year 2024/25. Whilst this funding allocation was for all the respondent's adult education course not just the Access courses, Dr Mawby explained that it has had an impact on the HE Access course and has led to the respondent reducing adult Access courses in favour of 16-18 year old provision. This has led to the respondent developing an A level psychology course for the year 2024/25, with the possibility of 5 hours teaching pw in 2024/25 and 10 hours teaching pw in 2025/26. We noted that Dr Turton would not have needed to requalify to teach this course. Dr Turton had previously taught at a grammar school (as maternity leave cover) and was an A level examiner and therefore would have been well placed to teach this course.
32. In terms of impact on staffing, at the beginning of the academic year 2021/22 there had been 4 FTE lecturers (teaching 24 hours pw) and 1 curriculum manager employed to deliver the HE Access course. Dr Turton's departure reduced the number of FTE lecturers to 3 FTEs. In the academic year immediately following her departure (2022/23) there were further staff changes. Ms Bateman, who had been employed on a 1.0 FTE post, left and was replaced by a 0.5 FTE post. Dr Peet was promoted to curriculum manager (replacing Mr Coyle who was moved to another department). Therefore in the academic year 2023/24 there was 1.5 FTE lectures and 1 curriculum manager. This remains the case for 2024/25.
33. The drop in Access student numbers and the drop in funding supports the respondent's case that had Dr Turton not taken voluntary redundancy in the summer of 2022, it is likely that there would have been a further reorganisation of the roles of HE access staff in the summer of 2023. Mr Horan submitted that

since Dr Turton was forced to leave there have been no further redundancies. Whilst that is correct we did not consider that to be the whole picture, as Dr Mawby explained, further reductions in FTE has been achieved by “*Access staff leaving without equivalent replacement and some moving to teach in other areas of the college*”. Had Dr Turton not left in the summer of 2022, Ms Bateman who was supportive of Dr Turton, may well not have chosen to resign. On the other hand we considered that Mr Coyle probably would have been moved to another department, enabling Dr Peet to be promoted. We did not consider that Dr Turton would have been promoted over Dr Peet for two reasons: (1) Dr Peet had taken on additional responsibilities such as internal quality assurance and (2) Dr Turton loved teaching her students, that is what motivated her, and we considered it unlikely that she would have been interested in a management post with only 6 hours teaching pw. This would have meant that there were 2:0 FTEs: Ms Bateman and Dr Turton, when the department only required 1.5 FTEs.

34. Further, and more significantly, we accept Dr Mawby’s evidence that the reduction in student numbers would have meant that by the summer of 2023 there was no longer a need for a specialist 1.0 FTE psychology lecturer to teach psychology courses on the Access to HE course. We noted that in 2025 psychology teaching on the HE Access course was the equivalent of an 0.5 FTE post. Similarly had Ms Bateman not resigned there would have been a reduced need for a specialist 1.0 FTE biology lecturer since when she left her post was replaced by an 0.5 FTE post. We do not consider that Dr Peet would have been put at risk because she had been promoted.
35. Therefore we considered that there was a 100% chance that Dr Turton’s 1.0 FTE post would have been put at risk of redundancy in the summer of 2023. However we noted that the respondent were willing to consider alternatives to redundancy by moving staff to teach in other areas of the college. Dr Turton had survived previous redundancy rounds and we consider that the respondent placed a high value on her expertise and would have wished to retain her if it could. Therefore we considered that the respondent would have sought to retain her either by offering her a part-time 0.5 FTE post as specialist psychology lecturer teaching on the HE Access course and the fledgling A level course, or a full-time time post as a generalist lecturer covering more than one subject area and / or moving to teach in other areas of the college. This would have commenced at the start of the next academic year ie 1 September 2023.
36. We considered that faced with the choice of being a 1.0 FTE generalist lecturer or moving to 0.5 FTE part-time work retaining her specialism, Dr Turton would have opted to go part-time and that she would not have been interested in becoming a generalist lecturer. This would have enabled her to concentrate on her writing. This was something that she clearly wanted to pursue, had been an ambition of hers since her 20s and was the reason she had done a PhD. She already had an editor, written seven chapters and received good feedback. We considered that as she got closer to retirement that this was something that she would have wished to focus on. Further she loved teaching psychology but showed no interest in more general teaching. In addition, it was likely that Dr Turton would have wished to reduce the stress on her caused by her work

environment, rather than increase it by taking on a full-time generalist role. She stated that she had previously faced bullying at work several times from managers and colleagues who saw her as “odd or unsociable” and that she is not good at “social communication” (remedy statement para 4). Working part-time would have reduced these interactions. We also noted her higher than average sickness absence, and working part-time may have enabled her to better manage her conditions. We have found that she had already intended to reduce her hours on reaching retirement age (i.e. 66 years old), this was only three years before that date. Had she gone part-time, she would have had the option of increasing her earnings by taking on more examiner work.

37. We did not consider that being put at risk of a non-discriminatory redundancy would have triggered a deterioration of Dr Turton’s health to the extent that she was unable to continue to work as Mr Pincott submitted. Dr Turton had previously been put at risk of redundancy, and at the same time her husband informed her that he was leaving, her dog died and she was at high risk of losing her house. Whilst this combination of events had triggered a significant deterioration in her mental state, she had bounced back. Dr Singh stated in evidence that if Dr Turton had just lost her job it would make her anxious and depressed, but she would not have perceived it as psychologically humiliating. We considered that if the respondent had explained to Dr Turton the reason she was put at risk of redundancy, properly consulted her about alternatives and given her the option of becoming a generalist lecturer or going part-time, that she would not have perceived this as discrimination and psychologically humiliating.

