



EMPLOYMENT TRIBUNALS

Claimant: Mr I Wroe

Respondent: Barchester Healthcare Limited

Heard at: Liverpool in chambers

On: 1 June 2026

Before: Employment Judge Aspinall

Judgment on Remedy

The respondent is ordered to pay to the claimant £ 16 686 made up as set out below.

Reasons

Background

1. By a judgment given orally on 2 April 2026 and sent to the parties on 28 April 2026 the claimant's complaints of failure to reasonably adjust, harassment and victimisation succeeded in part. Reasons for that judgment have been provided.
2. The parties agreed to remedy being determined in chambers on the papers. The claimant made written submissions as did the respondent. The respondent provided an additional bundle of documents of 92 pages for remedy. The Tribunal had regard to the original bundle, witness statements and oral evidence and the Schedule of Loss at final hearing and revisions to it in the claimant's written submission on remedy.

Facts relevant to remedy

3. The claimant was employed from 3 December 2019. In early January 2024 he told the respondent of his intention to find alternative employment. On 31 March 2024 he gave notice of resignation. The acts of discrimination complained of related to the rostering for 16-20 March 2024 which he saw before 3 March 2024 and the events of 22 April 2024.
4. The impact of the acts lasted from early March 2024 until mid August 2024 when it was alleviated when the claimant saw the Response Form and no longer felt

under threat of referral to NMC, with a negligible ongoing impact to April 2025.

5. From March 2024 he found the respondent's repeated failures to make adjustments deeply frustrating, degrading and humiliating. He had previously had to chase up on almost every other roster that was published and follow up unanswered emails to get the roster changed so that by March 2024 he was disengaged and stressed. The imposition of excessive workload had lead to him being run down and having to take sick leave. He felt deliberately ignored and humiliated from 12 April 2024 to 22 April 2024.
6. He was angry at the "pretty poor show" remark on 22 April 2024 and felt humiliated. It was clear to him he had not been listened to and his disability was not being taken seriously.
7. The threat of NMC referral based on the accusation that he had left the home unsafe left him dumbfounded and deeply hurt. He felt they were accusatory and calculated remarks made with intent to intimidate and threaten him. He felt personally targeted, vulnerable and anxious from 22 April to 1 July 2024 when he started his new job and he felt worried until mid August. He felt it put his new role and ability to earn his living at risk.
8. He used good clinical techniques from his own expertise as a registered mental nurse to manage his own mental health. He talked about the situation with relevant professionals and family and this helped. He had ongoing feelings of anxiety and anger. He knew that NMC referrals had to be made within 12 months and believed himself to be facing a 12 month risk period from April 2024.
9. He experienced fear that putting in his ET1 might antagonise the respondent into a referral but did not want to lose his right to complain. He experienced increased anxiety around the deadlines for going to ACAS and bringing his claim.
10. He started new employment on 1 July 2024. He was left with an underlying performance anxiety that affected him in his new role so that he was underconfident, did not speak up where he would previously have done and made enquiries, in November 2024, to seek feedback about his performance. He had a small but real ongoing concern that the accusation that he had left the service unsafe would be referred to in future and would affect his career in some way.

Relevant Law

11. Section 124 Equality Act 2010 provides that if a Tribunal finds that an employer has discriminated against an employee it may order the respondent to pay compensation to the claimant.

124 Remedies: general

- (1) This section applies if an employment tribunal finds that there has been a contravention of a provision referred to in section 120(1).
- (2) The tribunal may—

- (a) make a declaration as to the rights of the complainant and the respondent in relation to the matters to which the proceedings relate;
- (b) order the respondent to pay compensation to the complainant;
- (c) make an appropriate recommendation.

