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Sent via email on completion of sign up

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TELEPHONE: 0800 037 4045

YOUR REF:

OUR REF: LLD/844515/1

Dear Asda Colleague,

Client Care and Costs Letter: Asda Equal Pay Claim

Thank you for instructing Leigh Day to deal with your case.

The purpose of this letter is to explain and record, for the avoidance of any doubt, the nature of the instructions that you have given to us, the advice that we have given you so far and the action that we have agreed to take to pursue the case further.

This letter should be read together with our Damages-Based Agreement (DBA) which contains important information about the costs of your claim and how we charge you for our work. A DBA is a form of "no win, no fee" arrangement where lawyers take a fee but only if you win your claim.

The DBA does not apply to appeals. Later in this letter we explain the terms on which we will represent you in the event of any appeal.

Your Requirements and Objectives

You confirm you are, or have been in the last 6 years, an employee of Asda Stores Limited ("Asda) and worked in an hourly paid role in an Asda store in England, Scotland or Wales.

During your employment with Asda you believe that you were paid less than male employees of Asda employed in distribution centres for work that was equal value.

You believe that you were subjected to breaches of equal pay legislation and unlawful sex discrimination in relation to your pay and conditions.

As a result of these breaches, you wish to obtain compensation in the shortest possible time, and also ensure equal pay in the future (whether by a pay rise or some other means).

You require us to advise you as to the possibilities of claiming compensation in respect of these breaches. You have also instructed us to begin the investigation of your claim and preparation of evidence.

Registered office: Panagram, 27 Goswell Road, London EC1M 7AJ. Leigh Day is a partnership authorised and regulated by the Solicitors Regulation Authority. SRA number 67679. A list of partners can be inspected at our registered office or website. Service of documents by email will not be accepted.

The Issues involved

The issues involved in your case are that we will need to prove that you were subjected to breaches of equal pay legislation in relation to your pay and conditions. We also need to prove the extent of the breaches in your circumstances.

The issues include:

- proving work of equal value with the comparators;
- showing that a stable employment relationship exists during any job changes or following new contracts being signed;
- rebutting any argument that Asda has a "material factor" defence (a lawful reason to pay male-dominated jobs more than female-dominated jobs); and
- proving that you and your comparator worked at the same establishment or at establishments at which common terms apply.

Your Options

We will consider with you the possible ways of achieving your objectives, including whether mediation or some alternative dispute resolution procedure may be more appropriate than legal action.

ACAS is a government funded free service that offers advice to employers and employees. They are also able to assist in the settlement of potential employment claims and for claims that have already been issued. If, as your case progresses, there is a realistic chance the case may settle without the need for a hearing, and we believe ACAS input will be of assistance we may contact them to see if they can offer assistance.

Please be aware that before lodging claims at the Employment Tribunal (ET), we are required to engage in Early Conciliation. We will therefore submit a request for Early Conciliation before submitting your claim to the ET. ACAS manages this process.

Limitations or Exclusions

At this stage, we are only representing you in relation to your equal pay claim, and not any other complaint about your employment with Asda. If, as the matter progresses, you wish us to take some further action other than that which we can foresee now, we will discuss with you at that point whether we are able to assist you and the cost implications of our doing so.

We have accepted your instructions in relation to your Equal Pay claim and have given you some preliminary advice and prepared a plan of further action which is set out below.

Advice

Our preliminary advice is that there are reasonable to good prospects of establishing that you were subjected to breaches of equal pay legislation in relation to your pay and conditions.

As discussed, we believe that the potential benefits to be gained by bringing a legal case will justify the costs and risks involved, including any risk of having to pay an opponent's costs.

Action

The next steps that we need to take in this case are:

- to start the Early Conciliation Process with ACAS, or the pre-action process for civil claims;
- to present a claim form (ET1) to the employment tribunal or issue a claim form (N1) in the civil courts.

We will consider this plan further and send you any updated details in due course.

If you left Asda more than six months ago, you can only bring a claim in the High Court (see the section on "Key Dates" below).

Key Dates

If you are still employed by Asda, there is no time limit to present your claim in the Employment Tribunal or civil courts (although your claim will only relate to the latest contract of employment, unless there is a stable employment relationship).