Dr Turton’s current health and prognosis

38. Dr Turton stated that the discrimination that she was subjected to exacerbated her symptoms of her disability and that she feels “fundamentally changed; different in a negative way”. She was unable to come to terms with the loss of a job that she loved and cannot face going into or even near learning environments. She can barely bring herself to leave home, yet alone seek work.
39. Mrs Turton stated that her daughter is a “completely different person to the person who existed before”. She has frequent panic attacks and in order to avoid the embarrassment of having a panic attack she barely leaves her home. The things that she enjoyed are no longer part of her life and she was living a “very sad, limited and tragic existence”.
40. This was confirmed by her daughter who described the change that she had seen in her mother and that she has never seen her mother as “broken” as she was following these events. She explained how her mother had survived traumatic personal events and been able to bounce back, whereas she had not been able to bounce back from her treatment by the respondent. She described how her mother had been “outgoing, full of fun, always with a ready joke or pun”. That she loved eating out, eating with family and visiting them all, she also described her mother’s work was her “absolute passion” and that her mother took enormous pride in the work that she did. Whereas now her mother was always serious, almost never goes out, and rarely visits her family.

41. Dr Turton's evidence, and that of her family, is supported by Dr Singh who stated that following her redundancy she was *"not fit to undertake even low contact or remote marking work, as she was experiencing acute symptoms of PTSD, depression, and anxiety requiring hospital intervention and specialist treatment"*. Her psychological state was *"too unstable for consistent occupational functioning, even in a reduced capacity"*: **pg 198**.
42. In terms of the future, Dr Turton is claiming losses up to the date of retirement at 71 years old on the grounds that, whilst her health may improve, she is unable to return to any education-related work and may only be able to earn a modest income from writing and publishing books of £2000 pa. Dr Singh's opinion was more optimistic. Dr Singh concluded that:
- 42.1 Dr Turton was likely to become well enough to engage in some form of adapted work in the future assuming she received appropriate ongoing psychological support (eg trauma focused therapy), occupational support, and structure reengagement: **pg 166** [report para 109].
- 42.2 Within 12 to 18 months (by mid-to-late 2026), Dr Turton may be able to begin a phased return to modified a remote working such as marking: **pg 167** [report para 110] and **pg 198**. She was not yet ready for sustained or high pressure roles: **pg 198**. Her ability to return to teaching in a mainstream education setting may remain limited indefinitely: **pg 167** [report para 111]. In evidence Dr Singh confirmed that Dr Turton could start marking in July / August 2026. Further if Dr Turton responded positively to treatment then there was a 50% chance of her returning to part-time teaching by 2028 and full-time teaching by 2029. She considered that there was a realistic chance that Dr Turton could respond positively to treatment the next year or the year after.
43. During her employment with the respondent Dr Turton had done A level examining work for Ed Excel and been offered A level examining work by AQA. This was on a self-employed basis and the marking was done remotely. The contracts were offered on an annual basis, the AQA contract in January and the EdExcel contract in March: **pgs 241 and 260**. We were not provided with the EdExcel contract but were provided with the AQA 2023 contract (which is likely to be similar). The contract was for the provision of services from 1 April 2023 to 30 September 2023: **pg 246**. It required attendance at any necessary training, a commitment to downloading the emarker software by 29 May 2023 and completing the first batch of examining by 26 June 2023: **pg 244**. We therefore considered that it as not realistic to expect Dr Turton to be fit enough to commit to a marking contract in January and / or March 2026 with a commitment to start the marking process in May / June 2026. This is because it was before the 12-18 month recovery period identified by Dr Singh. However we considered that it was realistic for her to take on this work the following year (2027) and to double this amount the year after (2028).
44. In terms of the type of employment that Dr Turton could do once her health improved, Mr Pincott submitted that it would be reasonable for her to:

- 44.1 Apply for a post as a teacher in a sixth form school: Dr Turton disputed this since she has a PGCHE not a PGCE. Whilst she had previously worked in the sixth form school, this was only a temporary post (maternity cover) which did not require PGCE qualifications. Ms Le Poidevin stated that it would be “very easy” for Dr Turton to obtain QTS to enable her to teach in schools. It only required the production of a portfolio of evidence of her teaching. Many of Dr Turton’s colleagues had done that and it takes less than a year. We considered that once she was fit to return to work, it would be reasonable for Dr Turton to obtain QTS in order to increase the options available to her.
- 44.2 Apply for a post as a university lecturer. We did not consider this suggestion to be reasonable. Although Dr Turton has a PhD, she has not worked in HE for many years and has no active research experience. We agreed with her that there are no pure teaching roles in universities. Similarly it was not reasonable to expect her to apply for pure research roles for the same reason that she has not been engaged in active research for many years.
- 44.3 Become a practitioner in a clinical setting. It was not disputed that Dr Turton did not currently have the necessary experience or qualification to apply for a practitioner role in a clinical setting. This would require retraining, but it was something that Dr Turton stated in evidence that she would be willing to consider when her mental health improved. Further she stated that private practice was appealing. We considered that this would be a good option for Dr Turton since it could enable her to set up her own practice and be self-employed. This would enable her to be in charge of her workload and social interactions, and to manage any future episodes of ill health.
45. Based on the evidence of Dr Singh, we found that a return to a part-time teaching role (or equivalent clinical role) was a realistic possibility from 1 September 2028.

