Case Nos2200184/2013 & 2202916/2013:

EMPLOYMENT TRIBUNALS

Claimant: Ms C Howard

Respondent: The Commissioner of the Police of the Metropolis

Heard at: London Central **On:** 31 July & 1 Aug 2014
11 Aug 2014 (in Chambers)

Employment Judge: Ms H Grewal

Members: Mr D Carter
Lady A Sedley

Representation

Claimant: Ms S Jolly, Counsel

Respondent: Ms R White, Counsel

JUDGMENT

1 The Respondent is to pay the Claimant compensation in the sum of £37,117.50 and interest of £282.97.

2 The Tribunal makes the following recommendations under section 124(2)(c) of Equality Act 2010:

(a) Within 3 months of the receipt of this decision the Respondent should appoint an independent properly qualified person, who fulfills the criteria set out in paragraph 61 of the Reasons (below), to conduct a review of:

(i) The complaints of discrimination that have been progressed through the Fairness at Work procedure since January 2009 and of any changes or deletions that have been made to references to discrimination in draft reports during quality assurance reviews. The Commissioner and the MPS should provide full and frank disclosure of all relevant documentation to the person conducting the review;

(ii) The current Fairness at Work procedure and to consider, in particular,

- How complaints/grievances of discrimination and harassment related to a protected characteristic should be dealt with;
- Who should investigate such complaints;
- What training should be provided to persons investigating such complaints;
- What impact, if any, the statutory misconduct procedure has on the investigations of complaints of discrimination;
- What should happen if the person investigating the complaint finds that there has been discrimination;
- Whether there should be any review of the investigation by anyone else and, if so, for what purpose;
- What steps should be taken to ensure that the process is managed in terms of protection and redress for police officers and staff and not in terms of organisational risk;
- What steps should be taken to ensure that the process is open and transparent and that the complainant is kept fully informed of the process that is being followed;
- Whether the procedures set out in the ACAS Code of Practice should be adopted.

(b) The Respondent should publish the report produced at the end of the review and should consult extensively with groups representing police officers and staff on any recommendations made in the report.

(c) The Respondent should engage the services of persons with expertise in employment matters to assist it in the implementation of any recommendations.

(d) In the interim, the guidance given to Fairness at Work Advisors that they should not make any assessment regarding discrimination should be revoked and any guidance that is given should be consistent with paragraphs 1.3 and 9.1 of the Fairness at Work Procedure, complainants should at all times be kept informed of what procedure is being followed and the reasons why it is being followed and quality assurance reviews should not be used to instruct or suggest that any references to findings of discrimination should be deleted or changed.

(e) Within three months of this decision the Respondent should review the Equality and Diversity training provided to its officers and should consider whether there are more effective ways of providing such training than through e-learning packages and online training.

(f) Within six months of this decision the Respondent should ensure that the following individuals are provided with formal equality training which includes training on unconscious bias – Sergeant Kelly, Chief Superintendent Tarrant and David Jones.

(g) The terms of reference of the investigation being conducted by the Specialist Investigation Unit into Sergeant Kelly's conduct, its conclusions and any action taken as a result should be shared with the Claimant and her Federation representatives.

(h) The Claimant's sickness absence from 20 November to 2 December 2012 and from 21 March to 2 September 2013 should be disregarded in any applications that the Claimant makes for transfer to a different Unit or for promotion.

REASONS

1 This was a remedy hearing following the Tribunal's judgment sent to the parties on 30 June 2014 that the Respondent had directly discriminated against the Claimant on the grounds of sex and race and that it had victimised her because she had made allegations of sex and race discrimination.

The Issues

2 The issues that we had to determine at the remedy hearing were:

(a) Whether we should make recommendations;

(b) The level of the award for injury to feelings;

(c) Whether we should award aggravated damages;

(d) Whether we should award exemplary damages;

(e) Whether the award should be increased for any unreasonable failure to comply with the ACAS Code of Practice on disciplinary and grievance procedures;

The Law

3 **Section 124(2)** of the **Equality Act 2010** provides that if an employment tribunal finds that there has been a contravention of the Act, it may,

"*(a) make a declaration as to the rights of the complainant and the respondent in relation to the matters to which the proceedings relate;*
(b) order the respondent to pay compensation to the complainant;
(c) make an appropriate recommendation."

Section 124(3) provides,

"*An appropriate recommendation is a recommendation that within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect of any matter to which the proceedings relate –*
(a) on the complainant;
(b) on any other person."

Any compensation awarded may include compensation for injured feelings – **s124(6)** and **s119(4)**.

Injury to feelings

4 In **Vento v Chief Constable of West Yorkshire Police (No.2) [2003] IRLR 102** the Court of Appeal identified three broad bands of compensation for injury to feelings. It held that the top band should normally be between £15,000 and £25,000, and that sums in that range should be awarded in the most serious cases, such as where there had been lengthy campaign of discriminatory harassment on the grounds of sex or race. Those guidelines were updated in line with inflation by the EAT in 2010 in **Da'bell v NSPCC [2010] IRLR 19**. The range of the top band was increased to between £18,000 and £30,000.

5 In **Simmons v Castle & Others [2012] EWCA Civ 1288** the Court of Appeal declared that with effect from 1 April 2013 the proper level of general damages in all civil claims for (i) pain and suffering, (ii) loss of amenity, (iii) physical inconvenience and discomfort, (iv) social discredit, or (v) mental distress would be 10% higher than previously. In Presidential Guidance issued on 13 March 2014, under rule 7 of the Employment Tribunals Rules of Procedure 2013, the President of the Tribunals in England and Wales stated that the Vento guidelines had been further updated by **Simmons v Castle**, and that the awards in the top band were between £19,800 and £33,000. In **The Cadogan Hotel Partners Ltd v Ozog [EAT/0001/14/DM]** the EAT confirmed that for cases in which an injury to feelings award is made after 1 April 2013 there is a requirement to apply the 10% uplift laid down in **Simmons v Castle**.

Aggravated damages

6 In **Commissioner of the Police of the Metropolis v Shaw [2012] ICR 464** Underhill J in the EAT set out the principles applicable to the awarding of aggravated damages. They are as follows:

(i) Aggravated damages are compensatory in nature and not punitive. They are awarded only on the basis, and to the extent, that the aggravating features have increased the impact of the discriminatory act or conduct on the applicant and thus the injury to his or her feelings. The ultimate question is "what additional distress was caused to this particular claimant, in the particular circumstances of this case, by the aggravating feature(s) in question?"

