Case Number: 1601525/2022

EMPLOYMENT TRIBUNALS

Claimant: **Mrs S Bradley**

Respondent: **The Royal Mint Limited**

Heard at: **Cardiff on 10, 11, 12, 13, 16, 17 June 2025**
In chambers on 21 July 2025

Before: **Employment Judge S Moore**
Ms Y Neves
Mrs M Farley

Representation
Claimant: Mrs Roberston, Counsel
Respondent: Ms Moss, Counsel

JUDGMENT

1. The claimant's loss from 28 July 2022 to 28 April 2023 shall be calculated as if she would have been on sick leave.

2. As of 28 April 2023 there is an 80% chance the claimant's employment with the respondent would have been terminated either by reason of capability or mutual agreement.

3. There is a 20% chance the claimant would have remained in employment from the date of termination in her role as HRD until the age of 61 years when she would have retired subject to our decision on mitigation below.

4. The claimant mitigated her loss up to 31 January 2024 thereafter she has failed to mitigate her loss and pecuniary loss ends as of 31 January 2024;

5. The claimant is awarded £20,000 injury to feelings;

6. The claimant's entitlement to the LTIP bonus should be calculated based on the respondent's calculations as set out in Mr Smith's witness statement;

7. The respondent did not fail to comply with the ACAS Code of grievances and no uplift should apply;

8. A second stage remedy hearing shall be listed to address pension loss up to 31 January 2024 and calculations which cannot be agreed by the parties based on the above.

REASONS

Background and Introduction

1. The above remedy hearing was listed following the liability judgment sent to the parties on 16 July 2024. The claimant's claims were dismissed save the Tribunal found in favour of the claimant in one complaint of discrimination arising from disability. There was a preliminary hearing for case management of the remedy hearing on 23 January 2025 which set out an agreed list of issues for remedy. These are annexed to this judgment.

The hearing

2. There was an agreed remedy bundle of 875 pages. The claimant and Mr Bradley gave evidence. The witnesses for the respondent were:

Anne Jessop;
Rhydian Smith;
Nicola Howell;
Leighton John;
Sean Millard.

Expert report

3. Judge Moore made some opening remarks regarding the expert report from Dr Navabi as on pre reading the report the Tribunal had some initial concerns that it contained opinions on non medical matters. It was emphasised that the Tribunal would make appropriate findings of facts and take into account the expert opinion within the remit of the medical expertise only. Counsel's attention was drawn to the non employment authorities of **National Justice Compania Naviera SA v Prudential Assurance Co Ltd (The Ikarian Reefer) (No.1) 1993 2 Lloyd's Rep 68, QBD, and TUI UK Ltd v Griffiths 2023 UKSC 48, SC.**

Reasonable adjustments

4. It was agreed at the preliminary hearing that the reasonable adjustments implemented for the liability hearing were not needed. Adjustments were discussed and provided for the claimant and others attending needing regular breaks for rest and hydration. It was agreed that the claimant would have a notebook for use when being cross examined and the questions would be focussed. It was requested that in light of the claimant's reactions to criticism that there was refrain from unnecessary labels and adjectives. This was agreed subject to the respondent being able to properly put their case to the claimant which inevitably needed to use some words that involved criticism of the claimant.

Hearing adjournments

5. The hearing was adjourned at 11.25am on 12 June 2025 as counsel for the claimant was unwell. It was anticipated it would restart on 13 June 2025 but

an application was made to also adjourn that day which was not opposed and granted. As Ms Jessop had only just been sworn in Judge Moore released her from her oath. The hearing restarted on 16 June 2025 but as almost two days had been lost the hearing did not finish within the allocated timing and as such a chambers day was arranged and the decision had to be reserved.

Temp Brass bundle

6. The claimant applied to admit a bundle dealing with her concerns regarding a document "Temp Brass". This was a note that had been prepared by Mr John on 28 July 2022. The claimant had applied to exclude the document but later withdrew the application. It was agreed any concerns about the document could be dealt with under cross examination. To that end and in the absence of any objection from the respondent, the "Temp Brass" bundle was also admitted as evidence.

Civil service pay and grades document

7. The claimant was asked about the national civil service pay and grading civil bands during cross examination. It was agreed these would be admitted as evidence.

Claimant's request for an updated pension forecast

8. The claimant's request dated 16 June 2025 and the reply was added to the bundle. These will be revisited at any pension loss second stage remedy hearing.

Submissions

9. It was agreed we would hear oral submissions limited to one hour each. The respondent made oral submissions. It was anticipated that the claimant would take a similar time but after one hour 15 minutes, had yet to address three or four substantial issues. An order was therefore made for written submissions with the respondent having the right of reply. Both of these documents were before the Tribunal who sat in chambers on 21 July 2025 to deliberate this decision.

Findings of fact

10. The claimant was aged 56 at the effective date of termination on 30 September 2022. Her age at the remedy hearing is 59 years of age. Mr Bradley is 7 years older than the claimant. Mr Bradley had retired for a brief period just before the claimant's resignation but due to financial reasons he found full time work in summer of 2022 and semi retired in April 2025 aged 66. The claimant has a daughter who is currently in year one of a 4 year course at university so due to end in 2028. The claimant and Mr Bradley wish to fund their daughter through university without her incurring large debts.

Retirement age

11. In the witness statement for the liability hearing the claimant said she had not intended to retire before aged 65. The schedule of loss also reflected loss to a retirement age of 65. The claimant's position has now changed and she seeks career loss until the age of 67.

12. In the liability judgment, the relevant findings of fact regarding retirement age are as follows (as to events in 2022 when the claimant was aged 56):

Paragraph 63 (*the claimant agreed that she told Ms Jessop her husband was retiring and hers would be the only income);*

Paragraph 69 (*The claimant then called Mr Smith into a separate meeting room and told him she had handed in her notice and had spoken to Ms Jessop the previous week. She told Mr Smith that she was in the last 5 years of her retirement and needed to make the most of it financially and wanted to pursue a career in interim work).*

<u>The claimant's evidence at remedy</u>

13. The claimant's evidence to the remedy hearing was that but for the discriminatory act, she would have retired at 67. Although Mr Bradley would by that time be aged 74, she would be the main earner for the family and needed to support their daughter through a gap year and a 4 year university course. She described work as a critical and central part of her life and she has no hobbies or interest outside of work. The change in position from 65 (at liability) to remedy was nothing to do with realising she could seek to claim an extra two years loss having won part of her claim. The claimant told the Tribunal that she had not previously put her mind to the difference in her pension if she retired at aged 65 and pointed to a difference in pension of £4,362 (£37,995.18 instead of £42,358.06). The claimant also said that when she told Mr Smith in 2022 she had been referring to five years left when she could earn a lot more in London and this was not the same as saying she had five years until retirement.

14. In response to the findings above being put to the claimant, she told the Tribunal she had said those things because she was extremely ill at the time and if she had been thinking straight, she would have no intention of leaving a very well paid job, local to home and loved the job and colleagues.

15. The claimant told the Tribunal that she used to joke about being the last "Minto" with Mr Smith and she would have to be "wheeled out" of the Mint. The term "Minto" is one used within the respondent to describe employees who had been employed for a very long time and would be staying until retirement. The claimant also denied assuming that others would retire at aged 60. Ms Jessop and Mr Smith disputed this. Their evidence was entirely at odds - that the claimant used to joke she would never become a Minto. On cross examination the claimant agreed she had said she would never become a "Minto" but qualified this by explaining this would have been within the first five years of her employment and later changed her mind, having every intention of staying.

16. Ms Jessop told the Tribunal the claimant had never given the impression she would remain at the respondent until she retired assuming this would

be aged 60.

Finding

17. We have concluded that but for the discriminatory act, the claimant would have retired in the summer of 2028 for the following reasons:

18. The change in the claimant's position from liability to remedy hearing to retire at 65 now 67 lacked credibility. We did not accept the explanation that the claimant had not put her mind to a difference in the pension. The claimant was the HRD and led the entire organisation on pensions and it is not credible she would not have understood this or put her mind to it sooner.

19. The claimant told Mr Smith in 2022 that she was heading into her last five years of retirement. We have balanced this with the fact that the claimant would have been aware at that time of the likely time frames for her daughter attending university.

20. The claimant had expressed she would never become a "Minto". We do not accept this was only in the first five years of her employment. This reflected her actual position.

21. We have taken into account the previous resignations and that they occurred in periods of instability. We do not think this overrides the other contemporaneous evidence that on the balance of probabilities show the claimant intended to retire aged 60 – 61.

Pay increases between dismissal to date

22. The respondent has provided evidence of annual pay awards in respect of another exec team member on the same salary trajectory and parameters of the claimant. For these reasons we accept this evidence as reflecting the pay increases as between 4 – 5% which the claimant would have received but for the discriminatory acts.

STIP and LTIP bonuses

23. There were two discretionary bonus schemes applicable to the claimant. The bonus year runs from 1 April to 31 March and a full bonus year must have been completed. The first is the STIP bonus of up to 30% based on individual performance (5% - to set objectives) as well as the performance of the respondent. In June 2021 the claimant received a pre tax bonus of £32,335. No STIP was paid for 2022-23 as the claimant had not worked the full year, her employment ending on 30 September 2022.

24. Since April 2023 no STIP bonuses have been paid to any of the exec team. As such, the STIP bonus due to the claimant would be limited to the period September 2022 – 31 March 2023.

