



EMPLOYMENT TRIBUNALS

Claimant: Mr R Wickham

Respondents: The Commissioners for His Majesty's Revenue and Customs (R1)
J Rockett (R2)

Heard at: Cardiff **On:** 15 and 16 April 2026

Before: Employment Judge S Moore
Mrs M Walters
Mrs M Humphries

Representation

Claimant: In person
Respondent: Mr McLean, Counsel

INTERIM RESERVED JUDGMENT

1. The Tribunal makes the following recommendations:
 - a) The first respondent shall expunge the written warning and training sanction set out in the letter dated 10 January 2022 from the claimant's employment records;
 - b) The first respondent shall expunge the claimant's sickness absences from 4 August 2021 to the end of his employment from the claimant's employment records with the first respondent;
 - c) A formal note is placed on the claimant's file that he was subjected to unlawful disability discrimination and victimisation;
 - d) A copy of the liability judgment, preparation time order and this remedy judgment is sent to the current First Permanent Secretary and Chief Executive of HM Revenue and Customs within 14 days of the judgment being sent to the parties. Within 14 days a formal acknowledgement of receipt shall be sent to Judge Moore at Wales Employment Tribunal, copied to the claimant. Within 28 days of the judgment being sent to the parties the first respondent shall set out a process to review the Judgment on liability and report on that review to the claimant and the Tribunal within 35 days thereafter.

2. The first and second respondent are jointly and severally liable and shall pay the claimant the following sums:
- a. Compensation for past financial losses¹: **£77,193.34**
 - b. Interest on compensation for past financial losses calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996: **£16684**
 - c. Compensation for injury to feelings: **£42,000**
 - d. Interest on compensation for injury to feelings calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996: **£19,200**
- Total: **£155,077.34**

The following heads of loss are reserved until the Tribunal receives further advice from the medical expert:

- a. Compensation for personal injury;
- b. Compensation for future financial losses including past and future pension loss;
- c. Grossing up.

REASONS

Background and Introduction

1. The judgment on liability was promulgated on 12 March 2025. This judgment on remedy should be read in conjunction with the liability judgment and also the Preparation Time Order made in favour of the claimant promulgated on 27 February 2026.
2. The agreed list of issues for the remedy hearing are attached to this judgment.
3. Two previous hearings listed to determine remedy were postponed, the latter as the expert report was not ready. Orders were made for additional evidence as the existing witness statement for the claimant did not have enough information about what had happened since the discriminatory acts and also the likelihood chance he would have passed his training but for the discriminatory acts. The respondent had not adduced any witness evidence and were given a further opportunity to do so for the next hearing. The respondents chose not to adduce any evidence.
4. The hearing took place over two days in person at Cardiff. There was a

¹ Excluding pass pension loss

bundle of 537 pages. The Tribunal heard evidence from the claimant. The respondents did not call any witnesses and no one attended from the respondents save their counsel.

5. The decision was reserved. The Tribunal was unable to reach a decision on future loss without further expert medical advice. The issue of future loss is reserved.

The claims

6. The Tribunal found in the claimant's favour in respect of the following claims:

Failure to make reasonable adjustments:

7. The Tribunal found the respondent failed to take the following reasonable steps that would have alleviated the substantial disadvantage of the PCP's:
 - a) Acknowledging the claimant's poor mental health during the TAP;
 - b) Giving the claimant fewer tasks to undertake during the TAP / Giving the Claimant a longer period to complete any tasks given during the TAP / Returning to the Claimant his PTW folder for a 'second-chance'
 - c) Ensuring that policy on PTW and TAP in terms of assessments, reviews and welfare checks and meetings on performance were undertaken / Holding additional meetings with the Claimant
 - d) Not terminating the TAP at the date it was terminated as it was premature and further adjustments should have been made prior to making this decision.
 - e) Ensuring the Claimant understood that his TAP was terminated before, during or after 30 June 2021 review meeting / Giving the Claimant explicit direction to avoid ambiguity on what was required of him/ Seeking confirmation from Claimant that any direction given was understood, with explicit confirmation being sought (through email, text phone call or meeting) that the Claimant did in fact understand direction.

8. Disability related harassment

- a) The Second respondent accused the Claimant of lying about his mental health (in particular, but not limited to, in the Second respondent's response to Claimant's grievance that he was a liar and dishonest);
- b) The Second respondent told others that she considered that the Claimant was lying about his mental health in particular to: Lee Timmins and Alex Barnett by way of email on or around 13 August 2021; Vanessa Barty, by way of the same email forwarded to her;
- c) On 16 August 2021, the Second respondent alleged the Claimant falsified paperwork on commencement of TAP;
- d) The Second respondent dismissed and minimised the Claimant's mental health concerns and refused to acknowledge the symptoms of Claimant's poor mental health, particularly in the latter stages of the TAP process;
- e) When conducting the final review meeting on 3 August 2021, the Second respondent ignored the Claimant's poor mental health, was patronising and condescending, suggesting that the Claimant had lied about his mental

- health;
- f) Terminate the Claimant's TAP;
 - g) The Respondents attempted to 'dig the dirt' on the Claimant to undermine his credibility, integrity and attempt to incriminate the Claimant.

9. Victimisation Detriments:

- a) The Second respondent raised a formal complaint/allegation about the Claimant;
- b) The second respondent subsequently elaborated on that complaint / allegation and pursued dismissal of the Claimant;
- c) Disciplined the Claimant for using foul language;
- d) Inappropriately considered allegations against the Claimant of using foul language to be allegations of Gross Misconduct;
- e) The Respondents attempted to 'dig the dirt' on the Claimant to undermine his credibility, integrity and attempt to incriminate the Claimant;
- f) Removed the Claimant's access to systems, reduce his access to folders and restrict the Claimant from meaningful work citing the Claimant's 'State of Mind'.

Findings of fact

10. The claimant's salary and allowances with the respondent as of August 2021 and earnings from his second job as a licenced door supervisor² were as follows:

Employment	Gross pay	Gross Flexibility payment	Net pay inc allowance where applicable	Net allowance loss where applicable
Respondent as of 4.8.21 – 31.5.22	26816 annual 2234.67 monthly	10,100 annual 841.66 monthly	2293.85 monthly 529.30 ³ weekly	
Doorman as of date of leaving in late 2023	6234.19 annual 148.43 weekly C also seeks loss for reapplying for licence £400		Net weekly pay £99.91	
Respondent during period of allowance adjustment between November 2021 – 2022	2234.67 monthly	785.80 monthly	2263.07 monthly 522.23 weekly Net loss of 7.07	
Respondent	28130 annual		1828 monthly	(529.30 –

² Calculated from the 2023 earnings taken from his P45

³ Total net monthly pay including the allowance was 2293.65 x 12 / 52 = 529.30

from 1.6.22 – 30.9.23 ⁴	2344.17 monthly		421.85 weekly	421.85 = 107.45 * 4.9% (pay rise) = total net weekly loss of 112.72
Respondent 1 October 2023 – 31 March 2024	29632 annual 2469.33 monthly 569.85 weekly		1925 monthly 444 weekly	112.72

11. The claimant failed his TAP training programme on 4 August 2021. This was a failure to make a reasonable adjustment. The claimant was placed on special leave then annual leave in August 2021 and by September 2021 he was placed for redeployment. The claimant's access to all systems was removed and he was restricted to work on relativity only. At some point in September 2021 he was transferred to a different team to be managed by Ms Cradle and then Ms Bass.
12. On 22 November 2021 the claimant's flexibility allowance ceased and a reduced amount came into effect. See table above. This was called a period of adjustment and was to be paid for 12 months. In November 2022 the final amount was paid in the sum of £576.25.
13. From 1 April 2024 the claimant began new employment with DWP. The claimant has remained a Grade O employee with pay dictated by set grades and had the agreed annual pay rises applied to his salary. We do not have the claimant's pay slips from his DWP employment or any evidence about actual pay awards since 1 April 2024. We have therefore had to calculate loss to the date of the remedy hearing based on the basis gross salary as at 1.10.23 as this is the last pay slip figure available to the Tribunal.