(ii) The features that may attract an award of aggravated damages can be classified under three heads:

(a) The manner in which the defendant has committed the tort. The basic concept of this is that the distress caused by an act of discrimination may be made worse by it being done in an exceptionally upsetting way. An award for aggravated damages can be made in the case of any exceptional or contumelious conduct which has the effect of seriously increasing the claimant's distress. It includes conduct that is high-handed, malicious, insulting or oppressive.

(b) The motive for it. Underhill J said of this category, "*Discriminatory conduct which is evidently based on prejudice or animosity or which is*

spiteful or vindictive or intended to wound is, as a matter of common sense and common experience, likely to cause more distress than the same acts would cause if evidently done without such a motive – say, as a result of ignorance or insensitivity. That will, however, only be the case if the claimant is aware of the motive in question."

(c) Subsequent conduct. This refers to conduct subsequent to the actual act(s) complained of and includes the manner in which the litigation is conducted, the employer rubbing salt in the wound by not taking the claimant's complaint of discrimination seriously, failure to apologise, An award can only be made if these features cause additional injury to the claimant.

(iii) In determining the amount of the award for aggravated damages, tribunals must be careful to distinguish between the injury caused by the discriminatory act itself and the injury attributable to the aggravating elements. Tribunals must beware of the risk of unwittingly compensating claimants under both heads for what is in fact the same loss. The ultimate question must be not so much whether the respective awards considered in isolation are acceptable but whether the overall ward is proportionate to the totality of the suffering caused to the claimant. .

Exemplary damages

7 In **Rookes v Barnard [1964] AC1129** Lord Devlin identified three types of cases in which exemplary damages, the purpose of which was not to compensate the claimant but to punish the defendant, to deter such behaviour in the future and to express the court's disapproval of the behaviour, could be awarded. Lord Devlin said, at page 1226,

"*The first category is oppressive, arbitrary or unconstitutional action by the servants of the government. I should not extend this category … to oppressive action by private corporations or individuals. Where one man is more powerful than another, it is inevitable that he will try to use his power to gain his ends; and if his power is much greater than the other's, he might, perhaps, be said to be using it oppressively. If he uses his power illegally, he must of course pay or his illegality in the ordinary way; but he is not to be punished simply because he is the more powerful. In the case of the government it is different, for the servants of the government are also the servants of the people and the use of their power must always be subordinate to their duty of service."* Lord Devlin considered that the award of exemplary damages in such cases served "*a valuable purpose in restraining the arbitrary and outrageous use of executive power"* (at page 1223).

"Cases in the second category are those in which the defendant's conduct has been calculated by him to make a profit for himself which may well exceed the compensation payable to the plaintiff … Where a defendant with a cynical disregard for a plaintiff's rights has calculated that the money to be made out of his wrongdoing will probably exceed the damages at risk, it is necessary for the law to show that it cannot be broken with impunity."

The third category was where exemplary damages were expressly authorised by statute.

8 In **Cassell & Co Ltd v Broome [1072] AC 1027** the House of Lords held that the decision in **Rookes v Barnard** was not inconsistent with any earlier decision of the House of Lords and was binding on the lower courts. That case was concerned with an award of exemplary damages under Lord Devlin's second category. However, in the course of their judgments, some of their Lordships expressed their views on the first category. Lord Hailsham of St Marylebone LC said, at page 1077H,

> "*It would, in my view, obviously apply to the police, …, and almost as certainly to local and other officials exercising improperly rights of search or arrest without warrant, and it may be that in the future it will be held to include other abuses of power without warrant by persons purporting to exercise legal authority. What it will not include is the simple bully, not because the bully ought not to be punished in damages, for he manifestly ought, but because an adequate award of compensatory damages by way of solatium will necessarily have punished him."*

Lord Reid said, at page 1087G,

> "*… I think that the context shows that the category was never intended to be limited to Crown servants. The contrast is between "the government" and private individuals. Local government is as much government as national government, and the police and many other persons are exercising governmental functions… I should certainly read it as extending to all those who by common law or statute are exercising functions of a governmental character".*

Lord Diplock said, at pages 1128G and 1130B,

> *"The first category comprised cases of abuse of an official position of authority."*

> *"… if it is to be retained … the reasoning which supports its retention would not confine it to torts committed by servants of central government alone. It would embrace all persons purporting to exercise powers of government, central or local, conferred upon them by statute or at common law by virtue of the official status or employment which they held."*

9 In **City of Bradford Metropolitan Council v Arora [1991] IRLR 165** the Court of Appeal upheld an award of exemplary damages against a local authority which was found to have racially discriminated against an applicant for a post in a college because it did not accept the authority's argument that in appointing to that post it had been carrying out a private, as opposed to a public, function. In those circumstances, it did not find it necessary to consider the exact ambit of Lord Devlin's first category.

10 **Ministry of Defence v Fletcher [2010] IRLR 25** concerned a woman in the Army who was found to have been subjected to direct sex discrimination and harassment and to have been victimised under the Employment Equality (Sexual Orientation) Regulations 2003. The Employment Tribunal had awarded her £30,000 for injury to feelings, aggravated damages of £20,000 and exemplary damages of £50,000. The basis of the exemplary award was the Respondent's "systemic failure of mechanisms for redress" of the Claimant's complaints. Although it was not

expressly stated it was implied that such failure was conscious and contumelious. The procedure for making complaints and dealing with them in the Army is prescribed in section 180 of the Army Act 1955. Giving judgment in the EAT Slade J stated,

> *"… we consider that we are bound by the decision in that case* [Arora] *that certain "ordinary" employment law functions performed* *under statute* [our emphasis] *by an official of a public body of sufficient seniority may, subject to other conditions, be capable of supporting an award of exemplary damages. Accordingly, …, the exercise by those of sufficient seniority within the Army of its functions under statutory procedures for the redress of complaints are activities which, if exercised, oppressively, arbitrarily, unconstitutionally and in the manner set out by Lord Nicholls in Kuddus, are capable of falling within the scope of Lord Devlin's first category"* (at paragraph 99);
>
> *"The authorities establish that exemplary damages are to be reserved for the most serious abuses of governmental power. The examples of cases in which such damages have been awarded illustrate the high degree of gravity of conduct required to warrant such an award. Although the Et characterized the Army's failure to provide or operate procedures for redress of Ms Fletcher's complaints as 'oppressive, arbitrary and unconstitutional' in our judgment their conduct in this regard, deplorable though it was found to be, did not cross the high threshold warranting an award of exemplary damages"* (at paragraph 115).

