EMPLOYMENT TRIBUNALS

Claimant: Mrs K Farmer

Respondent: Fresh Cut Video Ltd

Heard at: Bury St Edmunds by CVP **On:** 2 February 2026

Before: Employment Judge McCooey

REPRESENTATION:

Claimant: Mr Okhiria, Consultant
Respondent: Mr Megara, Solicitor

RESERVED REMEDY JUDGMENT

The respondent shall pay the claimant the following sums:

1. For automatic unfair dismissal: Nil. No separate award is made to avoid double recovery

2. For unlawful discrimination on the grounds of pregnancy contrary to section 18 of the Equality Act 2010:

   2.1 Injury to feelings: **£18,000** for injury to feelings (Middle Vento Band);

   2.2 Financial losses: **£32,453.12**

   [Figures used: £478.33 net weekly pay/£1,913.30 net monthly]

   2.2.1 10 months on maternity leave: £8,925.90 (July 2024-April 2025):
   2.2.2 Loss of earnings for 11 months: £20,089.66 (February 2024, 2 x weeks = £956.66), March 2024, April 2024, May 2024, June 2024, May 2025 - October 2025 (£19,133) After October 2025, the discriminatory act ceased to have an effect for the purpose of this calculation.
   Less payment received of £325.23 from NatCen training
   2.2.3 Loss of pension contributions: £54.67 x 11 months = £601.37
   2.2.4 Second Skilled Visa and associated costs: £1,586

2.2.5 Loss of private medical insurance for 21 months: £75.02 x 21 = £1,575.42

Total compensatory award before uplift: £50,453.12

2.3 The respondent unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures 2015 and it is just and equitable to increase the compensatory award payable to the claimant by **15**% in accordance with s 207A Trade Union & Labour Relations (Consolidation) Act 1992). The uplift equates to **£7,567.97. (**For personal injury, £2,700 (£20,700 total) and to financial compensation £4,867.97 (£37,321.09 total))

2.4 The total uplifted compensatory award is therefore **£58,021.09**

2.5 Interest on injury to feelings: **£3,239.41** (8% from EDT/ 714 days on uplifted figure of £20,700)

2.6 Interest on financial loss: **£2,920.25** (Midway point is 10 February 2025, 357 days on uplifted figure of £37,321.09)

2.7 Grossing up of the financial element: **£9,330.27** (20% tax band; £37,321.09 financial losses)

2.8 The total amount due from the respondent to the claimant is: **£73,511.02.**

REASONS

Introduction

3. These reasons follow the order of calculations above. They should be read in conjunction with my short Judgment dated 4 December 2025 and my Written Reasons dated 28 January 2026, which set out my findings on liability following a final hearing on 1-4 December 2025.

Procedure

4. I considered a 730-page bundle; witness statements from Mr Pill; the claimant; and Mr Farmer (the claimant's husband). I also considered an updated schedule of loss and counter schedule of loss from the respondent.

5. Parties agreed that they would rely primarily on submissions, rather than calling their witnesses to be cross-examined, albeit Mr Pill was briefly cross-examined on two limited points, referenced below. Both legal representatives then made helpful submissions.

6. Due to a combination of time and technical difficulties in securing a recording for the final portion of the hearing, I was regrettably unable to hand down an oral judgment on the day.

Law

7. In **Vento v Chief Constable of West Yorkshire Police (No.2) 2003 ICR 318, CA,** Lord Justice Mummery identified three broad bands of compensation:
   i. A top band to be applied only in the most serious cases, such as where there has been a lengthy campaign of discriminatory harassment.
   ii. A middle band for serious cases that do not merit an award in the highest band, and
   iii. A lower band appropriate for less serious cases, such as where the act of discrimination is an isolated or one-off occurrence.

8. The *Vento* band values in effect at the date of the ET1 on 3 May 2024 in this case are:
   i. Lower band of £1,200 to £11,700
   ii. Middle band of £11,700 – £35,200
   iii. Upper band of £35,200 – £58,700

9. In relation to pregnancy discrimination under Section 18 of the Equality Act 2010, the purpose of compensation is to place the claimant, so far as money can, in the position she would have been in but for the unlawful discrimination. There is no statutory cap on discrimination compensation. The Tribunal applies ordinary principles of causation, foreseeability and loss, as set out in the Equality Act 2010 and relevant case law.

10. The case of **Chagger v Abbey National plc [2010] ICR 397 (CA**) confirms a number of principles governing compensation in discrimination claims. The key question is: for how long would the claimant have remained employed but for the discrimination? The Tribunal must make a binary finding on that question; percentage reductions, such as those permitted in Polkey, are not applicable to discrimination compensation.

11. The employer bears the burden of proving the employment would have ended in any event for the purpose of assessing financial losses.

12. Next, the Tribunal must consider mitigation. The claimant must take reasonable steps to mitigate her loss. If she fails to do so, the Tribunal may reduce compensation to the extent appropriate. The burden of showing a failure to mitigate lies on the respondent.