Claim relating to driving instructor course fees

14. The claimant seeks recovery of course fees from a contract he entered into in October 2021 in the sum of £2599.00. The claimant's evidence which we accepted and was not challenged was he was unable to learn the modules due to his worsening mental health and then lost his driving licence. The claimant intended to retrain as an Advanced Driving Instructor so he could leave his employment with the respondent.

Referral to Occupational Health

15. On 27 January 2022 the claimant saw occupational health. By this time he had received the final written warning, another discriminatory act. They reported that he had been recently diagnosed with depression. The claimant

⁴ We do not know why the salary stayed the same for this period and there was annual no pay rise

had had a relapse and his mental health has deteriorated again. He was described as *“struggling with his depression as he found it difficult to focus at times during our consult. He was also teary and distressed during the assessment.”* The advice was in the past the claimant may have returned to work too soon as he was concerned about his pay. *“Consequently, his mental health may have manifested in the workplace as negative behavior and resistance. It may be worth considering Richard for health-related special leave in order to remove the pressure to present to work when he is actually not well enough to be at work. This is known as presentism. This would also prevent any unnecessary grievances in the future. Please bear in mind when making your decision that antidepressant medication can have all sorts of side-effects including tiredness, irritability, and lack of focus. Changing medications and doses can magnify these side-effects.”*

16. Following this the claimant was signed off for three weeks. The claimant had chased Ms Cradle and Ms Bass for a further three months as to whether he could qualify for the special leave. He was eventually awarded 5 days out of the two months he had applied for.

Transfer to a further team

17. On 21 February 2022 the claimant was transferred into a different team managed by Mr Kelly. He asked for the restrictions on the claimant's access to systems to be lifted and Ms Noone agreed to this on 7 March 2022. There followed a period of stability and by June 2022 Mr Kelly confirmed that the claimant's move to the team would be permanent. On 1 July 2022 there was a preliminary hearing for the Tribunal claim that had been lodged. On 5 July 2022 the claimant was informed he was being moved again to another team most of whom, including the line manager were based in Bristol. This led to the claimant being isolated. It is recorded that this was because of the employment tribunal claim. This decision was taken by Ms Noone. This led to a deterioration in the claimant's mental health and he was signed off sick again from 1 August 2022 for 28 days. The claimant wanted to bring a further complaint of victimisation about this act but was too unwell to do so.

Occupational Health referral 5 September 2022

18. By this time the claimant was being managed by a Mr Moore who had referred him back to occupational health. The claimant had returned the previous week on a phased return and was undertaking training for the new role. The advice was that he was not fit for work. The above advice was repeated and health related special leave mentioned as the claimant was by this point using annual leave instead of sick leave having gone down to half pay. The grievance and moving team were attributed to the maintenance of mental health problems and the prognosis for a successful return to work described as guarded.

Sickness absences

19. Apart from the period 7-18 February 2022 when he was paid half pay, the claimant has been paid full pay when off sick. The amount claimed, not challenged for the loss of pay for this period is £986.16.

20. The claimant also used a significant amount of holiday to avoid his pay being reduced to half pay. This was not subject to challenge and we accept the evidence. The dates and loss are as follows:

A - Post Trade Union Agreed Pay Increase Rate [@£15.34ph]:

1st September 2023 – 08th September 2023: 44.40 Hours

B - Post PACR Rate [@£14.57ph]:

30th May 2023 – 02nd June 2023: 29.60 Hours
14th November 2022 – 18th November 2022: 37.00 Hours
31st October 2022 – 04th November 2022: 37.00 Hours
24th October 2022 – 29th October 2022: 37.00 Hours
11th October 2022 – 12th October 2022: 14.80 Hours
18th July 2022 – 22nd July 2022: 37.00 Hours

C - Pre-PACR Rate [@ £13.88ph]:

14th April 2022 – 22nd April 2022: 37.00 Hours
7th March 2022 – 08th March 2022: 14.80 Hours
14th October 2021 – 24th October 2021: 51.80 Hours
11th October 2021 – 13th October 2021: 22.20 Hours
31st August 2021 – 03rd September 2021: 29.60 Hours

Total Holiday Loss [Hours]:

A – 44.40 Hours
B – 192.40 Hours
C – 155.40 Hours
Total: 392 Hours

Total Holiday Loss [Money]

A – 44.40 x £15.34 = £681.10
B – 192.40 x £14.57 = £2803.27
C – 155.40 x £13.88 = £2156.95

Total Annual Leave Loss:

5641.22 (gross).

Pension loss

21. The claimant has claimed varying percentage figures for pension loss. It is not clear how these have been calculated although it appears he has mistakenly claimed for the employee contribution rate of 5.45% rather than the employer contributions.

22. The parties have not provided the Tribunal with any documents as to what the employer contribution rates are but they are a matter of public record. For the period 1 April 2019 to 31 March 2024 the employer contribution rate was 28.97%.

23. We are unable to determine pension loss at this stage as it requires a

calculation for the whole period including future loss.

Change in employer 1 April 2024

24. The first respondent placed the claimant on a PIP and he continued to pursue his grievance against Ms Rockett the outcome of which was not provided until January 2024. The claimant had previously applied for a work coach role within DWP and was contacted and a role offered. He currently remains employed but is on a final written warning for his sickness absence. He commenced in this role on 1 April 2024. For reasons that are unclear, but are not challenged, the claimant's sick record whilst employed at the first respondent transferred to his employment with DWP which has resulted in a reduced absence trigger period. The claimant has been placed in a redeployment pool due to his sickness absence and has had four panic attacks at work due to his mental health problems. His future is uncertain and if a role becomes available the claimant is not able to choose where he will be based or in which role.

