EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Ms K Jhuti	**- V -**	Royal Mail Group Ltd

Heard at: London Central **On**: 2 February 2023

Before: Employment Judge Baty
Ms N Sandler
Mr P Alleyne

Representation:

For the Claimant: Mr M Jackson (Counsel)
For the Respondent: Mr S Gorton KC (Counsel)

SECOND REMEDY JUDGMENT

1. The tribunal makes a total award of £2,365,614.13, payable by the respondent to the claimant. The award comprises the elements set out in the table below.

2. Subject to the paragraph below, payment of the award is stayed pending the outcome of the respondent's appeal against the tribunal's original judgment on remedies which was sent to the parties on 3 October 2022. Both parties have liberty to apply to lift this stay.

3. Of that total award, the respondent will, however, make payment of the sum of £250,000 gross to the claimant; the stay does not, therefore, apply in relation to this sum. The parties agreed that the respondent will pay this sum to the claimant within 14 days of the date of this hearing.

Amount	Description
£718.50	Basic award
£494,213.79	Past losses (including pension)
£1,079,165.07	Future losses (including pension)
£67,265	"Detriment compensation"

£8,229.49	0.5% ACAS uplift
£716,022.28	Grossing up for tax
£2,365,614.13	**Total judgment sum**

Notes on this judgment:

1. This judgment is not a judgment by consent. Rather, the parties have agreed these sums based on the findings made by the tribunal in its original judgment on remedies and the findings made at this remedies hearing. However, with the exception of the basic award (which is agreed), all of the above sums are subject to the outcome of the respondent's appeal against the tribunal's original judgment on remedies which was sent to the parties on 3 October 2022 ("the original remedies judgment") and indeed any appeal which may be made in relation to the findings made at this remedies hearing.

2. The "detriment compensation" of £67,265 comprises the awards for pain and suffering and loss of amenity (£55,000); aggravated damages (£12,500); and special damages (£1,565), less an ex-gratia payment of £1,800. It does not comprise the award of £40,000 for injury to feelings as that amount has already been paid as part of the agreed interim payment made pursuant to the tribunal's consent judgment of 19 February 2020.

3. The sum of £30,000 has been deducted in calculating the figure set out above for future losses as that sum has already been paid as the other part of the agreed interim payment made pursuant to the tribunal's consent judgment of 19 February 2020.

REASONS

Background

1. A remedies hearing in relation to the claimant's successful claim took place on 23-25 May 2022 ("the original remedies hearing"). The composition of the tribunal at the original remedies hearing was the same as the composition of the tribunal at this hearing and the parties were represented by the same representatives. The reserved judgment and reasons from the original remedies hearing ("the original remedies judgment") was sent to the parties on 3 October 2022.

2. At the original remedies hearing, the representatives asked the tribunal to answer a series of questions in an agreed list of issues, the answers to which would enable the parties to calculate the judgment sum due to the claimant themselves without further recourse to the tribunal. The representatives assured the tribunal that answering the questions which were in that list of issues would enable them to do this. The tribunal duly set out its answers to those questions in the original remedies judgment.

3. Regrettably, the parties were unable to calculate the judgment sum themselves.

4. The claimant's solicitors emailed the tribunal on 22 November 2022, stating that they had on 8 November 2022 sent to the respondent's solicitors a draft schedule of loss calculated on the basis of the conclusions reached by the tribunal in the original remedies judgment, but that the respondent had not responded to this. They therefore requested the tribunal to list another hearing.

Having sought dates to avoid from both parties, the tribunal duly listed the present hearing, which took place in person at London Central.

5. The respondent also submitted an appeal against the original remedies judgment to the Employment Appeal Tribunal on 11 November 2022. That appeal remains outstanding.

The Issues

6. By email of 16 January 2023, the tribunal ordered the parties to liaise in order to produce an agreed list of issues setting out whatever remaining issues there were between the parties.