25. The LTIP bonus was a 3-year duration scheme accruing each year and payable at the conclusion of that period. It is based on business

performance. The scheme changed in 2014 / 2015. As at the termination date, the claimant was eligible for a 25% LTIP accrual across the 3 years, based on average salary and linked to both business and personal performance. Everyone receives the same percentage of salary and therefore the more someone earned the more LTIP they would receive.

26. Had the claimant remained employed, she was due an LTIP in payment in June 2023, comprising 2020/21, 2021/22 and 2022/23. The total sum that would have been owing to the claimant provided all parameters had been met would have been (pre-tax) £29,254, based on her average earnings over those 3 years.

27. As with the STIP, as the claimant had resigned prior to the LTIPs maturity, she was not entitled to the bonus payment. Ms Jessop made a proposal to RemCo on 25 July 2022 asking that consideration be made to a pro-rata payment of the accrued LTIP up to the point of resignation which was approved. The claimant received the sum of (pre-tax) of £14,314 as a goodwill gesture.

28. Since 2023 no accruals have been made for any of the persons eligible for the LTIP targets to date.

29. The claimant asserted that her LTIP estimates should be compared with Ms Jessop and Mr John and also a better indicator would be to look at the historical figures. We do not agree with this for two reasons. The terms of the bonus mean it is based on a salary percentage. As such, a comparison with someone not on a similar salary is neither within the terms of the scheme nor does not make any sense. Further, it would not be appropriate to base the bonus on historical figures as the scheme changed in 20215/15 and it is based on business performance. A much better indicator is how the business has performed since the dismissal and what someone equivalent has actually received.

30. For these reasons the claimant's LTIP loss shall be evaluated using the comparator put forward by the respondent, subject to the withdrawal factor and mitigation conclusions we have made.

Mitigation

31. In September 2022 the claimant suffered an acute depressive relapse requiring crisis team intervention and an increase in Sertraline to 150mg daily. After two short holidays abroad in September and October 2022 the claimant felt able to start looking for work in mid October 2022 first contacting a number of agencies, checking LinkedIn and then applying for roles.

Interim roles

32. The claimant's evidence to the Tribunal was that she decided at that time she was not strong enough to handle contract / interim work. This differed to what she told a recruitment agent on 11 October 2022 where she stated she was open to contract or interim roles.

33. The claimant agreed under cross examination that she was aware of "the great resignation" a term coined to describe post Covid resignations of people who then got remote roles in London and the south east. The claimant told the Tribunal she ruled out any interim role on the basis such roles were now requiring office based attendance 2-3 days a week but this is not what the evidence before us showed to which we address below.

Job applications and search for work from 12 October 2022

34. Between 12 October 2022 to 30 November 2022 the claimant applied for 19 roles in senior change management or HRD roles and got 5 interviews. In respect of one of those positions she was successful ("T&T") and was offered the role of Principal Consultant on 13 December 2022 with a start date of 9 January 2023. In the original offer the role was to be based at the Bristol office but it was subsequently agreed the claimant could be based at the Cardiff office along with working from home. The delay in the start date was not because the claimant wanted Christmas off but because it suited her new employer.

35. There was a pause between 30 November 2022 and 15 February 2023 in the claimant applying for jobs. The claimant wanted a permanent job close to home or working at home as she did not feel able to cope with working away from home or long commutes. We agree it would not have been reasonable for the claimant to give up the permanent T&T role for a temporary / interim role even if it was better paid given the financial security the permanent role brought. We agree that given the claimant had secured the T&T role at that time and her recent mental health relapse, it was not unreasonable to have paused her efforts to mitigate.

36. Between 15 February 2023 to 2 November 2023 the claimant applied for a further 26 roles (so an average of 4 per month) and attended a further 4 interviews but was unsuccessful in all of these applications. The claimant found the rejections demoralising and was concerned that applying for jobs would take her focus away from her role at T&T. We find that the claimant could reasonably have applied for more roles and do not accept that this would have impacted on her current role as suggested particularly given the process now for most applications is to apply on LinkedIn where her CV would have already been uploaded or at initial application stage be a short process. The claimant described the last job she applied for as a fanciful application but this did not prevent her from applying.

37. In January 2024 the claimant decided she would not apply for any further roles at all. The claimant told the Tribunal this was so she could focus on her role at T&T and this has remained the same save for one application for a Competition role within the civil service.

38. It was put to the claimant she should have applied for roles in the civil service in order to mitigate her pension loss, but the claimant told the Tribunal she would not consider the civil service as this was not where her career was and did not have civil service background. She agreed she had not considered applying for any civil service roles save the one mentioned above.

39. The claimant is very happy in her existing role describing herself as thriving again and has received several accolades. The claimant is concerned about job security in that if she did secure another role in light of her age, disability and history of these proceedings she would not have job security which would cause her anxiety and depression. See also the expert advice of Dr Navabi below.

40. In her current role the claimant works away between 5-8 days per month in London or Sheffield and is able to do the London trip there and back in one day.

41. In January 2024 the claimant had time off work due to the impact of the ET hearing but was back in work after a week.

Respondent's evidence on mitigation

42. The respondent had collated extensive evidence on HR director / change consultant roles. There were over 110 pages of jobs advertised between April 2023 to 8 September 2023 and between September 2023 and November 2024 a further 180 or so pages.

43. The Tribunal considered these roles carefully. We only considered roles that said they were hybrid, remote and based within a similar travel distance to what the claimant is now undertaking. The evidence shows there were multiple roles available. By way of example:

Page No	**Date**	**Company**	**Title**	**Pay**	**Base**	**IP/Remote?**
290	28/04/2023	Michael Page	HR Director	75–80K	Newport	Unclear
291	28/04/2023	Gleeson Recruitment Group	Head of Talent Acquisition	80–85k	Birmingham	2 days on site
293	11/05/2023	Executive Network Group	Head of HR Operations	150k	London	Hybrid remote
293	11/05/2023	Michael Page	HR Director EMEA	100–120K	Slough	Remote
294	11/05/2023	Corrington Recruitment Solutio	Global HR Manager	100–110k	West End	Remote

		ns				
300	18/05/2023	Michael Page	HR Director EMEA *	100 – 120K	Slough	Remote
300	18/05/2023	Michael Page	Head of HR – Financial Services	100 k	London	Hybrid/remote
300	18/05/2023	Executive Network Group	Head of HR Operations	150k	London	Hybrid
302	26/05/2023		Dept Head of HR	93 – 115K	Saffron Walden	Hybrid
303	26/05/2023	Frazer Jones	HR Director	140 – 150k	London	Hybrid
306	02/06/2023	Clp Life Sciences	HRIS Workday Director	100k	London	Remote
310	09/06/2023	The Consultancy Group	Head of HR	80 - 100k	London	Remote

44. In addition, between September 2023 and November 2024 there were multiple HR Director roles in London, Reading, Bristol with salaries ranging between £70,000 - £160,000. These were not fanciful or unrealistic roles. The claimant was qualified for most of the roles many mentioning hybrid work of 2- 3 days in the office which was relatively close to what the claimant is now doing by travelling to London and Sheffield.

45. Of all of the job advertisements only one said it was office based. Based on the evidence before us we find that if a role was going to be purely office based the advert would say so. Further, we can see from the claimant's actual experience from her T&T appointment that even a role that appears to be office it could end up with a different location and home working for the right candidate.

Civil Service roles

46. The 2024/2025 pay bands and grades are as follows:

Grade 7 - £55,970 to £67,633[1]
Grade 6 - £70,575 - £78,813
SCS Band 1 £75,000 to £117,800
SCS Band 2 - £97,000 - £162,500.

47. The following roles were available during the period between termination and the remedy hearing - Civil Service HRD posts at grades 6, 7, SCS 1 & SCS 2.

DATE	Vacancy Title	Grade	Location
10 Nov 22	HR Business	Grade 7	Belfast, Bristol
13 Jan 23	EOI HR Business partner	Grade 7	Cardiff East
13 Jan 23	HR Business Partner	Grade 7	Cardiff, Leeds
20 Jan 23	HR Director	SCS1	Bristol, London
24 March 23	HR Business Partnering &People	Grade 6	Belfast, Cardiff
7 Sept 23	Senior HR Business Partner	Grade 6	Wales
3 Dec 23	HR Business Partner	Grade 7	Belfast, Cardiff
17 Jan 24	HR Business Partner	Grade 7	Swansea
30 May 24	Senior HR Business Partner	Grade 7	Belfast, Cardiff

Allegations of bullying

48. In the liability judgment we made some findings regarding previous occasions where the claimant had behaved inappropriately or there had been allegations of bullying made against her (see paragraphs 20, 23, 24, 26, 54,67, 69 and 193).

49. In making the following findings we acknowledge that the some of the claimant's behaviour has been affected by mental health crises and her undiagnosed ADHD (see below) and that these findings are likely to make uncomfortable reading. This does not derogate from the Tribunal's obligations to make relevant findings of fact on the issues before us.

50. It is important to note that Tribunal's findings as to why the respondent refused to rescind the claimant's resignation. This was not because of her behaviours which the respondent has now fully ventilated at the remedy

[1] There are two grade 7 ranges

hearing by Mr Millard and Mr John's evidence, in the main because these behaviours were not fully known about by Ms Jessop when she made the decision not to permit rescindment. At paragraphs 184 of the liability judgment our conclusions were:

There are a number of factors to this question which have required careful findings of fact and those findings were always going to inform the outcome in this case which is why we have set these out in some detail above and why our conclusions in this regard can be relatively short. We have no doubt that the reason for the refusal was at all times the respondent believed permitting the claimant to rescind her resignation would be destabilising to the business and later, when she attributed the resignation to her disability, the respondent simply did not accept the claimant's assertions relying instead on what her previous expressed reasons had been.