Calculation of Pecuniary loss

46. The remedy calculations are attached as Appendices 2 and 3.

Salary

47. Dr Turton has claimed loss of salary calculated as £586.21pw (net). This sum has not been disputed by the respondent. Dr Turton has not claimed annual pay increases, and we have not been provided with evidence from which to make an assessment, therefore we have not taken this into account.
48. We have found as a fact that Dr Turton would have opted to reduce her hours to a 0.5 FTE post for the academic year 2023/24 i.e. from 1 September 2023. We have found that she would have remained in this post until retirement at 70 years with a 10% chance that she would have left before that date.

49. We have also found as a fact that following her voluntary redundancy Dr Turton was not fit to return to any work and that she will remain unfit to return to any work until July / August 2026. From that date she would be medically able to take on some work. Dr Turton's schedule of loss estimated annual post-hearing income from writing and publishing books of £2000pa. We consider that she would be fit enough to commence this work from July / August 2026. She would then be fit enough to enter into a contract with either EdExcel or AQA in early 2027 to do marking over the summer of 2027 at the same level as previously. This could then increase to double that amount in the summer of 2028. She would then be fit enough to take on part-time work from 1 September 2028. The point at which Dr Turton is able to take on part-time work she would be on equivalent salary to that she would have been on had she not been discriminated against.

Pension loss

50. Dr Turton has claimed both loss of employer and loss of employee pension contributions. Mr Horan accepted that Dr Turton is only entitled to claim loss of employer contributions. This is because had she remained in the respondent's employment she would have had to continue to pay employee contributions. The pension loss is reduced by 50% from 1 September 2023 since we have found that from this date Dr Turton would have been on a part-time 0.5 FTE contract. There is a dispute between the parties as to the amount of employer contributions. The claimant claimed £200.28pw: the respondent has stated that it is in fact £181.15pw. In order to resolve this dispute we checked the claimant's pay slips, which confirmed the correct amount was £181.15pw: **pg 219-221**.
51. Dr Turton had also claimed loss of the value of her pension because it was taken early. Mr Horan accepted that since Dr Turton is claiming loss of pension contributions (which is used for simple pension calculations) she cannot also claim loss of value of the pension (which would require a complex pension calculation), since this would be double recovery.

Withdrawal factor

52. We have found that following Dr Turton entering into a part-time 0.5 FTE contract there was a 10% chance that the Claimant would have left the respondent's employment between 1 September 2023 and 18 June 2031.

Loss of health benefit

53. Dr Turton has claimed loss of health insurance benefit of £450. Mr Horan accepted that the Tribunal had not been provided with any evidence or explanation as to what this figure represented or how it was calculated. Accordingly, we have not taken this into account.

Examining work

54. Dr Turton has claimed loss of examination marking income for EdExcel of £3,193.11 gross pa. The amount is based on the fees she had received in 2019: **pg 218**. She had been acting as an Examiner in GCSE Psychology since she started working for the respondent because it helped her understand what the examination boards were looking for. Dr Turton stated that, with the exception of the COVID years (2020 and 2021) when students did not sit exams, every year, around March, EdExcel would send her an automated email with an offer of a contract to do the marking for the summer of that year: see eg **pg 260**. This arrangement continues until the examiner asks to be removed from the list. Dr Turton confirmed that an examiner did not need to be a current teacher and that many ex-teachers do this work in retirement and her father had done so for many years.
55. Dr Turton stated that she was offered examination work by EdExcel in or around March 2022, but did not accept the offer due to what was going on at the respondent college. This was during the period that Dr Turton was being subjected to a disciplinary investigation arising from the false racism allegation against her. Further the respondent were refusing her request for a reasonable adjustment to allow her to work separately from Ms Woodman and Dr Peet as much as possible. We considered that but for those events Dr Turton would have renewed her contact with EdExcel to be an examiner in 2022 and thereafter.
56. Dr Turton had also been offered work by AQA, another examination company: **pg 241-259**. Dr Turton confirmed that she was not claiming losses in relation to this offer since she had never earned any money from them.
57. Dr Turton confirmed that this work was self employed and she was responsible for paying tax on the fees earned as an examiner.

Loss of statutory rights

58. Dr Turton has claimed loss of statutory rights of £500. Mr Horan accepted that she was not entitled to this sum as this was not an unfair dismissal claim and this head of loss was withdrawn.

Employment and Support Assistance (ESA)

59. Dr Turton has claimed that there should be no reduction for receipt of the ESA of £21,984.13 since it will be recouped by the DWP. Mr Horan accepted that the recoupment provisions did not apply to discrimination claims and therefore accepted that this sum is to be deducted. In addition we accept that ESA receipts should be deducted from future loss at the respondent's estimated amount of £7,308 pa.

Mortgage fees

60. Dr Turton has claimed early repayment charges of £3,895 incurred as a result of paying off her mortgage early: **pg 223**. In fact this was the early repayment charge that would have been made had Dr Turton paid off her mortgage in 2020. The charge she incurred in 2022 was £1,837.38 (£1370.47 and £466.91): **pgs 225- 227**. In any event we accepted Mr Pincott's submission that the early repayment charge simply reflects the interest the bank would otherwise have charged Dr Turton if she had made her mortgage repayments as normal.
61. Since Dr Turton has incurred no loss as a result of paying off her mortgage early, we do not make any award for this sum.