7. On 25 January 2023, the respondent sent the claimant a document setting out which points on the schedule of loss were agreed and which were not agreed. The most significant outstanding point was in relation to the calculation of future pension losses.

8. At the start of this hearing, however, each party produced to the tribunal its own list of issues, albeit there was substantial overlap between them.

9. However, at the start of the hearing, both representatives did indeed indicate that the main outstanding issue was what the correct methodology for calculating future pension losses was and that they felt that any other issues could be ironed out in discussions between the parties that day. That duly turned out to be the case and the only issue on which the tribunal heard submissions and needed to make a decision was as to the correct methodology for calculating future pension losses.

10. Before hearing those submissions, the tribunal allowed the parties some extra time to deal with the other outstanding issues.

11. The parties then returned and made submissions on the future pension losses issue. The tribunal then adjourned to consider its decision and, when it reconvened after lunch, gave the parties its decision on that issue and the reasons for that decision orally (see below).

12. The parties were then given some more time and were able to come to agreement on the remaining figures which are, subject to a correction which is explained in full at the end of these reasons, set out in the judgment above. All of the amounts which comprise the total judgment sum, except for the basic award, remain subject to the outstanding appeal).

Future pension losses

Background

13. Pension losses was the one head of loss on which the tribunal had not made any decision at the original remedies hearing. This was because, even though Mr Jackson had made some very brief written submissions on the issue

at the original remedies hearing, Mr Gorton had not, and he had asked the tribunal not to make a decision on the issue on the basis that this would not prevent the parties from agreeing the total judgment sum without further recourse to the tribunal.

14. Mr Jackson's brief written submission at the original remedies hearing was that the tribunal should in respect of future pension losses adopt the "Fraser" example set out in the "Employment Tribunals' Principles for Compensating Pension Loss" booklet (the 2021 Fourth (and most recent) Edition) (the "Pensions Booklet").

15. Furthermore, the claimant's schedule of loss included a "pension schedule" which, without setting out in any detail why it considered it was the appropriate methodology, calculated future pension loss using the approach taken in the Fraser example. This led to a total sum for future pension losses of £941,674.15. (In fact, when Mr Jackson was making his submissions at this hearing, the judge queried whether the multiplier of 15.94 which Mr Jackson used in applying the Fraser example was correct; Mr Jackson acknowledged that it was not and that it should have been 19.837; on that basis Mr Jackson recalculated the sum sought by the claimant for future pension losses, which became £1,171,480.45.)

16. With its email to the claimant of 25 January 2023, the respondent had attached a note setting out in some detail why it considered that the Fraser example was inappropriate for calculating future pension losses (on the basis that it would lead to a substantial and unjustified overcompensation of the claimant) and proposed its own methodology for calculating future pension losses. In short, that involved multiplying the claimant's annual pension loss (based on 7% employer contributions), which was calculated by the claimant to be £5,475.49, a figure with which the respondent agreed, by the Ogden Table figure already determined by the tribunal in the original remedies judgment in relation to future loss of earnings (11.52). In other words, £5,475.49 multiplied by 11.52, which equals £63,077.64.

17. There was, therefore, a considerable discrepancy in the amount for future pension losses proposed by each party.

Documents and submissions

18. A short bundle of documents was produced to the hearing. In addition, Mr Gorton produced a note for the hearing, which the tribunal read in advance, and which again set out the respondent's reasoning as to why the Fraser example was in the respondent's opinion inappropriate.

19. By that stage, therefore, neither the tribunal nor the respondent had heard in any detail the claimant's reasoning for adopting the Fraser example, whereas the respondent had submitted two documents setting out why it considered that the Fraser example was inappropriate. In the light of that, the judge asked Mr Jackson whether the claimant's position remained the same, in view of the respondent's arguments that the adoption of the Fraser example would lead to a

substantial and unjustified overcompensation. Mr Jackson confirmed that the claimant's position remained the same and that he considered that the Fraser example should be adopted.