Loss of second job as licenced door supervisor

25. The claimant has worked in the above job for over 25 years continuously. After the claimant developed Syncope he lost his driving licence on 17 October 2024. The claimant lives in a Valleys town and given the late nature of the work and locations the Tribunal accepts that it would not be possible to continue in this role due to the lack of public transport. In addition, the claimant would be unlikely to be fit to work in such a role anyway whilst experiencing Syncope. For these reasons, given the medical expert advice (see below) we find the respondents are liable for the loss of second employment. If the claimant regains his driving licence he will have to reapply for his security licence at a cost of £400.00. This process will not be concluded until the Tribunal has received the further requested expert advice and reconvened to reach a decision on future prognosis which is likely to be by the end of October 2026. We award the claimant the loss of income to the date of the remedy hearing and the cost of applying for the licence. Future loss is reserved.

Findings as to chance the claimant would have failed his TAP but for the discriminatory acts

26. At paragraph 362 of the liability judgment we stated as follows:

In our judgment it would have been a reasonable step to not terminate the TAP at the date it was terminated as it was premature and further adjustments should have been made prior to making this decision. We are not concluding it could never have been terminated. That will be a question for remedy albeit we have made findings above based on what Mr Lees concluded.

27. At paragraph 261 we made the following findings about the potential TAP failure:

Mr Lees set out his conclusions in a detailed accompany document. It is too lengthy to set out here but we set out the key findings below. We firstly

address his conclusions about the TAP failure as this is important in respect of remedy. Mr Lees concluded that the Claimant did not fail on behaviours alone and whilst this was a major part there were other units that had not been completed as highlighted by Ms Walker. He stated that had the Claimant had consideration to his wellbeing and proper help and support then a different outcome may have been achieved. He supported the view that the Claimant had difficulty in accepting feedback

28. We attach weight to Mr Lees' conclusions that had the claimant had consideration to his well being and proper help and support then a different outcome may have been achieved. Mr Lees was well placed and qualified to make the above assessment. We also take into account the conclusions we reached in the liability judgment about the significant and extensive failings by the respondent to follow their own procedures for the training programme (see paragraphs 329 – 367) and failures to make reasonable adjustment including negatively labelling disability related behaviours. See also paragraph 66 as to what Mr Barnett had concluded by March 2021 namely that the main areas of concern were time and task management and being proactive. The respondent had the opportunity to adduce evidence about this issue but chose not to.
29. In our judgment but for the discriminatory acts we find the claimant would have passed the TAP and become a certified officer by 31 July 2022 achieving a salary of Basic Higher Officer pay of £36,985.00 (gross). The reason we have settled on this date is due to the number of units already passed by the claimant and further that is the date the respondent applied to trainees in the same position as the claimant when they extended the TAP period (see paragraph 271 of the liability judgment). We also take into account that the claimant would have had far greater opportunity between the summer of 2021 – 2022 as the courts opened and the criminal justice system started to get back on track, to gain experience in the units the claimant failed on, upheld by Ms Walker upheld on appeal. These were unit 2 disclosure, unit 4 court procedures, unit 5 RIPA, unit 6 notetaking.

Other factors relevant to a counter factual scenario

30. The claimant told the Tribunal he would have remained in the employment of the respondent until retirement age of 66. He explained he was born in Wales and grew up here until he was 16. His family live in South Wales. After a period in the armed forces, the claimant was a prison officer. He always wanted to return to South Wales and when the role with the respondent came up he saw a chance to be able to move back. He relocated from Norwich back to South Wales in 2018 and around this time got divorced. The job with the first respondent fulfilled his ambition to start a career with the first respondent. The claimant considered this would be a life long career and wanted to work in a role fighting crime. After his divorce he started a new relationship and subsequently lived with his then partner and step children, who he considers and treats as his own children, in South Wales.

Injury to feelings

31. The claimant's evidence about the injury to his feelings, which we accepted, was as follows. He describes having "greatly suffered" and has been affected by feelings of isolation, insomnia, lack of concentration and motivation, personal care. His deteriorating mental health led to unhealthy lifestyle choices with food and alcohol, weight gain and he was unable to complete his house renovations for a period of 11 months and his house became unkempt. His injury to feelings also affected his personal relationships and friendship groups, withdrawing from his social circle. He lost enjoyment of his usual activities such as attending the gym, running and walking. He now experiences panic attacks which are degrading and demeaning and have affected his dignity. He felt scoffed at and ridiculed, exacerbated by the denial of proper processes during the grievance and disciplinary procedures. The claimant felt defamed by false allegations (lying about his mental health), ostracized, and was given lack of meaningful work defamed and open to rumours.
32. The medical report stated that the claimant at times had suicidal thoughts of a serious nature.
33. The imbalance of power from the behaviours and collusion of the senior managers increased the impact of the treatment on the claimant as it gave the discriminatory treatment a sense of legitimacy and authority. Due to the period of the treatment the impact on the claimant accumulated over time. The impact of the discrimination on the claimant has been profound. We deal with this further below under the medical evidence but in terms of the injury to feelings it has had the most serious effects on his work and personal life. His relationship has broken down due to his focus on the Tribunal proceedings and he has lost his step children.
34. The claimant was particularly impacted by the abuse of authority and process and referenced that the second respondent was found by Mr Lees to have acted in with malice. The claimant had his special category data about his disability and mental health widely shared without permission. He was repeatedly accused of dishonestly and lying about his disability. He describes feelings of extreme humiliation degradation and distress. The lack of any meaningful acknowledge, apology or remediation by either respondent has prolonged the impact on the claimant.

Acas uplift

35. The Tribunal has already made findings about failures to comply with the disciplinary and grievance codes of practice as follows:
- a) The claimant's grievance was initiated on 29 October 2021. He did not receive an outcome until 5 January 2024 a delay of 26 months;
 - b) The first respondent then resiled from the outcome of their own grievance investigation at the Tribunal hearing;

- c) The disciplinary was an act of victimisation;
- d) Mr Pidduck reached a provisional decision before he disciplinary hearing and excluded relevant evidence (see paragraph 233);
- e) Mr Pidduck found the claimant had lied about relativity whereas this allegation had not been put to the claimant properly;
- f) Mr Pidduck did not reach a reasonable or fair conclusion that the claimant had not lied by the slimmest of margins and reached the conclusion on a different allegation than had been put to the claimant (see paragraph 238).

Medical evidence

36. The parties had jointly instructed an expert who prepared a report for the Tribunal.

37. The claimant seeks damages for personal injury as follows:

- a) Exacerbated depression and anxiety;
- b) Diabetes;
- c) Severe obstructive sleep apnoea;
- d) Restless Leg Syndrome;
- e) Non-Alcoholic Fatty Liver Disease and Non-Alcoholic Steatohepatitis. [NAFLD and NASH].
- f) Hypertension.
- g) Syncope.
- h) Prolonged Duress Stress Disorder (PDSD)

38. We refer to paragraphs 32 – 36 of the liability judgment which sets out the claimant's pre existing history regarding his mental health prior to starting employment with the first respondent. Further paragraphs 73 – 79, 82, 85 - 87, 90, 239 set out how his mental health deteriorated during 2020 – 2021 due to the Covid lockdowns which curtailed his ability to manage his mental health issues holistically resulting in a relapse requiring a prescription of Sertraline. According to the occupational health report dated 21 April 2021 this was having "some effect" and there were no other relevant health issues identified at that time.