From the information that we have to hand at the moment, it appears that the key dates in your case are:

- Tribunal limitation date: The time limit in which your claim must be presented to the employment tribunal. Your limitation period starts from the end of your contract of employment and in the employment tribunal it is six months. If you are still employed by Asda, there is no time limit to present your claim in the employment tribunal (although your claim will only relate to the latest contract of employment, unless there is a stable employment relationship).
- Court limitation date: The time limit in which your claim must be presented to the civil courts. Your limitation period starts from the end of your contract of employment. In the civil courts it is 6 years (5 years in Scotland). If you are still employed by Asda, there is no time limit to present your claim in the civil courts.

If your employment with Asda has ended, the key dates will be carefully diarised on your file of papers and also on our central computer system.

<u>IMPORTANT:</u> If any of the situations below happen please let us know immediately, as this may affect your ability to bring a claim:

(1) your employment ends;
(2) you sign a new contract;
(3) you change jobs (or job title);
(4) you stop working in England, Scotland or Wales.

Another key issue is the period for which you can claim back pay. You can claim back pay for any shortfall between what you and your comparator were paid, going back six years from the date on which your claim was issued to the Employment Tribunal or civil court. The longer the time between your contract with Asda ending and you presenting your claim, the less back pay you will be able to claim.

The Management of your Case

I, Lauren Lougheed, shall personally be dealing with your case. I am a partner of the firm. I will be assisted by Michael Newman (Partner), Linda Wong (Partner), Claire Burton (Senior Associate Solicitor) and Sophie Greenwood (Associate Solicitor) and a team of paralegals in the Employment department.

It is the policy of our firm, and indeed one of our professional responsibilities, that the work of the person handling your case be supervised by one of the partners in the practice. This rule applies even if the person handling your case is himself or herself a partner in the practice. The partners charged with responsibility for supervision of the work done on your case are Emma Satyamurti and Nigel Mackay, Heads of the Employment Department.

Service Levels

At this stage, it is impossible for us to give an accurate prediction of the timescale for us to conclude your claim, as this will in part depend on the approach that Asda takes and the availability of the employment tribunal for substantive hearings. Our current best estimate is that it is likely to be at least 2028 before the claim is resolved. However, we will keep you informed if this is likely to change.

We will provide you with regular updates on the progress of your case. In these updates, we will explain the legal matters that arise and the work required as a result in plain English. We will also update you on the legal costs incurred on your case at least every six months, notifying you if and when we envisage a more substantial cost. We will also keep you informed of the likely timescales for each stage of your case, and any changes to those. When there is a material change in circumstances, we will update you on whether the likely outcomes still justify the likely costs and risks associated with your matter. Finally, we will continue to review whether there are alternative funding options for your pursuit of this claim.

Our office is open from 9.30am to 5.30pm each weekday. If we need to meet with you, and if it is difficult for you to visit during these hours, it may be possible to arrange to meet outside normal office hours. Generally, the switchboard only deals with incoming telephone calls during office hours.

Conflict of Interest

We have an overriding duty to act in the best interests of each client. We may therefore be unable to act for you or have to stop acting for you if there is a conflict between your interests and those of another client, or between our interests and your interests. This is known as a conflict of interest. We have procedures designed to prevent us acting for a client in a matter where there could be a potential conflict of interest and we carry out conflict of interest checks in each case.

Costs

Our legal costs if your claim is successful:

As detailed in the DBA, to which you should refer, the Fee you pay to us for the work we have done on your behalf, if your claim is successful, will be equal to 35% of your financial compensation. Our Fee includes VAT, but excludes Disbursements (that is payments which we make on your behalf to third party service suppliers such as expert witnesses), which we have capped at a £150 contribution. Our Fee and the £150

Disbursement contribution, which includes VAT, will be deducted from any compensation you receive.

If your case is dealt with by a court rather than the ET, it may also be necessary to take out insurance to cover the risk of paying Asda's costs if the claim fails. We will advise you about this further where appropriate. If the claim fails, then you will not have to pay for the insurance. If the claim succeeds, then the cost of the insurance will be deducted from your compensation in addition to the DBA Fee and Disbursement contribution. In court proceedings, the Disbursement contribution will not include any contribution to the fees of counsel, which we will meet out of our Fee.

In the ET, in very exceptional circumstances the Respondent may be required to pay some of our costs. Our Fee, together with the Disbursement contribution, will first be taken from any costs recovered from Asda, and the balance (if any) will then be taken from your compensation.

In court proceedings, it is much more likely that costs will be recovered from the Respondent if your claim is successful. In such proceedings, our Fee will be net of any costs paid or payable by the Respondent in respect of our fees or counsel's fees. The Disbursement contribution will also be net of any contribution to your disbursements which is paid or payable by the Respondent.

