



EMPLOYMENT TRIBUNALS

Claimant: Ms S Chan

Respondent: Kooth Digital Health Limited

Heard at: Reading (by video) **On:** 19 August 2026

Before: Employment Judge Hawksworth

Appearances:

For the claimant: Mr R Godfrey (FRU)

For the respondent: Mr R Macmillan (General Counsel)

JUDGMENT having been given to the parties on 19 August 2026 and written reasons having been requested in accordance with rule 60(4B) of the Employment Tribunals Procedure Rules 2024, the following written full reasons are provided under rule 60(4E).

FULL REASONS

1. Judgment and oral summary reasons were given at the hearing on 19 August 2026. The written judgment was approved by me on 19 August 2026. The claimant requested written reasons by email after the hearing on 19 August 2026.
2. I have decided that it is appropriate to provide written full reasons under rule 60(4E) of the Employment Tribunals Procedure Rules 2024.

Introduction – claim, issues and hearing

3. This was a complaint of unauthorised deduction from wages. The claimant presented her claim on 10 May 2025. The respondent presented its response on 8 July 2025.
4. The claim concerns non-payment of a one-off staff bonus. The claimant says she met the entitlements for the bonus. The respondent says the claimant was not entitled to the bonus because she was serving a period of notice at the time of payment.

5. The hearing took place by video at Reading employment tribunal on 19 August 2026. I am grateful to the parties for their careful and thorough preparations which helped to ensure a smooth and effective hearing.
6. There was an agreed bundle which had 104 pages. Mr Godfrey prepared a written skeleton argument.
7. After reading their witness statements, I heard evidence from the claimant, and from the respondent's witness Rachel Downs, Senior People Partner.
8. Mr Macmillan and Mr Godfrey both made oral closing comments.
9. After time for deliberation, I gave the parties my decision. I gave oral summary reasons under rule 60(4A)(b)(i) of the Employment Tribunal Procedure Rules 2024. I explained how I applied the legal principles to the facts to reach my decision in respect of each of the issues for me to decide. The conclusions section of these written full reasons broadly reflects the oral summary reasons I gave.
10. I found that the claimant's complaint of unauthorised deductions was well-founded and that there had been a failure to comply with the Acas Code of Practice. I ordered the respondent to pay the claimant the sums of £1,114 and £279.

Findings of fact

11. The claimant worked for the respondent as an emotional wellbeing practitioner from 27 February 2023.
12. On 7 February 2025 the respondent sent a message to all staff announcing payment of a one off bonus (page 77). The message was headed 'Thank you for amazing work in 2024!'. It said:

"We are...hugely thankful for the work you have collectively done to advance our mission..."

As a Board and Leadership team, we want to acknowledge this transformational year...

As a way of demonstrating our appreciation we will be awarding all staff, employed with us on December 31st, who are not serving a period notice a one off bonus payment."
13. The message said that the bonus would be pro-rated for part-time staff, and that for UK staff it would be paid on 28 February 2025.
14. I find that the primary purpose of the bonus was to reward past performance. At the hearing before me, the respondent said that it was to reward loyalty, but the message did not mention this. It was expressly to say thank you for work done in 2024.
15. The claimant understood from the message that she met the conditions to qualify for the bonus because:

- 15.1. She was employed on 31 December 2024 (at the hearing we called this Condition A)
- 15.2. She was not serving a period of notice on 31 December 2024 or on 7 February 2025, when the bonus was announced (at the hearing we called this Condition B. The respondent did not agree with the claimant's interpretation of Condition B).
16. The claimant handed in her notice on 18 February 2025 (page 79).
17. Also on 18 February 2025 the respondent sent a message to its US staff about the bonus (page 88). It said:
- “All employees employed on or before December 31, 2024 are eligible unless they are currently serving a notice period.”
18. The parties agreed that the claimant was not part of the group that the US staff message was sent to. The claimant did not see the message until sometime after she had resigned. Rachel Downs, Senior People Partner in the UK, did not see the message at the time either.
19. On 28 February 2025 UK staff were paid the bonus. The claimant did not receive a bonus. As she worked part-time for the respondent, she was expecting to receive a bonus of £1,114.
20. The claimant submitted a grievance on 11 March 2025. Her grievance was heard on 14 March 2025. Before the hearing, Ms Downs sent a message to the grievance manager (page 87). It said:
- “You will see there is a “hearing” in your calendar...It is very simple – they are challenging that they should have got the bonus – although they are leaving. It is a simple – listen, ask what resolution they would like and we will investigate. I then will reply with a letter saying as per the communication, they will not be receiving the bonus – it is not contractual and has been awarded at the discretion of the company...”
21. Ms Downs sent the claimant's grievance outcome letter on 19 March 2025 (page 95). The claimant's grievance was unsuccessful. The claimant appealed the outcome. Her appeal was also unsuccessful.
22. Ms Downs said that her message to the grievance manager was unfortunately phrased but that she had not made a decision about the claimant's grievance. She said the grievance manager made the decision and that she was only giving her opinion. The message does not support that interpretation at all. I find based on this message and the fact that Ms Downs sent the grievance outcome letter, that, prior to the claimant's grievance hearing, the respondent had already made the decision to reject her grievance.
23. The claimant's termination of employment and her last working day with the respondent was 17 March 2025.

