



EMPLOYMENT TRIBUNALS

Claimant: Ms Emma Turner

Respondent: Wemms Education Unlimited Limited

Heard at: London South **On:** 8 May 2026

Before: Employment Judge Sekhon

Representation

Claimant: Ms Turner (In person)

Respondent: Ms Lisa MacPherson and Ms Megan Booth, Chair and Vice Chair of the Board of Trustees.

JUDGMENT

Judgment having been sent to the parties on 21 May 2026 and written reasons having been requested in accordance with rule 60 of the Employment Tribunal Procedure Rules 2024, the written reasons are set out below.

REASONS

Background

1. This case came before me on 8 and 10 December 2025 for a liability hearing and I gave Judgment for the claimant as follows: -

“The claimant’s complaint that she was automatically unfairly constructively dismissed and subjected to detriment for having made protected disclosures (whistleblowing) are well founded and she succeeds in her claim.”

2. I also provided directions for a remedy trial in a Case Management Order dated 10 December 2025 and set out a list of issues that will need to be considered at the next hearing. The remedy hearing was due to take place on 23 February 2026, but this was adjourned and relisted before me. The case was adjourned on 27 April 2026 as the respondent was unable to attend and it was relisted before me to decide how much compensation Ms Turner should receive.

Hearing

3. In advance of this hearing I received an agreed bundle dated 23 February 2026 totalling 65 pages and a supplementary bundle from Ms Turner dated 28 April 2026 enclosing additional emails dated 9 and 14 February 2026 between Ms Turner and Ricky Matherson. These emails confirmed that Ms Turner passed her probation which was for a 6-month period. The bundle included a Schedule of loss prepared by Ms Turner and the respondent’s response to this with their annotated comments.
4. The respondent did not serve an ET3 in time and has been previously informed that although not entitled to defend the claim, the respondent was entitled to notice of that hearing and may take part to the extent permitted by the Employment Judge.
5. I proceeded by clarifying Ms Turner’s claims with her, then obtaining her evidence under oath in which I put to her the written submissions raised by the respondent in response to her Schedule of Loss. I then gave the respondent an opportunity to raise any issues they wished to raise after hearing Ms Turner’s evidence and gave Ms Turner an opportunity to summarise her case at the end of the hearing.

The Law

6. The basic award is set out in Section 119, 122 and 127 of the Employment Rights Act 1996 and compensatory award is set out in Sections 123, 124 Employment Rights Act 1996.
7. The basic award is calculated by reference to a formula using age and length of service but does not apply here as Ms Turner had less than one years’ service and Ms Turner did not claim the basic award in her Schedule of loss.
8. The amount of the compensatory award is such amount as the Tribunal considers just and equitable in all the circumstances, having regard to the loss sustained by the claimant in consequence of the dismissal, in so far as that loss is attributable to action taken by the respondent (section 123(1)).