20. Both representatives then made oral submissions. It was only during his oral submissions that Mr Jackson set out in any detail the reasons why he submitted that the Fraser example should be used.

21. The tribunal then adjourned to consider its decision and, when the hearing reconvened, gave the parties its decision and reasons orally.

Decision

22. The reasons for our decision are set out below. They should be read with the decisions in the original remedies judgment, particularly those sections in relation to the calculation of the Ogden Table multiplier in relation to future loss of earnings.

23. First, the parties agreed that the claimant's pensionable pay comprised salary and bonus (but not other benefits such as car allowance and medical cover). It is similarly agreed that the pension scheme in question was a defined contribution pension scheme to which the respondent made contributions in respect of the claimant of 7% of pensionable pay. As set out in the original remedies judgment, the claimant's pension age is 67 and we found that she has suffered career long loss.

24. Secondly, the judge noted that the 11.52 Ogden Table multiplier adopted by the tribunal in the original remedies judgment in relation to future loss of earnings was calculated based on the fact that the claimant was 53 years old at the date of the original remedies hearing in May 2022. He noted that, however, the claimant's schedule of loss was based on an assumed remedy hearing date of 1 December 2022 and that that was the date in relation to which past losses were calculated in the schedule of loss. He noted that the claimant was, by 1 December 2022 (and at the date of this hearing as well) 54 years old, which would affect the multiplier; if the multiplier based on age 54 was used, that multiplier would be lower and the amount of compensation would be less. However, Mr Gordon confirmed that, notwithstanding this, the respondent was out of pragmatism nonetheless content to agree to the 11.52 multiplier, both in relation to future loss of earnings and future pension losses.

25. Neither party produced any actuarial or other expert evidence to support the submissions which they made. That is not a criticism; indeed, the guidance regarding pension losses which we were referred to, much of which is set out below, envisages that such calculations should be able to be made without the need for actuarial evidence. However, it is worth noting, as where a party seeks to persuade the tribunal that it should depart from the type of broad brush common sense approaches envisaged by the guidance, it is likely that that party will require some such evidence to persuade the tribunal to do so.

Authorities

26. The representatives referred us to various pieces of guidance on the issue of future pension losses.

27. Mr Gorton referred us to the Employment Tribunal Remedies Handbook 2021-22 ("the Remedies Handbook"). The Remedies Handbook is guidance; it is not legally binding. It contains a section about defined contribution pension schemes; that is separate from the section on defined benefit pension schemes which follows it. In the section about defined contribution pension schemes, there is a sub-section headed "career long loss". This states:

"The tribunal may consider that the contributions method is not appropriate if there is significant disparity between the level of employer contributions in the new job compared to the old job which will remain through to the claimant's retirement. Instead, the tribunal may add the employer contributions to net salary and use the Ogden Tables to calculate net loss of earnings. The relevant Ogden Tables in these cases are multiples for loss of earnings (Ogden Tables 3 to 18) (Table 34 to 37 listed at the back of this book).

Example

- Female
- Aged 54 at date of dismissal
- Pension age 70
- Pension contributions in old job = £9,750 per year
- Pension contributions in new job = £2,250 per year
- Loss each year = 9,750-2,250 = 7,500
- Table 35 without two-year adjustment 15.78
- Loss of pension, before grossing up = 7,500×15.78 = £118,350."

28. This guidance therefore points towards using Ogden Tables 3-18 (the multiples for loss of earnings), which are the tables which we used to calculate the 11.52 multiplier for loss of earnings.

29. Secondly, Mr Gorton referred us to Whistleblowing Law and Practice (Fourth Edition), OUP, 2022, which also provides a pensions loss example at pages 1033-1034. That example concerns future pension losses over a roughly 4 year period and the method of calculation in it is based on the employer contributions to the pension scheme over the future period of loss less any employer contributions from subsequent employment.