Discount for accelerated receipt

62. Mr Pincott submitted that any award for future losses should be discounted for accelerated receipt with the discount to be applied being 5%: **Bentwood Bros (Manchester) Ltd v Shepherd** [2003] IRLR 364 (CA). This is because Dr Turton would be receiving a lump sum which she could invest rather than receiving the money incrementally over the period of that future loss. Mr Horan submitted that there should be no discount.
63. We considered that in principle where the sum being awarded is a large amount then a discount for accelerated receipt should be applied. However we noted that **Bentwood Bros** is over 20 years old and that that interest rates have varied considerably since that date. We considered that the discount rate applied to personal injury cases was a better indicator of likely interest rate over the relevant period. The discount to be applied to PI cases is set by the Lord Chancellor under powers provided by the Damages Act 1996. The Damages (Personal Injury) Order 2024 has fixed the discount rate from 11 January 2025 at 0.5%. Ogden Table 35 (Discounting factors for term certain) was then used to obtain the multiplier for a deferment period of 2 years of 0.9901.

Injury to Feeling

64. Dr Turton has claimed injury to feeling award of £30,000. Mr Horan submitted that at the time that Dr Turton submitted her schedule of loss this sum was the bottom of the upper Vento band, however the amount has not been increased. Mr Pincott submitted that this is a middle band case and that the award should be £20,000.
65. An injury to feeling award may be awarded for subjective feelings of upset, frustration, worry, anxiety, mental distress, fear, grief, anguish, humiliation, unhappiness, stress and depression: *Vento v Chief Constable of West Yorkshire Police (No2)* [2003] IRLR 102). It should be compensatory not punitive, should command public respect and should bear some broad general similarity to the range of awards in personal injury cases: *Prison Service v Johnson* [1997] IRLR 162 (EAT). The focus is on the actual injury suffered by Dr Turton and not the gravity of the acts of the respondent: *Komeng v Creative Support Ltd* UKEAT/0275/18/JOJ.

66. The relevant Vento bands are¹¹:

66.1 Upper Band: £36,400 to £60,700 to be applied only in the most serious cases, such as where there has been a lengthy campaign of discriminatory harassment; and

66.2 Middle Band: £12,100 to £36,400 for serious cases that do not merit an award in the upper band.

67. The proven acts of harassment by Ms Woodman, and to a lesser extent Dr Peet, took place over a 6 month period (November 2021 to April 2022). It was deliberate and concerned more than one discriminator. Further the respondent as an organisation failed to support Dr Turton. It knew that she found social interactions difficult and at times distressing yet it failed to put in place reasonable adjustments that would have limited her contact with Ms Woodman and Dr Peet during the investigation of her grievance and until the recommendations (including mediation and awareness training) were implemented. In addition it then directly discriminated against her by placing her at risk of redundancy, and making her feel that she had no choice but to take voluntary redundancy due to the deterioration in her health caused by the discrimination. We considered that this put this claim towards the top end of the middle band.

68. Dr Turton identified Ms Woodman's mocking of her disabilities and being falsely accused of racism as massively overshadowing everything else. In particular she stated that "*it was the racism thing that pushed me over the edge*". Dr Turton described the impact on her as "*standing on a motorway hit by a truck, I lay there and eventually got the energy to get up and then hit by car and got up and then bang hit by another car*". We accepted her evidence of the impact on her. She was subjected to a disciplinary investigation, the public nature of these acts damaged her reputation in front of both colleagues, students and former students. This was exceptionally upsetting for her.

69. We accepted that the treatment affected Dr Turton's confidence. She told us that she would no longer feel safe disclosing her disabilities to persons at work or requesting reasonable adjustments. She stays away from people since she is terrified that people will find out that she has autism and ADHD because she thinks she will be bullied and spoken to like she is an idiot. She has lost trust in employers and fears being put into that situation again. She feels worthless and is no longer proud of her academic achievements. Her evidence is supported by Mrs Turton (her mother) and Ms Epps (her daughter).

70. Therefore we considered that this was a middle band case, albeit towards the top end. However, we have made a separate award for personal injury, and therefore award £29,000 for injury to feeling in order to avoid double recovery.

¹¹ For claims heard on or after 6 April 2025

Personal injury

71. The Judicial College guidelines for the assessment of general damages in personal injury cases (17 Ed. published in March 2024) suggests that the following factors are to be taken into account when valuing claims of psychiatric injury:
- 71.1 the injured person's ability to cope with life and work;
 - 71.2 the effect on the injured person's relationships with family, friends and those with whom he comes into contact;
 - 71.3 the extent to which treatment would be successful;
 - 71.4 future vulnerability;
 - 71.5 prognosis;
 - 71.6 whether medical help has been sought; and
 - 71.7 whether the injury results from sexual and/or physical abuse and/or breach of trust; and if so, the nature of the relationship between victim and abuser, the nature of the abuse, its duration and the symptoms caused by it.
72. There are four categories of award (including the *Simmons v Castle* uplift), of which relevant to this case are:
- 72.1 Moderate: between £7,150 and £23,270 where there has been marked improvement made by the date of the hearing and the prognosis is good;
 - 72.2 Moderately Severe: between £23,270 and £66,920. This includes work-related stress cases resulting in a permanent or long-standing disability preventing a return to comparable employment. These are cases where there are problems with the first four factors above, but there is a much more optimistic prognosis than Severe;
 - 72.3 Severe: between £66,920 and £141,240. Where the claimant has serious problems in relation to the first 4 above, and the prognosis is poor.
73. Where an individual is awarded sums both for injury to feelings and personal injury caused by the discrimination, the injury to feelings and personal injury awards must compensate for different injuries and not overlap, otherwise there would be double recovery.
74. We took into account that Dr Turton has a number of longstanding neurodevelopmental and trauma-related conditions (set out in paragraph 21 above). We accepted Dr Singh's evidence that the proven acts of discrimination significantly contributed to the deterioration of Dr Turton's mental health, particularly her PTSD, anxiety, and depressive symptoms: **pg 164** [report para 100]. This was both in terms of severity, a chronicity and functional impact: **pg 165** [report para 101]. Dr Turton's condition "*progressed from moderate pre-existing vulnerability to clinically significant psychiatric and physical incapacity*": **pg 169** [report para 118]. In particular Dr Singh informed us that Dr Turton's PTSD symptoms had intensified and she had developed severe anxiety including panic attacks and psychosomatic symptoms. Further there had been a collapse in mental stability including suicidal ideation and functional withdrawal from normal daily activities: **pg 168** [report para 117].

