



EMPLOYMENT TRIBUNALS

Claimant: Dr N Makhlouf dit Moghrabi
Respondent: Refugee and Migrant Forum of Essex and London
Heard at: East London Employment Tribunals
Remedy hearing: 1 April 2026 and for judgment on 1 May 2026
Before: Employment Judge C Lewis

Representation

Claimant: In person
Respondent: Mr C Firmin

REMEDY JUDGMENT

Following a Judgment on Liability issued 11 November 2025 and a Remedy hearing on 1 April 2026 and oral remedy judgment being delivered on 1 May 2026

REMEDY JUDGMENT was sent to the parties on 6 May 2026 the Claimant made a request described as a request for reconsideration of the judgment on 18 May 2026. The content of the request effectively asked for an explanation of the Tribunal's reasoning. I have treated the request as a request for written reasons in accordance with Rule 60 of the Employment Tribunal Procedure Rules 2024. The Claimant may make a reconsideration application within 14 days of these written reasons being sent should he choose to do so. The Tribunal considers that it is appropriate to provide written full reasons and the following written full reasons are therefore provided:

FULL REASONS

1. I was provided with a number of additional documents for the remedy hearing as follows:

A Remedy bundle [124 pp]; the Claimant's witness statement dated 19/12/25 and updated statement dated 23 March 2026; an updated Schedule of loss also dated 23/3/26 updating the schedules in the remedy bundle at pages 53 -57; supporting documents sent on 19/12/25 in relation to the Claimant's financial loss; Chronological listing of C's Mental Health

difficulties December 2025; 3 consultants' reports dated December 2025, 2024 and 29 Nov 2021 (in the remedy bundle); The Claimant's document Questions re continuous employment for calculation of basic award – supporting evidence in the form of old pay slips and P60s; the Claimant also provided a written note on Polkey and discretion.

2. The Claimant succeeded in respect of the following complaints: [numbering by reference to the judgment 11 November 2025]

3.1 failure to make reasonable adjustments in respect of:

3.1.1 The practice of **only giving a sort time to attend/provide information (in June 2021, 4 January 2022 and 7 January 2022)**

4.1 Harassment:

4.1.1 **On 28 June 2021 giving only 3 hours notice of a disciplinary investigation** [meeting] on the same day as an early [ier] grievance appeal meeting couldn't continue due to disorientation of the state of mind of the claimant

5.1 Constructive unfair dismissal

3. I heard evidence from the Claimant and took into account the evidence and documents referred to above. The references in square brackets are to pages in the bundle prepared for the remedy hearing [RB] unless stated otherwise.

Remedy for Unfair dismissal

4. s 118 ERA provides that an award of compensation for unfair dismissal shall consist of a basic award & compensatory award

Basic award – s119 -122 ERA 1996

5. It was not disputed that the Claimant entitled to a basic award. The amount of the basic award was disputed. The calculation being dependant on the start date of the Claimant's continuous employment. The Claimant was aged 59 at his effective date of termination and was over the age of 41 through his employment, whichever date is used he is entitled to 1.5 week's pay for each complete year of employment.
6. The Claimant relies on s 218 ERA and claims continuous service from 6 June 2010 and a basic award in the sum of £7,223.70. The Respondent accepts continuous service from 18 October 2013 bringing the basic award to £5253.60.

Findings:

7. I accept the Claimant's evidence at paragraphs 8 and 9 of his remedy witness statement. I find that there was no change in relation to his work, clients, colleagues, reporting to the same management, same place of

work, no gaps in work or pay just a slight variation to the name of the Respondent.

8. The Respondent seeks to rely on the change in company name to break continuity. I am satisfied that there was no break in continuity. The Claimant's situation falls into the same category as in OAKLAND (appellant) v. WELLSWOOD (YORKSHIRE) LTD (respondent) [2010] IRLR 82 where a new company was created and there was a transfer of the old, insolvent, company. I am satisfied that in this case the organisation's staff, ongoing work and clients transferred to the new organisation's name and company number. I am satisfied on the evidence before me that the Claimant can rely on s218 to preserve continuity.
9. The Claimant is entitled to a basic award in sum of £7,223.70

Compensatory award s 123 -124, financial losses flowing from discrimination

Findings:

The Claimant's health and its causes

10. I carefully considered the content of the Claimant's medical evidence in the Remedy hearing bundle (RB) which included an OH report from 20 October 2020,[RB; Dr Travers, Consultant Psychiatrist's report 29 November 2021 [12-15] which states the following:

"C absent for 27 weeks and for 4 week earlier in the year.