24. The claimant notified Acas for early conciliation on 19 March 2025 and received an early conciliation certificate on 22 April 2025. She presented her claim on 10 May 2025.

The law

Unauthorised deduction from wages

25. Section 13 of the Employment Rights Act 1996 gives workers a right not to suffer unauthorised deductions from wages. It says

“(1) An employer shall not make a deduction from wages of a worker employed by him unless—

(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker’s contract, or

(b) the worker has previously signified in writing his agreement or consent to the making of the deduction.

(2) In this section “relevant provision”, in relation to a worker’s contract, means a provision of the contract comprised—

(a) in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or

(b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion.

(3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker’s wages on that occasion.

(4) Subsection (3) does not apply in so far as the deficiency is attributable to an error of any description on the part of the employer affecting the computation by him of the gross amount of the wages properly payable by him to the worker on that occasion.

(5) For the purposes of this section a relevant provision of a worker’s contract having effect by virtue of a variation of the contract does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the variation took effect.

(6) For the purposes of this section an agreement or consent signified by a worker does not operate to authorise the making of a deduction on account of any

conduct of the worker, or any other event occurring, before the agreement or consent was signified.

- (7) This section does not affect any other statutory provision by virtue of which a sum payable to a worker by his employer but not constituting “wages” within the meaning of this Part is not to be subject to a deduction at the instance of the employer.”

26. Section 27(1)(a) defines wages to include “any fee, bonus, commission, holiday pay or other emolument referable to [the worker’s] employment, whether payable under [her] contract or otherwise”.

27. Section 27(3) says:

“(3) Where any payment in the nature of a non-contractual bonus is (for any reason) made to a worker by his employer, the amount of the payment shall for the purposes of this Part—

- (a) be treated as wages of the worker, and
- (b) be treated as payable to him as such on the day on which the payment is made.”

28. Complaints about unauthorised deductions from wages are made under section 23 of the Employment Rights Act 1996.

Bonus payments

29. In *Farrell Matthews & Weir v Hansen* [2005] IRLR 160 the EAT said that:

[40] “In the case of a discretionary bonus, whether contractual or by custom, or ad hoc, the discretion as to whether to award a bonus must not be exercised capriciously (see *United Bank Ltd v Akhtar* [1989] IRLR 507 and *Clark v Nomura International plc* [2000] IRLR 766). But until the discretion is exercised in favour of granting a bonus, provided the discretion is exercised properly, no bonus is payable. Once, however, an employer tells an employee that he is going to receive bonus payments on certain terms, he is, or ought to be obliged to pay that bonus in accordance with those terms until the terms are altered and notice of the alteration is given (*Chequepoint (UK) Ltd v Radwan* CA 15 September 2000). This situation applies equally where a discretion to award a bonus is granted under contract, as in *Chequepoint*, or by custom or by ad hoc decision. Mr Scott was right to concede that once the Appellant had declared the bonus it could not be withdrawn....

[41] There may also be situations in which a payment, which could properly be regarded as a bonus, is paid on an ex gratia or one-off basis. Such a payment may be made where there is no obligation by contract, custom or practice to make such a payment but where the employer chooses to make it. In such circumstances it may well be that there is no legal liability on the employer to make such a payment. Section 27(3) in our judgment is designed to cover situations where such a payment has in fact been made.”

Acas Code of Practice

30. Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 applies where there has been an unreasonable failure to comply with a relevant Code of Practice. It says:

(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%.”

31. Complaints of unauthorised deduction from wages are included in schedule A2.

32. The Acas Code of Practice on Disciplinary and Grievance Procedures is a relevant Code of Practice. In relation to grievances, it says that employers must hold a meeting with the employee to discuss the grievance and says: ‘following the meeting decide on what action, if any, to take’ (paragraph 40).

Conclusions

33. The claimant’s key complaint is of unauthorised deduction from wages under sections 13 and 23 of the Employment Rights Act 1996. Wages are defined in section 27.

34. Does the payment in question amount to ‘wages’? The bonus payment was discretionary. It was not an entitlement under the claimant’s contract. However, the protection against deductions from wages is not limited to deductions of contractual payments. Section 27(1)(a) defines wages to include any bonus, whether payable under the employee’s contract or otherwise. This was a payment under a discretionary bonus scheme for 2024. The bonus payment amounted to wages.

35. Has there been a deduction? The bonus was not paid to Ms Chan. I have to decide under section 13(3) whether the failure to pay the bonus to Ms Chan meant that the amount of wages she received from the respondent was less than the amount ‘properly payable’ to her.