Injury to feelings

12. An injury to feelings award is available where a Tribunal has upheld a complaint of discrimination. The award is to compensate the claimant for the anger, distress and upset caused by the discriminatory treatment. It is compensatory not punitive and should be just to both parties. The award should not be too low as that would diminish respect for the anti-discrimination legislation but should not be too high either as suffering discrimination could then be seen as a path to untaxed riches. The award should take into account the value of the money in everyday life. Translating hurt feelings into a financial award is bound to be an artificial exercise. Tribunals must do the best they can on the available material to make a sensible assessment.
13. In Vento v Chief Constable of West Yorkshire Police (no2) 2003 IRLR 102 the Court of Appeal identified three bands of compensation. The bands are designed to ensure a measure of consistency and fairness in the way in which tribunals approach the task of valuing injury to feelings.
14. The top band should be awarded in the most serious cases such as a lengthy campaign of discriminatory harassment. The middle band should be used for serious cases and the lower band is for less serious cases where there might have been isolated or one off acts of discrimination
15. The boundaries of the bands are updated regularly. The relevant bands for this complaint were those in force for claims after 6 April 2023 which were

Lower band £ 1,100- £ 11,200
Middle band £ £11,200 - £ 33,700
Upper band £ 33,700- £ 56,200
16. It is necessary in any award for injury to feelings for the claimant to prove the nature and extent of the injury to feelings. It can include evidence of subjective feelings of upset, frustration, worry, anxiety, mental distress, grief, anguish, humiliation, unhappiness, stress and depression.
17. In Eddie Stobart Limited v Miss Caitlin Graham [2025] EAT 14 Judge Barry Clarke emphasised the importance of evidence of injury. There can be no award if there is no evidence of injury. However, in a discrimination case a claimant will usually suffer some injury to feelings. By its very nature discrimination is upsetting and may cause injury. In London Borough of Hackney v Adams [2003] IRLR 402 the EAT said “such injury may of course be compounded by the particular manner in which the discriminatory conduct itself is made manifest. For example harassment over a lengthy period will plainly result in more considerable distress than a single act of discrimination and should be

compensated for accordingly”.

18. The Tribunal must remember to compensate for the injury suffered not penalise for the manner of discrimination.
19. In Stobart the EAT said that whether the discrimination is overt or not can also be a relevant factor. It may validly be inferred that overt discrimination is more likely to cause distress and humiliation because the victim has understood the motivation at the time to be discriminatory. An asymmetry of power can also be a relevant factor. The burden is on the claimant to show that their feelings have been injured and to what extent. The Tribunal may take into account; the claimant's description of their injury, the duration of the consequences, the effect on past, current and future work, the effect on personal life and quality of life.

Aggravated damages

20. Aggravated damages are available in discrimination cases. The Tribunal has discretion to make an award where an act of discrimination has been done in an exceptionally upsetting way; where there has been “*high handed, malicious, insulting or oppressive behaviour*” Commissioner of Police of the Metropolis v Shaw UK EAT/0125/11/ZT
21. A Tribunal considering an award of aggravated damages must bear in mind the risk of double recovery and ensure the overall award is commensurate with the total amount of suffering caused to the claimant. The Tribunal must make clear *why* the injury to feelings award was insufficient alone to compensate the claimant. This element of award is also compensatory and not punitive. Aggravated damages are an aspect of the injury to feelings award and are awarded only on the basis and to the extent that the aggravating features have increased the impact of the discriminatory act on the claimant and thus the injury to her feelings. Wilson Barca LLP v Shirin [2020] UK EAT /0276/19. The award is compensatory not punitive. Interest can be applied.

Interest

22. The relevant law is set out in Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 SI 1996 /2803. The interest rate to be applied is 8%. A Tribunal may award interest to compensate for the fact that the compensation is awarded after the loss compensated for has been suffered. Interest may be awarded on past financial loss, injury to feelings awards, aggravated and exemplary damages awards. Interest on injury to feelings awards is calculated from the date of the act of discrimination complained of until the date of calculation of the compensation. Interest on aggravated damages is calculated as running from a mid point date between the date of the act of discrimination complained of and the date of calculation.