39. The medical expert instructed was Dr Zouras who is a physician in general medicine, Endocrinology and Diabetes. His report was dated 21 January 2026. It complies fully with the duties to the Tribunal. The claimant wanted to ask follow up questions about other medical issues which the respondent did not agree as part of the joint instruction and this was not pursued. The respondent did not ask any follow up questions or call the expert. Unfortunately, the report did not have enough expert advice on future

prognosis to enable the Tribunal to reach a decision on future loss and that has been reserved pending questions from the Tribunal to the expert.

40. It was put to the claimant that other factors in his personal life such as a bereavement and divorce could have contributed to his physical and mental condition. The claimant disputed this by explaining that these had happened long before the discriminatory acts at a time he had coped with applying and securing the role with the respondent and relocating and moving house back to South Wales. There was no evidence before us that the claimant could have developed his current physical conditions due to these other factors.

41. Dr Zouros reports that *"we can assume that the moderate to significant deterioration of his mental health was related to his work environment." The type 2 diabetes mellulitis "is directly linked to the lifestyle changes as he became obese started consuming large amounts of alcohol, became inactive and was diagnosed with sleep apnoea... and he was not known to be diabetic before."*

42. Both the sleep apnoea and restless leg syndrome are attributed to a number of potential causes one of which is diabetes. In relation to the MASH, he reports the claimant's liver function was previously normal with the cause being obesity and diabetes. Dr Zouros states *"it is highly unlikely that his MASH was pre-existing and most definitely developed during the period that his metabolic function deteriorated."*

43. In relation to hypertension this is also diagnosed after his employment with the first respondent and states *"it does not appear that he suffered previously from hypertension"*. The causation is described in summary as a combination of genetic predisposition and environmental factors particularly those linked to metabolic dysfunction. He states, *"his new diagnosis of hypertension was linked to the negative effects of the metabolic dysfunction during his employment period"*.

44. Syncope – Dr Zouros says that he developed this whilst on treatment with gliclazide. He states:

Although it is difficult to ascertain whether this was the cause of the syncope episodes the claimant stated that after stopping the medication he has not had any more episodes. He stated that he had at least 4 episodes that he could remember during a 4 week period. He mentioned that his blood glucose levels were within the normal range when checked and they happened very suddenly therefore they do not resemble hypoglycaemia-induced syncope episodes which are perhaps the most common cause (page 292). It might be related to a rapid improvement in his glycaemic control, sometimes triggered by starting medication like gliclazide, that can lead to autonomic symptoms including orthostatic hypotension and syncope. This is a potential explanation with a degree of uncertainty.

45. In the executive summary Dr Zouros stated:

Based on a comprehensive review of the claimant's medical records, occupational history, clinical interview, and the established medical literature, it is my opinion, on the balance of probabilities, that prolonged and excessive occupational stress was a material and significant contributing factor to the deterioration of the claimant's mental health and the subsequent development of multiple interrelated physical health conditions. The claimant experienced sustained workplace stressors, compounded by social isolation during the COVID-19 pandemic, which resulted in marked psychological distress, maladaptive lifestyle changes, and progressive metabolic dysfunction.

The evidence supports a causal relationship between chronic stress and the onset of type 2 diabetes mellitus, hypertension, obstructive sleep apnoea, and metabolic dysfunction-associated steatohepatitis. Prolonged activation of stress-response pathways led to insulin resistance, central obesity, sleep disturbance, and autonomic dysregulation, creating a biologically plausible and well-established pathway for cardiometabolic disease. The temporal sequence of events, absence of prior diagnoses, and consistency with known pathophysiological mechanisms strongly support causation rather than mere association. The claimant's mental health deterioration significantly impaired his ability to maintain healthy behaviours, contributing to weight gain, alcohol misuse during the relevant period, physical inactivity, and social withdrawal. These factors acted synergistically to accelerate metabolic disease and end-organ damage, including liver disease. The development of obstructive sleep apnoea further exacerbated metabolic and cardiovascular risk, while hypertension emerged as part of a broader stress-related metabolic syndrome.

In conclusion, the claimant's occupational stress materially contributed to both his psychological deterioration and the development of chronic, life-long medical conditions that now require ongoing treatment and monitoring. These conditions have had a substantial and enduring impact on his physical health, mental well-being, functional capacity, and quality of life, and they are consistent with the expected consequences of prolonged stress-induced metabolic dysfunction as described in the medical literature.

46. Dr Zouros reports that the medical records and the claimant's account showed the claimant managed his mental health issues well with antidepressants prior to joining HMRC. This is also supported by our findings of fact in the liability judgment at paragraphs 34 and 36. At the time the claimant joined HMRC he was no longer taking medication and managing his mental health holistically via family and attending the gym daily.

Mental health injury

47. Dr Zouras states:

Although this is a pre-existing disease, based on the chronology of the facts and the reported improvement at a different department, we can assume that

the moderate to significant deterioration of his mental health was related to his work environment. That had a detrimental effect on how he managed to cope with life and his work. It appears that he was not able to retain his relationships as his partners felt that he was becoming increasingly isolated and was not present enough.

And

He was feeling that nobody believed him and that there was not any prospect for changing things and getting out of this situation. He was increasingly becoming more bound to his house, eliminating eventually any extra activities such as going to the gym, outdoor and adventure or any other opportunity to participate in activities that would develop his skills and boost his confidence and resilience. Therefore, he entered into a vicious cycle of negative lifestyle changes that had an impact on his interpersonal relationships and most likely generated and accelerated other health problems as well.

48. The medical reports show the claimant has developed Diabetes; Severe obstructive sleep apnoea; Non-Alcoholic Fatty Liver Disease and Non-Alcoholic Steatohepatitis. [NAFLD and NASH], Hypertension and Syncope and these conditions did not pre exist the discrimination.

49. We accept the expert advice that the claimant developed these conditions and that his mental health issues worsened after the discriminatory acts.

50. Dr Zouros was unable to give advice on the PDSD as the claimant has not yet been diagnosed and this was not within his expertise.

51. In the section "My opinion" it largely repeat the above but this section is important to note:

The temporal relationship between the patient's sustained work-related stress and the subsequent onset and progression of these conditions, in the absence of alternative dominant causative factors, further supports a causal association. Type 2 diabetes mellitus and hypertension represent direct metabolic and vascular consequences of stress-induced insulin resistance and autonomic dysregulation, while obstructive sleep apnoea both arises from and perpetuates stress-related weight gain and sleep fragmentation. Metabolic fatty liver disease constitutes an end-organ manifestation of this systemic metabolic dysfunction. Taken together, the consistency of the clinical presentation with known stress-mediated mechanisms, the coherence with epidemiological and mechanistic evidence, and the cumulative burden of disease support the conclusion that occupational stress was not merely associative but causative in the development of the patient's conditions (Chandola et al., 2006; Bergmann et al., 2014; Hackett & Steptoe, 2017; Eslam et al., 2020).