11 In **Thompson v Metropolitan Police Commissioner [1998] QB 498** Lord Woolf gave guidelines for the assistance of judges summing up to juries on the issue of exemplary damages. He said,

> *"It should be explained to the jury:*
> *(a) that if the jury are awarding aggravated damages these damages will have already provided compensation for the injury suffered by the plaintiff as a result of the oppressive and insulting behaviour of the police officer and, inevitably, a measure of punishment from the defendant's point of view;*
> *(b) that exemplary damages should be awarded if, but only if, they consider that the compensation awarded by way of basic and aggravated damages is in the circumstances an inadequate punishment for the defendants."*

12 The Police Act 1996 gives the Secretary of State powers to make regulations to deal with disciplinary proceedings and the Act itself sets out certain rights that police officers have in proceedings under such regulations. The Secretary of State has exercised his powers to make a number of regulations, which include The Police (Conduct) Regulations 2008 and the Police (Complaints and Misconduct) Regulations 2004. Misconduct and disciplinary proceedings in the Police are conducted in accordance with these Regulations. The conduct of grievances, however, is not governed by any statutory provisions.

13 Section 149(1) of the Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to –

> "*(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
> *(b) advance equality of opportunity between persons who share a relevant*

protected characteristic and persons who do not share it;

(c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it."*

The Commissioner of Police of the Metropolis is a "public authority".

14 Section 207A of Trade Union & Labour Relations (Consolidation) Act 1992 provides that if it appears to the employment tribunal the employer has failed unreasonably to comply with the ACAS Code of Practice, it may, if it considers it just and equitable in all the circumstances to do so, increase any award that it makes to the employee by no more than 25%.

The Evidence

15 The Claimant and PC Lorraine Francis, her Federation representative, gave evidence in support of the Claimant at the remedy hearing. The following witnesses gave evidence for the Respondent – James Nadin (Senior Information Officer, Corporate Press Office), Elaine Van-Orden (Chief Superintendent, DPG), Darren Bird (Assistant Director, Directorate of Professional Standards), Clare Davies (Deputy Director HR) and Sergeant Adam Smith (Firearms Training Manager). Having considered all the oral and documentary evidence, the Tribunal makes the following additional findings of fact, which are to be read together with the findings of fact made in the liability decision.

Findings of fact

16 Although the acts of race discrimination by Acting Inspector Kelly did not take place on a daily or weekly basis, the nature of the acts and his position vis-a-vis that of the Claimant meant that they had a profound effect upon her. She felt that she was not trusted and that her integrity was continually questioned and that that damaged her reputation and lowered her standing among her colleagues. She was portrayed as someone who was dishonest and could not be trusted. She felt embarrassed, humiliated, offended, belittled, upset and angry. She felt that AI Kelly was always looking for excuses to find fault with her and that made her feel scared, vulnerable and insecure about her future. She had been very proud of having qualified as a firearms officer and was very excited about joining DPG. However, as a result of AI Kelly's conduct, she was miserable and unhappy and was often reduced to tears. She was particularly shaken by the AI Kelly's aggressive conduct on 6 November. This state of affairs lasted for almost a year. The Claimant saw the application to the ARV role in CO19 at the end of October 2012 as a possible way of escaping the situation in which she found herself. However, that was blocked by AI Kelly and Chief Superintendent Tarrant. The Claimant had a two week sickness absence form 20 November to 2 December 2012. The reason given for the absence on her medical certificate was "stress due to bullying and unfairness at work."

17 When the Claimant raised the Fairness at Work complaint she expected that there would be a proper investigation of her complaints and that they would be addressed. She felt that Chief Inspector Hardman was dismissive of her complaints

and did not take them seriously. She felt that he had manipulated and abused the FAW process to avoid any findings of discrimination and to prevent any formal sanction being applied to AI Kelly. When she discovered that Chief Inspector Hardman had, contrary to what he had agreed with the Claimant, dealt with AI Kelly by giving him informal advice, she was furious and felt hurt and as if she were insignificant and did not matter. The Claimant received CI Hardman's report and found out about the action taken against Kelly on 14 March 2013.

18 On 21 March 2013 the Claimant commenced a long period of sickness absence that continued until 2 September 2013. The initial medical certificate gave the cause of absence as "bullying at workplace causing depression" and subsequent certificates referred to "stress disorder", "stress" and "depression". On 3 April 2013 the Claimant handed in her blue card as she was suffering from stress due to work-related matters. The Claimant had 21 counselling sessions while she was off sick.

19 On 29 August 2013 the Claimant was arrested by Sussex Police for threats to cause criminal damage and harassment. The arrest arose out of a domestic dispute with her estranged husband. She was not charged and was bailed pending further inquiries. As a result when the Claimant returned to work on 3 September 2013 she was placed on restricted duties. The Claimant knew that she was not doing full duties but thought that it was because she had returned to work after a long sickness absence. The relevant paperwork for placing her on restricted duties had been prepared and it was not clear to us whether she had accidentally not been served with it or she had been served with it but had not read it properly.

20 The Claimant had several long meetings with DS Hepworth in July/August 2013 to discuss her Fairness at Work complaint. The Claimant felt that DS Hepworth listened empathetically to all her complaints, and DS Hepworth assured her that she would conduct a thorough and impartial investigation. The Claimant trusted DS Hepworth and, for the first time in a year and a half, she felt optimistic that something would be done to address the problem. A few weeks later DS Hepworth informed her that she would not be disappointed with her findings.

21 DS Hepworth sent her first draft to Practice Support on 17 October 2013 and it was returned to her with Mr Jones' suggested amendments (which included deleting her assessment that AI Kelly had discriminated against and harassed the Claimant) on 4 November 2013. It was also made clear that DPS took the view was that none of the matters in the report amounted to misconduct. DS Hepworth made the suggested changes and returned the amended report to Practice Support on 2 December 2013 and it was returned to her on 18 December 2014. Sometime before the end of the year DS Hepworth disclosed the report to Superintendent Van-Orden in DPG. The Claimant was aware that senior management in DPG had the report before it was disclosed to her and was concerned that they might change the report. She was, of course, unaware that changes had already been made at the behest of Practice Support.