Submissions

23. The respondent's submissions on financial award

- 23.1 That the amounts claimed had increased from the Schedule of Loss at the final hearing notwithstanding the fact that around half of the complaints failed.
- 23.2 That there was a short period of discrimination found between March and April 2024.
- 23.3 That there was no prolonged campaign but rather the actions of the respondent had been fuelled by the demands of the care sector.
- 23.4 That the impact on the claimant was not proven by medical evidence, there was no medication or other treatment required. The claimant described himself as feeling worn down.
- 23.5 That the threat of referral to NMC was a one off event that had not had a detrimental effect at all as the claimant had replied in terms that he was “happy” to be referred.
- 23.6 That no referral was made and the claimant moved rapidly to new employment. No mention of leaving the service unsafe or of any NMC threat has been or will be made in responding to any reference request.

The claimant's submissions

- 23.7 That the impact on him was sustained, deliberate and calculated that he was under regulatory threat and experienced anxiety and loss of confidence. He sought aggravated damages.
- 23.8 That the award should be in the upper Vento band in the region of £ 39000 plus interest.

Applying the Law to the Facts

Injury to feelings

- 24. The claimant had prepared a witness statement with a section at the back referring specifically to injury to feelings and gave oral evidence about the impact of the discrimination on him. The Tribunal had regard to the claimant's description of the injury, the duration of the consequences, the effect on past, current and future work, the effect on his personal life and quality of life.
- 25. There was no medical evidence produced. The Tribunal accepted his oral evidence that he had experienced impact as set out in the facts above. The Tribunal finds that the claimant experienced injury to feelings from early March 2026 when the claimant was mis-rostered through to 22 April 2024 when he left and then to startign his new job on 1 July 2024 and beyond to mid August 2024 with a negligible ongoing impact to April 2025.
- 26. The events compensated for in injury to feelings are
 - 26.1 Misrostering between 16 -20 March 2024
 - 26.2 Excessive workload on 22 April 2024
 - 26.3 The “pretty poor show” remark on 22 April 2024
- 27. The impact was as set out in the facts above. It was at its worst from early March

to 22 April. It did not require GP intervention, medication or other treatment. The claimant was able to self manage. It was not so bad that the claimant could not take up his new employment on 1 July 2024. The impact was sincerely felt but short lived and not debilitating as the claimant managed well, using his own techniques, and progressed to the new employment on the date he had always planned.

28. The Tribunal awards £5,000. This is low band Vento because of the reality of impact on this claimant.

Aggravated damages

29. The claimant sought aggravated damages. The Tribunal makes an award of aggravated damages for the threat of referral to NMC. This was done to “chill” or intimidate the claimant as a disabled person. It succeeds in harassment and victimisation but the whole impact of the threat is compensated only once here as aggravated damages. The award above is insufficient to compensate the claimant as it relates solely to the events prior to the threat.
30. The claimant experienced anger and then anxiety and distress as a result of this threat. He said he was happy to be investigated. The Tribunal rejects the respondent’s submission that this meant there was no injury. The Tribunal saw the exchange of correspondence and read this to be the claimant refusing to submit to the heavy handedness of the respondent. He was putting a brave front on his response, seeking to minimise the asymmetry of power at play. In reality the threat opened old wounds for him as someone who had been investigated (wrongly, and wholly exonerated) in the past and had found the process of investigation stressful. He was worried about a referral and the process and its effect on his new role. He had feelings of uncertainty and loss of control.
31. He was considering not bringing his claim in case that antagonised the respondent into pursuing its threat.
32. This was heavy handed conduct by the respondent done to oppress the claimant. He had worry about the threat from 22 April 2023 until August 2024. It hung over him for four months. This was sufficiently serious worry to cause him to consider not exercising his right to access justice. In November 2024 it was affecting his confidence and caused him to seek reassurance about his performance in his new role. It continued to have a minor, negligible, effect on him until the year limitation time for complaints had passed in April 2025
33. The Tribunal awards £10 000 aggravated damages. The email exchange referred to in the facts, about the claimant “playing a disability card” and the chronology of the NMC threat coming after the HR person is aware of disabled status and then the threat not being actioned once the claimant was on notice, spoke to the high handed and oppressive nature of this act of harassment and victimisation and its impact, on the claimant. The injury was at its highest between April and July 2024, subsiding in August 2024 and remaining a niggly worry with negligible effect to April 2025. £ 10 000 is proportionate to the injury suffered by the claimant as a result of this aggravated act and signals the

seriousness of anti-discrimination legislation.

34. The total award for injury to feelings is £ 15 000. It has been apportioned £ 5000 and £ 10000 to reflect the reality of the evidence of impact.

Interest

35. The Tribunal awards the claimant interest on injury to feelings as follows:

Injury to feelings award £ 5 000
Date of discrimination 22 April 2024
Calculation date 1 June 2026
Interest rate 8%
Number of days $365 + 365 + 40 \text{ days} = 770 \text{ days}$
Interest = $770 \text{ days} \times 0.08 \times 1/365 \times £ 5000 = £ 843.00$

Aggravated damages £ 10 000
Mid point date 385 days
Interest = $385 \times 0.08 \times 1/365 \times £ 10 000 = £ 843.00$

Overall award

36. The Tribunal had regard to the amount of the injury to feelings award and the aggravated damages element of it. The Tribunal had regard to the total amount awarded including interest, $£ 5000 + £ 843 + £ 10 000 + £ 843 = £ 16 686$ and considered in the context of the discriminatory treatment experienced by the claimant, its impact on him, his length of service and his ability to take up new work in July 2024, that the total sum awarded is an amount that is restrained. There is limited evidence of injury to feelings, only the claimant's oral evidence, but the Tribunal recognises that this was discrimination and considers this award proportionate to the real value of the award in everyday life and high enough to command respect in society for anti-discrimination legislation.

Recommendations

37. The Tribunal declines to make recommendations because the claimant has not established any adverse effect on him. He no longer works for the respondent so a Passport or Manager Training recommendation cannot assist him. He has gone on to sustain new employment, will have a reference from that employer and the respondent has submitted to the Tribunal that it did not refer him to NMC and that if asked to provide a reference it will provide factual references only. The Tribunal finds there is no adverse effect on him for any recommendation to alleviate. He has his worry that the respondent may repeat its accusation that he left the service unsafe. The Tribunal notes that Reasons in this case and this Remedy Judgment will now be a matter of public record and will themselves speak as to the claimant's actions and motivation on 22 April 2024 and as to where responsibility lay for meeting its statutory obligations for reasonable adjustments and the adequate and safe staffing of the respondent's home.

Employment Judge Aspinall

Date 1 June 2026

RESERVED JUDGMENT & REASONS SENT TO THE PARTIES ON

1 July 2026

FOR EMPLOYMENT TRIBUNALS



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **6004086/2024**

Name of case: **Mr I Wroe** v **Barchester Healthcare Ltd**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party to proceedings to pay a sum of money to another party, apart from sums representing costs or expenses.

No interest is payable if the sum is paid in full within 14 days after the date the Tribunal sent the written record of the decision to the parties. The date the Tribunal sent the written record of the decision to the parties is called **the relevant decision day**.

Interest starts to accrue from the day immediately after the relevant decision day. That is called **the calculation day**.

The rate of interest payable is the rate specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as **the stipulated rate of interest**.

The Secretary of the Tribunal is required to give you notice of **the relevant decision day**, **the calculation day**, and **the stipulated rate of interest** in your case. They are as follows:

the relevant decision day in this case is: 1 July 2026

the calculation day in this case is: 2 July 2026

the stipulated rate of interest is: 8% per annum.

For the Employment Tribunal Office