Private prescription and equipment claim

52. The claimant seeks to recover the costs of private prescription medication he has sourced which he says help his symptoms. The Tribunal does not have any medical evidence that this medication alleviates his symptoms and it is not addressed in the expert report. For these reasons we do not

make any award in respect of this head of claim.

53. The claimant's recommendations were set out on 7 May 2025 and are set out below under conclusions. The claimant told the Tribunal and we accepted that it has been indicated to him that if the Tribunal expunges his record with the first respondent this will be taken into account by his current employer reducing his trigger stage.

54. The respondent were asked to make written submissions on the recommendations and did so on 16 April 2026.

The Law

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

56. The power to make recommendations is contained in s.124(2)(c) and s.124(3) Equality Act 2010 ("EqA"). An appropriate recommendation is defined as:

"a recommendation that within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the proceedings relate."

57. We were referred to a number of authorities relating to recommendations:

- **Leeds Rhinos Rugby Club v Sterling EAT/0267/01**, practicability of the recommendation;
- **St Andrew's Catholic Primary School v Blundell UKEAT/0330/09**, reversed by the Court of Appeal on other grounds ([2011] EWCA Civ 427 and **McElvaney-Bryson v Iceland Foods Ltd (Case no 2304355/2018)** as cited in Harvey at [1365] - apologies;
- If the Claimant has left employment (**Bayoomi v British Railways Board [1981] IRLR 431**).

58. The claimant is under a duty to mitigate his 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).

59. **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**).

60. In **Essa v Laing [2004] IRLR 313**, the Court of Appeal held that it was not necessary to show that the particular type of loss was reasonably foreseeable. If it is reasonably foreseeable that a claimant will suffer injury to feelings then the respondent will be liable for the full loss no matter how extreme (the “eggshell skull” principle).
61. In **Vento v Chief Constable of West Yorkshire Police (No.2) 2003 ICR 318, CA**, the Court of Appeal gave specific guidance on how employment tribunals should approach the issue. There are three broad bands when assessing the compensation for injury to feelings and within which band the compensation should fall.
62. In respect of claims presented on or after 6 April 2021, the Vento bands shall be as follows: a lower band of £900 to £9100 (less serious cases); a middle band of £9100 to £27400 (cases that do not merit an award in the upper band); and an upper band of £27,400 to £45,600 (the most serious cases), with the most exceptional cases capable of exceeding £45,600.
63. **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.
64. The Court of Appeal gave guidance to Tribunals when assessing future loss of earnings after a discriminatory dismissal in **Wardle v Credit Agricole Corporate and Investment Bank [2011] EWCA Civ 545**. Where it is at least possible to conclude that the employee will, in time, find an equivalently remunerated job (which will be so in the vast majority of cases), loss should be assessed only up to the point where the employee would be likely to obtain an equivalent job, rather than on a career-long basis, and awarding damages until the point when the tribunal is sure that the claimant would find an equivalent job is the wrong approach. This case was also relevant when considering whether an ACAS uplift should be awarded having regard to the overall size of the award.
65. **Abbey National PLC and another (appellants) v Chagger (respondent) [2009] IRLR 86** provides that where a claimant has been discriminated against by being dismissed, the tribunal should consider whether the claimant would have been dismissed in any event on legitimate grounds. It

is the discrimination which is the essence of the wrong. It follows that the correct question is what would have happened if the claimant had not been discriminatorily dismissed, which plainly requires consideration of whether the same dismissal might have occurred but on legitimate grounds. Despite the conceptual difference between unfair and discriminatory dismissal, they are alike to the extent that dismissal itself is not inherently unlawful and that it is only the additional vitiating factor, unfairness or discrimination, which renders it so.

66. It is established in the case **of Sheriff v Klyne Tugs (Lowestoft) Ltd [1999] IRLR 481** that if the claimant subjected to discrimination suffers psychiatric or physical injury the Tribunal has jurisdiction to compensate. The Tribunal must have regard to the Judicial College Guidelines in assessing compensation for personal injury.
67. Hale LJ's propositions for relevant factors in determining whether an employer is liable for the personal or psychiatric injury suffered by the claimant in **Hatton v Sutherland and other cases 2002 ICR 613, CA**, were approved in **Barber v Somerset County Council and other cases 2004 ICR 457, HL**. These were also approved by the EAT in **Thaine v London School of Economics 2010 ICR 1422, EAT**. These authorities are relevant where a claimant has suffered harm with more than one cause or where there is a pre existing disorder or vulnerability.
68. **BAE Systems (Operations) Ltd v Konczak 2017 ICR 1, CA** considered the above authorities. This case was concerned with an appeal against the Tribunal's decision that the claimant had only developed a diagnosable illness after a manager's comment. This was a case where one complaint had been upheld and the claimant had relied upon 15 other incidents. Per Lord Justice Underhill:

71. What is therefore required in any case of this character is that the tribunal should try to identify a rational basis on which the harm suffered can be apportioned between a part caused by the employer's wrong and a part which is not so caused. I would emphasise, because the distinction is easily overlooked, that the exercise is concerned not with the divisibility of the causative contribution but with the divisibility of the harm. In other words, the question is whether the tribunal can identify, however broadly, a particular part of the suffering which is due to the wrong; not whether it can assess the degree to which the wrong caused the harm. ²

*72. That distinction is easy enough to apply in the case of a straightforward physical injury. A broken leg is "indivisible": if it was suffered as a result of two torts, each tortfeasor is liable for the whole, and any question of the relative degree of "causative potency" (or culpability) is relevant only to contribution under the 1978 Act. It is less easy in the case of psychiatric harm. The message of **Hatton** is that such harm may well be divisible. In **Rahman** the exercise was made easier by the fact (see para. 57 above) that the medical evidence distinguished between different elements in the claimant's overall condition, and their causes, though even there it must be recognised that the attributions were both partial and approximate. In many, I suspect most, cases the tribunal will not have that degree of assistance. But it does not follow that no apportionment will be possible. It may, for*

example, be possible to conclude that a pre-existing illness, for which the employer is not responsible, has been materially aggravated by the wrong (in terms of severity of symptoms and/or duration), and to award compensation reflecting the extent of the aggravation. The most difficult type of case is that posited by Smith LJ in her article, and which she indeed treats, rightly or wrongly, as the most typical: that is where “the claimant will have cracked up quite suddenly, tipped over from being under stress into being ill”. On my understanding of Rahman and [Hatton](#) , even in that case the tribunal should seek to find a rational basis for distinguishing between a part of the illness which is due to the employer’s wrong and a part which is due to other causes; but whether that is possible will depend on the facts and the evidence. If there is no such basis, then the injury will indeed be, in Hale LJ’s words, “truly indivisible”, and principle requires that the claimant is compensated for the whole of the injury — though, importantly, if (as Smith LJ says will be typically the case) the claimant has a vulnerable personality, a discount may be required in accordance with proposition 16.

69. Discrimination is a statutory tort which means that where two (or more) respondents are jointly responsible for an act of discrimination, harassment or victimisation, the Tribunal can award compensation on a joint and several basis.

