Case No: 1400252/2018

EMPLOYMENT TRIBUNALS

Claimant: Ms Nicola Bryant

Respondent: Daish's Regent Hotel Limited

Heard at: **Exeter** **On: 7, 8 and 9 August 2018**

Before: **Employment Judge Fowell**
Mr T A Slater
Ms R A Clarke

Representation:

Claimant: Ms L Walker of Mustoe Shorter Solicitors and Advocates

Respondent: Mr C Murray, instructed by DAS Law

JUDGMENT

1. The claimant's complaints of disability discrimination are upheld.

2. The claimant is awarded compensation of £13,200.

3. The following recommendations are made under section 124 Equality Act 2010:

    a. The respondent shall by 9 February 2019 send all duty managers on equality training. The training will be conducted by an external trainer experienced in delivering such training; it will cover diversity generally but will include specific reference to disability discrimination and return to work after long-term sickness absence. The training course will last for at least five hours. The respondent shall notify the tribunal, with a record of those attending, that it has done so.

    b. By same date the respondents shall review their written equal opportunities policy ensuring that it explains the duty to make reasonable adjustments under the Equality Act 2010 and giving some examples. It will immediately publish any revised policy to all staff and notify the tribunal, with a copy, that it has done so.

REASONS

Background

1. The claimant is employed by the respondent as a receptionist at their Prince Regent hotel in Weymouth, one of a number of hotels in the group. She has been with them since 2004 when she was 19, and so has over 14 years' service. Her disability is admitted. In March 2017 she was diagnosed with a brain tumour and had an operation that month. After about six months off work she returned in September 2017.

2. She claims that on her return to work, as a result of her disability, she was harassed, treated less favourably, that the respondent failed to make reasonable adjustments, and that she was subject to indirect discrimination and victimisation. A list of issues was agreed at the preliminary hearing on 3 April 2018 which made reference to 11 incidents in total. The last of these was in February 2018, after the claim form had been presented, but an application to amend the claim to include this issue was made at the preliminary hearing and was agreed, to avoid the need for her to issue a further claim. We base our findings on these incidents.

3. We heard evidence from the claimant, her line manager Ms Ridler-Dutton, the Deputy Manager Mr Smith, and the company's HR Manager Mr Cushing. We were also assisted by a bundle of about 130 pages. Having considered this evidence and the submissions on either side we make the following findings.

Findings of Fact

4. The first issue concerned a Facebook post which was posted by the claimant in December 2016, before her diagnosis. It contained a picture of her and her grandmother, the last picture of them taken together. The claimant says it was a Christmas picture and so obviously taken before her illness, but we did not see it to form a view. It was seen at work by Ms Ridler-Dutton and Ms Bryant's friend Kayleigh. Ms Bryant said that according to Kayleigh, Ms Ridler-Dutton said words to the effect that she (the claimant) did not look as bad as she making out. When this comment was reported back to her, Ms Bryant complained and this led to an investigation by Mr Cushing. He emailed Kayleigh (page 100A) for her comments. Her response stated that the actual words used were a comment about "how well she looked considering" but that this was meant in a snide or unfriendly way.

5. Leaving the question of who said what for the moment, Mr Cushing left matters there. He did not encourage Kayleigh to give him any more information but turned instead to Ms Ridler-Dutton to ask for her views. He did this by phone and they had more than one conversation. Her first response was to deny making any comments at all. Then in a further call she said that she did recall making some comment, but not in an unpleasant way.

6. Mr Cushing's conclusion following this brief investigation was carefully worded

(p 101) and included an apology for any offence without accepting that there had been any hostile comment. It is difficult for us to form a view on the matter since we did not hear any evidence from Kayleigh, who did not want to get involved, and on balance we did not feel able to accept that there had been any negative remark made by Ms Ridler-Dutton. There appeared to us to be a high risk of misinterpretation.

7. The gist of the complaint however was about the way in which this incident was investigated, which is listed as the second issue. There was an imbalance in Mr Cushing just contacting Kayleigh by email. His email did not provide any encouragement to her to provide information, and by contrast he spoke directly about it to Ms Ridler-Dutton before then accepting her version of events. The claimant was not invited to a meeting to discuss it, or to clear the air. She chose not to appeal against his findings, but the claimant believed her friend and was offended. We accept therefore that the handling of the investigation was rather one-sided and left the claimant feeling excluded.