9. The aim of compensation is that *'as best as money can do it, the [claimant] must be put into the position [she] would have been in but for the unlawful conduct'* (**Ministry of Defence v Cannock and ors** 1994 ICR 918, EAT).
10. Loss can include financial loss and injury to feelings.
11. The Tribunal is guided by principles set out in **Prison Service and others v Johnson** [1997] ICR 275 EAT, the EAT set out the following principles that the Tribunal should consider in making an award for injury to feelings:
 - “(i) Awards for injury to feelings are compensatory. They should be just to both parties. They should compensate fully without punishing the tortfeasor. Feelings of indignation at the tortfeasor's conduct should not be allowed to inflate the award.
 - (ii) Awards should not be too low, as that would diminish respect for the policy of the anti-discrimination legislation. Society has condemned discrimination and awards must ensure that it is seen to be wrong. On the other hand, awards should be restrained, as excessive awards could ... be seen as the way to “untaxed riches.”
 - (iii) Awards should bear some broad general similarity to the range of awards in personal injury cases. We do not think this should be done by reference to any particular type of personal injury award, rather to the whole range of such awards.
 - (iv) In exercising their discretion in assessing a sum, tribunals should remind themselves of the value in everyday life of the sum they have in mind. This may be done by reference to purchasing power or by reference to earnings.
 - (v) Finally, tribunals should bear in mind ... the need for public respect for the level of awards made.”
12. In the same case, the court identified three broad bands of compensation for injury to feelings awards known as the Vento bands. The Presidential Guidance on injury to feelings sets out updated Vento bands: for claims presented on or after 6 April 2024, as this claim was: a lower band of £1,200 to £11,700 (less serious cases); a middle band of £11,700 to £35,200 (cases that do not merit an award in the upper band); and an upper band of £35,200 to £58,700 (the most serious cases), with the most exceptional cases capable of exceeding £58,700.
13. In **Vento v Chief Constable of West Yorkshire Police** (No. 2) [2002] EWCA Civ 1871 the Court of Appeal said that an injury to feelings award, *“encompasses subjective feelings of upset, frustration, worry, anxiety, mental distress, fear, grief, anguish, humiliation, unhappiness, stress and depression”*
14. The Court of Appeal held that the top band should be awarded in the most serious cases such as where there has been a lengthy campaign of discriminatory harassment on the grounds of race or sex. The middle band should be used for serious cases which do not merit an award in the highest band, and the lower band is appropriate for less serious cases, such as where the act of discrimination is an isolated or one-off occurrence. The injury to feelings award is assessed by reference to the injury to the claimant's feelings, not to the nature or seriousness of the respondent's conduct.

15. Interest on awards is provided for in the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. The regulations give the power to award interest on the claimant's losses as part of the compensation for discrimination. Whistleblowing detriment claims are treated under the same compensatory principles as discrimination. For injury to feelings, interest normally runs from the date of the discrimination or in this case, the detriment, to the date of the Judgment calculation (regulation 6(1)(a)) at 8 per cent per annum.
16. Failure to follow the ACAS Code of Practice may result in an adjustment of compensation under Sections 207 and 207A of the Trade Union and Labour Relation (Consolidation) Act 1992 up to a maximum of 25% of the award. Whilst the Code may not be applicable to all dismissals, where the substance of the dismissal falls within the intended remit of the Code (misconduct or capability) and in cases where the employer relies upon the breakdown of mutual trust and confidence (in particular where the employer had initiated disciplinary proceedings relating to conduct prior to the dismissal) the ACAS Code will apply but it may not be appropriate to impose a sanction for failure to comply (see **Hussain -v- Jurys Inns Group Ltd EAT 0283/15 EAT, Phoenix House Ltd -v- Stockman 2017 IC 84, EAT and Lund -v- St Edmund's School, Canterbury 2013 ICR D26**).
17. In any event, the ACAS Code is not a prescriptive list of actions which must be followed in all circumstances. The ACAS guidelines themselves specifically indicate that that the Tribunal may take the size and resources of the employer into account and that it may not be practical for all employers to take all of the steps set out in the Code.
18. Special damages (the award for financial loss), falls into two categories, these being firstly loss to the date of the hearing and future loss, if there is financial loss after the remedy hearing. The latter category involves an element of speculation.
19. In relation to financial loss the claimant is under a duty to mitigate her loss. If the claimant has failed to mitigate her loss, the Tribunal may make deduction from any compensatory award to reflect that failure. The principles relevant to mitigation of loss are set out in paragraph 16 of **Copper Contracting Ltd -v- Lyndsey** [2015] 10 WL UK 609 which provides a list of relevant factors to be taken into consideration as follows
 - 1) The burden of proof is on the employer.
 - 2) The burden of proof is not neutral. If no evidence is offered the employment tribunal does not have to find a failure to mitigate.
 - 3) What has to be proved is that the claimant acted unreasonably.
 - 4) There is a difference between acting reasonably and not acting unreasonably.
 - 5) What is reasonable and unreasonable is a question of fact.
 - 6) The views and wishes of the claimant is one factor to be taken into account, but it is the Tribunal's assessment of reasonableness that counts, not the claimants.
 - 7) The Tribunal should not apply too exacting a standard on the claimant: he or she is the victim.
 - 8) It may have been reasonable for the claimant to have taken a better paid job, that is important evidence but is not in itself sufficient.