In the event of an appeal, we will not make any additional charge for our services directly to you. However, you agree to pay us any costs that you are awarded by the appeal court and recover from the Respondent, and we may keep these costs in addition to Our Fee and the capped contribution to Disbursements under the DBA.

Our legal costs if your claim is unsuccessful:

We are acting on "no win, no fee" terms, which means that if the claim is unsuccessful or you do not recover compensation at the end of the claim, you will not be required to pay us anything.

Estimate of the Costs

Even though we are acting on "no win, no fee" terms, we are required to give you an estimate of the likely costs of the case. Please do not be alarmed by the figures because under the DBA, so long as you have complied with it, you will only pay us if you win, in which case our Fee, together with the £150 Disbursement contribution, will be deducted from your compensation, as explained above.

Our costs are calculated based upon the time we spend engaged on your matter (see clause 8 of the DBA for details).

Throughout the course of the claim we have made, will make and will agree to make payments on your behalf; such third party payments typically include the fees of barristers, experts and third party disclosure providers and are called Disbursements.

Unfortunately, it is almost impossible for us to give accurate estimates of the probable total costs of the case or the amount of time it will take. This is because there are some things we cannot control, in particular, the approach the other side will take to your case. Based on our current best estimate, it is likely to take around two more years for your case to be resolved. This gives a revised total estimate of 14 years, and we anticipate that the litigation could cost:

Cost per individual client:

Possible number of clients	Annual cost for each individual	Cost for each individual for 14 years
30,000	£1,147 plus VAT	£16,061 plus VAT
35,000	£983 plus VAT	£13,767 plus VAT
40,000	£860 plus VAT	£12,046 plus VAT

The above estimates are based on 30,000, 35,000 and 40,000 clients. If we have more clients than this, the cost to each client is likely to be lower. This cost estimate does not include the costs of any appeal. In the event of an appeal, we will give you a further cost estimate.

Once you have entered into the DBA your right to challenge the terms including the hourly rates set out in that Agreement will be restricted. If you dispute the amount of our costs and expenses, you have the right to make an application to the Court for these to be checked. You may also ask the court to consider whether the DBA is unfair or unreasonable. We will not make the application to the court for you. You may make an application within a year of receiving a bill from us, but if you make the application more than a month after receiving a bill you may be ordered to pay some money to us or to court. If you delay for more than a year you may not be allowed to have our bill checked by the court.

Funding Options

This is a brief overview of the options available to you in funding this claim.

Damages-Based Agreements (DBA)

We are offering to bring your claim under a DBA, which is a form of "no win no fee" arrangement whereby lawyers take a fee only if you win or settle your case. This fee represents our fee for the work we undertake/incur in acting for you and sharing the financial risk in pursuing your claim on your behalf. This fee is calculated as set out in the DBA, which also explains how Disbursements will be covered (these are payments we make on your behalf to others involved in the case).

If we win your claim, we will ask Asda to pay us your compensation directly, from which we will take our Fee, together with the £150 contribution towards Disbursements, before transferring the remaining compensation to you.

If you lose, you don't have to pay our Fee.

If you end the DBA before we consider that the work is completed, or behave unreasonably, you may be liable to pay our normal professional charges, as set out in the DBA. Full details including our usual hourly rates are set out in the DBA.

As we have explained, the DBA does not apply to appeals. We will give you further information about appeals if there is one, but absent further agreement any appeal will be subject to the payment terms stated in the "Appeal Appendix" to the DBA.

Other Options

If you do not wish to enter into a DBA with us, the following options may be available to you:

1. **Trade union** - If you are a trade union member, your trade union may provide funding for employment claims.

2. **Community legal service** - In very limited circumstances Community Legal Service (CLS) assistance (previously known as legal aid) is available. It is generally only available to those on benefits or in receipt of very low income. In employment tribunal claims such advice does not cover representation at employment tribunal hearings. We do not believe that CLS funding is suitable for this claim since you will require representation at what is very likely to be a number of contested hearings.

3. **'Pro bono' or free advice** – Such advice is sometimes available from organisations such as the Free Representation Unit or Advocate (formerly Bar Pro Bono Unit). Given the complexity of your case and the fact that the claim is being brought on behalf of a large number of individuals in a similar position to you, I do not think you will find solicitors and barristers prepared to represent you for free.

4. **Private funding** – If none of the other forms of funding are available or appropriate for a particular claim, then you can pay us privately. This means you pay our costs and disbursements as your case proceeds. We do not, however, think this is the most appropriate method of funding this particular claim. We estimate that if you were to instruct us on a privately funded basis, where the costs would not be shared with other claimants in the group, your costs would be significantly in excess of the shared cost set out above.

5. **Legal Expenses Insurance** - Some individuals have legal expenses insurance as part of their home and contents insurance, car insurance policies and credit cards. If you have this insurance, the insurer may be required to cover the costs of your litigation against an employer. If you are unsure whether you have other legal expenses insurance, please contact your home/contents insurer and ask as soon as possible but please be aware that we are not able to represent you via any legal expenses insurance for this claim.

Funding Next Steps

At this stage, we recommend that the most suitable funding arrangement in your case will be for you to enter into a DBA. We require all of our clients pursuing this claim without trade union funding to agree to the DBA, so that we have a retainer in place to enable us to do work on your behalf.

We have entered into an arrangement with a litigation funder for funding that will be used to cover some of our costs in connection with your Claim. Should your Claim succeed, Leigh Day will share a portion of Our Fee with the litigation funder. You will not have to pay anything directly to the funder. The involvement of a third-party funder does not constrain, influence or affect the legal or professional judgment of Leigh Day.

Complaints

Leigh Day is committed to providing high quality legal advice and client care. If you are unhappy about any aspect of the service you have received or about your bill, please bring it to our attention as soon as you can. We will try to resolve the matter fairly and quickly. We will apologise if need be and do our best to offer a practical solution.

You can obtain a copy of our complaints procedure here: https://www.leighday.co.uk/our-complaints-policy or by request.

If we are unable to resolve your complaint, then you can have the complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates complaints about services issues with solicitors.

The Legal Ombudsman expects complaints to be made to them within one year of the date of the act or omission about which you are concerned or within one year of you realising there was a concern. You must refer your concerns to the Legal Ombudsman with six months of our final response to you.

You can contact the Legal Ombudsman at PO Box 6167, Slough, SL1 0EH.
Telephone: 0300 555 0333
Email: enquiries@legalombudsman.org.uk
Website: www.legalombudsman.org.uk

The Legal Ombudsman has produced a helpful guide if you have a complaint. You can find it on the Legal Ombudsman's website under 'how to complain'.

The Solicitors Regulation Authority (SRA) can help you if you are concerned about our behaviour and that it may be in breach of the SRA's Code of Conduct. You can find information on how and when to raise a concern with the SRA on the SRA website here; https://sra.org.uk

If your complaint is about your bill you can apply for an assessment of the bill under Part III of the Solicitors Act 1974. The Legal Ombudsman cannot consider a complaint about the bill if you have applied to the Court for assessment of the bill. We may be able to charge interest on all or part of an unpaid bill.

Any concerns about our commitment to equality, diversity and inclusion will be dealt with in line with our Equality, Diversity and Inclusion policy, which is available upon request.

The Firm

Leigh Day is a legal disciplinary partnership. We are regulated by the Solicitors Regulation Authority under registered number 00067679. Our VAT number is 429700745. A list of partners is available for inspection at our Registered Office: Panagram, 27 Goswell Road, London, EC1M 7AJ.

Professional Indemnity Insurance

We maintain Professional Indemnity Insurance in the interests of our clients. If you require details of this insurance, it may be obtained from our offices on request.

Confidentiality/ Communication

Generally speaking, the law says that the information you give to your solicitor and/or their agents for the purpose of obtaining legal advice or because you are involved in litigation is confidential. Your solicitor may not disclose it to anyone, even members of your family, without your permission.

Leigh Day are likely to be assisted by other third parties. The provision of these services to the firm does not constrain, influence or affect the legal and professional judgement of Leigh Day; it merely improves the service we offer you as our client. We therefore may be required to share claim information from time to time. Third parties might include barristers, experts, technology solutions providers and litigation funders who will abide by similar rules of confidentiality as those that apply to us. It will also be necessary to share information with the legal representatives to the parties in the proceedings.

We are often contacted by the media and, if requested to do so, we will discuss your case in generic terms only whilst the claim is still active. If you are interested in being featured in media stories about your case or about equal pay matters more generally, please let us know.

Data Protection

All information that we hold concerning you as an individual will be held and processed by the firm in accordance with current UK data protection legislation. Such personal and sensitive data will be used by the firm to provide you with legal services and for related purposes, such as to inform you about the firm's services and events. We will not, without your consent, supply your name and addresses to any third party except where:

- such transfer is a necessary part of the legal services that we undertake,
- the transfer is necessary to comply with the reasonable requirements of the third party who is funding your claim,
- the transfer is necessary to comply with the reasonable requirements of any after the event insurer we engage, or
- We are required to do so by operation of law.