8. That was the background to her return to work. It is worth noting at this point, without wishing to offend, that Ms Bryant struck us as rather timid. Often in her evidence she stated that she did not have the confidence to challenge or tackle her superiors about her concerns, and that lack of confidence played a part in subsequent events.

9. Her return to work was dealt with as follows. She came in to the hotel on 6 September, having been to the GP that day. The GP said she was fit to return to work with some adjustments and gave her a fit note to that effect (p.89). Her visit was a passing one. She popped in with her mother, who drove her as she had lost her driving licence as a result of the diagnosis. Ms Bryant gave the fit note to Ms Ridler-Dutton and they had a chat about it. Their conversation lasted twenty or thirty minutes. Afterwards Ms Ridler-Dutton emailed Mr Cushing. Perhaps mindful of the previous grievance she informed him that it had gone well.

10. According to that email, Ms Bryant had said that she wanted to start on a 7-hour shift. That is something between her normal 8 hour shifts and the 6.5 hours recommended by GP. The hotel operates a pattern of two shifts, the first from 7 am to 3 pm and the second from 3 pm to 11 pm. We conclude that the claimant wanted to work early shifts but not starting as early as 7 am if possible. That is what then happened, with the duty manager covering the early part of the day. (The duty manager would be either Ms Ridler-Dutton or her deputy, Mr Smith).

11. That email records that the plan was for her to start the following Saturday, working from 11 am 3 pm, then the same hours on the following Tuesday, Wednesday and Sunday. She was then to take two days holiday and have five-hour shifts the following week.

12. The timesheets show that she started for those 4 hours, from 11 to 3 on 9 September. The next week she worked from 10.30 to 3.30 on the Tuesday, the same on Wednesday, and from 11 to 3 on the Sunday. That was largely as planned, and in accordance with the fit note.

13. There was then a significant change. Despite the email to Mr Cushing stating that they would try with 5 hour shifts the following week, she then had three 8-hour shifts. Not only that, but they were all in the late slot from 3 to 11pm.

14. Ms Bryant was unable to manage these long shifts, and her timesheets show that she finished at 9 pm on the Monday, 8.30 pm on the Wednesday and 10 pm on the Saturday. On each occasion Mr Smith was the duty manager, and after finishing in the dining room he came to ask her if she was ok. She said she was not and he sent her home.

15. Those were the only times when she went home early. After that, the arrangement was simply that she could call the duty manager if she was too tired, as any other member of staff might, but in practise this was not something Ms Bryant had the confidence to do.

16. The respondent's case is that this sudden increase in working hours was allowed by the fit note provided, since on one reading the restriction on working past 3 pm only applied in the first week. That was not our reading of this document, nor was it the claimant's. In fact, we do not accept that this was a fair reading at all and it was not one discussed with Ms Bryant.

17. The claimant was still undergoing chemotherapy. This involved taking tablets every four weeks. The GP noted in the fit note that special arrangements would be needed for this. Essentially, if she took the medication on a Monday, side effects would start from Tuesday and get worse during the week, so she would be unable to work from Friday to Sunday in those weeks. And before starting that treatment she would need blood tests to make sure she had the white blood cell count she needed, which in turn meant that she had to have a doctor's appointment. As far as possible she had these appointments when she was not working.

18. This was not therefore a case of someone returning to work and needing a few weeks' phased return before being back to normal. But there was no real discussion about these requirements. According to Mr Cushing, it was known and understood on the respondent's part that she was disabled throughout and that they needed to make reasonable adjustments, but there was little or discussion with Ms Bryant to work out what she could and could not do. More was required than waiting for a sick note. There was a duty in these circumstances to make enquiries and discuss her health with the claimant on a weekly basis.