22 When the Claimant finally received DS Hepworth's report on 14 January 2014 she was devastated. Although the report set out incidents where AI Kelly had behaved inappropriately and said that his behaviour was inexplicable and unnecessary and that he had not treated others in the same way, it made no reference to the fact that the complaint was one of race and sex discrimination and no finding to that effect. The only recommendation that it made was that there should

be a “local fact finding exercise into issues relating to A/Insp Kelly not already investigated by Ch Insp Hardman”. The Claimant felt that she had put herself “though months of hell for nothing” and that she had been “given false hopes”. She tried to meet with DS Hepworth but DS Hepworth was not willing to meet with her. The Claimant felt that the report had somehow been changed or altered but she had no way of proving it.

23 The Claimant’s first claim, presented in January 2013, had been stayed until July 2013 because both parties had agreed to it being stayed as the Claimant was going through the Fairness at Work process. The Respondent had applied for a further stay in July 2013 and the Claimant had objected to that. Unfortunately the administrative staff at the Tribunal had not referred the application to an Employment Judge until November 2013. The case was then listed for a preliminary hearing before me on 3 December 2013. At that stage it was anticipated that DS Hepworth’s report would be available by 17 December 2013.

24 At the preliminary hearing the case was listed for an eight day hearing starting on 31 March 2014. I made an order for mutual disclosure to take place by 21 January 2014.

25 In January 2014 the Claimant was arrested again by the Sussex Police on suspicion of perverting the course of justice, witness intimidation and possession of an indecent image of a child under 16. This arrest also related to a domestic dispute with her husband and took place a as a result of allegations made by him against her. The image in question was a picture of her child that she had shared with the child’s father.

26 On 7 January 2014 the Respondent applied for the hearing on 31 March 2014 to be postponed on the grounds that the FAW report had taken longer to finalise than anticipated and that a disciplinary investigation with charges against AI Kelly was now anticipated. In light of DPS’ view that the FAW report had not disclosed any misconduct and DS Hepworth’s ultimate recommendation, it is not clear to us on what basis it was being said that a disciplinary investigation with charges was being anticipated. The application to postpone the hearing was refused.

27 As ordered by the Tribunal, the Claimant provided disclosure by list on 21 January 2014. The Respondent did not do so until 10 February 2014. On 27 February the Claimant requested copies of the Respondent’s documents (amounting to 3 lever arch files). The documents were provided on 5 March 2014. Having gone through the documents it became clear to the Claimant’s representatives that there existed earlier drafts of DS Hepworth’s report and that these had not been disclosed. No explanation has been put forward as to why these were not disclosed as part of general disclosure.

28 On 27 March 2014 the Claimant’s solicitor wrote to the Respondent’s solicitor and asked for all draft versions of DS Hepworth’s reports and any emails commenting on the content of the report before it was finalised and sent to the Claimant. The Respondent’s solicitor responded on 28 March 2014 that draft versions of her report were not relevant to the matters in issue and would not assist the Tribunal. The Claimant’s solicitor explained why the drafts were relevant and ought to be have been disclosed, and asked for the reports to be made available immediately, failing which they would apply for their disclosure at the outset of the

hearing the following Monday. The solicitor also pointed out that a failure to provide the reports would increase the Claimant's claim for aggravated damages.

29 DS Hepworth's witness statement made no reference to the earlier draft or to changes having been made as a result of suggestions made by Mr Jones in Practice Support.

30 The draft reports were not disclosed on the Friday and the Claimant's counsel attended the hearing on Monday morning prepared to apply for specific disclosure. However, following a discussion between counsel, the Respondent's counsel agreed that the draft reports would be disclosed, and they were disclosed at 12.20 that morning. That in turn led to the Claimant applying the following day to amend her claim to include a further complaint of victimisation and further evidence being served on the Claimant in the course of the hearing. All of that had the effect of making the Tribunal hearing considerably more stressful and pressurised for the Claimant than it would ordinarily have been. Throughout the hearing the Claimant had difficulty sleeping and keeping food down. The Claimant was particularly distressed by Chief Superintendent Tarrant's failure to acknowledge that there had been any shortcomings in AI Kelly's treatment of her.

31 When the Claimant saw the original draft of DS Hepworth's report and the changes that had been suggested she was angry, upset and disgusted at the way her employer had acted. She felt that the Respondent had deliberately misled her and had tried to mislead the Tribunal.

32 The Respondent did not oppose the application to amend, and both parties agreed that the new issue could be dealt with as part of the hearing before us rather than seeking to adjourn the case. That inevitably had some consequences. There were disputes between the parties as to what additional evidence had to be adduced. In the event, the Tribunal ruled that the evidence relating to the Fairness at Work appeal was not relevant to the issue raised by the amendment. However, before that a witness statement and a large volume of documentation relating to that had already been served on the Claimant. We do not consider that that was done deliberately to create difficulties for the Claimant's representatives but was the inevitable consequence of an important new issue only coming to light in the middle of the hearing, the full responsibility for which lies with the Respondent.

33 The Claimant was questioned about her honesty in the course of her cross-examination. Credibility of the witnesses was important because there were factual disputes about a number of issues, and the Claimant's conduct around 9 August 2012 did raise issues around honesty. In those circumstances, we do not consider that the Respondent's counsel can be criticised for cross-examining the Claimant about her honesty.

34 Some of the evidence which the Respondent's witnesses gave and was of assistance to the Claimant did not appear in their witness statements. In the absence of legal privilege being waived we cannot determine what the cause of that was. There was, however, no attempt to suppress disclosure of documents in which those witnesses had made comments that were helpful to the Claimant, and the witnesses were open and honest when cross-examined on those matters.

35 The liability hearing concluded on 9 April 2014.

36 On 22 April 2014 the Claimant was arrested by the Metropolitan Police on suspicion of assault. This matter was also related to the dispute with her husband.. On 30 April she was suspended by the Respondent.

37 The Tribunal's liability decision was sent to the parties on 30 June 2014. The first press release that was prepared by the Respondent's Directorate of Media and Communications ("DMC") within hours of receiving the decision stated,

> "*We are disappointed at the tribunal's finding in favour of PC Howard on four counts.*
>
> *The tribunal's decision will now be given full and careful consideration. We will review the findings, take legal advice and take forward any learning or actions as appropriate."*

This press release was shared with the Claimant's Federation representative.

38 Very shortly thereafter, probably on 1 July 2014, a "Gold Group", under the leadership of Deputy Assistant Commissioner Gallan, was convened to deal with matters arising from the Tribunal's decision. These included any potential misconduct matters arising from the judgment, ongoing welfare support for the Claimant and other staff involved in the case, legal advice and media and communications issues.

39 On 1 July DMC issued a longer and more detailed press release. This stated,

> "*The Commissioner has made it clear to both the public and all MPS staff that he will not tolerate discrimination in any form.*
>
> *We are very disappointed by the decision of the Tribunal. We take the judgment very seriously and are naturally concerned by it.*
>
> *We will review in full the Tribunal's findings concerning the relevant supervisor who at the time was given Management Action in relation to concerns about his supervision."*

The release then set out the Respondent's position on dealing with complaints of discrimination not as an integral part of the Fairness at Work process but as part of the misconduct process and explained that it had adopted this practice due to previous legal advice. It denied that there had been a policy to delete discrimination allegations from FAW documentation.

40 There was no acknowledgement of, or expression of regret about, the fact that the Claimant had been the victim of race and sex discrimination and that the internal process had failed to deal with her complaints of discrimination. There was no apology to the Claimant.

41 The Respondent has a Media Policy which was updated in October 2013 following Lord Justice Leveson's public inquiry. The Policy deals with whether the Respondent should name people who have been arrested but not charged. It states,

> "*The current MPS policy is that people who have been arrested are not named by*

police unless there are exceptional circumstances. This is in line with Lord Justice Leveson's advice that save in exceptional circumstances the names or identifying details of those who are arrested or suspected of a crime should not be named."

The advice given is that in circumstances where the MPS is reactively answering questions from the media about a particular arrest, the phrase "we neither confirm nor deny the arrested person's identity" should be used in response to a journalist putting a correct or incorrect name to the MPS and no additional guidance should be given.

42 In addition to that policy, the Respondent has a Media Guidance which provides a framework about what information should be given to the media when police officers and staff are the subject of an investigation. The rationale for this Guidance is that it is important for public confidence in policing that the MPS is open and accountable about wrong-doing by its officers and staff. The guidance given in respect of officers who are arrested but not charged with any offence is that they should be treated in the same way as members of the public. Reference can be made to certain characteristics, such as age or gender, and the rank/grade of the officer and the Unit where he or she is based as long as the information given does not identify the officer. The Guidance also provides that all arrests involving police officers must be confirmed if asked by journalists. Equally, officers who are the subject of an internal investigation must not be identified.

43 Following the Tribunal's decision the Gold Group prepared a statement (press line) to be used in response to queries about the Claimant's status where it was clear that the reporter had some knowledge of the criminal investigation or her suspension. In preparing the statement the Gold Group took into account the Media Policy and the Media Guidance. The statement was given to James Nadin in the Press Office and said,

"***IF ASKED: RE Suspension/Criminal Investigations (only should reporters have prior knowledge of the criminal investigations or her suspension)***
Can confirm a female PC, based within SO6 (Diplomatic Protection Group), was suspended from duty on 30 April 2013 due to ongoing criminal investigations. We are not prepared to discuss further."

The year given in that statement was wrong and that was corrected later. In light of the fact that there were only 12 female officers in DPG the Gold Group should have realised that disclosing the gender of the officer was likely to lead to her being identified.

44 On the morning of 2 July 2014 the Tribunal's decision was a national news item on radio, television and in the newspapers. It generated a lot of negative publicity for and criticism of the Respondent on 2 and 3 July.

45 On the evening of 2 July a Daily Mail reporter spoke to Mr Nadin and said that he understood the Claimant was suspended for an unrelated misconduct matter and sought confirmation that she was suspended and the reason for it. Mr Nadin consulted DAC Gallan who was satisfied that previously prepared statement was adequate to respond to that query. However, Mr Nadin did not issue that statement. On the morning of 3 July a Sun reporter contacted the Respondent and said that he understood that the Claimant was on police bail and asked what she was on bail for.

46 In the course of the morning of 3 July DAC Gallan and Mr Nadin changed the statement to be used in response to queries about the Claimant's arrest and suspension to give a lot more information. The amended statement read as follows:

> "*Can confirm a female PC, based within SO6 (Diplomatic Protection Group) was suspended from duty on 30 April 2013 following her arrest as part of ongoing criminal investigations.*
>
> *The officer was arrested by Sussex police in August 2013 – refer Sussex police for more details.*
>
> *Following the arrest the officer was placed on restricted duties.*
>
> *The officer was further arrested by the MPS on 22 April 2014 on suspicion of assault following an incident in Sutton. The officer remains on bail in relation to this incident.*
>
> *Following this arrest the officer was suspended from duty. She remains suspended."*

47 This statement went beyond what was required by the Media Guidance which was simply that, if asked about the arrest of a police officer, the arrest must be confirmed. Not only did it provide more information about the offence for which the Metropolitan Police had arrested the Claimant but, more importantly, it informed the press about the Claimant's arrest by another police force and directed them to that police force to get more information. We considered why the Respondent changed the statement 24-48 hours after it was first drafted. The original statement had been drafted taking into account the Respondent's Media Policy and Media Guidance and there had been no change in the Claimant's circumstances. The only significant event that had occurred in the intervening period was that the Respondent had received a lot of negative publicity and had been heavily criticised in the media as a result of the Tribunal's judgment in favour of the Claimant. We have no doubt that the second statement was issued to deflect attention and criticism from the Respondent and to portray the Claimant in a negative light.

48 At 12.19 on 3 July the Claimant's solicitor was informed of the statement that had been agreed. She made it very clear that she felt that the statement should not be issued. At 12.50 Mr Nadin issued the statement to the Daily mail, The Sun and the Evening Standard. The Evening Standard had made inquiries about the Claimant's status that morning.

49 At 1.40 pm the Respondent's press office received the press lines prepared by the Sussex Police. These read as follows,

> "*A 35-year old woman of Coulsdon, Surrey, was arrested on 24 August 2013 for committing an act to pervert the course of justice, and arrested on 29 August for assault, harrassment* [sic] *and making threats to damage property in Crawley, West Sussex. The complainant is known to the woman. She has been rebailed until 2 August."*

50 The following day at 3.12 pm Sussex Police sent the Respondent a revised

set of press lines which stated,

"A 35-year-old woman from Coulsdon, Surrey, was arrested on 29 August 2013 on suspicion of assault, harassment and making threats to damage property in Crawley, West Sussex.

She was further arrested on a later date on suspicion of perverting the course of justice, witness intimidation and possession of an indecent image of a child under 16.

No further action is being taken by Sussex Police about the allegation of assault.

The 35-year-old woman has been rebailed to answer further questions about the other allegations until 2 August 2014.

The complainant is known to the woman."

51 It was easy from the information given in the various press lines to positively identify the Claimant and on 3 and 4 July 2014 many newspapers published stories about the Claimant having been arrested on three occasions and details of the offences for which she had been arrested. The Sun newspaper ran the story under the banner headline "Oympics gun cop is nicked for perv pic of child and ex attack." The Claimant was horrified and extremely distressed that her employer had released information that led to her being portrayed as a criminal and "child predator". She felt embarrassed, publicly humiliated and that her reputation was tarnished.

52 Commander Hogan-Howe was interviewed by ITV on the evening of 3 July. He stated that he did not want to lead an organisation where there was any racist or sexist behaviour but was at pains to emphasise that there was "one officer" who had done that and that it was "one incident". He stated that it was "a disappointing incident" but that it was necessary to "keep a sense of balance." There was no expression of regret about the way that the Claimant had been treated or any apology to her. There was no acknowledgement of the fact that the Tribunal had found that the Respondent had vicitmised the Claimant when she had made complaints of race and sex discrimination internally.

53 The failure of the Respondent to publicly acknowledge the wrong that it had done to her, express any regret for it having occurred or to apologise to her for it left the Claimant feeling bewildered, upset and angry, and added insult to injury that she had suffered as a result of the discrimination. That was compounded by the attempts to brush it off as insignificant by referring to it as "one incident" involving "one person" and by the release of information to damage her reputation to deflect the criticism directed at the Respondent for the way that it had treated her.

54 On 4 July 2014 DAC Gallan sent the Claimant a personal letter to let her know how sorry she was to learn of her experiences as outlined at the Employment Tribunal. She continued,

> "*I am troubled that you have found your treatment within the DPG to have been hostile and that your experience has had a detrimental impact on you. In addition, I was disturbed by the style and manner of your line management as described by the Tribunal. I have personally read the Employment Tribunal's*

> *findings and the Metropolitan Police and I are determined to learn from your experience.*
>
> *The Commissioner and the Metropolitan Police are quite clear it is unacceptable for any person to be treated in a way that is discriminatory."*

55 On 25 July 2014 the Claimant was informed that no further action would be taken against her for the assault and on 30 July 2014 her suspension was lifted. She remains on restricted duties pending resolution of the matters before the Sussex Police.

56 Following the Tribunal's judgment Sergeant Kelly, who is currently on long term attachment to the Roads and Transport Policing Command, has been referred to the Directorate of Professional Standards' Specialist Investigations Unit. The Unit will undertake a full investigation into his conduct. Darren Bird, Assistant Director at DPS, has instructed the Unit to ensure that the terms of reference for the disciplinary investigation are broad enough to pick up any potential misconduct issues relating to Sgts Gil and Marsh, Chief Supt Tarrant and David Jones. Chief Inspector Hardman is no longer a serving officer. Sergeant Kelly is currently off sick and we were told that, upon his return to work, he will be served with formal notification of intended disciplinary action and consideration will be given to whether he should be suspended or placed on restricted duties.

57 Responsibility for the Fairness at Work process recently passed from DPS to the Human Resources Directorate. As a result of that the Respondent is undertaking a full review of the FAW process. There was, in broad terms, agreement between the parties as to the matters that the review should consider and the groups with which there should be consultation. There was, however, a dispute as to the best person to carry out the review. The Respondent indicated that it intended to instruct ACAS to carry out the review. The Claimant's position was that it should be carried out by an independent, authoritative and properly qualified person.

58 New police officer recruits complete an e-learning (NCALT) package titled Introduction to Diversity. Thereafter, Equality and Diversity training is delivered as part of all core management and development training for officers and staff.

Conclusions

Recommendations

59 We considered, firstly, whether we should recommend any steps to be taken for the purpose obviating or reducing the effect on the Claimant of the direct race and sex discrimination and victimisation to which she was subjected. The Claimant had periods of sickness absence from 20 November to 2 December 2012 and from 21 March 2013 to 2 September 2013 which were almost wholly attributable to the discrimination and victimisation that she suffered at work. Thereafter the Claimant was on restricted duties until 30 April 2014 and suspended until 30 July 2014 for reasons unconnected with the discrimination/vicitimisation which we found. Clearly the Claimant has to be re-integrated into the workplace and the Respondent has indicated that it is willing to explore reasonable steps to re-integrate her into the

organisation. This would include consideration of any requests about posting which the Claimant might have. The only recommendation that we consider necessary to reduce or obviate the effects of the discrimination and vicitmisation is that the periods of sickness referred to above should not be taken into account or held against the Claimant by any Unit to which she might wish to transfer or in any applications for promotion..

60 It was submitted on behalf of the Claimant that we should recommend that a full and unqualified public apology be provided to the Claimant by the Commissioner, Sergeants Gil and Kelly, Chief Supt Tarrant, ex CI Hardman and David Jones by way of a statement to the media. We considered that an apology provided well after the event under compulsion does not serve any purpose. It is not a sincere and genuine apology and does not make the recipient feel any better because the recipient recognizes it for what it is. It does not alleviate any of the hurt or suffering caused by the original acts of discrimination or vicitmisation. We concluded that nothing would be achieved by that recommendation and, therefore, declined to make it. However, the failure to provide a public apology immediately after the Tribunal's judgment, is a factor that we took into account when considering whether to award aggravated damages.

61 Finally, it was submitted that we should make a recommendation that within six weeks misconduct proceedings against Sergeant Kelly, Chief Supt Tarrant, ex CI Hardman and David Jones should be considered afresh and that any conclusions in regard to the considerations and action to be taken should be provided to the Claimant. We note that CI Hardman is no longer a serving officer and, therefore, no action can be taken against him by the Respondent. We also note that the Specialist Investigations Unit in DPS is to undertake a full investigation into the conduct of Sergeant Kelly and that it has been instructed to ensure that the terms of reference are broad enough to pick up any potential misconduct issues relating to Chief Supt Tarrant and David Jones. The only recommendation that we make, therefore, is that the terms of reference of the investigation, its conclusions and any action taken are shared with the Claimant and her Federation representatives.