Anxiety and depression started mid 2020

Symptoms persistently increased over a period of many months and led to a depressive illness which became severe and which culminated in a crisis [suicidal thoughts and intent] in July 2021; the Claimant was under the care of Waltham Forest Improving access to Psychological Therapies between 2 Feb 2021 and 22 July 2021

[p13]– C consistently described work experiences as being the initial trigger and perpetuating factor.

2. Is the illness related to his/her work?

Dr Fathi has consistently described work experiences as being the initial trigger and perpetuating factor for his condition.

Dr Fathi reported to his IAPT therapist that his workload had increased and had become more complex. In addition, he stated that some changes had been made in his office.

Dr Fathi lost his energy; experienced conflict at work and started to have nightmares. He felt that his work kept making changes to try to push him out and make his life more difficult. He felt bullied and made to feel small.

He experienced anxiety, shaking to the extent that he could not control his hand and had to turn off his work monitor.

Dr Fathi reported that he had previously overachieved at work but now felt under appreciated.

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He reports that he initially raised a grievance with his employer and then became subject to an investigation by his employer. He felt intimidated in meetings with HR managers

Dr Fathi has reported that his grievance against his employer was not upheld and that he had appealed this outcome.

On 2nd July 2021, Dr Fathi stated, about his employer, "They are trying to kill me, I might as well do it myself".

He reports that his employer's communications to him and the actions of his employer have repeatedly exacerbated his condition; caused him to experience a "reversal" of his progress and hindered his recovery.

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6. The date on which the employee first suffered from the illness and the likely date when he/she will be fit to resume full duties.

Dr Fathi first suffered from the illness in mid-2020 and this reached a level of severity that meant he was no longer able to work from January 2021.

A chronological History of mental health contacts prepared by David Adebayo – Care Coordinator Community Recovery Service dated 9 November 2022 [RB,16-18]; a Psychiatric Report 12 August 2024 from Dr Travers [RB 41] and his report dated 17 December 2025 [RB, 45]; An updated version of the Chronological history of mental health contacts dated 17 December 2025 prepared by David Adebayo [RB 47]

11. I also took into account Dr Turner's report of 12 August 2024 in which he gives his view of the connection between the Claimant's work and his mental ill health. According to Dr Turner the Claimant's mental ill health symptoms started in June 2020 in connection with concerns about being asked to take part in wrongdoing. I have not found that the Claimant was asked to take part in wrongdoing and that his whistleblowing complaints were not well founded. In relation to the Claimant's crisis in July 2021, Dr Turner states that the circumstances included the Claimant's grievance against his employer which was not initially upheld and which he appealed [43] and that he was continuing to experience exacerbation of his mental illness caused by the ongoing contact and investigation/ appeal processes.

12. Dr Turner also records under the heading “ Additional factors related to employment” that the Claimant experience was that the Respondent did not conduct an Individual Stress Risk assessment, or assist sufficiently with organising OH reviews, and ignored his repeated requests to hand over an OH referral form, ignored advice of health professionals not to contact him and failed to consider adjustments to his work arrangements. None of which were found to have been acts of discrimination or harassment.
13. In his 17 December 2025 report [RB 46] Dr Turner states that when he first met the Claimant on 6 October 2021 “any contact with his employer would result in severe intensification of anxiety and depressive symptoms along with recurrence of suicidal thoughts” and states his opinion that

“any ongoing work related stress would have exacerbated and extended the duration of [the Claimant’s] symptoms, as it was work related stress that was the origin of his depressive illness in the first place.”
14. The Claimant brought numerous complaints about his treatment by the Respondent. I have upheld three of the Claimant’s complaints, one of harassment and two of failure to make reasonable adjustments in relation to giving short notice of meetings.
15. The Claimant explained to his mental health professionals in relation to the source of his work related stress, his treatment by his employer in relation to a number of matters which have not been found to have been discrimination (or whistleblowing detriments) including a barrage of emails on his return to work, the refusal to uphold his grievance and having to appeal, and the commencement of disciplinary proceedings. None of which have been found to be acts of discrimination or harassment in respect of which the Claimant has succeeded in his claim
16. The Claimant had been on long term sick leave since 15 March 2021; he was paid his full pay until August 2021 and he received SSP from September 2021. By January 2022 his SSP entitlement had run out and he went down to zero pay. He received a tax rebate in December 2021. By the time of his effective date of termination he was on nil pay. On 31 March 2022 the Claimant was paid 1 week’s pay (notice) and his outstanding holiday pay following his resignation.
17. I have not found the index incidents to be cause of Claimant’s long term absence. Based on the medical evidence and the Claimant’s own evidence as to the sources of his stress, anxiety and depressive episodes. I find that in his description of the sources of stress causing his absence his focus was on other matters not these incidents. I do not find the past loss of income flows from those incidents.