75. We also noted that for the first time Dr Turton has experienced episodes of Atrial Fibrillation and Supraventricular Tachycardia. Dr Turton believes that this condition has been caused by severe stress, because stress affects the brain causing a fight or flight reaction which in turn produces adrenaline and increases her heart rate to 170-180 beats per minute. Dr Singh informed us that the contemporaneous medical records suggested a clinically observed relationship between Dr Turton's psychological stress and exacerbation of her cardiac symptoms. However Dr Singh explicitly declined to give an opinion as to whether the tachycardia episodes were directly caused, aggravated or merely coincidental to psychological stress: **pg 163**. Dr Singh stated that any determination of cardiological causation lay outside her expertise and that an opinion should be sought from a cardiologist: **pg 187**. We noted from the medical bundle that there is evidence that one of the side-effects of Dr Turton's ADHD medication was palpitations/tachycardia: **pg M/561**. In the absence of clear medical evidence as to causation, and in the light of potential contrary evidence, we do not find that the discrimination caused the cardiac symptoms.
76. Dr Turton is seeking an award of £15,000 for personal injury. There is no explanation as to the basis of the amount that is being claimed. Mr Horan did not address us on which Judicial College guidelines bracket should be applied nor did he refer us to any quantum cases.
77. Mr Pincott's primary position is that there should be no award for personal injury, in addition to that for injury to feeling, because it would amount to double recovery since the injury claimed is the same for both cases.
78. Mr Pincott submitted that the personal injury award should fall in the moderate category of £20,000. He accepted that on the facts the case fell in the borderline between moderate and moderate severe but submitted that the award should be reduced to "moderate" taking into account Dr Turton pre-existing symptoms and that the increase in those symptoms was relatively moderate. He relied on the quantum case of **WC v TG Ltd** (2011) which awarded £11,843 (when inflation is taken into account that would produce an award of £20,086) for pain suffering and loss of amenity.
79. The case of WC also concerned a claimant who had a pre-existing vulnerability (depression) who suffered a major depressive disorder following her resignation, which the tribunal had found was caused by her adverse working environment. As a result of her psychiatric injuries she had persistent low mood, markedly diminished interest or pleasure in all activities, insomnia, loss of energy, feelings of worthlessness and diminished ability to concentrate. She was unable to return to work for the employer but was able to retrain and start a new job as a carer within 1 month of her resignation. She received a period of counselling and cognitive behavioural therapy. In our view Dr Turton's injuries are significantly worse. Three years after her resignation she is still unable to return to any form of employment and Dr Singh put her chances of responding to treatment to enable her to return to equivalent employment at 50%. In other words there was a 50% chance that Dr Turton will not be able to return to any equivalent work.

80. Taking all the above into account we considered that there has been an identifiable personal injury, in addition to injury to feelings. We considered the personal injury to fall in the moderately severe bracket. However there is a significant overlap with the injury to feeling award. In order to avoid double recovery we have awarded £8,000. Taking into account the injury to feeling award this would provide a total award of £37,000 (the equivalent of the middle of the moderately severe personal injury bracket). We consider that this is an appropriate overall amount taking into account the severity of the increase in Dr Turton's symptoms and the extent of her injury to feelings and there being only 50% chance of a return to equivalent employment by 2028.

Aggravated damages

81. Aggravated damages may be awarded where there has been high-handed, malicious, insulting or oppressive behaviour: **Commissioner of Police of the Metropolis v Shaw** (UKEAT/0125/11/ZT). This may include failure to apologise or failure to treat a complaint with the requisite seriousness.
82. We have found that false racist remarks allegation was a deliberate act by Ms Woodman done with the purpose of creating a hostile etc environment for Dr Turton: **pgs 86 and 90** [Judgment paras 162 and 179-180]. It was an attack on her reputation and could, and indeed did, turn students against her. We have also found that Ms Woodman's mocking of Dr Turton's by tapping her head was not done with kindness but instead done to generate laughter at Dr Turton's expense and with the purpose of creating a hostile etc environment for her by undermining her position and diminishing her authority in front of her students.
83. We have decided to award aggravated damages because of the deliberate nature of Ms Woodman's actions, the public nature of those acts and the failure of the respondent to take any action against Ms Woodman and Dr Peet, even after promulgation of our liability judgment. It seemed to us that the respondent is simply not taking our findings seriously, which was disturbing given the overt nature of some of the acts of discrimination. We have decided to award aggravated damages of £5,000 on top of the award for injury to feeling. We do not consider that this is double recovery. In the injury to feeling award we have taken into account the upsetting nature of these actions and the impact on Dr Turton, in the aggravated damages award we are taking into account that the actions were high-handed, malicious and insulting.
84. On the other hand, we do not accept Dr Turton submission that aggravated damages should be awarded because the respondent called witnesses to attend the remedy hearing who did not attend the liability hearing. It is a matter for a party to decide which witnesses they wish to call. We considered that Dr Mawby, and to a lesser extent Ms Le Poidevin, were relevant witnesses to the issue of remedy since they addressed the question as to whether or not Dr Turton would have left the respondent's employment at some point between the date of her resignation and the date of her retirement.
85. Therefore we award aggravated damages of £5000.

