EMPLOYMENT TRIBUNALS

Claimant:	**Miss B Littlewood**	
Respondent:	**Nuffield Health**	
Heard at:	**Cardiff**	**On: 18 and 19 February 2026**
Before:	**Employment Judge S Moore**	
Members:	**Mr C Williams** **Mr A Fryer**	

Representation:
Claimant: In person
Respondent: Mr N Smith (Counsel)

JUDGMENT having been sent to the parties on 16 March 2026 and reasons having been requested by the respondent in accordance with Rule 60 of the Rules of Procedure 2024:

REASONS

1. Judgment on liability was promulgated on 11 August 2025, with written reasons provided on 22 August 2025. The Claimant succeeded in the following complaints:

a) Unauthorised deductions from wages;

b) Holiday pay;

c) Unfair dismissal contrary to s98 and s103A Employment Rights Act;

d) Detriment for making protected disclosures.

2. A preliminary hearing for case management took place on 3 October 2025 and orders were made to progress to the remedy hearing. The Respondent failed to comply with most of those orders and a separate judgment has been issued awarding the Claimant a preparation time order in respect of the Respondent's conduct and failures to comply with case management orders.

3. In respect of the remedy hearing, the Tribunal had two bundles of documents. The Claimant had to prepare an additional bundle for the remedy hearing because the Respondent failed to comply with Tribunal orders and the bundle that was produced very late was missing some of the Claimant's disclosure. We heard evidence from the Claimant only. The Respondent did not call any witnesses.

4. The Claimant prepared a detailed schedule of loss dated 3 October 2025, updated on 31 January 2026. It was 8 pages long and contained records of her working time in respect of the periods of holiday pay that had not been paid.

5. The Respondent had been ordered to file a counter schedule of loss detailed with rationale and calculations no later than 31 October 2025. The importance of this counter schedule had been addressed in the case management orders given the difficulties the Tribunal had in understanding the Respondent's calculations expressed in the liability judgment. This was eventually provided on 26 November 2025.

Findings of fact

6. In the 52 week's preceding the termination, the claimant's annual variable pay was £23,253.36. In addition her annual salary was £2,610.48. The total calculation also needed to include the additional three hours per week she should have been paid @£10.04 per hour = £30.12 x 52 = £1566.24. These amounts total £27,430.08 or £527.50 per week (gross) and £441.73 net.

7. The Claimant received benefits of gym membership, pension and health scheme whilst employed with the respondent. The gym membership benefit covered the claimant plus one. The Claimant produced evidence that the monthly cost for an equivalent membership (the respondent's current fees) amounted to £150 but claimed £145.00 as she had paid £5 per month towards the benefit.

8. The claimant produced evidence for the cost of an equivalent health benefit scheme of £47.31 per month, by way of a quote from Bupa.

9. The respondent's annual pension contribution for 2023 as confirmed in the pension statement from Aviva was £451.09. This was the only head of claim agreed by the Respondent.

10. The Claimant was (constructively) dismissed with effect from 19 September 2023 aged 27 with 8 year's continuous service.

11. Since 11 January 2023 the Claimant had been off sick. Initially she had obtained fit notes from her GP citing work related stress or stress and anxiety and stress and depression. From 23 March 2023 the Claimant avoided obtaining medical certificates further due to the impact this had on her ambitions to join military service. The claimant had been rejected from the army reserves in January 2023 due to her work related stress history.

12. The Claimant joined the Royal Marines Reserves with effect from 20 June 2025 having had to appeal an initial rejection for private reasons not relevant to these proceedings.

13. The Claimant has always had her own self-employed personal training small business with clients outside of her work done with the Respondent. This work was mainly online but the Claimant had the use of a studio which she borrowed from a friend. The claimant paid her friend a fee of £5 or did other voluntary work to assist her friend with her business. She was not paid wages or other monies by her friend in any capacity.

14. The impact of the events that led to her constructive dismissal resulted in the claimant suffering from mental and emotional exhaustion at the point that she terminated her employment and this continued for some time after, impacting on her ability to look for work.

15. The Claimant decided after her dismissal to expand on her personal training business. She particularly wanted to go fully self-employed rather than seek employment. The claimant's evidence, which we accepted was that she felt that being self employed would be a safe space for her given her experiences with the Respondent around payments, variable payments, disciplinary and other management based issues. She did not want to or feel able at this time to return to a corporate gym environment and given what had happened during her employment with the Respondent we find this was a reasonable step to take towards mitigating her loss.