Polkey reduction

18. I found that by 18 January 2022 the Respondent had decided to follow the recommendation of Diane Kubok's report at paragraphs 47-51 [36]

CONSULTANT RECOMMENDATIONS

- 47. Having given full and thorough consideration to the information presented DK recommends that if the business is unable to sustain NF's continued absence and the fact that there is no indication of a potential return to work in the near future, the company will now have to consider the termination of employment on the grounds of capability.
 - 48. If the decision is reached to terminate employment, NF would be entitled to receive one-week paid notice for every year of service up to a maximum of twelve weeks or full contractual notice, whichever is the greater. NF would also be entitled to any other contractual benefits including pension payments and payment for any accrued holiday for this period.
 - 49. A copy of this report in its entirety should be made available to NF with the appropriate cover letter.
 - 50. It is a matter for the employer to decide whether they wish to accept any of DK's recommendations.
 - 51. NF will have the right to appeal the decision that is made, and this should be done in line with the existing Appeal policy.
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and that the Respondent had made a decision to dismiss him, as per the email on 18 January set out below [38]:

From: James Tullett
Sent: 18 January 2022 19:44
To: Nathan Sperry <nathan.sperry@ramfel.org.uk>; Alice Giuliani <alice.giuliano@ramfel.org.uk>
Subject: RE: LS3049 Private & Confidential Dr Nihad Fathi Case Action Needed

Hi All,

I have let Fatima know that we are planning to follow the recommendations of this report. Nathan would you mind speaking to Croner regarding the wording of the letter and speak to Deborah/payroll about double checking the amount the payout should be as per the report. Could you also ask Croner for details regarding the appeal.

Many thanks,
James

I find that the reference to "the wording of the letter " and "speak to Deborah /payroll about double checking the amount the payout should be as per the report" were references to the Respondent having decided it would pursue the option of dismissal; this is reinforced by James Tullett also asking that Croner be asked for details for regarding an appeal. I find that the Respondent had decided to terminate the Claimant's employment on capability grounds following his extended period of sickness absence and

that by this date the Respondent had concluded its business could no longer support his absence. This decision was superseded by the Claimant's resignation on 21 January 2022 with notice.

19. On 1 March 2022 the Respondent wrote to the Claimant confirming that it had offered him the opportunity to retract his resignation and calculating his notice period of 9 weeks to the 25 March 2022, informing him that only 1 of the weeks of the notice period would be paid notice because the Claimant was no longer entitled to SSP and had moved on to zero pay by this time. [40]

20. I have carefully considered the Claimant's submissions on Polkey including his written document with the title Polkey and Discretion. The Claimant seeks to suggest that had he not resigned it would have been possible for him to return to work within 2-3 weeks however I am satisfied that is not realistic and nor is it consistent with his own evidence about his health at that time or Dr Traver's reports dated 29 November 2021 [RB 12-15] and 12 August 2024 setting out the history of the Claimant's mental health condition [RB41-44], and 17 December 2025 [RB 45-46] in which he describes the Claimant's condition as follows:

[RB 14]

6. The date on which the employee first suffered from the illness and the likely date when he/she will be fit to resume full duties.

Dr Fathi first suffered from the illness in mid-2020 and this reached a level of severity that meant he was no longer able to work from January 2021.

[RB15]

7. Whether or not he/she is likely to experience any recurrence of his/her current illness?

Dr Fathi has not yet recovered from this depressive illness. Given that he has experienced such an illness – and the illness has been so severe, I believe Dr Fathi will remain vulnerable to recurrences of his illness in the future, particularly when under significant stress.

8. Are there any adjustments to the work or work arrangements or workplace that we should consider to assist in his/her return to work?

It is difficult to advise on any adjustment to Dr Fathi's work or work arrangements as the prospect of a return to work causes Dr Fathi to feel severely anxious to the extent that a return to the workplace appears unworkable at the moment

[RB 46]:

It is unrealistic to think Dr Nihad was fit enough to return to work and sustain himself in the period after March 2022. His symptoms and the associated impairments in his functioning remained ongoing and were confirmed by colleagues in my team who continued to meet with Dr Nihad in that period.

21. The Claimant's own evidence was that in order for him to be able to return to work certain conditions would need to be in place to relieve all his stress. The causes of his stress included, amongst other matters, being managed by Alice Guiliato and the outstanding performance management issues neither of which have been the subject of successful discrimination

complaints and which the Respondent would have been entitled to continue with on the Claimant's return to work.