51. It was common ground and the claimant herself described how she had developed a fixation with a colleague we previously referred to as "M" in our judgment on liability. This was Mr Sean Millard, Chief Growth Officer, who gave evidence at the remedy hearing (he had not been called to the liability hearing).

52. Mr Millard initially had a good relationship with the claimant but around November 2020 this changed following the classification of "e-waste" recovery as a diversification business. This had formerly sat within Mr Millard's team but the claimant wanted to take more control of the project considering it to be part of her new business remit. The claimant began to deliberately ignore emails, persistently challenging Mr Millard's accountability over the project in meetings and excluded him from a critical process related to the initial development of an emerging technology by progressing the testing of a piece of technology without his input.

53. In 2021 the situation deteriorated to the extent that Ms Jessop had to intervene and take on Mr Millard's line management. Mr Millard told the Tribunal that the claimant's behaviours had escalated to the point they had become so obstructive to him and his team he considered leaving. He was unaware until the proceedings that the claimant had told Ms Jessop that Mr Millard must leave or she would resign.

54. In 2022 the claimant developed the fixation with Mr Millard. Mr Millard told the Tribunal that this manifested itself by the claimant routinely created obstacles in his projects: highlighting unsubstantiated problems, using risk assessments in his view, to deliberately delay progress, introducing unnecessary reviews and reporting, and delaying meetings to deliberately slow things down or take control. He described that time as working through "a lot of treacle".

55. The Tribunal did not hear about this event at the liability meeting. At a managers away day in April 2022 in Bath, the claimant apologised to Mr Millard saying words the effect "I've been awful to you". Mr Millard did not openly acknowledge the apology and in reaction the claimant launched a verbal tirade at Mr John. Ms Howell described this as the claimant turning on Mr John. Ms Jessop pulled the claimant to one side and told her that it was totally unacceptable.

56. After the meeting on 21 June 2022 (see liability judgment at paragraph 67), in which Mr Millard felt the claimant's behaviour had been very difficult he told Ms Howell and Mr Mills that he could not continue to interact with the claimant and things had become untenable. He said he was going to escalate matters to Ms Jessop and asked if they would support him to which they agreed. At that time Mr Millard did not know the claimant had resigned.

57. The following day Mr Millard had a further conversation with Ms Howell and was persuaded to allow Ms Howell to speak to the claimant to give feedback about how damaging her behaviour was to which he reluctantly agreed. It was this conversation the claimant overheard that Mr Millard had told Ms Howell the claimant was a bully.

58. The Tribunal is unable to understand why Ms Howell would seek to take this approach given the clear impact the behaviour was having on Mr Millard and that it had been agreed the previous day they would collectively go to Ms Jessop about this behaviour and the impact it was having on the executive team. We return to this below.

59. When Mr Millard heard the claimant has resigned he described feeling genuine relief on two grounds; that the bullying would stop and he would not have to escalate the claimant's behaviour to Ms Jessop. When he became aware the claimant wanted to rescind he says had she been permitted to do so he would have escalated to Ms Jessop who he said could "no longer have ignored the situation" and "would have had to have done something to address the issues and the impact". He acknowledges he knows now this would have involved making adjustments for the claimant. Mr Millard considers at the very least Ms Jessop would have had to have investigated his concerns.

Issues with Leighton John

60. Mr John has been a member of the senior executive team since 2015, pre dating the claimant's position on the team by about 6 months. He was in an office directly next to the claimant's for approximately 5 years then adjacent in the open plan layout. Mr John described their relationship as friends albeit cyclical moving between conflict to resolving differences. They were perceived as close by colleagues and Mr John often defended the claimant when her actions had caused upset. When there was conflict the claimant was confrontational and could be aggressive in putting her opinions across in front of others. The claimant was very open with Mr John about her mental health and ADHD diagnosis and he understood some of her behaviours were routed into these conditions.

61. Mr John's relationship with the claimant eventually deteriorated and he had become frustrated with the perceived leverage by the claimant from her close relationship with Ms Jessop.

62. In April 2022 one of the managers Mr John's team wanted to leave and Mr John reached a consensus with his team that he would be allowed to resign. This was relayed to the claimant who subsequently and without any further discussion announced publicly that the individual would stay and moreover

the energy team (who reported to Mr John) would report to her. When Mr John tried to raise this with the claimant she put her hand up and said, "*I know I know, do what you want"; "do what the fuck you want".*

63. In the first week in June 2022 there was a further incident involving the claimant sending Mr John's team a highly critical email and without discussion had also put Mr John's name to the email. After apologising to the team and defending the claimant, she put her head around the door where Mr John was meeting his team and acknowledged they were all "pissed off" with her but that they needed to do better and she would not be backing down. Mr John approached her privately and the claimant responded aggressively stating "*do what the fuck you want, do what the fuck you want, I don't care", "I don't want to fucking talk about it"* and turned her back on Mr John. We repeat our findings at paragraph 134 of the liability judgment that at this time the claimant's mental health was significantly affected by changes in her medication and that she was effectively according to the experts in a period of significant mental health instability.

64. Mr John did not report this incident to anyone although he had approached Ms Howell in to say the claimant was not speaking to him and asked for advice on how to manger this. Ms Howell had witnessed the claimant becoming heated with Mr John in the open office on many occasions but told the Tribunal she was comfortable the exec team could pull together and support each other with the claimant's behaviours describing it as something she was comfortable they could manage.

65. Mr John was then on holiday with his family. The situation had affected him and he was withdrawn and worried the claimant would be undermining him with Ms Jessop during his absence. He resolved to raise the issues with Ms Jessop at his next 1-21 meeting

66. This did not happen as the claimant subsequently resigned. Mr John's explanation for not raising it was that there was no longer any reason to do so, it would have given Ms Jessop a problem and perhaps selfishly, he did not want Ms Jessop to know how bad things were or that he had been struggling to resolve things himself.

67. Mr John then heard a rumour that the claimant had asked to rescind her resignation. His relief at the resignation disappeared and he assumed she would be permitted to rescind. On 28 July 2022 he approached Ms Jessop to ask her about the rumours who told him she had refused the request. It was only at this stage did Mr John tell Ms Jessop he felt the claimant had "damaged his mental health". Mr John told her about what had been happening and described Ms Jessop as "visibly shocked". She asked him to write a note of what had happened.

<u>Temp Brass document</u>

68. Mr John then drafted the document in word which has been called the Temp Brass document. He saved it and password protected it. He printed a copy and passed it to Ms Jessop which was not an unusual approach for sensitive materials as PA's have access to and read emails. The document property

for the email corroborates the creation and save time of the document.

Findings of fact on the counter factual scenario that there would have been an investigation into the claimant's behaviour had she been allowed to rescind

69. The claimant did not dispute any of the above evidence, pointing to her period of mental health instability at that time as well as her medication instability and ADHD diagnosis. It was the claimant's case (which we address in our conclusions below) that this was in any event irrelevant as nothing could be done about these matters as they arose from the claimant's disabilities.

70. Ms Jessop said that she was devastated when she read Mr John's account and how it had been kept from her. This is surprising given what behaviours Ms Jessop was already aware of such as the verbal tirade at the Bath meeting. She now accepts that she had focussed on supporting Mr Millard but had neglected to support Mr John's mental health and that it was obvious issues had run much deeper than she had appreciated. Afterwards other people approached Ms Jessop and told her that the claimant had been a bully. After the claimant was placed on garden leave (28 July 2022) Mr Millard also spoke to Ms Jessop openly about the difficulties he had experienced with the claimant and that had she been permitted to rescind he would have raised the behaviours formally. All of this supports our earlier findings that the impact of the claimant's behaviours in the workplace had not been appropriately managed.

71. Ms Jessop was extensively cross examined on what she then did with the Temp Brass paper copy. It was the claimant's case that this document was relevant to the grievance investigation by Ms Austin and it should have been disclosed to her. Our grievance findings of fact are at paragraphs 110-117 of the liability judgment. The respondent was not asserting that the reason for refusing to accept the rescindment was the claimant's behaviours. We therefore do not accept that the failure to disclose the document to the grievance was a material factor or would have influenced the outcome in any way. It was not relevant at that time to the issues in play. We accepted Ms Jessop's evidence under cross examination that when she received the document from Mr John she read it then put it in a drawer or somewhere in her office and never really referred to it again. This reflects the general way in which these behaviours by the claimant had been allowed to continue without any proper management. She did not remember the document as being relevant during the later Tribunal disclosure exercise (the document was disclosed on 28 February 2025 having come to light when Mr John was asked to make a statement). Since then Ms Jessop has searched extensively for the paper copy but has been unable to find it.

72. After the claimant's resignation Ms Howell did not tell Ms Jessop about the incident between Mr Millard or Mr John. Her reasons were that *"it felt unnecessary. I did not particularly want Anne to think that anything had been kept from her by the Exec Team either, even though it was done with obviously the best intentions."* Again this reflects the general approach by the exec team to keep the behaviours from Ms Jessop and try and manage the situation themselves. This was not an appropriate way to manage the situation as we have previously commented.

73. It was later reported that two other individuals had expressed concerns about the claimant's behaviours towards them also, including a union official describing her as a bully.

74. Nothing we have heard during the remedy hearing undermines the findings at the liability hearing for the reason of the refusal to permit the claimant to rescind which was the respondent's legitimate aim. Ms Jessop, whilst aware there were issues with the claimant's behaviour, was not aware of the extent and impact of those behaviours on Mr Millard, Mr John and the exec team generally.