30. Both representatives referred us to the Pensions Booklet. There are a number of passages which are relevant.

31. The introduction makes clear that the Pensions Booklet *"does not have statutory force. It does not set out legal advice or financial advice."*.

32. The introduction also states that it is guided by five concepts, namely *"justice; simplicity; proportionality; pragmatism; and flexibility*. Under *"justice"*, it states that pension loss *"is a type of future loss. It is a matter of justice that, in appropriate cases, pension loss should be compensated."*.

33. Paragraph 1.11 states that: *"The Principles do not have the force of law. They are not rigid rules. If the parties wish to advance arguments for using their own calculations, rather than following the recommended approaches, the tribunal will consider them."*.

34. The Pensions Booklet has separate chapters on defined contribution schemes (chapter 4) and on defined benefit schemes (chapter 5). Various worked examples are given at the end of the Pensions Booklet in relation to each of the types of scheme. Of the six examples in relation to defined contribution schemes, the first five do not deal with career long losses and use the "contributions method" (of, in summary, adding up the employer pension contributions over the period of loss); only the sixth example, that of "Fraser", deals with career long loss and applies the Ogden Tables. There are, however, as we shall come to, considerable differences between the facts relating to Fraser and the facts relating to the claimant.

35. The defined contributions chapter (chapter 4) contains an explanation of how a defined contributions scheme operates. At paragraph 4.6 it sets out a brief explanation of how annuities work:

"A personal pension fund, or occupational DC pension fund, may be used to purchase an annuity. How do annuities work? As a rough idea, take an individual retiring at the age of 65 with a personal pension pot valued at £133,333. Suppose they take a cash-free lump sum of £33,333 (25% of the overall value) and the remaining £100,000 is available to purchase an annuity. At current rates a sum of £100,000 would buy a 65-year old a no-frills annuity (i.e. an annual pension income) of about £4,700. (Annuity rates have fallen: in 2008, it would have been closer to £7,500.)"

36. Paragraphs 4.17 and 4.18 set out how the usual contributions approach method used in relation to defined contribution schemes operates:

"4.17 Where a successful claimant has, through dismissal, lost the benefit of membership of a DC scheme, it is usually straightforward to calculate the resulting net loss of pension that is attributable to the employer and which flows from its unlawful conduct. The basis for calculation will be the employer's contributions for whatever period of loss the tribunal has identified. This is known as the "contributions method".

4.18 The contributions method is a "broad brush" approach. The precise level of future pension loss a claimant will experience in retirement because of dismissal from a job with DC pension benefits is, as at the date of the hearing, very difficult to predict. The fund associated with that pension might, in the future, perform well. It might perform poorly. A process of aggregating the employer's pension contributions for the appropriate period of loss is felt to be a tolerably accurate assessment of the pension loss that, after income tax, a claimant will experience in retirement. It is worth emphasising that, despite appearances to the contrary, an award of pension contributions for a past period is not an award of past loss; it is an award designed to capture future net loss of pension income."

37. Finally, the last paragraph in chapter 4 (paragraph 4.31) contains the following:

"4.31 It is possible that the tribunal is persuaded that a claimant will experience a lengthy or career-long earnings loss from employment which had DC scheme benefits. An example in Appendix 3 is Fraser. For such a case, we make the following observations:

(a) Although it will depend on the circumstances, the simplest way to assess loss of DC pension rights in such a case may be to increase the level of the claimant's net earnings in the old job by the percentage of earnings the employer contributed to the DC scheme (and, if there is a new job, doing the same to earnings from the new job) and to use the Ogden Tables to calculate net loss of earnings using this adjusted multiplicand.

(b) This approach has the advantage of simplicity. It is also consistent with paragraph 58 of the explanatory notes to the Ogden Tables. However, an adjustment may be needed to ensure that recoupment is applied correctly and, in a discrimination case, to reflect the fact that no interest is awarded on pension loss.