13. The Tribunal must then consider whether there are grounds for an ACAS Code uplift under section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992. An uplift of up to 25% may be made where the respondent unreasonably failed to comply with the ACAS Code in relation to the dismissal.

14. The case of **Slade v Biggs [2021] EA-2019-000687**, the EAT offered a suggested approach to calculating the uplift, if any, for ACAS Code breaches:

    i. Is the case such 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%?
    iii. Does the uplift overlap, or potentially overlap with other general awards, such as injury t 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?
    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?

15. The Tribunal must also consider any claim for pension loss, applying either the contributions-based method or career loss model, if appropriate, with reference to the Presidential Guidance.

16. Interest is then added to past financial loss and to injury to feelings at the statutory rate. Interest is calculated under the Employment Tribunals (Interest) Order 1990.

Submissions

17. The claimant placed her injury to feelings figure at £33,000, at the upper end of the middle Vento band. She sought financial losses over a 30-month period, 10 months of that being for statutory maternity leave. This was based on the 3 year fixed term of the contract and the fact that both parties had invested in the longevity of their working relationship. Her position was that she had mitigated her losses and the full 25% ACAS uplift should apply. The claimant did not pursue her bonuses and sought recovery on the basis of a £27,000 per annum salary. Her net figure was slightly different to the respondent's and ultimately, I accepted hers, as it accorded more closely with my own calculation.

18. The respondent placed the claimant's injury to feelings figure in the lower band at £5000. They argued, further or in the alternative, that i. Polkey applies to the pregnancy discrimination claim and so financial losses should be reduced to nil as the claimant would have been dismissed for data breaches in any event; ii *Chagger* applied in this case for similar reasons and therefore the financial losses should be reduced to nil, as dismissal would have taken place in early February 2024, or in any event less than the period relied on by the claimant. They relied on Dave Young's dismissal in April 2024 as comparative treatment iii. The claimant has not mitigated her losses and her recovery should accordingly be limited to basic pay until April 2024 when she obtained a (voluntary) role with NatCen. ACAS did not apply as events were isolated and the respondent was advised by a professional HR company.

Factual findings

19. The relevant factual findings are in paragraphs 24-158 of my liability judgment.

20. Mr Pill also gave oral evidence at the remedy hearing to say that he would have dismissed the claimant for the data breaches discovered in January 2024. He relied on the dismissal of Dave Young on 24 April 2024 as evidence of a zero-tolerance approach to data breaches. He accepted his HR company did not consider the breach serious or worthy of dismissal but he did not share this view, having greater knowledge of the field. He deferred to them in all other areas.

21. *Visa*: I find it likely that the claimant would have moved to the UK to be with her husband in any event, if not with this respondent, then another, as Mr Farmer had already been living in the UK since 2020 and they were hoping to reunite and start a family together. Applying ordinary principles of causation, I therefore consider the initial visa fees are not attributable to the discriminatory acts; I do however, find the Second Skilled Visa obtained post-dismissal directly attributable to the discriminatory dismissal.

Discussion

Automatic unfair dismissal

22. The claimant did not pursue a basic award and accepted that principles of double recovery applied such that all relevant compensation would be awarded under the pregnancy discrimination claim.

Injury to feelings: £18,000 Middle Vento Band

23. Turning to my assessment of injury to feelings I remind myself that the purpose of such an award is compensatory rather than punitive. I consider that the facts of this matter clearly fall within the middle Vento band in that they are serious, in particular, the discriminatory dismissal. As the four additional acts of unfavourable treatment relate inextricably to dismissal, I did not consider it proportionate to increase the award for each separate act, particularly where the ACAS uplift applied.

24. Pregnancy is a vulnerable time and I accept the claimant experienced a great deal of distress and loss of confidence as a result of the sudden termination of her employment. I accept her evidence that the impact had continuing consequences, not just emotionally and financially, but it adversely affected what should have been a joyous occasion, namely the birth of a first child and first viable pregnancy. Instead, the timing of the dismissal meant that the claimant and Mr Farmer had genuine concerns about the health of their baby in that acute period.

25. No personal injury claim is made nor medical evidence provided to establish that the change in the claimant's personality is permanent, and I am satisfied she will return to equilibrium now that proceedings have concluded.

26. The effects of the dismissal were also exacerbated by the claimant's visa status being made fragile, which created additional emotional and financial pressure, as well as making it harder to find alternative employment.

27. In the respondent's favour, the dismissal was not accompanied by a prior period of undermining, harassment or other forms of hostility because of the pregnancy; it is precisely the lack of transparency and communication to the claimant about any performance concerns that led to the shock of the dismissal. However, it also meant that the discriminatory treatment covered a relatively short space of time between the invite to the probationary meeting and the ultimate dismissal.