36. Was the bonus properly payable to the claimant? In *Farrell Matthews & Weir v Hanson*, the EAT explained that in the case of discretionary bonuses granted by ad hoc or one off decisions, as we have here, once the discretion is exercised, it becomes ‘payable’. Once an employer informs a worker that she will receive a bonus on certain terms, an obligation arises to pay the bonus in accordance with

those terms. Non-payment in those circumstances is a deduction. In other words, just because a bonus is discretionary does not mean the employer is able to decide not to pay when that is contrary to the terms of the scheme.

37. What were the terms of the bonus here? When the respondent told its employees that they would receive a bonus payment, what terms were attached and did the claimant qualify? The parties agree that there were two conditions included in the 7 February communication: Condition A and Condition B. Both of those had to be met for the bonus to be properly payable.
38. Condition A was that the employee had to be employed on 31 December 2024. Everyone agrees that Ms Chan satisfied that condition.
39. Condition B was that the employee had to be 'not serving a period [of] notice'. This is the point of dispute between the parties. Ms Chan believed that she satisfied Condition B, on the basis that she was not serving a notice period either on 31 December 2024, or on 7 February 2025, when the bonus was announced. The respondent says Ms Chan did not satisfy Condition B because she was serving a period of notice on the date of payment of the bonus.
40. There is an interpretation question here. When the employer said that it was a condition of receiving a bonus that the employee must not be serving a period of notice, at what date was that condition to be assessed? Put another way, what was the reference date for Condition B?
41. The all staff message does not explicitly say what the reference date was. I have considered the context and what it would be reasonable to understand from the message. I have decided that Condition B was ambiguous. The message did not make clear whether the 'not serving notice condition' referred to 31 December 2024 (the Condition A date), 7 February 2025 (the announcement date), 28 February 2025 (the payment date) or some other date. I do not accept that it was understandable from the way the message was written that Condition B would be assessed at the payment date. It seems much more likely from the wording that Condition B was to be assessed on 31 December 2024 or at the time of the announcement. In any event, where there is an ambiguity, it is to be resolved against the interests of the party which drafted the term, that is in Ms Chan's favour.
42. I accept that after Ms Chan resigned, the respondent said several times (in the grievance process for example) that Condition B was intended to refer to the date of payment. But the 7 February 2025 message did not say that. In fact, even the US slack message did not say that the reference date was the date of payment. It said that those 'currently' serving a notice period would not be eligible – in other words it gave a reference date of 18 February 2025, not the date of payment.
43. But in any event, as all that information post-dated the claimant's decision to resign in reliance on her understanding of the scope of Condition B, that later information was not relevant. At the time she resigned, Ms Chan understood that she had qualified for the bonus. Her interpretation was a reasonable one where, as I have found, the primary purpose of the bonus was to reward staff for their past performance in the exceptional year 2024, during the whole of which Ms Chan was

employed by the respondent. The reward was for past performance, in which Ms Chan played a part, not for future loyalty.

44. I also accept that other employees left in similar circumstances and were not paid a bonus. But the respondent based the decision not to pay those employees on its interpretation of Condition B, which I have found was not correct.
45. The respondent's interpretation of the reference point for Condition B was not spelled out in the email which announced the bonus and was not part of the requirement to qualify for the bonus. The reference date for Condition B was 31 December 2024 or 7 February 2025. I have decided that Ms Chan satisfied Condition B because she was not serving a period of notice on either 31 December 2024 or 7 February 2025.
46. As I have explained, the discretionary nature of the bonus does not mean that the respondent can choose not to pay it to someone who met the terms of the scheme. Ms Chan satisfied both Condition A and Condition B at the time she resigned. She was not notified of any change to the bonus scheme as announced, before she resigned. I have concluded that Ms Chan was entitled to receive the bonus.
47. The failure to pay Ms Chan the bonus meant that she was paid less than was 'properly payable' to her on 28 February 2025. The complaint of unauthorised deduction from wages is well-founded. The claimant is entitled to be paid the sum deducted which is £1,114.
48. Finally, there was a failure to follow the Acas Code of Practice in relation to Ms Chan's grievance. I have looked carefully at Ms Down's message of 14 March 2025, and taken into account what she said about it. But I have concluded that this is more than unfortunate phrasing. The message can only be interpreted as showing that the respondent had already made the decision that Ms Chan would not receive the bonus, before she had her grievance hearing. That was a fundamental breach of the aim and purpose of the Acas Code, and of paragraph 40 of the Code which requires the decision to be made after the grievance meeting.
49. The failure was an unreasonable failure. Although the claimant had a grievance meeting, a written outcome and an appeal, given the nature of the breach the respondent was only 'going through the motions'. The claimant was not provided with a meaningful grievance process in any way, because the outcome was decided before any of these steps were offered. In light of the fundamental failure to follow the grievance procedure, I have decided to award an uplift of 25%, that is £279.
50. In summary, the respondent must pay the claimant:
- 50.1. £1,114 in respect of the deduction from wages relating to non-payment of bonus; and
 - 50.2. The sum of £279 in respect of the unreasonable failure to follow the Acas Code of Practice.

**Approved by:
Employment Judge Hawksworth**

Date: 26 August 2026

Sent to the parties on:
21 September 2026

For the Tribunals Office

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