(c) It bears repeating that, in such a scenario, the claimant is not being compensated for their pension loss by receiving the employer's pension contributions personally, since those contributions are not the measure of their loss. Instead, the contributions method works by identifying a broad-brush one-off sum that compensates the claimant for the net shortfall in their future pension income.

…

(f) Such cases will be rare. Significant loss of pension rights is more likely to arise where DB pension benefits are concerned. These Principles discuss the Ogden Tables in more detail in Chapter 5. As with DB cases, it will be open to the parties to obtain expert evidence, such as from an actuary, to achieve greater precision in calculating DC pension loss than the method suggested above."

38. In paragraph 4.31(f) above, the reference to "Chapter 5" contains a link which, when clicked on, takes the reader to a section in the defined benefit chapter (chapter 5) which is headed "An introduction to the Ogden Tables" and starts at paragraph 5.42 as follows:

"5.42 These Principles referred earlier to the Ogden Tables in the context of calculating loss of state pension rights and calculating career-long loss of earnings that include a career-long loss of employer contributions to a DC scheme."

39. There then follows a lengthy section about the Ogden Tables. The section is not, as far as we can see, specific about which sets of Ogden Tables should be used to calculate future pension losses in relation to defined contribution schemes (in other words Tables 1-18 in relation to future loss of earnings or otherwise).

40. Finally, we remind ourselves of the legal authorities quoted in the original remedies judgment reminding us that it is important for us to step back and take an overview of compensation and in particular paragraph 48 of BMI Healthcare v Shoukrey UKEAT/0336/19/DA, which is set out under paragraph 229 of the reasons in the original remedies judgment:

"48. It is also important to step back and take an overview of compensation. In **Ministry of Defence v Cannock** [1994] ICR 918 Morison J stated at 950H that:

> **"We suggest that tribunals do not simply make calculations under various different heads, and then add them up and award the total sum. A sense of due proportion involves looking 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."** "

41. Mr Jackson submitted that this applied in relation to matters such as not overcompensating when applying a percentage ACAS uplift in relation to large awards of compensation (which was indeed a matter we took into account when calculating the ACAS uplift in the original remedies judgment); and that it did not apply to the calculation of future pension losses. However, we can see no basis for limiting it in that way and consider that these principles refer to all elements of the award. The essence of the case law is that we should be proportionate and not unjustly overcompensate.

Conclusions

42. Mr Jackson took us through the Pensions Booklet and sought to persuade us that its provisions meant that we ought to adopt the methodology in the Fraser example. It would certainly have been helpful if we had had a note setting out all the stages of his argument in advance rather than simply having the benefit of his oral submissions on the day. However, first, we were not convinced that the route that he took us through the Pensions Booklet, from the defined contributions chapter and into the defined benefit chapter, meant that we were obliged to use the Fraser example. Secondly, the Pensions Booklet is clear that it is guidance and that it is not legally binding; we are not, therefore, as a matter of law, bound to follow it.

43. We note that the Fraser example is the only one of the six examples given in relation to defined contribution schemes which deals with career long losses. However, it is only an example. Furthermore, and most importantly, as Mr Gorton submitted, there are some fundamental differences between the facts in Fraser and the facts in this case.

44. The facts in Fraser are that Fraser obtained a new job with the same salary (£65,000 per annum) but a lower defined contribution employer pension contribution (in his old job the employer pension contribution was 15% of his gross salary, but it was only 3% in his new job). Fraser was 54 at the time of his dismissal and the tribunal accepted evidence that he would continue working until his pension age of 70, some 16 years away. The calculation in Fraser adds up the old salary and old pension contributions and deducts from them the new salary and the new pension contributions; in other words, as his salary in the old job was the same as his salary in the new job, the sum to which the multiplier is then applied is the difference in the pension contributions only.