19. We are satisfied that this was not appreciated by Ms Ridler-Dutton. That is not a criticism. She did not appreciate that the claimant was disabled in law, or that there was a duty to make reasonable adjustments. She was given no particular guidance from Mr Cushing on how to go about this, and had limited experience of dealing with formal HR processes. She told us for example that she had never dealt with a grievance before. Her approach and understanding were that unless told otherwise by a Fit Note, the claimant was to be regarded as well enough to return to work as normal, and that Ms Bryant should say if she could not manage. So it was that the rota was set for the third week back with three late shifts.

20. There was a second fit note, and a factual dispute over whether the claimant attempted to give this to Ms Ridler-Dutton. That note said (again) that she should not work after 3 pm. The claimant's evidence was that she tried to give this to her more than once and she refused to take it. Ms Ridler-Dutton's witness statement maintained that no such incident never took place. In her oral evidence however she agreed that there had been an incident when the claimant told her that she had a new fit note. That struck us as a significant change in her account and we therefore prefer claimant's account of that incident, that there was an occasion when she offered this document and was ignored. Ms Ridler-Dutton may have been very busy, too busy to take it then and there, but she was aware that there was a new note, and ought therefore to have taken it into account, then or shortly afterwards.

21. In her witness statement at paragraph 16 Mr Bryant says that Ms Ridler-Dutton said words to the effect that she was "contracted for a reason", meaning that she was expected to fulfil it, late shifts and all. This allegation is similar to the episode over the sick note and we prefer the claimant's account for very much same reason. Ms Ridler-Dutton was in our view reluctant to deal with the adjustments needed. She had to sort out the rota, the claimant's hours were difficult to accommodate, and failing to appreciate the extent of the claimant's health problems she was finding it increasingly frustrating to work around them.

22. Ms Ridler-Dutton's position was also that the reason for the late shifts was that the claimant *wanted* them. We do not agree. The fit notes were prepared by her doctor in consultation with Ms Bryant. The fact that they say 3pm indicates that that was her preference. Later, she instructed solicitors to complain about it. We therefore prefer the view that she wanted more hours, did not want to do late shifts but was too timid to speak up about them when they were allocated.

23. And so matters continued, with the claimant working full shifts for several weeks until the end of October. At that point she was rostered to work late until 11 pm, and then required to come in against at 7 the next morning. Ms Bryant says that she asked Ms Ridler-Dutton if she could come in later, because she was having chemotherapy that week, and that Ms Ridler-Dutton said no.

24. Ms Ridler-Dutton on the other hand said that she agreed that Ms Bryant could come in at 9 and was adamant about that. We found it difficult to judge. It is clear from the timesheet that she did come in at 7 am. We find it more likely that Ms Ridler-Dutton was either not very encouraging or lacked clarity in response, and the claimant felt that she ought to come in at 7 am to be on the safe side.

25. The late evening in question was on 30 October. There is a further allegation from Ms Bryant that she asked Ms Ridler-Dutton, who was the duty manager, towards the end of this shift, if she could leave the reception desk for ten minutes while she took her medication. She says that Ms Ridler-Dutton refused. Ms Ridler-Dutton does not address this issue in her witness statement but she accepted in her oral evidence that there was such a conversation; she said the claimant stood in the doorway, told her about the "chemo tablets" she had to take, and that she needed ten minutes because they made her light-headed. Ms Ridler-Dutton responded, she said, by asking Ms Bryant whether she wanted to do that now, to which the claimant said no, and that she would do it when she

got home.

26. It seemed to us unlikely that Ms Ridler-Dutton would meet such a request with a question about whether that was what Ms Bryant really wanted. If so, Ms Bryant must have felt discouraged. She did not get the approval she was hoping for and so again, perhaps as a result of a lack of confidence, simply went back to her desk and took the tablets there. Again therefore, we prefer the claimant's account.

27. Shortly after this incident Ms Bryant went to see her solicitors, who wrote to the company on her behalf. It was sent on 3 November 2017 to a director, and was passed to Mr Cushing in Torquay. We have to say that it was not very helpful to write in those terms. It would have been better to have helped Ms Bryant to raise a grievance, or to have expressed the various complaints as a grievance and asked the employer to look into them. Instead it contained a threat of litigation and settlement proposals.

28. The respondent reacted badly to this threat and, according to the response, commissioned an investigation. In practice this amounted to Mr Cushing emailing Ms Ridler-Dutton for her comments. She was not even given a copy of the letter. Her two-page reply to Mr Cushing denied any wrongdoing. To this was added a short statement from Mr Cushing. Hence the "thorough internal investigation" referred to in the company's response did not involve talking to the claimant. She was therefore left in an isolated and exposed position. The management, including Mr Smith, were aware of all this and Ms Ridler-Dutton was advised by Mr Cushing to take care what she said around her from then on.

29. Ms Ridler-Dutton also felt understandably stressed by all this. She felt that she could not say anything at work without getting into trouble. We feel the advice she was given was poor and left her in a difficult position.

30. We also note that the response from the company stated that Ms Bryant had not followed the grievance procedure. It does not seem to have occurred to anyone that what was being said was a grievance and that it ought to have been dealt with as such.

31. One of the allegations (issue 4) concerned a comment made by one of the housekeeping staff which was relatively minor. We accept that the comment was made but not that it was personal to Ms Bryant or that it was related to her disability.

32. The fifth issue concerned a comment attributed to Ms Ridler-Dutton about a colleague's hours being more important than Ms Bryant's. This was in the course of rearranging the rota to accommodate the claimant. We accept that some words might have said words to the effect she would have to rearrange other hours but we are not satisfied on balance that the words alleged were said.

33. The sixth issue concerned the poor response to the solicitor's letter, which has been dealt with above.

34. Issue 7 concerns an allegation that Ms Ridler-Dutton blamed the claimant for the

missing, second, fit note. Again, this point was not dealt with in Ms Ridler-Dutton's witness statement. Given our other findings in the case of disputed comments and given this lack of response, we again prefer the claimant's account. The comment also appears to be symptomatic of the view that it is the employees' responsibility to raise things, not that of the company to enquire.

35. Issue 8 concerns a further Facebook posting, this time one by Ms Ridler-Dutton. She was responding to a meme circulating about mothers who were doing an amazing job. Ms Ridler-Dutton shared it, and named four of her friends, three of them receptionists at the respondent's hotel or the sister hotel next door. Ms Bryant was not among them. Ms Ridler-Dutton said this was because the others were going through difficult times. If anything, this explanation made things worse. We struggled to follow how any list of four mothers at work who were going through difficult times would not include the claimant, who had a two-year old son.

36. When asked about this by Mr Cushing, Ms Ridler-Dutton's response was that "this is bloody stupid". She said the post included her friends. That seemed to us the more likely explanation. Ms Bryant was not her friend, certainly not by then, and was in fact the source of considerable anxiety on her part at work. It would no doubt have seemed quite false to have included her in such a list, given their strained relations. Ms Ridler-Dutton's evidence was that their working relations had broken down. It follows that she did not intend by this to upset the claimant but we understand that it had that effect.

37. Issue 9 related to an incident when Ms Ridler Dutton came over to the reception desk, where Ms Bryant was dealing with two guests, and asked her and Mr Smith about the whereabouts of another member of staff. Ms Bryant told her where she was, but this was completely ignored by Ms Ridler-Dutton. We accept that the claimant spoke up but not that Ms Ridler-Dutton deliberately ignored her. Ms Smith agreed that she spoke up, and that she was upset afterwards. This was noted by the guests who brought her a present. But we do not accept that Ms Ridler-Dutton would pointedly ignore her in front of guests in this way. She just did not hear her.

38. A further issue (10) relates to Christmas 2017 when the claimant arrived in her uniform and others had been told to dress down. Again, this seems to us to have been a misunderstanding too. Others had asked specifically to be able to wear Christmas jumpers and the like, whereas Ms Bryant had not. It shows perhaps that there was little communication between her and her manager by that stage but any offence was not intentional.

39. Issue 11 concerned a comment by Mr Smith that everyone was having to walk on eggshells around the claimant. The facts are largely agreed. It is accepted that the words were said, that Mr Smith then apologised. He then said words to the effect, "that was what was everyone is thinking". We accept that it was probably said and that was in fact true. It was not intended to be hurtful. As already noted, the relationship with Ms Ridler-Dutton had broken down and the management had been advised to be careful about what they said. They were therefore were walking on eggshells, although that situation was entirely avoidable.

Conclusions

40. The applicable provisions of the Equality Act are as follows:

> **13. Direct discrimination**
>
> (1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.
>
> **19. Indirect discrimination**
>
> (1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.
>
> (2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—
>
> (a) A applies, or would apply, it to persons with whom B does not share the characteristic,
>
> (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
>
> (c) it puts, or would put, B at that disadvantage, and
>
> (d) A cannot show it to be a proportionate means of achieving a legitimate aim.
>
> **20. Duty to make adjustments**
>
> (1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.
>
> (2) The duty comprises the following three requirements.
>
> (3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage. …
>
> **26. Harassment**
>
> (1) A person (A) harasses another (B) if—
>
> (a) A engages in unwanted conduct related to a relevant protected characteristic, and
>
> (b) the conduct has the purpose or effect of—
>
> (i) violating B's dignity, or
>
> (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

27. Victimisation

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

…

(d) making an allegation (whether or not express) that A or another person has contravened this Act.

41. The various complaints and issues have been described in various ways and we approach this exercise by applying the labels given to them by the claimant's solicitors, whether or not those complaints might amount to discrimination on other grounds.

42. Recapping the various allegations considered above, we find against the claimant on the first allegation relating to the Christmas Facebook photo, and so there is no finding of discrimination.

43. The second allegation, the one-sided investigation of this complaint - is said to have been an allegation of victimisation, but we do not accept that the claimant's grievance was a protected act. She did not allege discrimination. Nor can we identify any detriment to the claimant resulting from this investigation since we came to the same conclusion about whether or not such a comment was made.

44. The third allegation is in fact a collection of issues surrounding her return to work and shift allocation. It is presented as a failure to make reasonable adjustments, harassment and indirect discrimination.

45. The reasonable adjustments claim requires the claimant to identify a provision, criterion or practice, in accordance with section 20(3) above. This has not been defined but we accept that a requirement to work 8 hours shifts as required in a rota will suffice. That, in our view, did place the claimant at a substantial disadvantage, and so the respondent was expected to take such steps as were reasonable in the circumstances to overcome that disadvantage. The obvious starting point is to adhere to the doctor's advice. We note that a failure to *enquire* about reasonable adjustments is not itself a failure to make reasonable adjustments, but this did not require a fishing expedition. The necessary steps were in our view clear from a fair reading of the first fit note. All that was necessary from then on was to maintain a dialogue with the claimant about those recommendations and to apply them or explain why it could not; not, as we have found, turning a blind eye to them.

46. The same applies to the request for time away from reception for ten minutes to take her chemo tablets. This was patently a reasonable adjustment, the respondent knew of it and failed to comply.

47. As to whether this amounted to harassment, we accept that this was unwanted conduct in that she did not want to work these late shifts, and that it was related to her disability because it is in the context of her return to work and the question of what she could manage. The final question is whether this had the effect of creating an intimidating, hostile, degrading, humiliating or offensive working environment for her? Overall, we conclude that it did. To put her down for three late shifts in one week, without discussion, and without regard to her doctor's note was (from her point of view) to send a message that her medical concerns were of no account. We accept that the first fit note had expired, and that arguably the 3 pm restriction had done so too, but Ms Ridler-Dutton accepted that she knew of the second fit note and so was on notice that further restrictions might apply. To disregard these was bound to leave the claimant feeling intimidated and anxious. We note in this context that she went home early each time that week, indicating that she was unable to manage, but had not felt able to object when presented with the rota. The same considerations apply to the early and late shift at the end of October, when she came in at 7 am, indicating she felt unable to do anything other than comply.

48. Describing this as an act of indirect discrimination does not add anything. Again, the PCP is the requirements to work these late shifts, but we were not satisfied that this was a discriminatory measure against disabled people in general in that it put them at a particular disadvantage.

49. The fourth allegation about the housekeeper's remark was dismissed

50. The other remark about a colleague's hours being more important was not upheld either.

51. The sixth allegation relates to the letter from the claimant's solicitors, said to be a protected act. It is clear that it did allege in terms a breach of the Equality Act. However threatening the letter was in legal terms, there was then an onus on the respondent to deal with the grievance it contained. Despite the reference to an investigation, this was not done, as the claimant was not involved in the process. From then on the claimant was under a cloud of suspicion and mistrust at work, hence the remark about walking on eggshells, and it seems that from about that point the relationship with Ms Ridler-Dutton has broken down. The fact that the claimant was isolated if not ostracised, from then on is sufficient to amount to a detriment as a result of that protected act, and so this complaint is upheld.

52. Blaming the claimant for the missing fit note (issue 7) is relatively minor in itself, but is part of the conduct surrounding the handling of the fit notes which we have found amounted to harassment.

53. The next allegation about not including the claimant in the tagging on Facebook is not, in our view, less favourable treatment because of her disability. It reflects the breakdown in the working relationship. As a result it was not "related to" her disability and so is not direct discrimination. Nor, for the same reason, was it harassment on grounds of disability.

54. The remaining allegations fall into the same category. We did not accept that the claimant was deliberately ignored in front of guests, or that the Christmas

uniform issue was intentional. The 'eggshells' comment was a further feature of the growing misunderstanding and although said to be an act of victimisation, we did not accept that this comment was really a detriment.

55. The main concern therefore was failing to adhere to sick notes which was cumulatively harassment, and failure of reasonable adjustments. This was compounded by the reaction to the solicitor's letter which led to a finding of victimisation.

56. There was a further issue relating to time limits. The claim form had to be re-presented owing to a mistake over the respondent's name in the early conciliation process. Because of that error only the allegations after 20 September were in time. Otherwise the relevant date was 6 September, and hence accommodated the return to work, and by extension all of the allegations which were upheld. We find that the failures to make reasonable adjustments and the harassment were continuing act, and if it had been necessary to consider the question, we would have considered it just and equitable to extend time to reflect this two-week delay, which was a technicality only.

Remedy

57. Turning to the issue of remedy, this relates solely to injury to feelings as Ms Bryant remains at work. We have had regard to the doctor's letter in support of the claim, explaining the effect on her of these difficulties. It has been a serious and distressing episode for her, extending over several months. She is suffering from a life shortening condition and no doubt expected far more in the way of support on return to work than she received. She was therefore baffled and hurt at having so little consideration, especially in simply being rostered for late shifts so soon.

58. In the course of his able submissions, Mr Murray referred us to several cases from *Harvey on Industrial Relations and Employment Law*. As first instance decisions they are no sense binding, so we will not set out the features of each, but the case of *Johnson v MacLellan International Ltd (London Central) (Case No 2202980/2005) (25 August 2006, unreported)* struck us as most similar. There the claimant was awarded £10,000. The report provides:

> The claimant was a post-room messenger who suffered from plantar fasciitis in his left foot, which made it difficult for him to walk. Other than agree a graduated return to work, the employer did very little to comply with the duty to make reasonable adjustments over a period of 12 months. They made no attempt to look for an alternative sedentary job until just prior to the hearing. There was little contact with the claimant and no discussion of different jobs. The claimant felt abandoned and upset. The injury to feelings was substantial.

59. Comparisons are always difficult. There the isolation went on for longer, about 12 months, and as a messenger the effect on his mobility was clearly severe and an everyday hardship. The condition itself was not by any means in the same category of seriousness as with Ms Bryant, who was also a long-serving employee of 14 years, and who would therefore have expected more concern. In short, the two cases are of the same order of seriousness.

60. We reminded ourselves of the most recent Presidential Guidance on the *Vento* bands in such cases and were all of the view that this was a case which fell squarely in the middle band. Having regard to the differences between these cases however, and to inflation over that period, we concluded after some discussion that a figure of £12,000 was the appropriate figure.

61. To that we considered an uplift for a failure to comply with the ACAS Code of Practice. The respondent's failure was to some extent explained by the tone of the solicitor's letter, and so although the failure to address the grievance was near total, they had not been asked to deal with the matter in that way, and so the extent of uplift is limited to 10%. That increases the amount due to **£13,200.**

62. For reasons which we hope require no further explanation, we also considered and made the recommendations set out above.

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Employment Judge Fowell

Date 24 September 2018