62 We then considered whether we should recommend any steps to be taken for the purpose of obviating or reducing the likelihood of others in the Metropolitan Police suffering the same kind of discrimination and victimisation that the Claimant suffered. It was not in dispute that there should be a full review of the Fairness at Work process and that this should involve both a review of what had happened in the past and the process to be adopted in the future. Both parties agreed that the review should be carried out by someone who was independent and external. The main issue between the parties was who should conduct the review. We consider that whoever conduct the review must fulfill the following criteria – he or she must be legally qualified, must have knowledge and/or understanding of employment law and issues and equality legislation and issues, and must have sufficient gravitas to command the respect and confidence of all those involved and the public at large. We consider that legal qualifications are necessary because the person conducting the review will have to consider what impact, if any, the statutory misconduct procedures have on how grievances and complaints of discrimination are dealt with and will also need a good working knowledge of employment and equality law.

63 We also considered that once the review has been completed, there should be consultation with officers and staff, trade unions and other groups representing

minority groups as to the recommendations of the review and that the Respondent should seek the assistance of those who have the professional expertise to implement any recommendations. In making these recommendations we took into account that an independent inquiry conducted by a panel led by Sir William Morris in 2004 concluded that the Fairness at Work procedure was fundamentally flawed in a number of respects and that it should be replaced with a new procedure based on the ACAS Code of Practice on Disciplinary and Grievance Procedures. However, no action was taken on that recommendation.

64 In the meanwhile, pending the conclusion of the review, the guidance given to Fairness at Work Advisors that they should not make any assessment regarding discrimination should be revoked and replaced with advice that is consistent with paragraphs 1.3 and 9.1 of the Fairness at Work Procedure and that complainants should at all times be kept apprised of what procedure is being followed and why.

65 We also considered that in order to prevent others suffering the same kind of discrimination and victimisation the Respondent should review the Equality training provided to officers and, in particular, whether e-learning and online training, without more, is sufficient and adequate. We also considered that in light of our findings in the liability decision the following individuals should be provided with formal equality training which included training on unconscious bias – Sergeant Kelly, Chief Supt Tarrant, and David Jones.

Compensation

66 We considered, firstly, the award for injury to feelings. Both parties agreed that the award in this case fell in the top band in **Vento**, i.e. between £19,800 and £33,000 (see paragraphs 4 and 5 above). The Claimant argued that it should be £30,000 and the Respondent that it should be £20,000. In considering the amount to award we took into account that the race and sex discrimination by Acting Inspector Kelly (as he then was) continued for almost one year and its effect on the Claimant was as set out at paragraph 16 (above) and included a period of two weeks' sickness absence; Chief Inspector Hardman dealt with the Claimant's complaints of race and sex discrimination between 20 December 2012 and 14 March 2013 and the impact of his victimisation on the Claimant was as set out in paragraph 17 (above); the discrimination and the victimisation led to the Claimant suffering from stress and depression and being off work sick for nearly 6 months; she had counselling for the stress and depression; The Claimant received DS Hepworth's report on 14 January 2014, 14 months after she had first complained of race and sex discrimination; the report's conclusions were completely different from what she had been led to believe they would be and the impact of that act of vicitmisation upon her was as set out in paragraph 22 (above); the Claimant finally discovered what had happened when the draft report was disclosed on 31March 2014 and the impact of hat upon the Claimant was as set out at paragraph 31 (above). Having taken into account all the above we concluded that the award for injury to feelings should be £25,000.

67 We then considered whether there were any aggravating features which caused additional distress to the Claimant. We concluded that some of AI Kelly's actions, particularly from the end of August 2012 onwards were malicious, vindictive and spiteful and that the Claimant felt at the time that it was personal, that he was out to get her and that he was treating her in the way he was because she was black and a woman. We have in mind the removal of Sergeant Marsh as the Claimant's Welfare

Officer (paragraph 99 of the Liability decision), not supporting the Claimant's application for the CO19 ARV role (paragraphs 109 and 113) and his conduct on 6 November 2012 (paragraph 116). We bear in mind that the first of those was not a matter about which the Claimant had specifically complained in her claim form.

68 We also considered the following matters to be aggravating features which caused additional distress. There was no recognition in the course of the internal process that AI Kelly's treatment of the Claimant was a matter of serious concern and could be misconduct. There was no investigation of his conduct under the misconduct procedure. This remained the position in spite of the content of DS Hepworth's report, which contained accounts of what Sergeants Marsh and Gil had said about AI Kelly's behaviour (paragraphs 142 and 143 of the liability decision). No formal disciplinary sanction was imposed on AI Kelly. He was dealt with informally by way of management action. Chief Superintendent Tarrant at the hearing before us refused to acknowledge that AI Kelly had done anything wrong in spite of the damning evidence given by Sergeants Gil and Marsh and PC Flaherty. The Respondent's failure to disclose crucial evidence until the first day of the hearing caused additional distress to the Claimant and put additional pressure on her. Following the decision of the Tribunal the Respondent did not in its press releases or interviews express any regret about the way that she had been treated or offer her an apology for it. Instead, in order to deflect the criticism that was being directed at it, the Respondent released information (over and above what was required) which it knew would cause serious damage to the Claimant's reputation. We considered that the conduct set out in this paragraph was insulting, malicious and oppressive. Having taken into account all the aggravating features and the additional distress and hurt caused by them, we considered that it was of sufficient gravity to merit an award of aggravated damages in the sum of £10,000.

Exemplary damages

69 In seeking exemplary damages the Claimant relied upon the features for which we have already awarded aggravated damages and some additional factors. In respect of the matters for which we have already awarded aggravated damages, we did not consider those matters to be serious abuses of governmental power that warranted exemplary damages. If some of them did cross that high threshold, we considered in any event that exemplary damages were not justified because the amount of the compensatory and aggravated damages were sufficient to mark disapproval of the Respondent's conduct and to provide a proportionate punitive element.

70 We then considered the additional factors upon which the Claimant relied. These related in essence to the Tribunal's findings in the liability decision that the Respondent had a policy of not allowing Fairness at Work Advisors to make assessments of discrimination and of instructing them to delete them when they did make such assessments and that the reason for this was that such findings could cause difficulties for the Respondent in proceedings before employment tribunals. The Claimant also argued that the Respondent had tried to hide the fact it had made the deletions by not disclosing DS Hepworth's draft report initially and by not making any reference to it in her witness statement. The Claimant argued that the Respondent's conduct in respect of the above matters fell short of the standards of professional behaviour set out in its Misconduct Procedure.

71 Under Lord Devlin's first category (in **Rookes v Barnard)** exemplary damages can be awarded if servants of the government abuse their governmental powers (i.e. powers which they enjoy by virtue of being servants of the government) by acting in an oppressive, arbitrary and unconstitutional manner. That category extends to the police because they exercise governmental functions. Hence, if the police abuse their powers to arrest and detain individuals, exemplary damages could be awarded against them. In addition, certain "ordinary" employment law functions performed under statute by an official of a public body of sufficient seniority may be capable of supporting an award of exemplary damages.

72 The Respondent's Fairness at Work process is its procedure for dealing with grievances raised by its officers and staff. Dealing with grievances is an "ordinary" employment law function. The Respondent's grievance process, unlike its misconduct procedure, is not governed by any statute. We accept that the Respondent is a public authority and that in the exercise of its functions it should have due regard to the need to eliminate discrimination and victimisation. We also accept that police officers are not like conventional employees and that certain aspects of their service are governed by statute. They do not have the right to bring complaints of unfair dismissal although but do have the right to bring complaints of discrimination under the Equality Act 2010.

73 We considered the Respondent's guidance and policy that those investigating internal grievances should not make findings of discrimination and Mr Jones' advising that such findings should be deleted or changed in three cases to be an appalling and wholly unacceptable way for any employer, let alone a very large public sector employer, to behave. In acting in that that way the Respondent was clearly not acting in accordance with its public sector duty. However, in dealing with the grievances of its officers and staff, the Respondent was not exercising any governmental functions or any powers of government conferred upon it by statute or at common law. We did not consider the Respondent's conduct to be an abuse of executive or governmental power. Therefore, in our view, it did not fall within Lord Devlin's first category.

74 It was argued in passing that it also fell within Lord Devlin's second category. We do not accept that it does.

75 We found certain aspects of the way in which the Claimant's grievance was dealt with to be acts of vicitmisation and we took that vicitmisation into account in determining the amount of the award for injury to feelings. The Claimant has been compensated for the hurt that she suffered as a result of the Respondent's conduct in deleting findings of discrimination in DS Hepworth's report. The delay in disclosing the original draft of the report was a factor that was taken into account in awarding aggravated damages. We have made recommendations with a view to ensuring that the practices of which we disapproved will cease. Even if we are wrong in our conclusions that the facts of this case do not fall into any of Lord Devlin's categories, we would not award any exemplary damages. We consider that that the compensation awarded by way of basic and aggravated damages and the recommendations made are adequate both to show our disapproval of the Respondent's conduct and to deter it from behaving in the same way again.

Financial Loss

76 The parties were agreed that we should award £350 for loss of the opportunity

to earn overtime while the Claimant was on sick leave from March to September 2013.

ACAS uplift

77 The ACAS Code of Practice sets out certain procedural steps that should take place when an employee raises a formal grievance. These are that a meeting should be held with the employee at which the employee should be allowed to explain his grievance and how he thinks it should be resolved, the employee should have a right to be accompanied at the meeting, following the meeting the employer should decide on what action to take and should communicate that to the employee in writing and the employee should be given a right of appeal. All those steps took place in this case.

78 The Code also provides that all those steps should be taken "without unreasonable delay". In this case, it is not in dispute that there was a considerable delay in dealing with the Claimant's grievance under the Fairness at Work process. Under the Fairness at Work procedure an informal resolution should be achieved within 5 working days. In this case the informal resolution stage took over 4 months. DS Hepworth was appointed on 14 June 2013 and did not send her report to the Claimant until 14 January 2014 (some 7 months later). The whole process, not taking into account the appeal stage, took 14 months. The effect of the delay was that the Respondent did not file a properly pleaded response until January 2014, a year after the Claimant presented her first claim form. We accept that there were reasons to explain part of the delay – the Claimant's sickness absence, DS Hepworth's absence and other work commitments. However, we do not accept that those reasons are sufficient explanation for the total delay of 14 months. We concluded that the delay was unreasonable.

70 The introduction to the Code also provides that whenever a disciplinary or grievance process is followed, it is important to deal with issues fairly. An element of dealing with issues fairly is that the employer should carry out any necessary investigations to establish the facts of the case. We found that the Respondent did not deal with issues fairly and that the reason for that was that the Claimant had raised complaints of race and sex discrimination and had brought Tribunal proceedings. We have already compensated the Claimant for that. In those circumstances, we did not consider it appropriate to uplift the award any further for that. We decided, however, to uplift the award that we have made by 5% because of the unreasonable delay in dealing with various stages of the grievance.

Interest

71 The rate of interest that applies in relation to claims presented to the Employment Tribunal before 29 July 2013 is 0.5%. The rate that applies in respect of claims presented on or after that date is 8%. The Claimant's first claim was presented on 8 January 2013 and her second claim on 12 June 2013. The second claim was amended on 1 April 2014 to add a complaint of vicitmisation that came to light as a result of documentation disclosed the previous day.

72 In the case of an award for injury to feelings interest is awarded for the period between the date of the act of discrimination and the date of calculation. In the case of all other awards of compensation, interest is awarded for the period starting with

the mid-point between the date of the act of discrimination and the date of calculation and ending with the date of calculation. The date of calculation is the date on which the Tribunal calculates the interest.

73 In the present case the act of discrimination for which we have awarded injury to feelings and aggravated damaged took place between 31 January 2012 and 14 January 2014. We considered that the fairest way to award interest would be from the mid-point between those two dates, i.e. from 22 January 2013. Therefore, interest at 0.5% will be awarded from 22 January 2013 to 11 August 2014. We did not award interest at 8% for the complaint of victimization for two reasons; first, that was not a claim that was presented on 1 April 2014. It was added by way of amendment to c claim that was presented on 12 June 2013. Secondly, we have made a single award for all the acts of discrimination and victimization and it is not possible to apportion a part of that to the victimization complaint.

74 We have not awarded any interest on the financial loss of £350. We have not taken the trouble to do the calculations for a sum that would be less than £2.

75 In conclusion, the compensatory award we make is as follows:

Injury to feelings - £25,000

Aggravated damages - £10,000

Financial loss - £350

5% ACAS uplift - £35,350 x 5% = £1767.50

Total compensatory award: £37,117.50

Interest on £36,750 (injury to feelings + ACAS uplift) @0.5% for 1.54 year = £282.97

____

Employment Judge

____

Date

JUDGMENT & REASONS SENT TO THE PARTIES ON

....

....

FOR THE TRIBUNAL OFFICE