16. The claimant applied for a government based grant to open a small fitness studio in November 2023 and thereafter worked on that project working towards its opening. Between February to April 2024 the claimant worked

on building regulation approval and design compliance. Between May – September 2024 the Claimant oversaw the construction and fit out of the studio. Between September – December 2024 she worked on fire safety and operational licensing compliance. The final grant funds were released in January 2025 and classes commenced along with marketing between February – April 2025.

17. The Claimant did not pursue separate part-time work as the establishment of the studio took all of her efforts. This involved obtaining the grant, opening the premises. The Claimant had referred to being financially supported by her parents. This was not in relation to her parents giving the Claimant any sort of money or income, but in terms of her parents providing her with somewhere to live and feeding the Claimant.

18. A condition of the grant was that as it was intended to lead to a full time salary, the Claimant was not permitted to work elsewhere.

19. In April 2025 or around that time, the Claimant learned that access to the premises was withdrawn. This was not of the Claimant's making but something to do with the landlord and the building. This meant that the use of the studio could not continue. The Respondent submitted that that amounted to a novus actus; an act that broke the chain in causation and as such the Respondent should not be liable for any losses.

20. Around this time in April 2025 the Claimant had filled in an online enquiry for a new gym that was opening in Bridgend. The Claimant had particularly felt able to apply for a salaried role because there would not be the potential for a repeat of the issues she had experienced with withheld payments for training and classes by the Respondent. She was informed that all of the employed roles were no longer available and was offered an opportunity to be self-employed but this required the Claimant to pay the gym £500 per month, presumably for the benefit of using the gym facilities in which to train clients. The Claimant would be expected to recruit these clients. This was not financially viable for the Claimant. She already had her own personal training client base for either online appointments and a studio she could use. It did not make any sense for her to therefore have to pay a corporate entity £500 notwithstanding she had potential to build a client base. That was a significant financial outlay that the Claimant was not in a position to take at that time, particularly given the recent failure of the business.

21. The Claimant, via the Job Centre, came across a retraining opportunity to become a Google IT Support Professional and she enrolled on the course in mid-August 2025. The Claimant was impressed by the adverts for the role within the Job Centre which stated that the qualification could lead to entry level career in IT within 3 to 6 months. She diligently studied for the course

and passed it but was later proved unable to secure roles in IT having discovered that even entry roles were now requiring degree level education.

22. On or around September/October 2025, the Claimant also took steps to explore becoming a self-employed courier for Evri. After enquiries and investigations the Claimant established she had to use her own vehicle for the courier business. At this time the clutch required replacing and the claimant decided courier work was not financially viable or sustainable.

23. Since the order for disclosure which was supposed to have taken place on 14 November 2025, the Claimant has now secured a role, subject to DBS checks, which is a zero hour contract as a sports coach with a Local Authority. This is a promising role which the Claimant believes will develop into more regular hours and the Claimant thinks she will be in a position to match her salary with the Respondent by end of June 2026. Between the effective date of termination, the remedy hearing and then and 1 June 2026 there are 141 weeks.

24. The Respondent had included some job advertisements in the bundle and a print out of vacancies on LinkedIn. None of the documents were dated and there was no other information about the roles as to when the vacancies would have been available. Some of the jobs were in locations which would have required the Claimant to relocate, such as Exeter, Leeds and London. Most of the jobs were also corporate gym based roles which the Claimant has told the Tribunal she did not feel ready or able to return to until recently.

25. We did not have any evidence by way of a witness statement from the Respondent introducing these roles or explaining to the Tribunal what other jobs the Claimant should have applied for or been suitable for.

26. The sums earned via mitigation to the date of the remedy hearing. All verified by the Claimant's tax returns were as follows:

- Tax year 2023 – 2024 - £3427
- Tax year 2024 – 2025 - -£4528 (loss)
- Tax year 2025 – 2026 - £1805.00
- Total - £749.72
- Pay received from Royal Marines - £720.95 gross, £578.95 net.
- Total earnings from date of dismissal to remedy hearing - £1328.67 (net).

Injury to feelings – protected disclosure detriments

Withholding of pay

27. Pay was withheld from the Claimant from June 2022 until the effective date of termination. The Claimant raised a grievance about this in October 2022 and April 2023. See liability judgment.