Breach of the ACAS Code by the respondent

86. Mr Horan submitted that the respondent was in breach of the following provisions of the ACAS code:
- 86.1 Paragraph 4 (1st bullet point): Employers should deal with issues promptly and not unreasonably delay meetings, decisions or confirmation of those decisions.
 - 86.2 Paragraph 4 (3rd bullet point): Employers should carry out any necessary investigations, to establish the facts of the case.
 - 86.3 Paragraph 33: Employers should arrange a formal grievance meeting to be held without unreasonable delay.
 - 86.4 Paragraph 34: Employees should be allowed to explain their grievances and how they think it should be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary.
 - 86.5 Paragraph 40: Following the grievance meeting employers should “*decide on what action, if any to take*”. The employee should be informed of the decision in writing and informed of the right to appeal.

Whether there was unreasonable delay

87. Dr Turton has claimed that there was an inordinate delay between the submission of her grievance on 3 October 2021 and the outcome on the 13 June 2022. There is no evidence that Dr Turton submitted a grievance on 3 October 2021 and it was not part of her case before us at the liability hearing.
88. We have found that on 25 January 2022, Dr Turton informed Mr Coyle that she wished to take out a grievance in relation to what Ms Woodman had said to student C (false racism allegation): **pg 57** [Judgment para 50]. We have not been shown any evidence that she did submit a grievance on this date. In any event, we agree with the respondent that it would not have been appropriate to investigate this grievance until completion of the investigation into student Cs complaint (completed on 22 February 2022).
89. On 26 February 2022 Dr Turton submitted a formal grievance, primarily against Ms Woodman, Dr Peet and Mr Coyle: **pg L/1006** and Mr Hyland’s witness statement)². On or around 27 February 2022 Dr Turton put up the Facebook post. On 4 March 2022 Mr Hyland was appointed as the investigator. The same day Dr Turton’s grievance was acknowledged, and she was informed that a grievance meeting would be arranged on her return to work from sick leave sometime after 8 March 2022: **pg L/1006**. The respondent then became aware of the Facebook post and decided to combine the grievance investigation with a disciplinary investigation into the Facebook post. We considered that this was a reasonable approach to have adopted since the two were linked. On 18 March 2022 Dr Turton was invited to attend a combined grievance and disciplinary investigation on the 1 April 2022. On 20 March 2022 Dr Turton submitted a further grievance against Mr Coyle. The same day she was taken by ambulance to A&E and on 22 March 2022 was referred to OH as to whether she was fit to attend management discussions (a reference to the grievance and disciplinary investigation). On 30 March 2022 OH confirmed that she was.

² This grievance was not included in the liability hearing bundle

The meeting on 1 April 2022 took place over 2 sessions to enable Dr Turton to have breaks. We considered that taking all this into account there was no unreasonable delay over this 5 week period in breach of the ACAS code paragraphs 4 (1st bullet point) and 33. The grievance outcome was provided to Dr Turton on the 13 June 2022. This was a further 6 week period. Again we did not consider that this was an unreasonable delay. This is because given the nature of Dr Turton's grievance, which concerned multiple complaints against three individuals, and consideration of a significant amount of documentary evidence, it would have taken this amount of time to properly investigate. Therefore there has been no unreasonable delay and no breach of the ACAS Code paragraph 4 (1st bullet point).

Inadequate investigation

90. A grievance investigation meeting was conducted with Dr Turton on 1 April 2022 to enable her to explain her grievance. We have found that there was nothing inappropriate about the way in which this meeting was conducted: **pg 101** [Judgment para 233]. Therefore there was no breach of ACAS code paragraph 34.
91. In her liability witness statement Dr Turton had identified a number of concerns regarding the conduct of the investigation. These matters were not put to Mr Hyland during his cross-examination. The failure to interview the student witnesses was raised at the liability hearing. The ACAS Code paragraph 4 (3rd bullet point) does not require employers to interview witnesses it merely requires an employer to conduct necessary investigations to establish the facts in the case. The reason that Mr Hyland did not interview these witnesses was because he found that *"by all accounts, the students are quite heavily divided and loyalties are split between tutors"*: **pg L/1010**. Given that we have found that the respondent had received complaints from students against Dr Turton (**pgs 68 and 71** [Judgment para 58, 60 and 77]) it was reasonable for the respondent to adopt this approach. Our Judgment noted that Dr Turton had not provided Mr Hyland with the audio recording (**pg 75** [Judgment para 102]) and therefore his conclusions were made without the benefit of having listened to those recordings.