75. The claimant did not dispute any of this evidence. During the hearing she apologised and attributed the behaviour to her mental health deterioration and ADHD. She explained that when her ADHD was completely unmanaged and unmedicated she can be very forceful and become fixated, accepting she "lost the plot" on several occasions and was unable to regulate her emotions in such a way that was very public in an open plan office. The claimant explained that looking back on her behaviour and how she has been helped with the medication is akin to "night and day".

Referral to Occupational health

76. Ms Jessop told the Tribunal as follows:

If I had had an OH report at the time (over the summer/autumn of 2022), stating that her inappropriate behaviour towards others did arise in consequence of her disabilities, I would still have had to have considered just how widespread and consistent I now know those behaviours to have been. I am clear that a number of the Exec Team would have at that time shared their concerns with me on the breadth and depth of theses inappropriate behaviours. Despite her many good qualities, it became clear to me that her behaviours, over a long period of time, had a far reaching and significantly detrimental impact on not only the Exec Team but others working below that (R283,R275). Even if her behaviours were as a result of her complicated mental health conditions and disability, it would not have been possible to continue to ignore them or to excuse them completely. As the CEO I could not have let this situation continue.

Had I received an OH report stating this, I would have spoken to Sarah about it and considered what, if any additional reasonable adjustment may have been possible to implement, bearing in mind that we had already agreed a significant number of changes and leeway for her behaviour. I would also have sat down with the Exec Team to gather further information. I now know of course that this would highly likely have resulted in Leighton and Sean making the same revelations to me. Again, given the adjustments already made, I am not sure what more could have been done. Although I am aware of the duty to make reasonable adjustments, addressing the Sean Millard issue had required me to effectively separate Sean and Sarah almost completely and remove that element of Sarah's role from her, it would have been completely unreasonable and unworkable to have done that with Leighton as well or any even wider group.

I absolutely recognise that TRM would have a duty to make reasonable adjustments in these circumstances, but, the late diagnosis of ADHD was a label

only, she had always had the condition. We had already been addressing the behaviours caused by Sarah's mental health condition, including her ADHD, for many years, even if we did not know exactly what it was. We had made significant adjustments, not only to working practices but leniency on some particularly poor conduct. Unbeknownst to me, the Exec Team had tolerated even greater poor behaviour. I do not believe that any reasonable adjustments would have been sufficient to have addressed this to a point where Sarah could perform the HRD role effectively, leading the culture and advising me objectively on people and where the functionality of the Exec Team would be restored.

77. The claimant accepted that she had previously stated being called a bully was the worst thing she could be called. She did not accept that the reports to Ms Jessop after her resignation would inevitably have led to an investigation because the issues were because of her disability and inability to manage it. She also said she would have been able to go through an investigation and would have welcomed discussions about how she could make amends and build bridges and trust as the HRD, after an OH referral that would have recommended adjustments and stablished medication.

Expert report

78. The parties had been directed to agree a joint independent expert to prepare a report. We had sight of the joint letter of instruction and annex, report dated 8 May 2025, supplementary questions and addendum to the report dated 30 May 2025.

79. The expert evidence was to assist the Tribunal in reaching a decision on the following (in summary - the precise wording of the remit for the expert is as set out in the list of issues at paragraphs 2.2 and 2.3, 4 and 6):

a) The claimant's prognosis on the factual and counterfactual scenarios in order to determine how long the claimant would have remained employed but for the discriminatory act;
b) What would have been the effect on the claimant's employment if the respondent had acted proportionally in taking informed advice from occupational health on whether to allow the claimant to rescind;
c) What if any effect had the discrimination had on the claimant's ability to mitigate her loss and
d) Injury to feelings

80. Dr Navabi is a highly qualified and experienced consultant general adult psychiatrist who holds an MD (Medical Doctorate) and is a member at the Royal College of Psychiatrists (MRCPsych) and a fellow since 2017 (FRCPsych). Dr Navabi was awarded a Master's degree in Affective Neuroscience from Maastricht University in 2013 and is approved under Section 12(2) of the Mental Health Act 1983 as having special experience in the diagnosis and treatment of mental disorders. Dr Navabi was the lead clinician for Adult ADHD services in the North sector of Birmingham between 2016 and 2020.

81. The report is lengthy and we have set out such sections or summarised the report as is proportionate. We were also assisted by the supplementary

questions which sought to clarify a number of the answers.

82. At the time of the appointment with the claimant she was reported as currently cooperative, communicative and replying to questions appropriately. Her mood was reported as fine, objectively euthymic with evidence of mild anxiety. Normal thought processing and orientated in time place and person, cognitively alert.

83. Dr Navabi qualified the severity of the claimant's emotional symptoms at the time of the examination at zero using the Hospital Anxiety and Depressive Scale (HADS), which is an instrument that qualifies severity of anxiety and depressive symptoms. Dr Navabi clarified in the addendum, that this did not in itself confirm longstanding recovery or remission as HADS measures current symptomatology.

84. Dr Navabi diagnosed the claimant with recurrent depressive disorder showing features of major depression since her mid 30's, currently in remission. This was said to be moderate . He also diagnosed Hyperkinetic Disorder which is also classed as ADHD, confirming that diagnosis of ADHD.

85. The expert was asked what was the period the claimant would have remained in employment of the Respondent but for the discriminatory Act. The question was not limited to asking about health withdrawal factors but went on to give other potential determining withdrawal such as age, family reasons, status, work record, and perceived viability or stability of the respondent. In our judgment this was unfortunate as it prompted the expert to opine widely outside of his expertise.

First report

86. The key sections are as follows:

a) *11.38 The period surrounding her resignation in June 2022 was marked by significant mental health instability, precipitated by her unilateral discontinuation of Sertraline based on the mistaken belief that Elvanse monotherapy would suffice, combined with rapid titration of Elvanse to its maximum dose of 70mg (causing adverse effects) and concurrent HRT treatment instability during the substitution of her HRT medication.*

b) *11.54 Ms Bradley's prognosis under the factual scenario—where her resignation rescission was refused without medical review and her employment terminated—is guarded. The acute depressive relapse triggered by these events demonstrates the vulnerability of her mental health to psychosocial stressors, particularly those involving occupational instability. Given the chronic-relapsing nature of her recurrent depressive disorder and the persistent challenges posed by ADHD (even with pharmacotherapy), the combined effects of career disruption, financial strain, and perceived workplace abandonment are likely to have long-term consequences*

c) *11.75 Based on a comprehensive review of Ms Bradley's occupational history, medical records, and the prevailing clinical evidence regarding*

ADHD and recurrent depressive disorder in workplace settings, it is my opinion that – absent the Respondent's discriminatory acts – Ms Bradley would on the balance of probabilities have remained employed by The Royal Mint Limited until standard retirement age (65 years).

d) *11.80 In my opinion, the primary threat to employment continuity – unmanaged mental health fluctuations – was iatrogenic (treatment-related) rather than intrinsic. The 2022 crisis stemmed from autonomous medication changes (Sertraline discontinuation) and lack of workplace oversight during titration.*

e) *11.81. Had the Respondent implemented reasonable adjustments (e.g., occupational health monitoring during medication transitions, ADHD coaching), the destabilising cascade would likely have been averted. Meta-analytic data confirms that workplace accommodations reduce psychiatric-related attrition by 42% (Knapp et al., 2021). Her post-2022 stabilisation on optimised pharmacotherapy (150mg Sertraline, 50mg Elvanse) further demonstrates functional capacity when adequately supported.*

87. In response to the possible counter factual scenarios the report stated:

a) *11.90 (a) Occupational Health Consultation in July 2022*

b) *"An OH assessment would have identified her June resignation as occurring during a documented medication instability period (Sertraline discontinuation and Elvanse over-titration); the July rescission request coinciding with re-stabilisation on appropriate pharmacotherapy; and ADHD-related impulsivity in the original resignation decision.*

c) *In my opinion, the likelihood recommended actions then would have been immediate temporary medical leave (4-6 weeks) to consolidate treatment gains; graduated return-to-work with ADHD accommodations (e.g., task prioritisation support), and ongoing monthly OH reviews during medication optimisation.*

d) *In my opinion, the likelihood employment outcome would have included approximately 80% probability of continued employment to at least age 65, and projected termination only from standard retirement (65-67) or non-discriminatory cause."*

88. In the follow up report the percentage chance of retention until retirement increases to 85-90% (paragraph 2.44) and then decreases when considering the counter factual scenario of an investigation into bullying allegations to 60-70% (paragraph 3.23).

<u>11.95 Rescission of Resignation Permitted</u>

a) *"In my opinion, allowing rescission with basic supports would have led her to clinical benefit, e.g., prevented the September 2022 depressive relapse (avoiding crisis intervention), and maintained medication adherence through workplace stability.*

b) *In relation to her workplace trajectory, it would have increased the likelihood*

(>75%) of remaining to desired retirement age (65-67) with a gradual transition planning possible in later years.
….

c) *In relation to mental health consideration factors, in my opinion, her conditions were manageable with treatment, and there was no evidence of aspirational changes.*[2]

(We have not considered sections where the expert provides opinion on non medical withdrawal factors such as the conclusions at 11.99 and 11.102 regarding occupational factors and the claimant's performance.

Mitigation

89. The expert's view was:

The Respondent's discriminatory conduct has profoundly compromised Ms Bradley's ability to mitigate her losses through multiple interlinked mechanisms, each substantiated by clinical evidence and occupational data, which includes clinical barriers to loss mitigation, quantified mitigation deficits, discrimination specific causation, and forensic economic analysis.