28. When the Claimant tried to raise the issue, she felt dismissed and blamed. This caused enormous stress, as she was struggling financially and beginning to question her security at work. The Claimant remembers feeling increasingly anxious about speaking up. The environment had become intimidating and unpredictable. She began internalising the stress, suffering sleepless nights, headaches, and a constant sense of dread before each shift. The Claimant found herself rehearsing every conversation in her head, fearful that anything she said might be turned against her.

29. By October 2022, the situation had deteriorated to the point where she could no longer ignore it. Her mental health was suffering, her confidence had dropped, and she felt completely unsupported. She raised a grievance and in that grievance recorded the impact of the withholding of wages (see paragraph 41 of the liability judgment). The ongoing uncertainty and mistreatment was affecting the Claimant's mental health, making her uncomfortable at work and was being subjected to unfair behaviour. At this point the Claimant realised the situation was harming her wellbeing and felt frightened.

30. Following the Tribunal's findings about the failings with both grievances, the Claimant has found these shortcomings deeply painful in particular the circumstances described at paragraph 142 of the liability judgment.

    Allegations made against the claimant which resulted in a final written warning.

31. The Tribunal has been careful to set out evidence about the claimant's injury to feelings in relation to the detriments only where possible. This is because not all of the matters relied upon for the constructive automatic unfair dismissal were relied upon as detriments, but there were a number of overlaying matters which would have impacted on the Claimant's injury to feelings such as the grievance investigation and outcome into both detriments.

32. The findings of the Tribunal reflected behaviour that was deliberate, targeted and sustained over a long period. The mis-treatment was a pattern

of retaliatory conduct lasting over 15 months which progressively eroded the Claimant's wellbeing, professional standing and financial security.

33. The period of sustained withholding of wages caused the Claimant financial hardship and the ongoing grievance and disciplinary processes left her emotionally exhausted, medically unwell and increasingly isolated within the workplace. The Claimant described the impact on her as severe and enduring. She describes a loss of employment of 8 years on which she had built her professional identity and reputation. She felt unheard and disbelieved. The work related stress resulted in her medical rejection from Army Reserve which was a long standing career aspiration and that she experienced ongoing loss of trust, anxiety, disrupted sleep, heightened sensitivity to authority in workplace interactions. This has left a lasting mark on both her mental health and professional confidence.

The Law

34. Section 49 ERA 1996 provides:

49 Remedies

(1) Where an [employment tribunal] finds a complaint [under section 48(1), (1ZA), (1A) or (1B)] well-founded, the tribunal—

(a) shall make a declaration to that effect, and

(b) may make an award of compensation to be paid by the employer to the complainant in respect of the act or failure to act to which the complaint relates.

…..

(2) [Subject to [subsections (5A) and (6)]] The amount of the compensation awarded shall be such as the tribunal considers just and equitable in all the circumstances having regard to—

(a) the infringement to which the complaint relates, and

(b) any loss which is attributable to the act, or failure to act, which infringed the complainant's right.

(3) The loss shall be taken to include—

(a) any expenses reasonably incurred by the complainant in consequence of the act, or failure to act, to which the complaint relates, and

(b) loss of any benefit which he might reasonably be expected to have had but for that act or failure to act.

(4) In ascertaining the loss the tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of England and Wales or (as the case may be) Scotland.

35. Section 123 ERA 1996 provides:

123 Compensatory award

(1) Subject to the provisions of this section and sections 124[, 124A and 126], the amount of the compensatory award shall be such amount as the tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer.

(2) The loss referred to in subsection (1) shall be taken to include—

(a) any expenses reasonably incurred by the complainant in consequence of the dismissal, and

(b) subject to subsection (3), loss of any benefit which he might reasonably be expected to have had but for the dismissal.

……..

(4) In ascertaining the loss referred to in subsection (1) the tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of England and Wales or (as the case may be) Scotland.

36. The statutory cap under S124 is disapplied in claims brought under S103A.

37. 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).

38. **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**).

39. Awards must be purely compensatory and not penal.

40. In **Virgo Fidelis Senior School v Boyle [2004] IRLR 268** the EAT held that a protected disclosure detriments is a form of discrimination and it is appropriate to apply Vento guidelines.