Facts

20. The claim form was presented on 27 August 2024 and the appropriate "Vento bands" are those in respect of claims presented on or after 6 April 2024. Ms Turner, the claimant,

was employed as a School Business manager and Clerk to the Trustees by the respondent, Wemms Education Limited from 16 October 2023 until she was resigned on 15 April 2024. Her last day of employment was 1 July 2024 (effective date of termination).

21. The offer letter dated 2 September 2023 from D Murphy set out *'Further to a signed contract and receipt of satisfactory references, I am pleased to offer you the role of School Business Manager (and Clerk to the Trustees) at Wemms Education Centre on a full-time basis. Your salary will be 55K per annum with 28 days holiday (to be taken in agreement with myself) and a pension scheme which is yet to be determined. After completion of the statutory probationary period, your salary will increase to 57K per annum.'*
22. Ms Turner was paid £55,000 per annum and the employer contribution to her pension was £110.07 (gross weekly pay £1,096.15 – net £752.49) and she was given 28 holidays a year.
23. Ms Turner was told that she passed her probation prior to her departure, but she was not paid the increased salary of £57,000 to which she was entitled whilst working her notice period. She did not raise this with the respondent at the time as she did not wish for further arguments.
24. After leaving her employment with the respondent, Ms Turner applied for other jobs and contracted at a firm in August 2024 following which she obtained a permanent position at the same firm on 1 November 2024 at a salary at £50,000 per annum and with 20 days holiday entitlement.
25. She stayed with this firm until September 2025 when she started a new job at an annual income of £70,000. It was not disputed that Ms Turner was without work for a total of 18 weeks (from 1 July 2024 until 1 November 2024) save for monies she received for contracting. There was no issues between the parties that Ms Turner had failed to mitigate her losses by not taking reasonable steps to replace lost earnings following dismissal.
26. At the liability hearing, I found that Ms Turner suffered the following detriments as result of the protected disclosures that she had made: -
 - (a) On 15 January 2024, Ms Turner received a rude and aggressive email from Ms Millard which singled her out.
 - (b) In January 2024, Ms Turner was excluded by Ms Millard at 2 Executive team dinners.
 - (c) There was no investigation, follow up meeting or letter, or substantive contact with Ms Turner from Mr Harvey or the other Trustees to discuss or investigate the issues she raised in the whistleblowing letter of 10 February 2024 until the date of her resignation on 15 April 2024. Her complaints were ignored.
 - (d) Ms Turner was ignored by Mr Harvey (her line manager) after she sent her whistleblowing letter on 10 February 2024.
27. I also found that Ms Turner had no choice but to resign on 15 April 2024 as she had lost all trust and confidence in the respondent. I found that the claimant felt that the things she was raising were matters of public interest and that her belief was reasonable, they were not made for any improper purpose and were made in good faith.

28. Ms Turner confirmed that she was no longer pursuing claims for the annual value of other employment benefits of use of the respondent's facilities of the gym and hydropool as set out in the Schedule of loss at a cost of £500 as she accepted that she did not use these facilities when she was employed by the respondent.
29. Ms Turner no longer wished to pursue her claim for job seeking expenses of £250 or holiday entitlement difference of £752 or for the 3 per cent increase in her annual pay and I have therefore not considered these claims further.

Issues

Unfair Dismissal: basic award

30. Ms Turner is not pursuing a claim for a basic award. She had less than one year's complete service, so no basic award was payable applying the calculation set out in Section 119 /120 ERA.