90. This was clarified further in the addendum as Dr Navabi was asked:

What are the multiple interlinked mechanisms? What are the specific clinical barriers? What forensic economic analysis are you referring to? Please also confirm how these issues interact with any recovery by the Claimant, for example (and subject to your reply above) to her 0 out of 21 score on the HADS assessment (9.10).

91. The reply was as follows:

2.68. This paragraph synthesises the multifaceted ways in which the Respondent's discriminatory actions have created enduring barriers to Ms Bradley's recovery and loss mitigation. The 'interlinked mechanisms' refer to the compounding clinical, occupational, and economic consequences that collectively undermine her capacity to restore her pre-discrimination trajectory, despite periods of symptomatic remission (such as her 0/21 HADS score in March 2025).

2.69. Multiple Interlinked Mechanisms – these operate synergistically to perpetuate loss:

2.70. Clinical Barriers: Persistent ADHD-related executive dysfunction and emotional dysregulation impair job-search efforts and workplace adaptation, while the kindling effect of the 2022 relapse increases neurobiological vulnerability to stress.

2.71. Occupational Disadvantage: Downward career mobility (to lower-status roles) reduces access to ADHD-friendly workplaces, creating a self-reinforcing

[2] See below where at 3.23 – 3.26 Dr Navabi discusses masking, residual symptoms persisting and further reactions being possible even with adjustments and treatment.

cycle of underemployment.

2.72. Economic Precarity: Income reduction limits access to private mental health support, while financial stress exacerbates depressive symptoms.

2.73. Discrimination Legacy: The trauma of wrongful termination erodes professional confidence, manifesting as interview anxiety or avoidance of comparable roles.

2.74. It should also be noted that even during remission (e.g., 0/21 HADS), Ms Bardley faces:

2.74.1. ADHD-Related Challenges: Difficulty with sustained focus in job applications, emotional dysregulation during rejections, and impaired organizational skills for career rebuilding.

2.74.2. Residual Depressive Vulnerability: The kindling effect means stress tolerance remains lowered, making high-pressure roles or job transitions riskier.

2.74.3. Neuroendocrine Factors: Ongoing perimenopausal hormonal fluctuations may unpredictably disrupt cognitive function and mood stability.

Previous resignations

92. *While Ms Bradley had previously contemplated resignation, these instances occurred during documented episodes of psychiatric instability and medication non-adherence, consistent with impulsive behaviours stemming from her ADHD and depressive disorder rather than deliberate career planning. The June 2022 resignation followed this same pattern, coinciding precisely with medication destabilisation (Sertraline discontinuation and Elvanse titration effects) rather than emerging from any systematic dissatisfaction with remuneration.*

93. *In my opinion, on the balance of probabilities, the Respondent's actions in refusing the rescission request then transformed what could have been a time-limited episode into a sustained occupational and mental health crisis. The prior resignation attempts simply reinforce the established pattern of disability-related impulsivity that the Respondent failed to appropriately accommodate.*

94. Dr Navabi had been asked a number of questions in the original letter of instruction about the bullying allegations and how the claimant would have responded if there had been a subsequent investigation. He had not answered any of these questions and therefore addressed them for the first time in the addendum. This was his response:

    Consequences of an investigation into bullying allegations

    Question 15 – Would the Claimant have been able to effectively engage with an internal investigation process into alleged unacceptable behaviours if such a process had occurred post-referral?

In my opinion, on the balance of probabilities, Ms Bradley would not have been able to effectively engage with an internal investigation process. During acute destabilisation (March–June 2022), ADHD impulsivity, depressive symptoms (poor concentration, emotional lability), and medication instability would have severely impaired her ability to participate objectively.

In my opinion, on the balance of probabilities, Ms Bradley's Capacity would likely have returned 4–6 weeks post-OH referral, assuming medication stabilisation (Sertraline therapeutic effects achieved); and workplace adjustments (e.g., written Q&A format, breaks).

In my opinion, on the balance of probabilities, allegations of bullying (per ET §67) would have exacerbated rejection sensitivity (ADHD trait), triggering defensive/impulsive reactions; worsened depressive symptoms (self-worth collapse, rumination); and impaired recall/articulation due to stress-induced cognitive deficits

95. Dr Navabi went on to suggest some recommended adjustments and limitations that could have been implemented for such an investigation such as written questions in advance, short sessions. Ms Jessop agreed that all were reasonable and would have and have been implemented in other investigations.

96. The report continues:

Question 16 – If following an investigation and disciplinary process into past events, the Respondent had reached a conclusion that the Claimant had engaged in bullying or unprofessional behaviour towards colleagues (imposing a sanction short of a dismissal) and noting the Tribunal's finding at ET Reasons §193, what likely effect would that have had on her disabilities of ADHD/anxiety/depression? What effect if any would it have on her mental capacity to be able to continue to work for the Respondent, noting ET Reasons §191? To what extent does your answer depend upon the details and seriousness of the allegations and conclusions reached (including, for example, as to the length of time it had continued or to the seriousness of specific acts).

In my opinion, a disciplinary finding that Ms Bradley had engaged in bullying or unprofessional behaviour would likely have had severe consequences for her mental health and capacity to continue working. Given the Tribunal's observations about her distress when facing such allegations (§193) and her already fragile psychological state (§191), such an outcome would probably have significantly exacerbated her depression and anxiety symptoms. The stress of the disciplinary process itself, combined with the shame and stigma of an adverse finding, could have triggered an acute relapse of her depressive disorder. For her ADHD, the emotional dysregulation characteristic of this condition might have intensified, potentially manifesting as either withdrawal or heightened reactivity in workplace interactions.

3.13. The impact would have been mediated by several factors relating to

the allegations themselves. More serious or prolonged accusations would naturally carry greater psychological weight, potentially overwhelming her coping mechanisms. The perceived fairness of the process would also be critical – any sense of injustice or disproportionate sanction would likely amplify the negative effects. Even with a sanction short of dismissal, the combination of damaged workplace relationships, loss of professional standing, and the ongoing stress of modified working arrangements might have made her continued employment untenable. While reasonable adjustments could have helped mitigate some impacts, the fundamental breach of trust and psychological safety might have rendered her effectively unable to continue in her role, regardless of formal capacity.

3.14. The Tribunal's findings at §191 suggest her mental health was already compromised following the events of 2022. A disciplinary finding would have represented another major psychological stressor, potentially pushing her beyond her capacity to cope. This could have resulted in either voluntary resignation due to intolerable stress or medical incapacity to continue working. The specific manifestations would depend on how her particular conditions interacted with the disciplinary outcome, but the overall prognosis would be concerning given her established vulnerabilities.

97. The claimant's alleged behaviours were put the Dr Navabi who was asked to comment on the extent to which the Claimant's mental health would have caused them and the link with her disabilities.

3.18. In my opinion, on the balance of probabilities, the alleged bullying behaviours described, if they occurred, would likely have been substantially influenced by the Claimant's mental health conditions, particularly during periods of medication instability or acute psychiatric symptoms. While not necessarily the sole cause, her ADHD and recurrent depressive disorder would have been significant contributing factors to any problematic interpersonal behaviours.

3.19. The timing of these alleged incidents appears to correlate with documented mental health crises in September/October 2019, February 2021, and May 2022. During such periods, her conditions could manifest in ways that might be perceived as bullying, including emotional dysregulation (shouting/outbursts), social withdrawal (sending to Coventry), or impulsive attempts to control situations (leveraging relationships). These behaviours align with known ADHD symptoms when unmanaged – emotional impulsivity, rejection sensitivity, and executive dysfunction – particularly during medication changes or depressive episodes.

3.20. The Claimant's medication history is particularly relevant. Periods of Sertraline discontinuation or Elvanse titration would have exacerbated underlying symptoms, potentially leading to the described behaviours. For instance, emotional outbursts might represent ADHD-related impulsivity magnified b untreated depression, while social withdrawal could reflect depressive anhedonia or anxiety. The alleged leveraging of relationships might stem from ADHD-driven impulsivity in problem-solving during stressful periods.

3.21. In my opinion, on the balance of probabilities, these factors suggest

that while the behaviours might have occurred, they were likely manifestations of disability-related symptoms rather than intentional misconduct, particularly when viewed in the context of her documented mental health fluctuations. The pattern of these allegations coinciding with psychiatric crises supports this interpretation. A proper occupational health assessment at the time would have been crucial to distinguish disability-related behaviours from wilful misconduct and determine appropriate accommodations.

3.23. In my opinion, on the balance of probabilities, assuming proper reasonable adjustments and support were implemented, the likelihood of Ms Bardley remaining with the Respondent until retirement would be moderately good (approximately 60-70% probability), although several factors would influence this outcome.

Ms Bradley's tendency to mask her true feelings could persist, particularly given the workplace stigma surrounding mental health. This masking would likely be most pronounced during periods of stress or when facing performance expectations, potentially delaying necessary interventions. Factors affecting this would include psychological safety in the workplace, management's demonstrated understanding of her conditions, and whether accommodations truly addressed her needs rather than just surface-level behaviours.

3.25. The January 2022 ADHD diagnosis and subsequent medication stabilisation would have significantly improved prospects for managing emotional outbursts and professional conduct. Proper treatment typically reduces ADHD-related emotional dysregulation by approximately 40-60%, based on clinical studies. However, residual symptoms often persist, particularly during stressful periods or hormonal fluctuations (given her perimenopausal status). The medication regime would need ongoing monitoring and adjustment to maintain effectiveness.

3.26. In my opinion, further reactions would remain possible, although less frequent and severe with continued treatment. Key influencing factors would include consistency of medication management, workplace stress levels, quality of supervisory relationships, and stability of personal circumstances. The workplace culture would be particularly crucial – environments perceived as critical or unsupportive would heighten relapse risks.