41. Guidance on assessment of compensation in injury to feelings is contained in **Vento v Chief Constable of West Yorkshire Police (No2) [2003] ICR 318.** There are three bands. The top band (£33,700 to 56,200) is for the most serious cases where there has been a lengthy campaign of discriminatory harassment. The middle band (£11,200 to 33,700) is for serious cases that do not merit an award in the highest band. The lower band (£1,100 to 11,200) is for less serious cases such as a one off incident or an isolated occurrence. The Claimant's whistleblowing claim (the second claim 1603104/2025) was presented on 18 December 2023 and as such the bands to be applied are in the sixth addendum to the Presidential Guidance Employment Tribunal Awards for injury to feelings.

42. **Cannock** 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).

43. Aggravated damages can be awarded where aggravating features have increased the impact of the discriminatory act on the Claimant. Underhill P in **Commissioner of Police of the Metropolis v Shaw UKEAT/0125/11/ZT** cites the phrase 'high-handed, malicious, insulting or oppressive' behaviour'. Subsequent conduct such as conducting the trial in an unnecessarily oppressive manner, failing to apologise, or failing to treat the complaint with the requisite seriousness can also give rise to aggravated damages.

44. **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.

45. Mr Smith did not pursue reliance on **Knapton and others v ECC Card and Clothing Ltd [2006] IRLR 756** which the respondent had asserted was authority that as the claimant had not purchased gym membership or health care she could not recover the loss of the benefit.

S207 TULRCA – Acas uplift

46. 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%.

47. 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."

48. It is not proportionate to set out the entirety of the Acas Code of Practice on disciplinary and grievance procedures. The relevant sections are as follows:

49. Employment Tribunals will take the size and resources of an employer into account when deciding on relevant cases.

    Paragraph 4 of the Code provides:

    "whenever a disciplinary or grievance process is being followed it is important to deal with issues fairly. There are a number of elements to this:
    Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
    Employers and employees should act consistently.
    Employers should carry out any necessary investigations, to establish the facts of the case.
    Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
    Employers should allow employees to be accompanied at any formal disciplinary or grievance meeting.
    Employers should allow an employee to appeal against any formal decision made."

50. In summary, the grievance procedure provides that the employer must hold a meeting with the employee to discuss the grievance, allow them to be accompanied, decide on appropriate action and provide the right to appeal.
51. In summary the disciplinary procedure provides that it is important to carry out necessary investigations of potential disciplinary matters without unreasonable delay and establish the facts, the employee should be informed of the disciplinary case to answer in writing. This notification should contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting. It would normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification.

52. Disciplinary meeting should be held without unreasonable delay with the right to be accompanied. At the meeting the employer should explain the complaint against the employee and go through the evidence that has been gathered. The employee should be allowed to set out their case and answer any allegations that have been made. The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. Where an employer or employee intends to call relevant witnesses they should give advance notice that they intend to do this.

53. The employer must the decide on appropriate action and provide the right to appeal.

Conclusions

Mitigation

54. The Respondent's counter schedule of loss submitted that the Claimant should receive no compensatory loss whatsoever. The extent of the reason for this submission was that the Claimant had stated that she had been financially supported by her parents, which allowed her to prioritise both her mental health recovery and long-term efforts to return to work. This was not a reasonable basis on which to make such a submission particularly as no evidence was led on mitigation by the Respondent.

55. The burden of proof is on the Respondent to prove that the Claimant has failed to mitigate her loss. The documents included in the bundle by the Respondent (see paragraph 24) were of little or no assistance. There was no witness called. It was also not an unreasonable step for the Claimant, who had no income, lived with her parents and relied on them for housing

and food, to not consider applying for vacancies in locations such as Leeds, Exeter or London in order to mitigate her loss. The Respondent has wholly failed to discharge the burden of proof.

56. Further and in the alternative, in any event, we do not agree that the Claimant has failed to mitigate her loss for the following reasons:

57. The Claimant has produced significant cogent evidence on the steps that she had taken to mitigate her loss (see paragraphs 12 - 23 above). After her constructive unfair dismissal, it was a reasonable step to pursue and focus on an already established self-employed career in her longstanding profession and passion which was sport and fitness. The Claimant took reasonable steps to obtain funding to open her own gym and comply with grant conditions with the aim of supporting herself in a full time salary. It was, given the Respondent's treatment of the Claimant, reasonable for the Claimant to have developed a level of distrust for corporate gym environment and the possible variations in pay that she would experience if she went back to that environment.