As an individual, you have a right under Data Protection Legislation to obtain information from us, including a description of the data that we hold on you. Should you have any queries concerning this right, please contact our Data Protection Officer, Viviana Marcus (dataprotection@leighday.co.uk). A copy of our firm's Privacy Policy is available on our website. Please let us know if you would like the policy sent to you.

Communicating with you

We usually correspond with clients by email and on occasion by first class post. However, if that is not appropriate in your case, we can agree with you a reasonable, alternative method of communicating with you. We take the privacy of all our clients very seriously. Where we are sending sensitive material in the post, such as, for example, medical records or reports, we will use Recorded Signed For delivery to protect, so far as possible, against the loss or misuse of this information. Our Privacy Policy explains in more detail the security standards that we apply.

Finally, if you are happy for us to discuss your case with any other person, would you please provide their details to us, including their name, relationship to you and contact details.

Taking Instructions

As your claim will be one claim within a group of claims based on same/similar facts, and to ensure that we deliver a timely service in a cost-efficient manner, we are unable to take your individual instructions in relation to each aspect of the litigation. Accordingly, we will take strategic and day to day decisions about the litigation on your behalf, provided always that we act in accordance with our duties to you and the Employment Tribunal or court.

In the event that a settlement is offered to settle your case, we will advise you whether to take the settlement in accordance with clause 6 of the DBA. It is your choice as to whether you wish to accept our advice. If you choose not to accept our advice on settlement or any other matter, then we may end the DBA in accordance with clauses 7 and 10.

Terminating our Retainer

You may end your instructions to us in writing at any time (except in the particular circumstances outlined in the DBA), but we can keep all your papers and documents while there is still money owed to us for fees and expenses. We may decide to stop acting for you if we have good reason to do so. We must give you reasonable notice that we will stop acting for you. If we decide that we should stop acting for you (in the circumstances detailed in the DBA) you may have to pay our costs up until that point in accordance with our DBA.

Insolvency

You must let us know if you are now or have ever been subject to a bankruptcy order or a bankruptcy petition has been presented by or against you or you are subject to any other form of insolvency process, including debt relief orders (DRO) and individual voluntary arrangements (IVA). This applies both at the outset and throughout the course of your case. This is because it could affect us being able to conduct your claim and have an impact on your award of compensation. If you are declared bankrupt or have another form of insolvency registered some or all of your compensation may go to your Trustee in Bankruptcy.

Accounts Funding

For this matter we will be using a service called a third party managed account (TPMA) to help manage funds relating to your case. A TPMA is an account held at a bank or building society in the name of a third party, where that third party is an authorised payment institution.

Accordingly, by using a TPMA we will not handle any money relating to the case and if successful any damages will also be distributed to all clients using the TPMA. There is a monthly management fee and a per payment fee attached to each payment out. However both fees will be paid by Leigh Day. No costs will be deducted from you for the use of the TPMA service.

The TPMA provider we will be using for this transaction is ShieldPay who are authorised and regulated by the Financial Conduct Authority, (FCA) as a payment institution.

Please find further information on Shieldpay and answers to common questions here.

If there is anything that you would like to discuss at this stage regarding the arrangements for the conduct of your case, or you would like any other information, please do not hesitate to contact the Asda Equal Pay Team on 0800 037 4045 or asdaequalpay@leighday.co.uk.

Yours sincerely,

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Lauren Lougheed
Partner
Leigh Day

DAMAGES-BASED AGREEMENT

This Agreement is a Damages-Based Agreement ("DBA"). A DBA is a form of "no win no fee" arrangement whereby you only pay Our Fee out of the compensation your legal team recovers if you Win your Claim.

This Agreement is a legally binding contract between you and Leigh Day, acting as your solicitors. Please read it carefully and keep it for future reference. If there is anything you do not understand, or if you want any further explanation, please do not hesitate to ask us. You may wish to take independent legal advice to confirm that you understand the content herein and that you want to be bound by this legally binding contract.

You should also read our Client Care and Costs Letter which is provided with this Agreement and which covers other key aspects of our relationship with you. The information in the Client Care and Costs Letter applies to this Agreement. Where there is any inconsistency between the terms of this Agreement and the Client Care and Costs Letter then the terms of this Agreement takes precedence.