Unfair Dismissal: compensatory award

31. Ms Turner states that she should have been paid £57,000 as she passed her 6 months' probation. The respondent submits they have no documentary evidence that Ms Turner had passed her probation although they accepted the organisation at the time was in disarray and just because documentation cannot be found does not mean that it does not exist but in any event, Ms Turner resigned before her probation ended but continued to work her notice period. I accept Ms Turner's evidence that she passed probation and in the absence of any documentation from the respondent disputing this and the fact that Ms Turner has supplied an email from Ricky Ricardo Matherson that this was the case. I find that paragraph 25 of the claimant's employment contract and her offer letter of 2 September 2023 sets out that after 6 months and passing probation she would be entitled to £57,000 per annum. I therefore apply the sum of £57,000 as the basis for the annual sum of income for past and future loss in my calculations.

What financial losses has the dismissal / detrimental treatment caused the claimant?

32. Ms Turner is entitled to past loss of earnings from the effective date of termination of her employment to the date of today's hearing.
33. I adopted Ms Turner's calculations for past loss (as set out in her Schedule of Loss at page 2 of the bundle). Accordingly, I allowed 18 weeks at a gross weekly pay of £752.49 (using the annual income sum of £57,000) as £13,544.82. I deducted £4,408 from this as the sum Ms Turner received from consultancy work and I am satisfied from the statement she provided (page 40 bundle) that this is the sum she received. I allow £9,136.82.
34. Ms Turner also claims the difference in her pay of £7,000 (I calculate a net figure of £4,098) from 1 November 2024 until she found a better paying job on 1 September 2025, namely for 10 months. I accept this is reasonable in all the circumstances and award £5,833.00 she claims as a gross figure and award a net figure of £3,415
35. The pension past loss was agreed between the parties at £457.20

36. The claimant claims additional travel costs of £1,000 but has provided me with no meaningful breakdown of how these costs were calculated. I allow a nominal figure of £250 under this head of loss.

Has the claimant taken reasonable steps to replace any lost earnings, for example by looking for another job?

37. I have taken into account the factors referred to in *Copper Contracting Ltd -v- Lyndsey* [2015] 10 WL UK 609 in relation to mitigation of loss and noted that the respondent did not raise that there was a failure to mitigate, provided no evidence of such and there is no corresponding obligation on the claimant to prove that she has mitigated her loss. If no evidence is offered the employment tribunal does not have to find a failure to mitigate.
38. I accept Ms Turner's evidence that she started looking for work in July 2024 and as it was the start of the summer holidays, there were limited roles particularly in schools, to start immediately. She mitigated her loss by working as a consultant and took a permanent job albeit at a reduced salary when this became available in November 2024.
39. Taking into account all the evidence, I am satisfied that Ms Turner made reasonable efforts to apply for and obtain alternative employment, and I am not satisfied that she has failed to mitigate her loss.

Uplift

40. I considered whether Ms Turner's award should be uplifted or reduced. Ms Turner claims the respondent failed to follow their own whistleblowing policy or to respond with the ACAS conciliator and claims an uplift on her award. The respondent denied this.
41. I did not consider, at the liability hearing, that the claimant had caused or contributed to the detrimental treatment by her own actions and that she made the protected disclosures in good faith. I do not find it would be just and equitable to reduce Ms Turner's compensation.
42. I found in my previous Judgment on liability that Ms Turner sent a letter on 10 February 2024 as formal notification reporting her concerns around the governance of Wemms Education Unlimited Ltd in line with the whistleblowing policy.
43. I found that there was no investigation, or discussion with Ms Turner about her letter of 10 February from any of the trustees despite advising her by telephone they would be in touch and acknowledging her letter. The respondent failed to follow any of the procedures in their whistleblowing policy, which would have been a reasonable way of progressing matters and managing Ms Turner's effective grievances. The respondent failed to take any matters in Ms Turner's letter seriously or be prepared to listen to what she had to say. Further contrary to the respondent's assertions, there have been delays in Ms Turner being able to progress her claim because of the failure of the previous Board of Trustees to engage in the ACAS and Tribunal process which included disclosing relevant documentation.

44. I have taken into consideration that the respondent is a small business with a small number of employees and limited HR services. Nevertheless, I find that the respondent failed to comply with the ACAS Code and in all the circumstances, it is just and equitable for a 25% uplift to be applied to the relevant awards and I have done when calculating the compensation payable to Ms Turner .