58. After the failure of the gym, the Claimant also took reasonable steps to look for alternative work. She had been vigorously pursuing a career in the military and to her credit was successful by June 2025. She was also applying for other jobs and considering self employed courier work. We also consider that given all the circumstances the efforts to secure and build a self-employed role in her chosen profession that did not succeed, it was a reasonable step to pursue the IT role. The Claimant relied on information from the Job Centre in the advertisement that it could lead to a career level entry in IT. She was not to know, and we do not think she can be criticised for what has happened in respect of those entry jobs with the impact of AI which are now requiring degree level educational standards.

59. As of the remedy hearing the Claimant has secured employment albeit on a zero hours contract and does not pursue loss beyond June 2026.

60. For these reasons and in these circumstances we conclude the Claimant has taken reasonable steps to mitigate her loss and should be awarded loss of earnings and benefits of gym, pension and health scheme until June 2026 which is the date by which, but for the unlawful acts of the Respondent, the Claimant will be back in the same position financially. This is a period of 141 weeks from the effective date of termination.

<u>Intervening acts / chain of causation</u>

61. We do not consider that the closure of the building that housed the Claimant's grant funded studio acted as an intervening act which broke the chain of causation for the following reasons.

62. The Tribunal must in these circumstances use a common sense assessment of facts to decide whether there has been this break in chain of causation and the act must be the sole and effective cause of the loss, such that any prior wrongdoing has been eclipsed. This plainly does not apply in this case.

63. The closure of the premises was beyond the Claimant's control. It is akin to the Claimant losing a job in another type of gym environment and that job came to an end because the business did not succeed. This factor cannot amount to a break in the chain of causation.

Injury to Feelings

64. The Claimant sought an award in the top Vento band. The Respondent asserted the award was middle band. We agree with Mr Smith that the injury to feelings only applies in respect of the detriments. These are set out in paragraphs 157-174 of the liability judgment. The first was, in summary, the deliberate withholding of the wages which pushed the Claimant into significant financial hardship and led to her having to raise multiple issues with the Respondents between the period June 2022 and September 2023 when she resigned. The second detriment was the false or exaggerated / unreasonable allegations made which pushed the Claimant into a disciplinary process resulting in a final written warning.

65. The Tribunal also agrees that the injury to feelings must be assessed having regard to those detriments and they are narrower than the cumulative breaches for the constructive unfair dismissal claim.

66. We do not agree that the Claimant's resilience and robustness should in any way detract from how these matters have impacted on her.

67. See findings of fact in the liability judgment at and also paragraphs 33 - 39 above. The detriments caused a high level of hurt, injured feelings on the part of the Claimant. They were sustained and have aggravating features and the detriments were targeted in a retaliatory manner over a long period. Having regard to the guidance in ***Vento*** we have consider that the appropriate award for the injury to feelings is the top band, placed in the middle of that top band and assess these at £33,700.

ACAS uplift

68. The findings of fact and conclusions regarding both the disciplinary and the grievance procedure are in the liability judgment at paragraphs 41, 62- 87, 89, 136- 142.

69. We agree that the Respondent carried out the "mechanics" of a disciplinary and grievance procedure. In our judgment, we cannot take into account what happened at the investigation meeting as the ACAS Code does not address welfare related matters which were the issues experienced by the Claimant at the investigatory meeting.

70. The Respondent complied with both codes so far as conducting an investigation, arranging grievance and disciplinary hearings, the right to be accompanied and the right to an appeal. As such there has not been a wholescale failure meaning a 25% uplift would not be just and equitable.

71. In our judgment whilst the "mechanics" of the Code were complied with, the spirit of it was not. In particular paragraph 4 of the code described above. We are not conflating Mr Wilcox's false assertion that he had undertaken investigations in the grievance process with a breach in the Code. There were other significant breaches in relation to the requirement to carry out necessary investigations to establish facts as follows:

72. Paragraph 79 of the liability judgment we found that Ms Tracey's investigation failed to properly evaluate the evidence and drew unreasonable conclusions. Paragraph 80 sets out the more minor shortcomings in Mr Crichton's investigations.