45. By contrast, the claimant has not got another job; she has no replacement salary and no replacement pension contributions. So, if you apply the same methodology, the sum to which you apply the multiplier would be the totality of her lost salary and pension contributions going forwards.

46. However, we have already set out the basis for calculation of the claimant's future loss of salary (and bonus, car allowance and private medical insurance) in the original remedies judgment; and indeed the claimant has calculated this sum separately in her schedule of loss. Applying the Fraser methodology, as the claimant submits that we should, therefore leads to her being compensated twice for her future loss of earnings, which when one does

the maths leads to a discrepancy in the region of £1 million. That is clearly a gross and unjustifiable overcompensation.

47. As noted, Mr Jackson has provided no actuarial or other expert evidence to support his submission that we should adopt this method.

48. It would therefore be utterly unjustifiable for us to adopt the Fraser calculation in relation to the claimant. We therefore reject that submission.

49. We turn then to the respondent's submission as to the correct method of calculation. Essentially, this mirrors in relation to future pension losses the approach already taken by the tribunal in relation to compensation for future loss of earnings. That is, except for one element which the judge raised with Mr Gorton during the course of his submissions. That element is that, in his submissions, Mr Gorton did not include a 2% annual increase in the amount of the pension contributions which the respondent would have paid in respect of the claimant, as the tribunal did in its calculation of the multiplicand for the purposes of calculating future loss of earnings (which it did following the recommendation of Mr Gilbert, the employment expert).

50. In fairness to Mr Gorton, he did not seek to push back on this when the judge raised it. Indeed, Mr Mitchell of counsel, who was present at the hearing supporting Mr Gorton, was able using a spreadsheet to calculate that, applying a 2% increase to the £5,475.49 annual pension contributions figure over the course of the period of future losses and then taking the average annual amount over that period to produce the multiplicand, which is then multiplied by the 11.52 multiplier (which was the methodology we used in the original remedies judgment to calculate future loss of earnings), gave a figure of £71,971.27 rather than the figure of £63,077.64, which was the original figure submitted by the respondent but which did not include the 2% annual increase.

51. As noted, we used Ogden Tables 3-18 to calculate loss of earnings. We note that the Pensions Booklet is not clear as to which set of Ogden Tables are recommended to do this calculation but the Remedies Handbook points to tables 3-18 in calculating future pension loss on a career loss basis in relation to defined contribution pension schemes. We therefore consider that it is both permissible and appropriate to use those tables. Furthermore, the Remedies Handbook, quoted above, envisages using the same method for calculating future pension losses as for future loss of earnings in the circumstances. We therefore consider it is both permissible and appropriate to do so.

52. The reason to depart from the even simpler "contributions method" of simply adding up all the future contributions is that, without applying the discounts catered for by the multipliers in the Ogden Tables, which take into account the factors that were relevant for calculating future loss of earnings such as mortality and accelerated receipt (see the original remedies judgment), the amount calculated by simply adding up the total of the contributions and nothing more could lead to a overcompensation. It is therefore appropriate to apply the multiplier calculated by reference to the Ogden Tables to losses over such a lengthy period, as we have done for future loss of earnings.

53. For all these reasons, we consider that the most fair and appropriate method of calculating future pension losses is the one submitted by the respondent, save for the fact that we consider that the 2% increase should also be factored in. In other words, that future pension losses should be calculated on the same basis as future loss of earnings.

54. If we are wrong and it is somehow the case that we should apply the Fraser example in the first instance, we remind ourselves of the principles in cases such as Shoukrey that we should take a step back and consider the overall award rather than simply slavishly add up every element of it.

55. Despite Mr Jackson's attempts to persuade us otherwise, applying Fraser leads to an enormous overcompensation, because effectively it awards the claimant compensation for future loss of earnings twice.