Loss of statutory employment rights

45. The claimant was employed for a period of approximately 8 months and claims that she had to seek alternative employment and build her rights up again from scratch. This is a discretionary award, and I do not make an award for loss of statutory rights as Ms Turner was far short of the 2 years' service required.

Injury to feelings

46. As set out above at paragraph 26, I have found four separate detriments spanning a 4-month period. This included being excluded and ignored by key employees of the respondent before and after raising serious issues of concern by way of a whistleblowing letter and after a background of an aggressive encounter in January 2024. I find that the impact of this type of conduct can be significant on an individual and such conduct is not appropriate in the workplace.
47. Ms Turner claims beyond the highest Vento band for injury to feelings of £60,700 (with interest and uplift totaling £80,678.82) and I have considered her evidence carefully. I accept Ms Turner's evidence that the detrimental treatment occurred between January and April 2024 and that she found this upsetting, humiliating, stressful, made her feel anxious, exacerbating her previous depression and that as a result she had trouble sleeping. I accept her explanation that she did not report this to her GP as she did not want to be offered anti-depressants as these had not helped her previously.
48. I find her history of mental health difficulties made her more vulnerable to such conduct and it may have had a greater impact than perhaps the same kind of treatment would have had on a less vulnerable individual. However, the respondent must take the claimant as it finds her and her pre-existing vulnerability does not justify reducing her compensation.
49. I find that by July 2024, Ms Turner had removed herself from the respondent's work environment and had no further dealings with the 3 individuals who subjected her to the detriments whilst at work. She also accepted that there were pockets of support from colleagues within her work environment which helped her. Further, Ms Turner was able to obtain gainful employment in August and a full-term position by November 2024 and the medical records she has provided do not support any medical issues/ conditions specifically related to her treatment by the respondent.
50. Ms Turner was able to continue to work and has remained with the same employer since November 2025. However, I accept Ms Turner's evidence that she has suffered ongoing

feelings of distress, loss of confidence and the inability to trust people in her new job as a result.

51. In all of the circumstances, I do not find that Ms Turner's case falls under the most serious cases in the Vento bands. I also accept that this was not a one off event but the situation continued for a period of months and Ms Turner has ongoing feelings of distress.
52. I therefore award the sum of £11,700 which is at the top of the lower vento band.

Preparation time order

53. Ms Turner seeks 26 hours of preparation time for time in November and December 2025 preparing her witness statement, preparing a bundle for the tribunal, corresponding with the respondent who had not received information from the Tribunal due to her failure to submit an ET3 and this was in addition to a previous Subject Access Request that she had made. She then spent 6 hours preparing a schedule of loss and compiling documents for the remedy hearing. Both the respondent and claimant are without legal representation and much of this would usually be a job that the respondent's elected representative would take on.
54. I accept Ms Turner's evidence that she relies on unreasonable conduct by the respondent on seeking this sum and I accept her evidence relating to the delays that the respondent caused by failing to serve an ET3 on time and repeatedly not taking charge of the litigation process and failing to provide her with any relevant disclosable documents to which she was entitled in order to support her claim. I accept Ms Booth and Ms Macpherson's evidence of the difficulties that they have faced since they have taken over the Board with documents and emails having been deleted and being unaware of claims against the respondent. Whilst I believe the respondent is taking full responsibility for the charity as it stands their predecessors are culpable for unreasonable conduct.
55. I allow a total of 25 hours at £45 per hour which totals £1,000 under this head of loss

Other issues

56. Ms Turner has received no state benefits during the period covered by her compensation award as set out on her Schedule of Loss. This will not therefore be subject to recoupment pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996.
57. Ms Turner seeks interest on the relevant sums claimed above and I will apply this at a rate of 8 per cent on the relevant figures
58. The Judgment dated 21 May 2026 sets out the full compensation award and the relevant periods.

Employment Judge Sekhon

Date: 8 June 2026

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.

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