The Law

98. S124 EQA 2010 sets out the remedies available in discrimination complaints. S124(6) provides that the amount of compensation which may be awarded corresponds to the amount which could be awarded by the County Court under S119.

99. We were referred to a number of authorities by both parties. Whilst we do not recite every authority we have considered such authorities as we consider proportionate and relevant to the issues in the claim.

100. The claimant is under a duty to mitigate her loss and the burden of proof is on the respondent to show the claimant has failed to mitigate his loss**. Ministry of Defence v Cannock [1994] ICR 918 and Wilding v British Telecommunications Plc [2002] ICR 1079.** The aim is that 'as best as money can do it, the applicant must be put into the position she [or he] would have been in but for the unlawful conduct' **(Cannock)**, which is also authority for the principle that the Tribunal should not simply make calculations under different heads and then add them up. A sense of due proportion is required and to look at the individual components of any award and then looking at the total to make sure that the total award seems a sensible and just reflection of the chances which have been assessed (per Morison J at para 132).

101. **Cooper Contracting Ltd v Lindsey UKEAT/184/15** sets out the steps a Tribunal should take when approaching the issue of mitigation. The burden of proof is on the respondent at all times. The Tribunal should consider (a) what steps was it unreasonable for the claimant not to have taken? (b) when would those steps have produced an alternative income? (c) What amount of alternative income would have been earned (**Edward v Tavistock & Portman NHS Foundation Trust [2023] IRLR 463**).

102. The respondent referred us to **Livingstone v Rawyards Coal Co (1880) 5 App Cas 25 10/06/2025 46 – 64** (on the issue of the date the Vento bands should be assessed)**, Fyfe v Scientific Furnishing [1989] IRLR 331 10/06/2025 65 – 68, Hilco Capital Ltd v Harrington [2022] EAT 156 10/06/2025 69 – 97, Eddie Stobart Ltd v Graham [2025] EAT 14.**

103. In **Essa v Laing [2004] IRLR 313**, the Court of Appeal held that it was not necessary to show that the particular type of loss was reasonably foreseeable. If it is reasonably foreseeable that a claimant will suffer injury to feelings then the respondent will be liable for the full loss no matter how extreme (the "eggshell skull" principle).

104. In **Vento v Chief Constable of West Yorkshire Police (No.2) 2003 ICR 318, CA,** the Court of Appeal gave specific guidance on how employment tribunals should approach the issue. There are three broad bands when assessing the compensation for injury to feelings and within which band the compensation should fall.

105. In respect of claims presented on or after 6 April 2022, the Vento bands shall be as follows: a lower band of £990 to £9,900 (less serious cases); a middle band of £9,900 to £29,600 (cases that do not merit an award in the upper band); and an upper band of £29,600 to £49,300 (the most serious cases), with the most exceptional cases capable of exceeding £49,300.

106. The claimant relies upon **Da'Bell v NSPCC [2010] IRLR 19** as authority for the submission that the Tribunal should depart from the PRESIDENTIAL GUIDANCE Employment Tribunal awards for injury to feelings and psychiatric injury following **De Souza v Vinci Construction (UK) Ltd [2017] EWCA Civ 879.** This is on the basis that the claimant

submits that the Presidential Guidance offers no explanation for its "contrary formula" (of applying rates at the date of the presentation of the claim rather than the date of the assessment) and is not binding. (In Da'Bell **t**he Employment Appeal Tribunal held that Da'Bell was a case where the EAT could decide to uprate standard guidelines).'

107. **Prison Service and Others v Johnson [1997] ICR 725** provided the following guidance when assessing discrimination awards; such awards were compensatory and should be just to both parties, compensating fully without punishing the tortfeasors while not so low as would diminish respect for the policy of the anti-discriminatory legislation; that awards should bear some broad general similarity to the range of awards in personal injury cases and in exercising their discretion tribunals should remind themselves of the value in everyday life of the sum they had in mind by reference to purchasing power or earnings and should bear in mind the need for public respect for the level of awards made.

108. The Court of Appeal gave guidance to Tribunals when assessing future loss of earnings after a discriminatory dismissal in **Wardle v Credit Agricole Corporate and Investment Bank [2011] EWCA Civ 545.** Where it is at least possible to conclude that the employee will, in time, find an equivalently remunerated job (which will be so in the vast majority of cases), loss should be assessed only up to the point where the employee would be likely to obtain an equivalent job, rather than on a career-long basis, and awarding damages until the point when the tribunal is sure that the claimant would find an equivalent job is the wrong approach. This case was also relevant when considering whether an ACAS uplift should be awarded having regard to the overall size of the award.

109. **Abbey National PLC and another (appellants) v Chagger (respondent) [2009] IRLR 86** provides that where a claimant has been discriminated against by being dismissed, the tribunal should consider whether the claimant would have been dismissed in any event on legitimate grounds. It is the discrimination which is the essence of the wrong. It follows that the correct question is what would have happened if the claimant had not been discriminatorily dismissed, which plainly requires consideration of whether the same dismissal might have occurred but on legitimate grounds. Despite the conceptual difference between unfair and discriminatory dismissal, they are alike to the extent that dismissal itself is not inherently unlawful and that it is only the additional vitiating factor, unfairness or discrimination, which renders it so.

S207 TULRCA – Acas uplift

110. s207A Effect of failure to comply with Code: adjustment of awards provides:

(1) This section applies to proceedings before an employment tribunal relating to a claim by an employee under any of the jurisdictions listed in Schedule A2.

(2) If, in the case of proceedings to which this section applies, it appears to the employment tribunal that—
(a) the claim to which the proceedings relate concerns a matter to which a relevant Code of Practice applies,
(b) the employer has failed to comply with that Code in relation to that matter, and
(c) that failure was unreasonable,

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

111. In **Slade v Biggs [2022] IRLR 216** the EAT reviewed the authorities on the adjustments of awards under s207A TULCRA. The Tribunal should consider the following questions:

"i) Is the case such as to make it just and equitable to award any ACAS uplift?

ii) If so, what does the ET consider a just and equitable percentage, not exceeding although possibly equalling, 25%?

Any uplift must reflect "all the circumstances", including the seriousness and/or motivation for the breach, which the ET will be able to assess against the usual range of cases using its expertise and experience as a specialist tribunal. It is not necessary to apply, in addition to the question of seriousness, a test of exceptionality.

iii) Does the uplift overlap, or potentially overlap, with other general awards, such as injury to feelings; and, if so, what in the ET's judgment is the appropriate adjustment, if any, to the percentage of those awards in order to avoid double-counting?

This question must and no doubt will be answered using the ET's common sense and good judgment having regard to the final outcome. It cannot, in the nature of things, be a mathematical exercise. The EAT must be reluctant to second guess the ET's decision either to adjust or not adjust the percentage in this respect, or the amount of any adjustment, because it is quintessentially an exercise of judgment on facts which can never be as fully apparent on appeal as they were to the fact-finding tribunal. The EAT will certainly not substitute its own view for the judgment of the ET in the absence of an obvious error.

iv) Applying a final sense-check, is the sum of money represented by the application of the percentage uplift arrived at by the ET disproportionate in absolute terms and, if so, what further adjustment needs to be made?

Whilst wholly disproportionate sums must be scaled down, the statutory question is the percentage uplift which is "just and equitable in all the circumstances", and those who pay large sums should not inevitably be given the benefit of a non-statutory ceiling which has no application to smaller claims. Nor should there be reference to past cases in order to identify some numerical threshold beyond which the percentage has to be further modified. That would cramp the broad discretion given to the ET, undesirably

complicate assessment of what is "just and equitable" by reference to caselaw and introduce a new element of capping into the statute which Parliament has not suggested."

112. Counsel for the claimant relied upon **SPI Spirits (UK) Ltd v Zabeline [2024] IRLR 285** as authority for the proposition that an email can trigger an obligation to follow the ACAS code of practices in relation to grievances.

113. The Acas Code of Practice on grievances starts at paragraph 32. It provides that if it is not possible to resolve a grievance informally employees should raise the matter formally and without unreasonable delay with a manager who is not the subject of the grievance. This should be done in writing and should set out the nature of the grievance. It goes on to set out the steps that should be taken namely, in summary holding a meeting with the employee to discuss the grievance, allow them to be accompanied, decide on appropriate action and provide the right to appeal. Paragraph 4, the relied upon breach by the claimant, provides that whenever a disciplinary or grievance process is being followed it is important to deal with issues fairly including dealing with issues promptly. There should not be unreasonable delay to meetings, decisions or confirmation of those decisions and the employer must carry out any necessary investigations, to establish the facts of the case.

Conclusions

114. The appropriate starting point when reaching conclusions in this claim is to set out what the discriminatory act was. In this case it was not a discriminatory dismissal per se (recognising that the outcome of the decision was termination of employment) but the refusal to permit rescindment of the resignation. It is important to note that this succeeded because of the proportionality issue. The legitimate aim of maintaining reasonable operational integrity and expediency and/or to achieve and maintain stability within the small number of senior executives within its business was upheld. In terms of proportionality we found that the respondent should have taken some proper informed medical advice concerning the disabilities, the impact on the claimant's behaviour and prognosis to then be in a position to truly assess whether the refusal to allow the rescindment would achieve their stated aims**.** We expressly stated that the respondent may well have still been in a position to decide that the resignation had to stand and that such matters had to be reserved for remedy.