22. I have found that the Respondent ought to have allowed more time for the Claimant to respond to the questions about his health but I am also satisfied that even had he been given the opportunity to provide the answers there was no realistic prospect of the Claimant being able to return to work within a reasonable time. I am satisfied that if the Claimant had not resigned there was a 100% chance of the Respondent deciding to dismiss him after allowing an extended period to provide the information requested.
23. The Claimant seeks compensation for his loss of earnings for the period following his resignation to the date of this hearing and into the future. I have set out above my findings on the chance of the Respondent fairly dismissing him within 6 weeks, that is by 1 March 2022 which I have assessed at 100%. The Claimant has been paid one week's pay in his notice pay and would have been on nil pay throughout the remainder of the period. The Claimant also seeks his loss of national insurance contributions, however I find that there was no loss of pay during this period and therefore no such loss exists.
24. I have also considered the question of what would have happened had there not been any unlawful discrimination. The relevant discrimination being the short time frame given to the Claimant to provide information on 4 and 7 January 2022 in respect of the medical capability process. I have found that providing the Claimant with a longer time frame to respond to DK's questions was a reasonable adjustment which may have allowed him to participate in the medical incapacity process
25. I am however, satisfied based on the evidence both of the Claimant, see for instance the Claimant's remedy witness statement dated 23 March 2026 at paragraphs 18 and 19:

"18 The medical evidence confirms that I developed a severe depressive illness from mid-2020, which escalated and culminated in a mental health crisis in mid-2021. My Consultant Psychiatrist confirmed that the illness became severe and culminated in a crisis in which I developed suicidal thoughts and intent in July 2021.

19. The same evidence confirms that my illness was work-related, and that unresolved employment matters materially worsened and prolonged my condition. The psychiatrist stated in substance that unresolved matters to do with my employer were exacerbating and perpetuating my condition."

and Dr Turner's view (see references above), that the inevitable outcome of the medical capability process, if a further 4- 6 week period had been allowed, would have been a conclusion that the Claimant was not likely to be fit to return to work within a reasonable time, and the Claimant would have been dismissed for incapacity as identified in DK's report RB 36]. I am satisfied that he was incapacitated as result of his pre-existing mental health condition, (relied on as a disability in this claim).

26. I have therefore found that there is no loss beyond the date of what would have been a fair dismissal in any event.
27. I do not find that the Claimant's inability to work following his resignation was as a result of the Respondent's actions in (constructively) dismissing him. I am satisfied that he was already incapacitated for work at that time and he would not have been fit to work in any event as a result of matters which have not been found to have been either discriminatory or breach of the implied duty of trust and confidence. noting that I can only compensate for the acts of discrimination as found (the index incidents).
28. I have addressed below my findings in relation to injury to feelings.

Injury to feelings

29. I had regard to the Judicial College Guidelines on assessing damages in Personal Injury Awards 2026, Psychiatric and psychological damage is addressed at [13-14] of the Guide.
30. I find here is considerable overlap between injury to feelings and any personal injury in this case and I do not make two separate awards.
31. The applicable Vento guidelines in effect at the time of claims presented after 6 April 2022 were lower band : £3,990-9,900; middle band £9,900 to £29,600 and upper band £29,600 to 49,300.
32. The Claimant seeks mid-Vento damages. He told me he relies on a course of continuous treatment and referred to the fact he first collapsed in June 2020 and after that his health was affected continuously and increasingly. However if I am able to I have to separate out that collapse in the Claimant's health from the effects of the actions I have found to be either discrimination or harassment (the discriminatory or "index" incidents).

Exacerbation of existing mental health condition

33. On 28 June 2021 the Claimant had arranged to attend his grievance appeal, while on long term sick leave, he was unable to continue with the meeting, describing himself as disorientated, like a lost child and the meeting had to be postponed. This was before the discriminatory incident took place. The first act for which I have to assess the impact on or injury to the Claimant's feelings / health is the act of on the same day as his grievance appeal meeting he was given less than 3 hours' notice of a disciplinary meeting for the same afternoon.
34. The disciplinary meeting did not go ahead and was postponed as soon as the Claimant informed the Respondent he would not be well enough to attend. I have accepted that the fact of being notified of it increased his

stress and anxiety and upset on that day. I have to separate the additional anxiety caused by the short notice from his anxiety and distress about the disciplinary proceedings themselves. In assessing the effect of the discriminatory act (harassment) I also took into account the duration of the additional element of upset and distress, it being relevant that the decision to hold the meeting the same day was immediately rescinded.