70. In **London Borough of Hackney v Sivanandan & Others [2013] EWCA Civ 22**, the Court of Appeal upheld the EAT’s decision that an employment tribunal had no power to apportion a compensatory award where numerous respondents were found jointly and severally liable for an indivisible act of discrimination. In the EAT, it was held that where there are co respondents jointly responsible, the usual award will simply be that each such respondent is jointly and severally liable. In such cases, the EAT (Underhill P presiding) held that the Employment Tribunal’s discretion to apportion liability to the claimant between each of the respondents exists only where the injury caused by different acts of discrimination is ‘divisible’ and the tribunal can—and, indeed, should—apportion to each discriminator responsibility for only that part of the damage done by them. Even then, the EAT warned that such ‘split’ awards should only be made where such an order is sought by one of the parties and if the proper legal basis for the discretion is clearly demonstrated in the particular case.

71. 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.

72. 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%.

73. 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 equaling, 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."

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

Interest on discrimination awards

75. A tribunal is able to award interest on awards of compensation made in discrimination claims brought under s124(2)(b) EA 2010, to compensate for the fact that compensation has been awarded after the relevant loss has been suffered (see s139 EA 2010, EA 2010 (Commencement No 4 etc) Order SI 2010/2317.

76. The tribunal may award interest to the following types of discrimination award:

- Past financial loss;
- Injury to feelings;
- Aggravated and exemplary damages; and
- Physical and psychiatric injury.

77. Interest is calculated as simple interest accruing from day to day at a rate 8%. The period of calculation for injury to feelings is from the date of the act of discrimination complained of until the date on which the tribunal calculates the compensation. On all other sums the period is from the mid-point of the date of the act of discrimination complained of and the date the tribunal calculates the award.

Conclusions

Withdrawal factor – counterfactual scenario had the discriminatory acts not occurred

78. The Tribunal has made findings of fact that the claimant would have passed his TAP and become a Basic Higher Officer by the end of July 2022. We assess loss to the date of the remedy hearing based on the difference in salary and loss of allowance. Future loss, including all pension loss is reserved pending further expert medical opinion on prognosis.
79. The Tribunal concludes that the percentage chance the claimant would have remained in employment with the respondent until he retired at the age of 66 years was 50% for the following reasons. The Tribunal would have been assisted by statistics on typical retirement ages in the Fraud Investigation Service, and the geographical area but the respondents led no evidence at all to assist the Tribunal in reaching findings on the counterfactual scenario. We accept the claimant's evidence in full.
80. We have taken into account the findings of fact at paragraph 30 that the claimant intended on this being his long standing career until retirement. The first respondent or the civil service generally is a stable employer particularly in the South Wales area where employment in the public sector is high and it is regarded as a stable life time career choice. However we also consider that there are other factors which mean we do not apply a 100% chance the claimant would have remained in the employment of the first respondent until aged 66. His pre existing depression gives rise to a chance he may have left employment sooner due to health related issues. This cannot be wholly attributable to the discrimination because there was a deterioration before the discriminatory acts (due to Covid) and therefore we consider that there is a likelihood chance this would have happened again with inevitable challenges that life events can bring, acknowledging that Covid lockdowns was a never known before change in life for everyone. We also take into account other factors in reaching this % namely other career opportunities, potential changes to the respondent's workforce, changes in personal circumstances. All of these can be assessed as possibilities that effect the likelihood chance of the claimant remaining in employment until retirement age.

Past financial loss

81. We have calculated the period of past financial loss from the date of the TAP failure until the date of the remedy hearing (4 August 2021 – 16 April 2026) which is 245 weeks and 1 day.

Salary

82. The loss of salary from 1 August 2022 to the date of the remedy hearing is calculated as follows. We have found that the claimant would have passed his TAP with effect from 1 August 2022 but for the discriminatory acts. This

means he would have been paid at the salary of Basic Higher Officer which at that time was £36985. The difference in gross annual salary to date is therefore:

Dates	Claimant's actual salary	Basic Higher Officer	Difference in annual gross	Difference in weekly net	Total net weekly loss
1.8.22 – 30.9.23 60 weeks	28130 (gross) 421.85 net weekly	36985	8855	561	139.15
1.10.23 – date of remedy hearing 132 weeks	29632 (gross) 444 net weekly	38,797 (applying a presumed pay rise of 4.9% to 36985)	9165	595	151

60 weeks * 139.15 = 8349. 132 weeks * 151 = 19,932.

Allowance

83. At the point of the TAP failure the net weekly pay from the first respondent was £529.30. The financial loss started when the allowance was reduced on 22 November 2021 resulting in a weekly net loss of £7.07 per week until December 2022 when it was removed completely. The weekly loss then increased to £112.72.

84. We award 52 weeks @7.07 between 22.11.21 to 30.11.22. There are 175 weeks between 1.12.22 and the date of the remedy hearing on 15.4.26 so the award to date for this period is £19,726.00.

85. We also consider that the loss of holiday and salary resulting in reduced pay was caused by the discriminatory acts as the claimant's health deteriorated because of the discrimination and he had to use his holiday to maintain his pay as he had exhausted sick pay. We therefore award the sum of £5641.22 (gross) for loss of holiday and £986.16 (gross) for reduced salary due to sickness absence.

86. The loss for the driving licence course was not challenged. We have concluded given what was happening to the claimant at that time and the effect on his ability to move internally within the respondent that it was a reasonable step to take to try and qualify as a driving instructor and award the claimant the costs of this course.

87. We accepted Dr Zouras' opinion (see paragraph 31) that occupational stress caused the development of Syncope and as that occupational stress

was caused by the discriminatory acts the respondents are liable for the losses that flow from the loss of the driving licence.

Pension Loss

88. The period of future loss is reserved. As such we consider that we cannot calculate the pension loss at this stage as we will need both past and future loss to make the calculations.

ACAS Uplift

89. See findings of fact at paragraph 32. The following facts are relevant to assessing whether there should be an uplift:

- a) The claimant's grievance was initiated on 29 October 2021. He did not receive an outcome until 5 January 2024 a delay of 26 months. This is a breach of the requirement to provide a decision in writing without unreasonable delay.
- b) The first respondent then resiled from the outcome of their own grievance investigation. This was a wholesale breach of the requirement to take appropriate action.
- c) The disciplinary was an act of victimisation. This was a breach of the requirement to establish the facts of the case or carry out necessary investigations to establish the facts.
- d) Mr Pidduck reached a provisional decision before the disciplinary hearing. This was a breach of the requirement to decide on appropriate action after a disciplinary hearing and before the claimant had the opportunity to have his say.
- e) The exclusion of relevant evidence (see paragraph 233), the finding that the claimant had lied about relativity whereas this allegation had not been put to the claimant properly and the unreasonable or fair conclusion that the claimant had not lied by the slimmest of margins and reached the conclusion on a different allegation than had been put to the claimant (see paragraph 238) all breach the requirement to establish the facts with necessary investigations and inform the employee of the problem. The claimant was not given sufficient information about the alleged misconduct to prepare answers.

90. Having regard to all of these factors and standing back and considering the potential overlap, we consider it is just and equitable to award an uplift of 10%. The maximum adjustment is 25% which may be applicable in cases where there has been a wholesale failure to follow either code. In this case there was some compliance with the code on disciplinary procedure such as an investigation, disciplinary hearing and appeal. However this was compliance was artificial and procedural. The breaches in respect of the disciplinary procedure rendered the entire process unjust and unfair. In addition there was a breach of the grievance procedure in terms of the length of time it took to conclude.

91. Table explaining monetary awards made

Date	Head of loss			Will require grossing up?
1.8.22 – 30.9.23 60 weeks	Net salary	60 x 139.15	8349	Yes
1.10.23 – date of remedy hearing 132 weeks	Net salary	132 x 151	19932	Yes
Nov 21 – Nov 22 52 weeks	Allowance	7.07 x 52	367.64	Yes
1.12.22 to date of remedy hearing 175 weeks	Allowance	112.72 x 175	19726	Yes
Mid December to date of remedy hearing 122 weeks	Loss of second job income	99.91 x 122	12,174.75	yes
7-18 February 2022	Half pay sick pay		986.16	No
Various dates see above	Loss of annual leave used for sick leave		5641.22	no
	Cost to regain Door Supervisor Licence		400	No
	Driving Instructor Course fees		2599	No
Total past financial loss			70,175.77	
			X 10% uplift for breaches of ACAS	

			codes	
			£7017.57	

Interest

Past financial loss

92. The date of the first discriminatory act was when the first respondent failed to acknowledge the effect of the claimant's mental health would have had on his performance and ability to complete the PTW from the date of knowledge of 18 March 2021 (see paragraph 337 of the liability judgment). There are 1854 days from this date to 15 April 2026.

$$1854 / 2 \times 0.08 \times 1/365 \times 77193.34 = £16,684$$

93. Injury to feelings

$$1854 \times 0.09 \times 1/365 \times 42,000 + £19,200.$$

Injury to feelings

94. The claimant sought an award in the top Vento band. The respondents submitted that an award at the bottom of the middle band is appropriate to both reflect the allegations which have been upheld and that an amount of the upset the claimant experienced was related to matters which have not been found to be discriminatory suggesting an award of £15,500 appropriate. The respondent submitted that upset relating to matters that were not found to be discriminatory should be discounted. We accept this in principle but we did not have any further guidance as to what particular upset and hurt feelings could be so "carved out". Instead we have decided to focus on the claims that were upheld and how those impacted the claimant's injury to feelings.
95. The claims upheld are set out above at paragraphs 7 – 9. There were 16 complaints upheld. See findings of fact at paragraphs 27 – 29 and paragraph 36.
96. We have concluded that the injury to feelings award should be in the top band for the following reasons:
97. The claimant has proven the profound, long lasting and devastating impact on his injury to feelings arising from the discriminatory acts. He has lost his relationship and a career he hoped would be life long;
98. The failure to make reasonable adjustments resulted in the claimant failing his TAP which in turn resulted in very significant work placed difficulties being excluded from systems, meaningful work and transferred from team to team until eventually he felt he had no choice but to leave. The impact on

his injury to feelings has not abated and the respondent's conduct in resiling from their own internal findings exacerbated them. We consider that this conduct in particular was high handed and oppressive.

99. The discrimination was a sustained campaign over a long period consisting of multiple acts;
100. The discrimination was from senior staff who colluded together against the claimant resulting in an imbalance of power from the TAP failure through to using disciplinary procedures as retaliation;
101. One particularly aggravating and disturbing feature of this case was the "digging the dirt" conduct by the managers after the protected act which was of a sustained and targeted nature as well as the repeated allegations that the claimant had been lying about his disability;
102. This conduct and behaviour by the respondents is one of the most shocking cases of systemic bullying and discrimination this Tribunal has experienced. Whilst it remains unacknowledged by the respondents the Tribunal does not take this into account when assessing the claimant's injury to feelings as we are mindful not to allow the respondents conduct to inflate the award.
103. Having regard to all of the above we have assessed the compensation for injury to feelings is £42,000.
104. No claim has been made for aggravated damages.

Personal Injury

105. The respondents position on personal injury was set out in the position statement as follows:

"The Respondent's primary position is that the Claimant has not established the discriminatory acts found by the Tribunal caused any personal injury for which the Respondent could be found liable. While the expert report identifies a recognised condition, the Respondent's position is that the evidence does not demonstrate that this condition was caused by, or materially attributable to, the unlawful acts as opposed to other factors. In those circumstances, the Respondent's primary case is that no separate award for personal injury arises, and the Tribunal ought to focus its attention on the award for injury to feelings."

106. The first respondent was repeatedly told by Occupational Health that the claimant was returning from sickness absence too soon and that health related special leave should be considered to remove the pressure

to return to work when he was not well enough to be there. The respondent only agreed to 5 days out of two months and then only because the claimant had to raise this over a three month period.

107. The claimant has developed a number of physical conditions which did not pre exist prior to the discriminatory acts.

108. The Tribunal has expert medical opinion that the prolonged and excessive occupational stress was a material and significant contributing factor to the deterioration of his mental health and multiple interrelated physical health conditions. This evidence has not been challenged and we accept the evidence in full. Apart from some questions put to the claimant about his divorce and a bereavement there was no evidence from the respondent about what other factors they assert caused the injuries.

109. In our judgment the physical conditions now suffered by the claimant are wholly attributable to and caused by the discriminatory acts.

110. We have considered whether there should be apportionment regarding the mental health injury given the claimant's pre existing mental health history. We have taken into account that claimant's mental health pre employment, which was well managed. However as his decline during Covid shows, there was a decline not attributable to the discriminatory acts. Should this therefore be a reason to apply a division? We have concluded that it should not under this head of claim. We take into account the unique circumstances of the pandemic lockdown and how they impacted on the claimant's ability to manage his mental health holistically. Whilst his mental health was undoubtedly affected at the time it was nowhere near to the degree of deterioration after the discriminatory acts which was "moderate to significant".

111. In assessing the compensation an unusual feature of this case was the development of physical conditions as well as an exacerbation of pre existing (but stable prior to the discrimination) mental health injury.

112. The JCB Guidelines do not provide any guidance in respect of the physical conditions developed by the claimant. In our judgment they must therefore be assessed under Chapter 4 as conditions developed as a result of the occupational stress caused by the discriminatory acts. The factors to be taken into account in valuing claims of this nature are:

- (i) the injured person's ability to cope with life, education, and work;
- (ii) the effect on the injured person's relationships with family, friends, and those with whom he or she comes into contact;
- (iii) the extent to which treatment would be successful;
- (iv) future vulnerability;
- (v) prognosis;
- (vi) whether medical help has been sought.

113. There are four categories; severe, moderately severe, moderate and less severe. Having regard to the JCB Guidelines in respect of each category and the expert evidence of Dr Zouros we consider that this claimant's injury falls in the "moderately severe" category applying the guidance that *"cases of work- related stress resulting in a permanent or long- standing disability preventing a return to comparable employment would appear to come within this category"*.

