



University of Strathclyde
LAW CLINIC

7F. Injury to Feelings in Discrimination Claims

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Injury to Feelings

- ▶ There is recognition in discrimination complaints that those who have suffered discrimination will have suffered as a result of the discriminatory treatment.
- ▶ Therefore, there is a recognition of this in a special kind of award called ‘injury to feelings’.

Assessing Injury to feelings

- ▶ The Tribunal has to decide what value to assign to the hurt, distress, offence that a person has suffered as a result of a discriminatory act.
- ▶ The Tribunal has come up with a way of assessing this through guidance which was first set out in a case called '*Vento*'.
- ▶ You will see reference to and be expected to understand where you think your claim sits within what are now called the '*Vento bands*'.
- ▶ There are three bands under which you can claim and you should choose the one most appropriate to your case.
- ▶ Information about the value assigned to each of the Vento bands is found in Presidential Guidance from the Tribunal. The initial guidance was issued in [2017](#), updated in [2018](#) and again most recently in [2020](#).

What are the Vento Bands?

From 6 April 2020 the Vento bands have been increased to the following for acts occurring after this date:

- ▶ £900 - £9,000 for lower band offences;
 - ▶ £9,000 - £27,000 for middle band offences; and
 - ▶ £27,000 to £45,000 for upper band offences.
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- ▶ Please note though that in the most serious cases it is possible for Tribunals to award in excess of £45,000. Tribunals are not bound by these guidelines but must take them into account when make an award.
 - ▶ If your claim is from an earlier date see the earlier Presidential guidance.

What Type of Cases Sit Within Each Band?

- ▶ Lower band offences will typically be awarded in cases involving one-off incidences of discrimination such as a single discriminatory insult or slur.
- ▶ Middle band offences will cover serious cases, which could include a serious one-off incident, where an award in the upper band is not appropriate.
- ▶ Upper band offences are reserved for the most serious offences such as discriminatory campaigns in the workplace which result in a profound impact on the victim such as causing depression, anxiety or extreme distress.

Injury to feelings



The Tribunal is not there to punish the employer with these bands.



It uses these bands to compensate you for injury to feelings or can occasionally also award psychiatric injury where there has been an injury to a person's mental health from the treatment

Injury to feelings

- ▶ You need to assess which you feel is the relevant band whilst being as reasonable as possible.
- ▶ As the Tribunal will be interested to hear what you have to say to explain why you picked a particular band. You would give evidence about the impact of the discrimination on you during your examination in chief. Medical evidence if you have consulted your GP or other health practitioner will be very useful even if you are not claiming a psychiatric injury. Remember to submit reports or records and make reference to these in your evidence.

Psychiatric Injury

- ▶ In specific circumstances, where a person has suffered discrimination so severe that it has caused a deterioration to their mental health.
- ▶ An additional award can be made.
- ▶ This is called psychiatric injury award.
- ▶ This will only be awarded in severe cases and will require detailed medical evidence to support the claim.