35. I have considered the appropriate level of injury to feelings award overall and the element attributable to this incident and am satisfied that an additional element of £1000.00 is appropriate to reflect the injury caused by this incident when taken together with the amount I award for the two additional later acts of failure to make reasonable adjustments to which I turn below.
36. The Claimant's solicitor described the impact on the Claimant the failures to make reasonable adjustments on 4 January 2022 and 7 January 2022. in his resignation letter on 21 January 2022 [RB 39] as follows:

When he was told that they would not extend the time period. It dramatically increased his anxiety and he felt overwhelmed and that he was under attack.

37. I am satisfied the short time frame for responding to the questions was not the only cause of the Claimant's distress at that time, the Claimant also described his shock at being informed on 6 January 2022 that his Grievance Appeal had been considered on 17 August 2021. The content of the ill health capability questions and the extent of them also contributed to his upset and, again, if possible, I have to separate out as best I can the injury resulting from the failure to make reasonable adjustments from the other non-discriminatory causes. I also have to bear in mind that the Claimant's mental health had already been injured by non-discriminatory causes and it is any exacerbation of that injury caused by the acts of discrimination for which I must attempt to compensate him.
38. I found the Claimant's decision to resign when he did to have been in response at least in part to the two failures to make reasonable adjustments. I do not doubt that the decision to resign was a difficult decision but I am also satisfied that the underlying difficulties in the employment relationship had become intractable by this time. The Claimant could only contemplate a return to work if certain conditions were met, including, not being managed by Alice Guiliato, and the Respondent not pursuing any outstanding performance management issues. There was also the matter of the outstanding disciplinary proceedings. I find that the substantial cause of the Claimant's injured feelings / injury to his health was the Claimant's reaction to the non-discriminatory actions of his employer and that the actions which I have found to have been discrimination exacerbated or added to those injured feelings. I am satisfied that the two are properly separable and it is the additional injury, that is, the element which is attributable to the acts found to be discriminatory, not the entire injury, which should be reflected in any compensation for injury to feelings. I am satisfied that an award of

£8000.00 reflects the additional injury caused by Respondent's discriminatory actions. I have awarded a total of £9000.00 for injury to feelings to reflect the injury to feelings as a result of the act of harassment and the two instances of failures to make reasonable adjustments.

ACAS Code

39. I have not awarded an uplift or decrease to reflect any unreasonable failure to follow the ACAS Code. I have not made a compensatory award for the unfair dismissal, there is no award under s118(1) (b) ERA to which any uplift would apply.
40. The Code applies to disciplinary and grievances it requires employers to amongst other things to investigate matters promptly and to arrange meeting within a reasonable time. I have not found that there were unreasonable failure to follow the Code in relation to the Claimant's grievance. The disciplinary process was not pursued. As far as the capability process was concerned, the Code does not directly address the duty to make reasonable adjustments which is provided for separately under the Equality Act 2010. I have not found any financial loss flowed from the Respondent's failure to make reasonable adjustments or the act of harassment. I have already made an award for the injury to his feelings as set out above. I have determined the level of that award to reflect the Claimant's injury. I do not consider it to be just and equitable to uplift the injury to feelings award in this case, to do so would be to compensate the Claimant again for the same failure, beyond what I have considered to be the appropriate award under s 124 of the Equality Act 2010.

Interest.

Employment Tribunals (Interest on awards in discrimination cases) Regs 1996

41. Interest is awarded on the injury to feelings award calculated as follows:

41.1 Interest on £1,000.00 from 28 June 2021 to date 1 May 2026 @8%

28 June to 1 July 3 days plus 304 to 1 May 2022 = 307 = 4 years
[1461]
 $x 8\% = 80 / 365 = 0.22 \text{ per day} \times 1467 \text{ days} = £322.74$

41.2 Interest on £8,000.00 @x 8; 640 per annum/365= £1.75 per day
x

[4 January 2022 to 1 May 2026 = 4 years 116 days] = 1577 days
 $£1.75 \times 1577 = £2759.75$

41.3 Total interest = £3082.49

SUMMARY

Unfair Dismissal

1. There is a **100 %** chance that the claimant would have been fairly dismissed in any event within 4-6 weeks.
2. The respondent shall pay the claimant the following sums:
 - (a) A basic award of **7223.70**

Remedy for Equality Act 2010 claims

3. The respondent shall pay the claimant the following sums:
 - a. Compensation for injury to feelings in the sum of **£9,000.00**.
 - b. Interest on compensation for injury to feelings calculated in accordance with the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 in the sum of **£3082.49**

Total award

4. The total award payable by the respondent to the claimant is the sum of **£19,306.19**

Approved by:
Employment Judge C Lewis
Dated: 23 July 2026