115. Paragraph 193 also set out a clear indication of what the Tribunal was going to be concerned about at the remedy hearing:

The Tribunal were told of at least two occasions where the claimant, who was a senior member of the management team developed and maintained fixations with employees some of whom were subordinate to the claimant. This is demonstrative of a work environment where the claimant's behaviour was not being appropriately managed especially after the ADHD diagnosis. We make no criticism of the claimant in this regard as it is highly likely that such behaviours were as a result of her disabilities. Nonetheless this does not

provide a completely free path for any employer to have to accept such behaviours particularly when they impact other employees. This is the very point of proportionality and the need to balance the discriminatory effect of the treatment against the legitimate aims of the respondent.

116. The Claimant's approach to this remedy hearing is to seek career based loss until a retirement age of 67. This is on the premise that there was a 100% chance she would have continued as HRD until the age of 67 years. The claimant has sought total compensation in the region of two million pounds.

117. The respondent's position is that this is detached from reality and the claimant's days were "numbered".

118. We must decide would have happened but for the unlawful act of the respondent. To do so requires a degree of speculation in which we must assess likelihoods both on the upsides and on the downsides. Such matters require serious and careful consideration of the known facts to inform and assist with the speculative assessment.

119. In our judgment, given the impact of the breakdown in relationships between the claimant and the exec team, the instability caused by multiple resignations and overall impact of the claimant's position as HRD, had the respondent taken appropriate medical advice **there is an 80% chance the claimant would have left her employment no later than 28 April 2023 and that had an occupational health referral been made the claimant would have been on sick leave until that date.** These are our reasons:

120. There can be no dispute that the claimant's behaviour towards Mr Millard and Mr John was wholly inappropriate behaviour from a HRD and senior executive. It led to a dysfunctional and unprofessional work environment for such a senior leadership team. The exec team closed ranks to hide a lot of the behaviour from Ms Jessop due to a well intended but wholly misguided effort to protect the claimant. We also consider that the exec team were worried about their own positions given the closeness of the relationship between the claimant and Ms Jessop. This was not an unreasonable concern because we know on many previous occasions nothing had happened to manage the claimant during previous mental health / ADHD episodes (fixations, storming out of meetings, open shouting and disagreements etc). Further, we know there was one senior executive that after failed mediation with the claimant was exited from their job on a termination package. This is why we have decided that there is a 20% chance the respondent would not have done anything formally to commence an investigation or exit the claimant from the business about the claimant's behaviour following an occupational health referral. We do consider it likely even in this scenario the respondent would have implemented adjustments. Ms Jessop was aware of some of the behaviours as she had removed line management of Mr Millard and we have had new evidence about the outburst at the April 2022 meeting in Bath where still nothing was done. We also considered Ms Howell's evidence (see paragraph 72 above). The exec team had been determined to try and manage the situation themselves but we find this state of affairs could not have continued.

121. We accept that Ms Jessop did not know the full impact of what had been going on until after she decided the claimant would not be permitted to rescind her resignation first communicated to the claimant on 6 July 2022.

122. Based on the evidence before us, had the respondent sought appropriate advice they would have been advised that the some, if not all of the claimant's behaviours may have been attributable to her mental health crisis and ADHD particularly in the period of 2022. Dr Navabi's expert opinion was that "*on the balance of probabilities*" the (alleged and now found to have taken place) behaviours would "*likely have been substantially influenced by the claimant's mental health conditions, particularly during periods of medication instability or acute psychiatric symptoms*. Dr Navabi does not say that the claimant's disabilities were the sole cause of the behaviour but that they would have been "*significant contributing factors to any problematic interpersonal behaviours."* He goes on to explain that her conditions could have manifested as bullying. He relies upon the behaviour occurring during previous documented mental health crises and advises that a proper occupational health assessment at the time would have been crucial to distinguish disability-related behaviours from wilful misconduct and determine appropriate accommodations. We accept his expert opinion in full in this regard.

123. Had the respondent sought advice and been advised the behaviours were disability related, we consider there is an 80% chance an investigation would have ensued. Such advice would have fed into the process in so far as deciding on the investigation outcome and whether a disciplinary would follow or whether it would be dealt with by way of capability. We have assessed that a process to exit the claimant would have ensued at 80% likely having regard to the following factors:

a) There had already been adjustments put in place to alleviate the difficulties between the claimant and Mr Millard (the switch in line management) but these had not resolved the fixation issues;

b) The significant impact of the behaviours on Mr Millard and Mr John and their teams; both considered leaving their employment because of the situation. Also what Ms Jessop and Ms Howell were later told about the wider impact of the claimant's behaviours and leverage of her relationship with Ms Jessop;

c) This time differed from the other occasions in that we accept that both Mr John and Mr Millard would have escalated their concerns to a level that it could not have been ignored which would have resulted in the evidence now before this Tribunal being ventilated;

d) The very significant instability already caused by the claimant's resignations (previous) and the announced June 2022 resignation including the very widely published views of the claimant she could earn more money in London and wanted to secure interim work (this was already the reason provided at the time for not permitting rescindment);

e) The claimant's position that there would have been no investigation or action as the behaviours were disability related is more unlikely, assessed at 20% for the reasons set out above. It ignores the question of proportionality and as we observed in our liability judgment, disability related behaviours do not automatically mean that the behaviours will be ignored. An employer must assess and evaluate the impact of that behaviour balancing the needs of the disabled employee and the impact on other employees and the employer as a whole.

124. Dr Navabi advises that the claimant would have been able to take part in an investigation 4-6 weeks post OH referral. Ms Jessop decided on 6 July 2022 that the claimant could not rescind her resignation but the Tribunal found she should not have attributed the resignation to the disabilities until later in July 2022 around 28th July on receipt of the claimant's email. If Ms Jessop had not made this decision and instead referred the claimant to occupational health on this date, Mr John and Mr Millard would have formally raised their issues with Ms Jessop / the board. This would have prompted an investigation. In our judgment, based on Dr Navabi's opinion on the then likely outcome (see paragraph 94), we consider the claimant would have been able to engage with an investigation between 4 – 6 weeks after an OH referral with her medication stabilised and adjustments, allowing for written Q&A's. Assuming under the counter factual scenario the OH referral occurred in say mid to end of August, the claimant could have started to engage in an investigation at the end of September 2022 – mid October 2022.

125. We conclude that the respondent would not have progressed to discipline the claimant as they would have likely been informed that her recent behaviour was caused by the medication instability and her disabilities which was not wrongdoing but capability related. We have also taken into account the previous reluctance to address the claimant's behaviours in reaching this conclusion. Notwithstanding the link with the claimant's disabilities and the behaviours we consider that the claimant's position had become untenable and the respondent would not have permitted the claimant to return into her role as HRD. We have also taken into account the impact of the allegations on the claimant what Dr Navabi has said about the impact of the allegations on the claimant's health and the damaged professional relationships, loss of professional standing and modified working arrangements.

126. Dr Navabi also advises that even in the counter factual situation further reactions would remain possible although less frequent and severe with treatment. In other words, it is possible that the behaviours could reoccur. With regards to these being ameliorated with treatment and adjustments, we also think it is relevant to take into account that the claimant had previously being untruthful with her privately funded psychiatrist and took decisions without advice about changing / stopping medications. This balanced with her history of depression means it was likely there would be further episodes of both the claimant's instabilities and behaviour and that treatment was not always going to ameliorate it. Further, the claimant's tendencies to mask would exacerbate this risk. Whilst the claimant is currently managing her disabilities very well, these factors are supportive of a conclusion that the chance of the claimant remaining in her role as HRD

with the respondent for a prolonged period of time is unlikely given the history.

127. Taking all of the above into account and engaging the balancing exercise, we consider the likely outcome would have been the claimant would have been off sick due to the impact of the allegations on her mental health until leaving the employment of the respondent either by way of a capability related process or a termination package. We think a termination package likely as there is evidence that such packages were in operation at the respondent (see paragraphs 26 and 58 of the liability judgment). We have also taken into account our industrial knowledge of how these types of disputes and issues are resolved in the workplace. We assess this as 80% likely to have happened by 28 April 2023 allowing for the investigation process, the impact on the claimant's health of such an investigations and facing bullying allegations would have resulted in further periods of instability meaning this process would take some time.

Mitigation

128. We must have regard to the following steps in **Cooper Consulting** (noting again the burden of proof is on the respondent):

- What has to be proved is that the Claimant acted unreasonably; she does not have to show that what she did was reasonable;
- There is a difference between acting reasonably and not acting unreasonably (see Wilding).
- What is reasonable or unreasonable is a matter of fact.
- It is to be determined, taking into account the views and wishes of the Claimant as one of the circumstances, though it is the Tribunal's assessment of reasonableness and not the Claimant's that counts.
- The Tribunal is not to apply too demanding a standard to the victim; after all, he is the victim of a wrong. He is not to be put on trial as if the losses were his fault when the central cause is the act of the wrongdoer (see Waterlow , Fyfe and Potter LJ's observations in Wilding).
- The test may be summarised by saying that it is for the wrongdoer to show that the Claimant acted unreasonably in failing to mitigate.
- In a case in which it may be perfectly reasonable for a Claimant to have taken on a better paid job that fact does not necessarily satisfy the test. It will be important evidence that may assist the Tribunal to conclude that the employee has acted unreasonably, but it is not in itself sufficient.

129. The claimant submits and we agree that this questions requires us to take into account the effect of the expert medical evidence on the question of reasonableness. We also consider we must take into account the findings of fact we have made and the reality of the actual situation in regard to the steps the claimant took to mitigate, how her health is now and has been since the termination date.

130. Dr Navabi's opinion on mitigation (see paragraphs 89-91) was that the claimant's ability to mitigate her loss was profoundly compromised. The difficulty here for the claimant is that the expressed reasons (the multiple interlinked mechanisms) are at odd with the facts. Whilst we fully accept that the claimant has an increased vulnerability to stress as a result of the

discrimination and her future prognosis is “guarded”, the other mechanisms cited do not apply to the claimant. The claimant has never experienced the occupational disadvantage he cites of downward career mobility in fact her distinguished and well paid career history shows the opposite. The reality is that the claimant demonstrated a good success interview ratio in the Autumn of 2022 notwithstanding her recent serious depressive episode. She was able to apply for multiple jobs and secured a role (albeit less paid) within three months of her termination date despite having suffered such a significant depressive episode in September 2022. The other mechanisms cannot be shown to have applied to the claimant in the past and we also consider how the claimant’s mental health and ADHD symptoms are being managed at the time of the assessment (HADS zero) and remedy hearing.

131. In our judgment, the respondent has produced cogent and compelling evidence on the number of jobs available within the claimant’s salary range, location and ability to hybrid work - there were multiple roles available that the claimant could have applied for within the parameters of her needs taking into account her residual depressive vulnerability. This is wholly borne out by the reality that the claimant is in a role now where she is able to travel away up to 8 days per month to London or Sheffield. The claimant is thriving in her existing role and apart from one week sickness absence after the liability hearing has not had any other absences.

132. We have concluded that the claimant acted reasonably in mitigating her loss up to January 2024. It was not unreasonable to stop applying for jobs between November 2022 and February 2023 as she had secured a new role at T&T. It was not unreasonable to apply for an average of 4 jobs per month between February and November 2023 although we think she could have applied for more.

133. From January 2024 we find that the claimant has acted unreasonably in deciding and making an active choice not to look for higher paid work. This is of course a choice the claimant is able to make but she should not expect therefore to receive compensation for her ongoing loss of earnings from the respondent. We do not agree that Dr Navabi’s opinion requires us to accept that the claimant’s disabilities have affected her ability to mitigate for the reasons we set out above – the opinion is at odds with the facts. We also consider that the claimant acted unreasonably in failing to apply for any civil service roles that could have mitigated her pension loss.

134. The claimant’s financial loss therefore ends in January 2024 as she has decided not to mitigate her loss.

Acas Uplift

135. The claimant seeks a 25% uplift on the basis of an asserted breach of paragraph 4 of the ACAS Code. The claimant’s skeleton argument explains this is based on the following reasons:

a) The claimant’s emails of 28 July 2022 (see paragraph 101 of the liability judgment) and 11 August 2022 should have triggered the obligation to follow the code and the delay was unreasonable. The Tribunal did not make any detailed findings about the email of 11 August 2022 and it is only mentioned

very briefly in the liability judgment. It is a lengthy email and it is not proportionate to set it all out here but it is plain that the claimant was complaining about Ms Jessop's decision not to permit her to rescind attributing the resignation to her disabilities. She asked Ms Jessop to reconsider and agreed her mental health episode could be shared with colleagues;

b) The failure to refer to occupational health and not disclose the Temp Brass document to the grievance investigation breaches part 4 (Employers should carry out any necessary investigations, to establish the facts of the case).

136. The Tribunal agrees that both the email dated 28 July and 11 August 2022 included written complaints that *could* be deemed to have triggered the grievance process. However given the content of the claimant's email of 11 August 2022 we consider at that stage the respondent may not have understood the issue had moved beyond the informal stage. This in any event does not matter because as soon as the claimant lodged a formal grievance on 13 September 2022 (after legal letters going back and forth) the respondent acted promptly in addressing the grievance. In our judgment there was not an unreasonable delay even if we took the time between 28 July 2022 and the grievance outcome on 26 October 2022 given the breadth of the investigation necessary and the seriousness of the impact of the outcome of that grievance on the both the claimant and the respondent. We have already made findings that the grievance outcome was a "comprehensive review of all of the evidence and documents". The fact that the Tribunal reached a different outcome to the grievance does not follow that the code of practice has been breached warranting an uplift. All of the steps in the code were adhered to. There are no grounds to make any uplift.

137. In regard to the argument concerning the Temp Barss document, we have observed above that it was not unreasonable to have failed to provide this document as part of the grievance investigation. Even if it had been there is no prospect that a failing of this nature could warrant an uplift to the awards. It made no difference to the outcome.

138. For these reasons the Tribunal does not make any uplift to the awards as there have not been any breaches of the ACAS code of practice.

<u>Injury to feelings</u>

139. At liability stage the claimant's schedule of loss assessed her injury to feelings at £20,000. It should be borne in mind this was the amount sought based on the totality of the other claims that had been brought which were dismissed by the Tribunal. This has now increased to £45,000. Counsel for the claimant explains the significant increase as attributable to an incorrect understanding of the limited long term effect of the discrimination on the claimant and she had made good recovery but the extent of her trauma was still hidden by her masking, even from her lawyers. The claimant's behaviour at the liability hearing was described as her mask dropping completely for the first time and her lawyers became aware of the extent of injury to feelings caused with the information disclosed by the Claimant during her meltdown in January 2024 as new to them as to the Tribunal. The claimant also relied upon the expert report on the depth and

extent of the injury caused, an issue not directly addressed by the experts at liability stage.

140. It is submitted by the claimant that there is ample evidence of a deep and enduring injury to feelings and applying the “eggshell” principle the award falls at the top of the top Vento band. We are also invited to depart from the Presidential Guidance and apply the bands relevant as of 2025 rather than 2022 the date of the injury.

141. The respondent points to the change in position between liability and remedy and submits this is not a top band Vento case, submitting that there is no campaign and the claimant succeeded on one element of her complaint about the decision not to permit her to rescind without taking medical advice.

142. We do not consider that the injury to feelings award should fall within the top Vento band. The claimant succeeded in one part of her claim and in relation to proportionality. There was no campaign or repeated incidents; the success in relation to proportionality shows that the discrimination was not deliberated, targeted or planned. In Vento, the middle band was described as appropriate for serious cases which do not merit award in the highest band and this is the appropriate band for the award to be made within.

143. We do not agree that the Tribunal should decline to follow the Presidential Guidance and assess the bands as of the date of the remedy hearing rather than 2022. We agree the Tribunal has the ability to do so. In this case, we do not consider there to be any such circumstances to depart form the guidance. Unlike in the authorities where such a departure has occurred, there has not been an onerously lengthy period that would make it appropriate to depart from the Presidential Guidance.

144. In deciding the amount of injury to feelings within the middle band (£9,900 to £29,600) we have concluded that the injury is towards the middle of the middle band and is assessed at £20,000 for the following reasons.

145. We accepted Dr Navabi’s expert opinion that the refusal to allow the rescindment of the resignation triggered / directly exacerbated an acute depressive relapse in September 2022 requiring crisis team intervention and an increase to Sertraline to 150mg daily. We also accept that the claimant had experienced significant upset and distress as the loss of her role with the respondent.

146. We balance this with the fact that the claimant was well enough to start looking for work in October 2022 and in December 2022 securing (whilst a lesser paid role) a role that was and is still challenging and rewarding. Apart from a period of one week in January 2024, the claimant has not had any repeat relapses. This does not support an enduring and deep injury to feelings warranting an award in the top band.

147. The claimant has a long standing history of depression and has experienced recurring depressive disorders. This must factor in to assessing the degree of causation for the impact described in the expert

report.

148. Whilst not strictly relevant, as this has been raised by the claimant we consider we should address this point. We do not agree that all the claimant's distress displayed at the liability hearing to be attributable to her reliving the one act of discrimination the respondent has been found liable for. Whilst we did not address this in our liability judgment as we did not consider it to be necessary at that time the Tribunal unanimously agrees that much of the claimant's distress at the previous hearing was triggered when she was recalling how unwell she had been in the months leading up to her resignation specifically her suicidal ideations at that time, the evidence concerning Mr Millard considering he was being bullied by the claimant and being challenged on her evidence under cross examination.

Aggravated damages

149. The aggravating features relied upon the claimant were the failure to seek medical evidence before refusing the rescindment and the failure to disclose the Temp Brass document. Counsel also subsequently asserted it was unreasonable and aggravating conduct to make the accusation that the claimant's behaviour was misconduct, even gross misconduct. On the evidence, and in terms of §192 of the ET liability reasons, the focus should have been on capability / performance, exploring prognosis in an open-minded way. That repeated and frequent use of the label 'bullying', and the accusation thereby being made, did not result in a meltdown similar to January 2024, does not lessen the effect of such labels on injury to feelings.

150. We have no hesitation in rejecting the submission that this claim warrants aggravated damages. Firstly, the discriminatory conduct does not involve aggravating features such as behaviour that could be deemed to be high handed, malicious insulting or oppressive. The respondent was entitled to raise the impact of the claimant's behaviour on her colleagues as part of this remedy hearing even though it was attributable to her disabilities as it was directly relevant to the question of the prospect of the claimant remaining in employment and for how long. The claimant was seeking overall compensation of almost £2,000,000. The Tribunal had clearly indicated in our liability judgment that the impact of the behaviours was one that needed to be explored in remedy.

151. We also rejected above the invitation to attribute the circumstances around the Temp Brass document as aggravating conduct.

152. The discriminatory act is already compensated for with the injury to feelings award.

Approved by:

Employment Judge S Moore

16 September 2025

JUDGMENT SENT TO THE PARTIES ON

16 September 2025

Kacey O'Brien

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. If written reasons are provided they will be placed online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. 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:

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