56. Mr Jackson reminds us that in relation to pension losses, what you are compensating for is not the loss of contributions but what the claimant would lose in terms of what she could get out of the pension fund when she retires. That is absolutely correct and we are entirely cognisant of that; indeed the Pensions Booklet makes that clear; but it is also clear that, in using the sort of broad brush approaches which it recommends, aggregating the employer's pension contributions, whilst clearly not the same as calculating precisely what the employee would have received from the fund at a later date, is *"a tolerably accurate assessment of the pension loss that, after income tax, the claimant will experience in retirement"* (paragraph 4.18 of the Pensions Booklet). That is why calculating future pension losses by reference in the first instance to the pension contributions that would have been paid in by the employer is an appropriate method of calculation.

57. As to what comes out of the fund as opposed to what is put in, we don't of course have any actuarial evidence. However, by simply looking at the examples in the Pensions Booklet at paragraph 4.6 regarding annuity rates, one can see what a gross overcompensation the application of Fraser would lead to. Adding up all the employer pension contributions over the 13 years of future losses up to the claimant's retirement age of 67 (including the 2% annual increase but without even applying our 11.52 Ogden Table multiplier which would reduce it) comes to a little over £80,000. Let us assume that the fund performed tolerably well and the value of it increased to £100,000. As we know from the example at paragraph 4.6, a £100,000 fund would provide an annuity of around £4,700 per annum. If the claimant lived a further 20 years until aged 87, which is considerably more than the current life expectancy for females in the UK, what she would receive from the pension fund by way of an annuity (as opposed to the employer contributions that were put in) would be £4,700 times 20 years, which is £94,000.

58. This is obviously very broad brush and, without actuarial evidence, it can only ever be broad brush. However, and even with the generous assumptions about life expectancy we used and without applying the discounting multiplier, this indicates that the figure for future pension losses of £71,971.27 proposed by

the respondent is far, far nearer in ballpark terms to what is fair than the claimant's proposed figure of £1,171,480 .45.

59. We therefore take that step back; we do not double count for loss of future earnings as the claimant's method would entail; we reject the claimant's methodology and figure; and we accept the respondent's methodology. That is what is permissible, proportionate, and fair in the circumstances.

Concluding matters

60. As already noted, after the tribunal delivered this decision, the parties were given some time to agree the calculations. They duly did so and informed the tribunal of the figures which they had agreed (all of which, except for the basic award, are subject to the appeal).

61. Furthermore, the parties agreed the stay which is set out in the judgment above in relation to the judgment sum, with the exception of the £250,000 payment which the respondent has agreed to make to the claimant within 14 days of the date of this hearing.

62. The tribunal asked the parties whether or not the various orders made in separate litigation by the High Court in relation to payment of any award made in these employment tribunal proceedings would impact upon whether or not the respondent should be paying the £250,000 sum directly to the claimant. Both representatives assured the tribunal that those High Court orders did not preclude the respondent from paying that sum directly to claimant.

63. Finally, Mr Jackson asked for written reasons for the tribunal's decision in relation to the methodology for calculating future pension loss.

Subsequent correction to figures

64. After the hearing had ended, the tribunal realised that there was a discrepancy of £40,000 in the component figures which the parties had given the tribunal. This reflected the fact that the injury to feelings payment was not included in the "detriment compensation" figure which the parties had given us but had then also been wrongly deducted from the total judgment sum to give a total judgment sum of £2,325,614.13. This was the figure which the parties had given us at the hearing.

65. In correspondence with the parties after the hearing, the judge pointed out this discrepancy and suggested that the total judgment sum should therefore be £2,365,614.13 and sent the parties a draft incorporating these changes.

66. Both parties confirmed in writing to the tribunal that there had indeed been this mistake in the original figures and that the correct figures were those set out in the draft judgment which the judge sent to the parties and that the correct figure for the total judgment sum was indeed £2,365,614.13.

67. That position is reflected in the figures set out in the judgment above.

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Employment Judge Baty
Signed:17 February 2023

Judgment and Reasons sent to the parties on:
21 February 2023