Inappropriate outcome

92. Mr Horan submitted that the outcome was inappropriate because the respondent ignored the recommendations. Therefore it appears that there is no criticism of the outcome itself, nor the recommendations which Dr Turton had described as being "spot on": **pg 76** [Judgment paras 105 and 107]. The ACAS Code paragraph 40 does not require the outcome of any grievance to be implemented, nor does it specify a period of time for implementation. It merely requires an employer to inform the employee of the outcome and her right to appeal. Accordingly there has been no breach of the ACAS Code. That does not mean that Dr Turton is left with no remedy for this failure. The failure to implement the recommendations of the grievance within a reasonable period of time was one of the triggers that led to Dr Turton feeling forced to take voluntary

retirement and formed part of our finding of direct disability discrimination: **pg 97-98**.

Breach of the ACAS Code by Dr Turton

93. Mr Pincott submitted that Dr Turton was in breach of the ACAS Code paragraph 32 which provides that employees should raise grievances with their employer. This was based on Dr Turton's failure to pursue her second grievance against Mr Coyle and Dr Peet submitted on 23 July 2022: **pg 1341**.
94. On 2 August 2022 Mr Wade (grievance investigator) asked for further information from Dr Turton: **pg L/1352-3**. Dr Turton responded the same day declining to provide this information and stating that she was withdrawing her grievance because she was "not prepared to make myself ill" and that the matter would be determined by a tribunal: **pg 411**. Given her state of health at the time we considered it reasonable for her not to pursue this grievance. On the 20 June 2022 she had been taken by ambulance to A&E and diagnosed as having Supraventricular Tachycardia, on 14 July 2022 she had felt forced to take voluntary redundancy because of her health and she was not in the right state of mind to go through the redundancy process: **pgs 77 [Judgment para 109] and 78-79 [Judgment para 121]**. Dr Singh stated that in the immediate period following the termination of her employment (31 August 2022) Dr Turton was suffering severe psychological distress. Her exit from employment was made under "*significant psychological pressure and emotional exhaustion, with reports indicating suicidal ideation, dissociation and emotional collapse*" resulting in a period of "*psychiatric incapacity*": **pg 165 [report para 103]**. Taking into account Dr Turton's severe mental health at the time that she withdrew her grievance, we did not consider it appropriate to apply a discount for failing to pursue her second grievance in breach of the ACAS Code paragraph 32.

Grossing up

95. Awards should be "grossed up" by a tribunal where the sum to be received by the claimant will be taxed. The purpose is to place in the claimant's hands the sum she would have held been she not been treated unlawfully, i.e. to compensate for the true net loss.
96. Awards for loss of earnings and pension is obviously to be taxed. The position in relation to non-pecuniary awards is more complex. Under section 406 of the Income Tax (Earnings and Pension) Act 2003 awards for psychiatric injury are exempt from tax since they are defined as an "injury", but the Act specifically excludes awards for injury to feeling. Injury to feeling awards in respect to pre-termination discrimination are not subject to tax and therefore should not be grossed up: **Weamoor Ltd v Poniatowski [2025] EAT 48**. The Act is silent on whether aggravated damages would be defined as an injury, however since it is seen as an element of injury to feeling we considered that it would also be subject to taxation on the same basis.
97. Given that we have found, on the basis of expert evidence, that it was not possible to attribute the harm caused to any particular act, since it was "*all part*

of the continuum that could not be separated”, we are not able to apportion the award for injury to feeling into pre-termination injury and termination discrimination. We consider that all the award for injury to feeling award is likely to be subject to taxation and therefore will need to be grossed up. On the other hand we accept that the aggravated damages award does not relate to the dismissal, but specifically to pre-termination and post-termination acts, and therefore is to be excluded from the grossing up calculation.

98. Further Dr Singh stated, in response to panel questioning that there was no rational basis for apportioning harm in this case since it was all “*part of the continuum which could not be separated*”.
99. The calculations are set out in the tables in appendix C. The relevant tax year is the year the award is received by Dr Turton. We accept that the first £30,000 is not taxed and should be excluded from the grossing up sum. We have also excluded her marking income since this was paid gross. Further, in the absence of any evidence to the contrary, we have assumed that Dr Turton will receive the full personal allowance of £12,570.

CONCLUSION

100. Therefore the respondent is ORDERED to pay the claimant the following sums for the acts of proven discrimination:
- 100.1 Past loss of earnings of **£53,551.47**.
 - 100.2 Future loss of earnings of **£27,942.87**.
 - 100.3 Injury to feeling of **£29,000**.
 - 100.4 Personal injury of **£8,000**.
 - 100.5 Aggravated damages of **£5,000**.
 - 100.6 Interest in past loss of earnings, Injury to feelings, personal injury and aggravated damages totalling **£15,396.61** (£6,619.84 + £7,169.75+£988.93+£618.08).
 - 100.7 Grossing up of **£38,266.33**.

This Judgment has been approved by:

Employment Judge Hart
Date: 18 December 2025

APPENDIX 1: Extract from CMO dated 18 April 2023

8. Remedy for discrimination

- 8.1 Should the Tribunal make a declaration of disability discrimination and make a recommendation that the respondent take steps to reduce any adverse effect on the claimant? What should it recommend?
- 8.2 What financial losses has the discrimination caused the claimant?
- 8.3 Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?
- 8.4 If not, for what period of loss should the claimant be compensated?
- 8.5 What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?
- 8.6 Is there a chance that the claimant's employment would have ended in any event? Should their compensation be reduced as a result?
- 8.7 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
- 8.8 Did the claimant unreasonably fail to comply with it by not pursuing her appeal against the grievance outcome?
- 8.9 If so is it just and equitable to decrease any award payable to the claimant?
- 8.10 By what proportion, up to 25%?
- 8.11 Should interest be awarded? How much?