73. In relation to the disciplinary process, at paragraph 86 and 87 we set out the findings regarding the failure to properly assess the evidence during the process. We concluded at paragraph 139 "if an employer is going to discipline an employee for breaching a rule or a policy it is reasonable to assume that the said policy is published or communicated to employees" and it had not been. Further we found the allegation that the claimant had used the wrong class rates for financial gain to be "a most perplexing course of conduct and wholly unreasonable".

74. For these reasons we find that it is just and equitable to adjust the compensation by an uplift of 10% to reflect the shortcomings outlined above in compliance with the relevant codes of practice.

Wages and holiday pay claims

75. In paragraph 40 of the liability judgment we set out circumstances regarding a payment made to the Claimant in October 2022. The Respondent had asserted in the Counter Schedule that this payment was a back dated payment for the wages the Claimant was seeking for unpaid classes and

PT sessions from June, July and August 2022 contrary to the findings of the Tribunal. That payment was her normal top up pay for work that she performed in October 2022.

76. The Tribunal has not been assisted by the Respondent during these proceedings in terms of figures and calculations despite given multiple opportunities to set out their figures. The order to provide a breakdown for the December 2022 payment remains in breach with no such breakdown provided. On the other hand the Claimant has provided meticulous cogent pay records and breakdown showing exact calculations. For these reasons we have accepted the Claimant's figures.

77. We accepted that the Respondents position on the SSP calculations that the Claimant had used incorrect rates and therefore make the award on the basis of the calculations the Respondent had provided.

78. In terms of the holiday pay, it was asserted that payments made for holiday in December 2023 should be given credit for the Claimant's holiday pay claim which covered periods in 2021, 2022 and 2023. Again we did not have a breakdown of the calculations from the Respondent. There was evidently some sort of payment for holiday pay in 2023 but in the absence of any calculations from the Respondent we have decided to accept the Claimant's figures which were set out in the Schedule of Loss as well as detailed breakdown calculation accompanying that Schedule of Loss setting out all of the days in which the Claimant had worked, how many hours she had worked, going back as far as 2021 and how she calculated the holiday using the government guidance.

79. The Tribunal acknowledges this is a significant sum of money awarded to the Claimant and that we have performed the exercise of considering and applying a sense of due proportion. We have looked at the individual components of any award and the total to make sure that the total award seems a sensible and just reflection of the chances which have been assessed.

80. The draft interest and grossing up calculations were sent to the parties for comments. No such comments were received.

81. The portion above £30,000 requires to be grossed up in accordance with section 401 of the Income Tax (Earnings and Pensions) Act 2003. Based on the information before the Tribunal, and on the basis that the Claimant has earned £3128.00 in the current tax year using the Welsh tax rates for the tax year 2025/2026, the relevant calculation is as follows:

Tax Band	Rate	Calculation	Tax

Up to £12,570	0%	-	-
£12,571 - £50,270	20%	37700 * 20%	7540
£50,270 - £87,239	40%	36,969 * 40%	14787.60
Total			22327.60

82. The awards that are required to be included for the purpose of grossing up are the basic and compensatory award and injury to feelings and aggravated damages. The total amounts to £117,239.15. The personal allowance is tapered where earnings exceed £100,000.

83. We firstly deduct the tax free threshold of £30,000 from £117,239.15. The sum to be grossed up is £87239.15.

84. The personal allowance is tapered where earnings exceed £100,000. Every £2 earned above £100,000 will reduce the personal allowance by £1 which means the personal allowance is reduced once the employee earns £125,140. However, even adding the claimant's current earnings and the awards made gross for unpaid wages, holiday pay and sick pay, the total comes in under £100,000. For these reasons we do not propose to account for this in the usual way by applying a 60% tax band for an amount above £100,000.

Table of calculations

Award	Amount	Gross or net	Explanation	
Basic award	3428.75			
Compensatory award (wages)	62283.93	Net	141 weeks @ £441.73	
Compensatory award (loss of benefits)	7480.05	Net	141 weeks @ £53.05	
Acas uplift of 10%	6976.40			
Injury to feelings	33,700			
Acas uplift	3370			
Unpaid wages June – August 2022	1798.30	Gross		
Unpaid SSP	2000.29	Gross		
Unpaid holiday pay	4097.52	Gross		

Loss of statutory rights	500			
Grossing up	22327.60			
S38 EA 2002	1055.00	Gross		

Employment Judge S Moore
Dated: 21 April 2026

REASONS SENT TO THE PARTIES ON

23 April 2026

Miriam Drake
FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS