



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4103932/2025

Held in Aberdeen on 1 June 2026

Employment Judge J Hendry

Ms A Brown

**Claimant
Represented by:
D Burnside,
Solicitor**

J Law Ltd

**Respondent
Represented by:
J Law,
Director**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

(One) The claim for unfair dismissal succeeds and in respect of which the respondent company shall pay the claimant a monetary award in the sum of Six Thousand One Hundred and Forty Seven Pounds and Fifty Eight pence (£6147.58) made up of a basic award amounting to £4021.88 and compensatory award amounting to £2125.70.

(Two) The claim for wrongful dismissal/notice pay succeeds and the respondent shall pay the claimant the sum of Four Thousand Nine Hundred and Eighty Six pounds and Thirty Pence (£4986.30) being wages in lieu of notice.

REASONS

1. The claimant in her ET1 form sought a finding that she had been unfairly dismissed from her employment as a Fish Packer with the respondent company who are fish processors in Aberdeen. She also claimed for notice. The claims were opposed. The respondent company accepted that they had dismissed the claimant but contended that they had done so on the grounds of her gross misconduct.

2. A hearing on the merits was arranged to take place in person at the Employment Tribunal Office in Aberdeen. Prior to the hearing the respondent company wrote indicating that they wanted to lodge witness statements and for witnesses to give evidence by video because of the likely impact on their production in them attending personally. The Tribunal wrote to them on the 12 March 2026 in the following terms:

“Employment Judge Hendry has directed the Tribunal to write to the respondent advising that he should make a formal application for the use of witness statements. The respondent is advised to act quickly as the Final Hearing is not far away and that the use of witness statements does not get around the fact that the witness has to give evidence and be cross examined on the contents of the statement.”

3. No application for the use of Witness Statements was made. A notice of hearing was sent on the same date. It provided advice regarding attendance by video and the processes that had to be followed. Separately I was advised by Mr Burnside that those instructing him had tried to assist the respondent and the Tribunal by preparing a Joint Bundle but there had been difficulties over communication from them and they had prepared a Bundle as best they could. Mr Law had attended with his own Bundle of documents. Unfortunately, these were not numbered or indexed and there was duplication with the claimant's bundle.
4. At the start of the hearing I arranged for the Clerk to assist the respondent's Director and a Respondent Bundle was prepared with the requisite numbering and copies. The Tribunal therefore had two Bundles of documents to consider.
5. Mr Law apologised for the position and said that he had thought that the case could have been settled and in anticipation of this he was late with preparations. He indicated that he had a number of witnesses. He advised that his father John Law Snr would not be giving evidence. I explained that no CVP tests had been done and that it would be impossible to immediately rectify this and the witnesses would probably have to attend in person or the hearing could not commence. I also explained that it was not appropriate for his company to provide an Interpreter for one of the witnesses as he had intended. It might prove difficult to arrange for a Tribunal appointed interpreter at short notice. He then indicated that he would rely on the written statements he had lodged. He was warned by Mr Burnside that although he would not object to reference being made to their lodging, as he could not cross examine the witnesses, he would be asking the Tribunal to place no weight on them.
6. I suggested that he should then give his evidence and review his position once he had done so. After he had given evidence Mr Law indicated that he would rely on the statements he had lodged and on his own evidence.

Issues

7. The issues for the Tribunal were whether or not the respondent was entitled to find that the claimant had committed gross misconduct and whether or not she had been fairly or unfairly dismissed in the circumstances particularly given the lack of any investigation or disciplinary process.

Witnesses

8. The Tribunal heard evidence from John Law the respondent's Director and then from the claimant.

Facts

9. The claimant is a 61 year old woman. She has worked in the fish industry since leaving school. She is an experienced packer of fish. She worked for the respondent company from the 8 May 2014 until the 5 September 2025.
10. The respondent company is a fish processing company situated in Aberdeen. It is a family business. It was founded by John Law Snr. His two sons John Law Jnr and Christopher Law both work in the company as Directors. The number of people employed by the company varies but is approximately 40. There is no HR department. The company has a substantial turnover but in more recent times has faced difficulties through a lack of fish being caught for processing.
11. The claimant was provided with a Written Statement of Employment on 21 January 2015 (RP6-7). At paragraph 10 the document contained brief 'disciplinary rules'. It stated that someone would receive one verbal warning followed by two written warnings followed by dismissal. It stated that anyone dissatisfied with a disciplinary matter could write to John Law Snr (RBp7).

Relationship with other staff

12. The claimant worked in the fish processing factory. She worked alongside a team of six other women on the packing line. They are required to pack boxes of fish to order from a conveyor belt. The claimant was skilled and experienced in her job.
13. The factory is noisy and the claimant is the only employee in her team who is British by birth. The other employees speak a variety of languages with many speaking Polish and Latvian.
14. The claimant had a poor working relationship with another employee in her team called 'Roma'. That employee had almost as lengthy a period of

service as a packer with the respondent company as the claimant. However, her command of English was not good.

15. The claimant was often asked to explain instructions to the other staff. She did this and being experienced acted in a sort of unofficial supervisory capacity. Roma did not like this and she often reminded the claimant that she wasn't her boss.
16. The claimant had been told by Mr Law senior that Roma should be treated as if she was a child.
17. The claimant was warned both by John Law Snr and John Law Jnr not to argue with Roma.
18. The claimant had on occasion referred to Roma as a 'retard' in the hearing of other staff.
19. The claimant received a Txt message from Mr Law Jnr on the 30 March 2022 (R11). He wrote:

*"Ang,
I don't know what is with you and Roma. If you can't get on then
pls just be civil to each other. I absolutely wouldn't let anyone speak
to you like that. So I don't expect anyone else to get it either. We
get on well so let's forget this and start fresh in the morning."*

20. In March 2023 the claimant had been sent home because Roma's shoes had been destroyed because of a substance being poured into them. There was no investigation but because of the ongoing poor relationship with Roma the claimant was suspected and sent home. She sent a txt to Mr Law junior and asked him to ask his father if "that's me sacked." Mr Law responded that she shouldn't come in and that there had been an incident with Roma's shoes "*which I can only presume was you*" and that both these matters had to be dealt with (Rp12).
21. The claimant responded: "*Ok, I will wait to hear from you.*" She received a txt on the 31 March advising her that she would receive a final warning on Monday. The txt said: "*It can't go on like this any further. If there is any issues like this whatsoever your contract will be terminated.*" The claimant received the warning letter but did not read it. (The letter was not produced at the hearing).

First Incident

22. An incident took place at the factory on the 2 July 2025. The claimant was heard to say to another employee, who is Sri Lankan: "*You fat lazy bastard*". He responded in kind by shouting the phrase back to her.
23. This matter came to the attention of management because the claimant became upset and complained that this had been said to her. Mr Law Jnr

spoke to staff who had been present. They told him that the claimant had used this phrase first and the Sri Lankan employee had shouted it back to her. He concluded that it had been the claimant who had initiated the confrontation.

24. The respondent's management had become frustrated at what they perceived was the claimant's attitude towards other staff members. They had received complaints from those working with her about her behaviour. She had been spoken to about this before by the Directors.
25. Staff were spoken to and a meeting of the Directors took place. A minute was prepared (Rp10). They concluded that: *"It would appear on this occasion that Angie's attempt at bullying a foreign member of staff had backfired on her and she had turned herself into the victim."* The claimant had not been given an opportunity of giving her side of events. Mr John Law junior wrote to the claimant on 2 July 2025 (Cp31) with a written warning. In the letter he wrote:

"You have been issued with a written warning for your workplace conduct because of an altercation with another member of staff in the factory today.

I've investigated the incident and find that you and the other member of staff are both at fault and will both be reprimanded accordingly... you have been spoken to on a number of occasions about your attitude towards other members of staff. This has been going on for many years with you and various other members of staff within the factory, therefore, if you find that you are unable to work with your colleagues here for whatever reason then perhaps you should consider alternative employment.

I'm going to take this opportunity again to warn you that if I have cause to speak with you again about your conduct within the workplace your employment could be immediately terminated."

Second Incident

26. On the 3 September 2025 the claimant arrived slightly late to her station in the factory. A dispute arose with Roma (Ms Titov) who worked nearby. She believed that the claimant was telling her she wasn't working hard enough. A row developed. Mr Law Snr heard the row and intervened. He told her that Ms Titov's work had nothing to do with her. She returned to her workstation but continued her argument with Ms Titov who became upset. Mr Law was frustrated at the claimant's behaviour. He told the claimant to go home. The claimant left saying that she would take three days' holiday that were due to her. On her way out she was told by a supervisor that another factory was hiring.
27. The three Directors had a meeting on the 4 September. Mr Law Snr told them he had witnessed the incident. A minute was later prepared by the Directors (R9). It recorded:

“Angie turned up a couple of minutes late for work, she put on her apron, she started aggressively shouting at Roma saying she wasn’t working hard enough. I took her to one side and told her not to shout at anyone. She was to get on with their own work and leave Roma alone, how Roma worked had nothing to do with her. However, she went back to her workstation and obviously thought I wasn’t looking and started shouting aggressively at Roma again. Roma became upset. I took Angie to one side and told her to leave the premises.”

28. The Minute recorded:

“Angie has been spoken to on many occasions and this follows on from her vicious argument with Pinthu on 2nd July. Both employees were given a written warning for this outburst. She was warned about her conduct on this letter and that if we have need to speak to her again then her employment may be terminated. All directors agreed that Angie is a good worker but animosity in the factory in the packing department is caused by Angie. She’s been spoken to many times over the years about her conduct but she continues to bully other staff members. When Angie is off the area has a better work morale and the staff are happier. The decision was made to terminate the claimant’s employment immediately and all the Directors were in agreement.”

29. The claimant received a letter dated 5th September. The letter stated:

“Despite being warned on numerous occasions regarding your attitude, conduct and aggressive behaviour towards various work colleagues I have had occasion to reprimand you yet again. After discussing the situation with the Company Directors we have taken the decision to terminate your employment with us. Unfortunately, I am unable to have you continue working in my factory upsetting staff and causing animosity amongst the workforce. You were warned in your letter of 2nd July that this might happen. Everyone has the right to work in a safe environment no matter what our differences will stop this behaviour will not be tolerated in the workplace end. Your P45 will be forwarded next week.. ”

The claimant was not given any right of appeal.

30. In the lead up to the Employment Tribunal hearing Mr Law Jnr obtained statements from two staff. These were typed up by his administrator (Rp36 and p37). In one Ms Titov (Roma) was recorded as saying: *“Ange came in a little bit late that day in a bad mood . She came up to me straight away and said you’re a fucking lasty bastard.”* She then proceeded to call me vulgar words in Polish *“kurwa”* to which I said I’m not Polish but I do understand it. She then carried on: *“you old lazy woman, you need to be put in an old people’s house!”* John Senior senior came over and Ange screamed at him for the whole factory to hear. *I didn’t understand what she said as she was speaking in broad Aberdeen.”*

31. The second Statement was of a Mr Vincent Groat who heard the argument. It was recorded that Mr Law Senior had said to the claimant: *"I'll see you the fucking morn"* to which she responded *"No you winna, you can fuck off cause I winna be in"* John Law Snr then said *"Then fuck off."*
32. On the morning of the hearing the respondent lodged two hand written documents. The first (Rp15) dated 8 July 2023 Roma complaining about the claimant's behaviour. The second (Rp16) signed by an employee Ms Zuravkova dated 30 May 2026 stated: *"Anzha constantly provoked me into fights, insulted me, shouted me and pushed me. There was not a single day when she did not harass me. She also had problems and conflicts with other colleagues at work. She shouted at the boss herself and treated the entire team with disrespect. Because of her, nobody wanted to come to work and people were left feeling depressed...."*
33. Following the dismissal the claimant was upset and embarrassed. She did not apply to the other fish processor company for work. She made no applications for work. She had become unwell with COPD in or around August and had to attend hospital for various tests. She applied for and received Employment Support Allowance.

Witnesses

34. I did not regard the claimant as a particularly credible or reliable witness. She highlighted the apparent difficulty in working in a team with others speaking different languages but accepted that mostly they were working independently taking fish from a conveyor and packing. She explained that the others did not get on with her because as the only English speaking member of the team she was often asked to convey instructions to them. Overall she painted herself as being the victim of others and denied the allegations of poor behaviour. Her position was that the final incident had been instigated by Roma when she had told the claimant to "Fuck Off". She did not appeal her warning (although there was no reference to such an appeal in the letter there is reference to what might be described as an appeal in the contract) nor challenge the allegation she had damaged Roma's shoes. At the close of her evidence she did not deny that she had in the past called Roma a 'retard'. The claimant denied calling her a 'kurwa' saying that she did not understand the meaning of the word but accepting she knew it was derogatory.
35. Mr Law was a straightforward witness who was generally credible and reliable. The one significant criticism of his evidence is that he did not witness either the incident in July or the one in September. He said that he had also warned the claimant about her behaviour but did not have the details of any incidents other than the txt messages around the damage to

Roma's shoes. His evidence on these matters comes from speaking to his father and from other staff and as such is second hand and lacking in detail.

Submissions

36. Mr Burnside's position was that the dismissal was clearly procedurally unfair. There were question marks over the alleged investigation. The Tribunal should place no weight on the undated statements that had been obtained either those in the claimant's Bundle or those produced today. Leaving aside that there was no direct evidence about how they were obtained and by whom there was no evidence that there had been a properly balanced investigation. The authors had not been called to give evidence. They could not be cross examined. In the absence of that and the importance of the claimant being allowed to challenge their evidence at a disciplinary hearing or put forward any mitigation it was impossible to say what would have happened if the investigation had been properly undertaken and the claimant given a disciplinary hearing and right of appeal.
37. Mr Law's position initially seemed to be that the claimant had resigned by leaving the factory but the minute (Rp9) is clear that Mr Law Snr told her to leave. His position was that there a considerable amount of evidence that showed the claimant's behaviour merited dismissal.

Discussion and Decision

38. The first matter for the tribunal to consider was whether it had been satisfied by the respondent that the reason for the dismissal was one of the potentially fair reasons for dismissal contained in section 98(1) or (2) of the Employment Rights Act 1996 ('ERA'). They had said that it was the claimant's conduct that had led to dismissal, so that it was for them to show that misconduct on his part was the real reason for dismissal, i.e. under s.98 (2)(b) of the ERA.
39. Mr Law who gave evidence seemed to suggest that the company had thought that the claimant had resigned having walked out. It was apparent that even if this was their view at the time they wrote a letter to her (Cp32) dismissing her and this was the position taken in the ET3. I had no difficulty therefore holding that the reason for dismissal was misconduct and what the employers had in mind at the time of dismissal was the whole circumstances around the incident and that this "*related to the conduct of the employee*" – s.98(2)(b).

Section 98(4) ERA

40. The task for the Tribunal in terms of section 98(4) of the Act was to ascertain whether, in all the circumstances (including the size and administrative resources of the respondent) the dismissal was fair or unfair. The Tribunal had regard to the well-known cases of **British Home Stores Ltd v Burchell** [1978] IRLR 379, **Iceland Frozen Foods v Jones** [1982] IRLR439, and **Sainsbury's Supermarkets v Hitt** [2003] IRLR 23 and to the guidance contained in those cases as to the approach the Tribunal should follow in assessing such a dismissal.
41. Under paragraph (a) of this sub-section the question of whether the employer acted reasonably, particularly where the reason for dismissal related to conduct of an employee, often involves consideration of the adequacy of the employer's investigation and thus whether a reasonable employer could have concluded that he was guilty, i.e. the **Burchell** test.
42. There appears to have been no real investigation here of the circumstances. The company argues that Mr John Law Snr had witnessed the incident but the claimant's position was that he did not witness the start of the incident but it is not clear that he witnessed the start of it. The minute indicates that he was keeping an eye on the situation but he does not say that he heard what was being said. He did not give evidence to challenge the claimant's position. The factory is a noisy and busy place and what exactly he saw or heard would be crucial. There were no statements taken before the dismissal letter was sent out. There was no disciplinary hearing and no opportunity for the claimant to put her position forward or raise any mitigatory circumstances. The reasons for the animosity were never explored by the company.
43. The respondent expressly labelled that conduct as "gross misconduct". Their disciplinary rules (such as they are) do not define gross misconduct.
44. The question of whether a dismissal is fair or unfair under s.98(4) of the ERA is not answered by deciding whether or not the employee has been guilty of gross misconduct. As Phillips J said in **Redbridge London Borough v. Fishman** [1978] ICR 569:

"The jurisdiction based on [what is now section 98(4) of the Employment Rights Act 1996] has not got much to do with contractual rights and duties. Many dismissals are unfair although the employer is contractually entitled to dismiss the employee. Contrary-wise, some dismissals are not unfair although the employer was not contractually entitled to dismiss the employee. Although the contractual rights and duties are not irrelevant to the question posed by [s.98(4)], they are not of the first importance. The question which the Industrial Tribunal had to answer in this case was whether the [employer] could satisfy them that in the circumstances having regard to equity and the substantial merits of the case they acted reasonably in treating the employee's [conduct] as a sufficient reason for dismissing her."

45. This has been more recently confirmed by the EAT in **Weston Recovery Services v. Fisher** (EAT0062/10) i.e. that the only relevant question is whether the conduct was “sufficient for dismissal”, according to the standards of a reasonable employer and whether dismissal accorded with equity and the substantial merits of the case” (s.98(4)(a) and (b)).
46. In considering an employer’s actions the Tribunal can have regard to the Acas Code on Disciplinary and Grievance procedures and whether the suggested steps for a fair procedure have been followed in line with the Code. The procedure an employer follows and an employer’s actions can be taken into account by the Tribunal. This is a statutory code. Failure to adhere to the Code can render a dismissal unfair and to an “uplift” in compensation.
47. Mr Laws did not ask the Tribunal, to consider what would have happened if there had been a disciplinary hearing. His position was that the dismissal was fair. He did not raise the issue of “Polkey” directly although Mr Burnside had by implication alluded to this in his submissions by suggesting that the process was so flawed no one could say what would have happened. This issue is not uncommon. This is not a case where there were minor flaws in the process. It has been held that failing to allow an employee to exercise a right to appeal can itself render an otherwise fair dismissal unfair (**West Midlands Co-Operative Society Ltd v Tipton** (1986) IRLR 112). In **Polkey** the court emphasised the importance of procedural safeguards for employees.
48. A company has a broad discretion as to how it conducts its relationship with employees and the law allows employers to act within a band of reasonable responses. The company did not have an HR department which is clearly a substantial concern and well able to put in place a straightforward disciplinary process with appropriate policies and procedures that would have assisted both the company’s Directors and any employee facing disciplinary proceedings. They were not assisted by the almost complete lack of disciplinary rules and procedures. In the present circumstances the dismissal was unfair and outwith the band of reasonable responses open to the respondent because no proper disciplinary process took place.

Gross Misconduct/Notice

49. The employers argue that the claimant was guilty of gross misconduct. They are not assisted by their rules which give no guidance or examples of what will be treated as gross misconduct (RBp7). In law gross misconduct must be behaviour that is so serious that it constitutes a repudiatory breach of contract. It entitles an employer to dismiss without notice. Where there has been a repudiatory breach is a contractual matter

which the Tribunal must view objectively. The sort of behaviour which is routinely classed as gross misconduct is committing a fraud, engaging in physical violence or 'gross negligence'. The behaviour has to have the character of being wilful namely a deliberate flouting of rules (***Laws v London Chronicle Ltd*** (1959) 2 AER 285. Accordingly, I do not accept that the employers in this case have demonstrated that the claimant had committed a repudiatory breach of contract on the 3 September. The claimant's claim for notice must succeed calculated on the basis of her statutory entitlement to notice which was accepted to be 11 weeks. This amounts to £4986.30.

Unfair Dismissal/Remedy

50. The claimant did not seek re-engagement or reinstatement. I therefore have to consider what compensation the claimant should receive. As noted before, there was no dispute as to the way in which the Schedule of Loss was calculated and the figures used (CBp38-38).
51. The claimant is entitled to a basic award calculated by reference to Section 119. The basic award is not increased for any failure to comply with the Acas Code. Section 122 of the Act provides that the award can be reduced in certain circumstances where the Tribunal finds that there was blameworthy or culpable behaviour before the dismissal. The section is in these terms:

"122 Basic award: reductions.

(1)....

(2) Where the tribunal considers that any conduct of the complainant before the dismissal (or, where the dismissal was with notice, before the notice was given) was such that it would be just and equitable to reduce or further reduce the amount of the basic award to any extent, the tribunal shall reduce or further reduce that amount accordingly."

52. I am not able to determine how the dispute arose on the 3 September or who was to blame. There are competing versions of what occurred. I cannot make a reduction on those particular grounds. Nevertheless, I considered if a reduction should be made for her past behaviour and concluded that there were sufficient findings to do so. The claimant had received a final warning for insulting an employee and numerous warnings for arguing with Roma. Tellingly she had accepted that she had called that employee a retard. Although she did not protest being blamed I did not take account of the damage to the employee's shoes as there was no evidence that the claimant was responsible. There appears to have been no records kept of any investigation. In these circumstances a reduction of fifty per cent is appropriate in my view to reflect on the one hand the

claimant's behaviour but also the circumstances in which that behaviour appears to have been tolerated for some considerable period. The claimant is therefore entitled to payment of the sum of £4021.88 (£8043.75/2) as a basic award.

53. I then considered whether any award should be made under Section 123. The relevant sections are in these terms:

"123 Compensatory award.

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

.....

.....

(6) Where the tribunal finds that the dismissal was to any extent caused or contributed to by any action of the complainant, it shall reduce the amount of the compensatory award by such proportion as it considers just and equitable having regard to that finding."

54. The compensatory award reflects the claimant's losses. The principal element is loss of wages through being dismissed but loss of statutory rights is also claimed. There was no dispute that she would have lost £453.39 per week. The claimant should have been allowed to participate in a disciplinary process consisting of an investigation, disciplinary hearing and appeal. This process would be likely to have commonly lasted for a period of around 4 weeks.
55. An issue which emerged from the evidence was whether the claimant had mitigated her losses. In terms of Section 123 of the ERA the common law duty to mitigate loss applies. The leading case is that of ***Wilding v British Telecommunications plc*** (2002) IRLR 524. The Tribunal should not apply too stringent a test of an injured party. The burden of proof is on the employer to show that the claimant has not mitigated her losses. Mr Law Jnr's unchallenged position was that there was a shortage of good experienced fish filleters such as the claimant and that she was aware of that. She could, he said, readily obtain such work. In addition, the claimant accepted that she was aware that at least one other fish processor nearby was looking for work. Her explanation was that one of the respondent's employees was going to arrange a job there for her but she took no steps to do so herself. She explained that she was embarrassed after being dismissed to approach them. She spoke of having anxiety and having to go for tests as she had developed COPD.

56. The issue is whether or not the claimant has taken reasonable steps to mitigate her losses. I do not accept that she has. She produced no job applications nor indicated she had applied for work of any kind. Realistically it might have taken her two or three weeks to get over her dismissal and obtain work in fish processing but this she did not do. As at the date of the hearing she was unemployed.
57. In these circumstances it is just and equitable to compensate the claimant for the period in which the disciplinary process would have run its course namely for four weeks. Looking at the matter broadly and taking account of her health it seems probable that it would have taken the claimant no more than six weeks to be re-employed in fish processing. She also lost statutory rights through her dismissal. I bear in mind that the claimant is being compensated by being paid for her notice period and there requires to be no double recovery. Had she been given notice it is likely that she would have found alternative employment before expiry of the notice which was for 11 weeks. I do not in these circumstances accept that the claimant is entitled to loss of future wages.
58. I also need to consider both the ACAS uplift that was requested and then contributory conduct.
59. If the claimant remained in employment for 4 weeks she would have earned £1813.20 (4 x £453.30). She lost statutory rights valued at £500. This makes the compensatory element £2313.20. Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) allows Tribunals to adjust compensation by up to 25% The section is in these terms:

“207A Effect of failure to comply with Code: adjustment of awards

(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%.”

60. The uplift is discretionary. I do not regard it as being appropriate to uplift the compensation designed to compensate the claimant for a failure to adhere to the Code by having a proper disciplinary and appeal process.

The sum is itself compensation for that matter. I will increase the compensation for loss of statutory rights by 25% reflecting the total absence of any disciplinary process. This makes the sum £625 (£500 x 25% = £125). I will apply the same level of reduction for contributory fault as for the basic award and for the same reasons but only to the sum relating to loss of statutory rights which becomes £312.50.

61. The claimant applied for and received Employment Support Allowance. The Tribunal was not advised of the date but believes it to be in late 2025. That benefit is subject to the recoupment regulations. Those regulations apply to a period of loss of wages during which a claimant receives benefit. As no award of compensation is made for loss of wages following the dismissal there is no prescribed period or element for the recoupment to attach to.

Date sent to parties

20 July 2026