APPENDIX B

Dr TURTON v MIDKENT COLLEGE (Case no: 2302747/2022)**REMEDY CALCULATIONS (Calculated at 3 October 2025)****HEADS OF LOSS****PAST LOSS OF EARNINGS**

		Calculations	Sub-Total	TOTAL
1/9/22 - 31/8/23	Salary at £586.21 pw (net) x 52 wks	£ 30,482.92		
	Pension at £181.15 pw (net) x 52 wks	£ 9,419.80		
	Annual exam income of £3193.11pa (gross) x 2 (summer 2022 and 2023)	£ 6,386.22		
Subtotal			£ 46,288.94	
1/9/23 - 3/10/25	Salary at £586.21 pw (net) at 50% x 109 wks	£ 31,948.45		
	Pension at £181.15 pw (net) @ 50% x 109 wks	£ 9,872.68		
	Annual exam income of £3193.11pa (gross) x 2 (summer 2024 and 2025)	£ 6,386.22		
			£ 48,207.34	
Minus	Pay in lieu of notice	£ 9,945.00		
	Redundancy pay	£ 6,852.00		
	ELA payments	£ 19,965.70		
	Withdrawal factor at 10% (on salary and pension between 1/9/23-3/10/25)	£ 4,182.11		
Subtotal			-£ 40,944.81	
Total				£ 53,551.47
Interest on past loss from midpoint	1/9/22 to 3/10/25 is 1128 days ((1128/2) x 0.08 x (1/365) x 55,484.55)	£ 6,619.84		£ 6,619.84
FUTURE LOSS OF EARNINGS				
4/10/25 - 31/8/28 (date of equiv employment)	Salary net at £586.21 pw at 50% x 156 wks	£ 45,724.38		
	Pension at £181.15 @ 50% x 156 wks	£ 14,129.70		
	Exam income of £3193.11pa (gross) x 3 (for summers 2026, 2027 and 2028)	£ 9,579.33		
	Subtotal		£ 69,433.41	
Minus	Exam income of £3193.11pa x 3 (for summers 2027 and double in summer of 2028)	£ 9,579.33		
	Writing Income of £2000 pa x 2 (from July/ August 2026)	£ 4,000.00		
	ELA payments (est £7308.60 x3)	£ 21,925.80		
	Withdrawal factor at 10% (on salary and pension)	£ 5,985.41		
Subtotal			-£ 41,490.54	
Total	Accelerated receipt (Ogden table 35 at discount rate of 0.50% for 2 yrs is 0.9901)	£ 276.63		£ 27,942.87
NON-FINANCIAL LOSSES				
Injury to Feeling		£ 29,000.00		£ 29,000.00
Personal Injury		£ 8,000.00		£ 8,000.00

Aggravated Damages		£ 5,000.00	£ 5,000.00
Interest on Injury to Feeling	1/9/22 to 23/10/25 is 1128 days ($1128 \times 0.08 \times (1/365) \times 29,000$)	£ 7,169.75	£ 7,169.75
Interest on Personal Injury from mid point	1/9/22 to 3/10/25 is 1128 days divided by 2 ($1128/2 \times 0.08 \times (1/365) \times 8,000$)	£ 988.93	£ 988.93
Interest on Aggravated Damages from mid point	1/9/22 to 3/10/25 is 1128 days divided by 2 ($1128/2 \times 0.08 \times (1/365) \times 5,000$)	£ 618.08	£ 618.08
<u>GROSSING UP</u>		£ 38,266.33	£ 38,266.33
<u>TOTAL AWARDED</u>			£ 177,157.28

APPENDIX C

Dr TURTON v MIDKENT COLLEGE (Case no: 2302747/2022)GROSSING UP CALCULATIONS**Identifying amount to be grossed up:****Notes**

Total loss of earnings	£81,494	
Loss of earning excluding external examining fees	£68,722	1
Loss of earnings + injury to feeling + interest	£111,511	2
Minus £30,000 tax free	£81,511	3

NOTES:

- 1) External examinaing fees been excluded since they were provided as gross sums
- 2) Only injury to feeling award to be taxed for the reasons set out in the Judgment

Applying tax rates

	Other income			Taxable ET award		
	gross	tax	net	gross	tax	net
PA (0%) to £12,570	£7,308	£0	£7,308	£5,262	£0	£5,262
Basic rate (20%) on the next £37,700 (gross)	£0	£0	£0	£37,700	£7,540	£30,160
Higher rate (40%) on the next £74,870 (gross)	£0	£0	£0	£76,816	£30,726	£46,089
TOTALS				£119,778	£38,266	£81,511

NOTES

- 1) The relevant tax year is the year the award is received by the claimant.
- 2) From the Schedule of Loss the claimant estimates annual earnings of £2000 pa. However it is not anticipated that this will be earned in the current tax year.
- 3) ESA estimated at £7308.60 been deducted from Personal Allowance
- 4) The tax bands and rates for the year 2025/26 are: Personal Allowance £0-12,570 (0%); Basic Rate £12,570-£50,270 (20%); Higher Rate £50,271-125,140 (40%) and Additional Rate over £125,140 (45%)