Financial losses

28. A key issue was the period of time for which financial losses should be recovered, if any.

29. It is well-established that *Polkey* principles do not apply to discrimination cases and would not reduce any compensation here. The respondent relied on *Chagger* in the alternative.

30. The respondent's primary position was that the claimant would have been dismissed in early February 2024 because of the gravity of the data breaches, in Mr Pill's opinion. The respondent relied on its treatment of Mr Young which it said shows a consistency of approach to this matter.

31. However, the burden of proof falls on the respondent to show that the claimant would have been dismissed in February 2024. There was no contemporaneous evidence to show that Mr Pill was planning to dismiss the claimant solely because of the data breaches. Ultimately, I found that dismissal was not for that reason.

32. Further, Mr Pill said that he discovered Mr Young's data breaches in January 2024, around the same time as the claimant. From the liability evidence, Mr Pill had a greater level of ongoing concern about, and dislike towards, Mr Young than the claimant.

33. It is therefore unconvincing that the claimant would have been dismissed in February 2024 when Mr Young was not dismissed until April 2024. This was explained by Mr Megara as Mr Young being on sick leave at the time. However, the claimant was also on sick leave at the time of her dismissal. There were other complications and key differences about Mr Young's case, about which I had very limited evidence, to adequately compare his treatment to the claimant, particularly on the narrow issue of data breaches.

34. For these reasons, the respondent's *Chagger* argument fails regarding the data breaches.

35. The issue nonetheless remains as to how long the claimant would have been employed with the respondent but for the discrimination.

36. I reject the claimant's argument that by virtue of the contract she would have been employed for 3 years (minus maternity leave), and accordingly, financial losses are attributable to the discrimination for a period of 30 months. The claimant relies on the 3 year fixed term of the contract. Whilst this does indicate an element of longevity, there was a probationary period built into the contract, notwithstanding the fact that parties had worked together prior. Further, the claimant's stance denied the uncertainty and risk inherent in any job and job market.

37. Compensation is not open-ended; there could have been a number of non-discriminatory reasons for the contract coming to an end prior to 2026 and there are likely other wholly understandable reasons for the claimant remaining unemployed presently. These include the high cost of childcare and the stress of re-entering the job market after pregnancy, which she referred to in her witness statement.

38. Looking at the performance and capability concerns, I have found that these were not the reason for dismissal. I consider that any remaining performance concerns would not reasonably have led to the claimant's dismissal prior to her taking maternity leave in July 2024 (so between February to June 2024), nor would she have been reasonably dismissed whilst on maternity leave for 10 months (June 2024 – April 2025); once she returned from maternity leave, I consider her job would have been secure for at least six months thereafter (May 2025 – October 2025).

39. Even if there were residual performance concerns held by the respondent, this six-month period would be the time within which to reasonably address them, bearing in mind the investment both parties made to the role and the fact the claimant was returning from maternity leave.

40. I consider that from November 2025 onwards, the claimant would likely have been in a position re-enter the job market, and her reasons for not doing so cannot be proven to be attributable to the discrimination.

41. I am therefore satisfied the claimant can prove causation for financial losses occurring from her dismissal in February 2024 up to October 2025, but not beyond that point.

Mitigation

42. I consider the claimant to have reasonably mitigated her losses during the period from dismissal to October 2025. The respondent has not discharged its burden in respect of that period of time. Whilst the claimant's job applications have been sporadic, they have not been unreasonably so in the circumstances of her pregnancy and the impact of the dismissal on her personal and financial circumstances.

43. The remaining items, such as private medical insurance and pension contributions, were not directly contested by the respondent.

ACAS uplift

44. I consider it is just and equitable to apply an ACAS uplift in this case. The respondent acted unreasonably in refusing to further reschedule the claimant's probationary/disciplinary meeting notwithstanding her pregnancy-related health concerns and being on sick leave; this also meant she could not be accompanied. Also, by failing to adequately inform her in a timely way of the concerns against her, the respondent made it difficult to meaningfully engage in the process.

45. I consider the dismissal was effectively predetermined based on the evidence at the liability stage (see paras 50-90; 133-155 of my Written Judgment), though I appreciate Mr Pill had no previous experience of such matters and I do bear in mind he obtained professional advice in an effort to get things right.

46. I have not awarded the maximum uplift as sought by the claimant; I must have regard to the overall award and its proportionality, as well as avoiding double recovery. I therefore consider a 15% uplift to be a satisfactory reflection of the additional harm caused by the ACAS Code breaches overall and consider that a higher percentage would create a disproportionate total award, when considering the compensation already awarded for injury to feelings.

Conclusion

47. The compensation owing to the claimant, including interest; the ACAS uplift of 15% and grossing up is £73,511.02.

Approved by:

Employment Judge McCooey

Date: 6 February 2026

Judgment sent to the parties on:
9 February 2026

For the Tribunal:

Note

Public access to employment tribunal decisions
Judgments (apart from judgments under rule 52) and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.