114. The moderate category is where there has been a marked improvement by trial and the prognosis is good. This does not accord with Dr Zouros' opinion that the physical conditions are chronic, life-long medical conditions that now require ongoing treatment and monitoring. The range is between £25,190 and £72,440.

115. We reserve a decision on the amount within this category as we require expert evidence on the mental health future prognosis.

Recommendations

Expunge sickness records

116. The Tribunal cannot make a recommendation to DWP that the claimant's sickness record is expunged as the DWP are not the respondent. The Tribunal does consider that such a recommendation can be made in respect of the first respondent and has decided to do so because of the claimant's evidence that it may obviate or reduce the effect on his current sickness warnings.

Remove negative markers

117. The Tribunal cannot make a recommendation to DWP that any negative markers arising out of that employment relationship are removed as the DWP are not the respondent. The Tribunal does consider that such a recommendation can be made in respect of the first respondent and has decided to do so because of the claimant's evidence that it may obviate or reduce the adverse effect of having a disciplinary record of misconduct within the civil service which may affect future references.

Request an apology / acknowledge of wrong doing

118. The Tribunal does not make any recommendation in this regard in line with **St Andrew's Catholic Primary School v Blundell**.

HMRC to review previous complaints with the viewpoint given by the Tribunal. To revisit wrongdoing

Information on decision making throughout hearing. Transparency on who has been accountable.

That an independent third-party review of HMRC grievance processes, similar to

the Laura Whyte review. Ministers and Press had been given assurances that changes had been implemented. Was that a lie or failure?

That a review of equality as a whole within HMRC, is completed but specifically mental health. Working in my current my current role of now know of 2 other people that feel they have been forced out due to their mental health.

Realistic attempts to resolve any disparity findings.

That PCS trade union be given access to all information relating to this case, and any complaint relating to it.

Action should be sought on those highlighted to see if there has been a breach of the Civil Service Code

Review Lessons Learned failure

Address conflict of interest with GLD. Defending respondents, advising on complaints and appeals, then making decisions as “Independent” party for the investigation into failings

Review of Power imbalance, and how to support the employee

Review of Mental Health process.

Independent Review of Dave ALLEN appeal and failings

Review of Data Protection and retention policies.

119. The respondent submits that none of the above recommendations should be made as the claimant has left employment and as such it could not obviate or reduce the adverse effect on the complainant of any matter to which the proceedings relate (**Bayoomi v British Railways Board**). This view is also supported by Harvey’s on the proviso it would not obviate or reduce the adverse effect on the claimant (paragraph 921.01 Division L).

120. We do not consider we can recommend diversity / awareness of mental health training for the managers involved but had the claimant remained employed one would undoubtedly have been made. As for the other recommendations sought above, we do not consider we can make recommendations in those terms expressed by the claimant as they are either not practical (for example advice from the GLD is covered by privilege) or they would only have the effect had the claimant remained in employment, save as follows.

121. The Tribunal does consider that this claim can be distinguished from **Bayoomi** in that there is cogent and clear evidence that a recommendation for a review into what happened and why would reduce the adverse effect of the discrimination on the claimant. The claimant remains profoundly affected by the injustice of the collusion against him by senior managers as well as the resiling from their own reviews on the first day of the hearing. In our judgment the events in this case were so irregular and unusual it has justifiably left the claimant in a position where a recommendation could reduce the adverse effect even though he is no longer employed.

122. For these reasons the Tribunal recommends:

123. A formal note is placed on the claimant’s file that he was subjected to unlawful disability discrimination and victimisation and;

124. A copy of the liability judgment, preparation time order and this remedy judgment is sent to the current First Permanent Secretary and Chief

Executive of HM Revenue and Customs;

125. Within 28 days of the judgment being sent to the parties the first respondent shall set out a process to review the Judgment on liability and report on that review to the claimant and the Tribunal within 35 days thereafter. The reason we have made this recommendation is that it appears to this Tribunal that there is a sense that there has been no recognition or acknowledgement of the Tribunal judgments and the Tribunal considers that this recommendation will alleviate the effect of the discrimination on the claimant in ensuring the findings have been brought to the attention of the most senior individual within the first respondent.

Approved by:

Employment Judge S Moore

6 July 2026

JUDGMENT SENT TO THE PARTIES
ON
07 July 2026

Kacey O'Brien
FOR THE TRIBUNAL OFFICE

Notes

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

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

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

LIST OF ISSUES

22. Remedy for discrimination or victimisation

- 22.1 Should the Tribunal make a recommendation that the Respondents take steps to reduce any adverse effect on the Claimant? What should it recommend?
- 22.2 What financial losses has the discrimination caused the Claimant?
- 22.3 Is there a chance the Claimant would have failed his TAP but for the discriminatory acts?
- 22.4 Should there be decrease / increase for accelerated / decelerated receipt of compensation in respect of future / past loss?
- 22.5 Has the Claimant taken reasonable steps to replace lost earnings, for example by looking for another job?
- 22.6 If not, for what period of loss should the Claimant be compensated?
- 22.7 What injury to feelings has the discrimination caused the Claimant and how much compensation should be awarded for that?
- 22.8 Has the discrimination caused the Claimant personal injury and how much compensation should be awarded for that? The following factors will be relevant:
 - a. the claimant's ability to cope with life and work;
 - b. the effect on the claimant's relationships with family, friends and those with whom he comes into contact;
 - c. the extent to which treatment would be successful;
 - d. future vulnerability;
 - e. prognosis;
 - f. whether medical help has been sought;
 - g. There are 4 categories of award (including the Simmons v Castle uplift):
 - h. Less Severe: between £1,880 and £7,150. Where the claimant has suffered temporary symptoms that have adversely affected daily activities;
 - i. Moderate: between £7,150 and £23,270 as a result of the discrimination, marked improvement has been made by the date of the hearing and the prognosis is good;
 - j. Moderately Severe: between £23,270 and £66,920. Moderately severe cases include those where there is work-related stress resulting in a permanent or long-standing disability preventing a return to comparable employment. These are cases where there are problems with factors a) to d) above, but there is a much more optimistic prognosis than Severe;

k. Severe: between £66,920 and £141,240. Where the claimant has serious problems in relation to the factors at a) to d) above, and the prognosis is poor.

l. Adjustments:

m. Causation: The award can be adjusted to allow for the extent to which the act of discrimination caused the illness. So, if it is found that the discriminatory act caused the illness to the extent of 30%, the award will be reduced by 70%;

n. Double counting: Injury to feelings and physical and psychiatric injury are distinct heads of loss, but care should be taken that no double counting has taken place. Either one could be reduced if this is the case.

o. Discount rate: Where an employee suffers a lifechanging personal injury resulting in long-term loss of employment, is there a chance that the Claimant's employment would have ended in any event? Should their compensation be reduced as a result?

22.9 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?

22.10 Did the Respondents or the Claimant unreasonably fail to comply with it?

22.11 If so is it just and equitable to increase or decrease any award payable to the Claimant?

22.12 By what proportion, up to 25%?

22.13 Should interest be awarded? How much?

22.14 Does the award need to be grossed up and if so by how much?