This Agreement is a DBA within the meaning of section 58AA of the Courts and Legal Services Act 1990 (the "Act") and the Damages Based Agreement Regulations 2013 (SI 2013/609) (the "Regulations").

The rules for DBAs are different for cases in employment tribunals (ETs) and cases in the courts. This DBA covers both sorts of case. Where the terms of this Agreement differ for court cases and ET cases, this is made clear below.

1. The parties

(1) Leigh Day of Panagram, 27 Goswell Road, London EC1M 7AJ (referred to below as "us" and "we")

(2) You "the client" (referred to below as "you" and "your")

2. Work covered by this Agreement

This Agreement covers your claim against Asda Stores Limited or any associated company ("Asda") concerning your right to equal pay and/or for compensation for sex discrimination (the "Claim").

This Agreement will apply to proceedings in an employment tribunal ("Tribunal Cases") or the first instance courts ("Court Cases").

This Agreement covers all the work we do on your Claim, even if it was before the date of this Agreement.

3. Work not covered by this Agreement

- Any claim for personal injuries
- Any counterclaim against you;
- Any appeal proceedings (see Appeal Appendix below);
- Any proceedings you/we take to enforce a judgment, order or agreement; and

- Any proceedings for the detailed assessment of the costs of this Claim.

Where you instruct us to carry out work not covered by this Agreement, then unless otherwise agreed in writing you will pay us our Normal Professional Charges for our work whether you win or lose. Our Normal Professional Charges are explained at clause 9 below. We will, however, consider offering you another form of "no win, no fee" agreement for such work, and inform you if this is possible.

4. What happens if you Win

You "Win" your Claim if you recover compensation from Asda, whether because of an order of a court or tribunal or by agreement.
If you Win the Claim then you must pay us our fee, which will be 35% of the compensation that you recover ("the Fee"). The Fee includes VAT, but it excludes your contribution to Disbursements which is capped at £150 including VAT. In addition, where you take out insurance to cover your potential liability for Asda's costs in Court Cases, then if you Win you must also pay the premium (or your share of the premium if liability is shared with other claimants). Your liability to pay any such premium will result from your separate agreement with the insurer and not from this Agreement.

In court cases, your contribution to Disbursements will not include any sum in respect of counsel's fees. We will pay these out of our own Fee.

If in any case you are required to pay Asda's costs, then if you Win our Fee will only apply to the net compensation you recover after any costs paid or payable to Asda have been deducted. For example, if you recover £10,000 but have to pay £1,000 of Asda's costs, then our Fee will be 30% (that is 25% + VAT) of £9,000. However, this clause does not apply: (i) where Asda's costs are paid on your behalf (e.g. under an insurance or other indemnity arrangement) or (ii) where your liability for Asda's costs results from your unreasonable conduct. In such cases our Fee will remain payable on the full amount of your compensation, before any costs liability to Asda is deducted.

In court cases, but not (absent very exceptional circumstances) ET cases, you are likely to recover costs from Asda if you win. Where you are awarded costs against Asda in court cases, then:

- The Fee will be net of any costs and any sum in respect of counsel's fees paid or payable by Asda; and
- The Disbursement contribution will be net of any amount paid or payable by Asda.

5. What happens if you lose

You "Lose" your Claim if it ends without you recovering any compensation. If you Lose, you pay us nothing. We will pay the disbursements that have been incurred on the claim and the VAT on disbursements.

6. Our Responsibilities
We must always act in your best interests in pursuing your Claim for compensation and obtaining for you the best result reasonably obtainable, subject to our duty to the Employment Tribunal. We must explain to you the risks and benefits of taking legal action. We must give you our best advice about whether to accept any offer of settlement.

7. Your Responsibilities

You must give us clear instructions, which allow us to do our work properly. You must not ask us to work in an improper or unreasonable way.

Unreasonable behaviour also includes, but is not limited to:

a) deliberately misleading us;
b) not co-operating with us when asked;
c) rejecting our advice about reaching a settlement with your opponent;
d) failing to disclose all information relevant to your Claim;
e) failing to keep confidential all information received by you in connection with your Claim, and the Claims of any other Claimants with same/similar claims to you;
f) failing to comply with all the terms of this Agreement;
g) entering into any direct negotiations or agreements with an opponent without our prior agreement;
h) not letting us know if you are subject to a bankruptcy order or a bankruptcy petition has been presented by or against you or you are the subject to any other form of insolvency process. This applies both at the outset and throughout the course of your case. This is because if could affect us being able to conduct your Claim and have an impact on your award of compensation. If you are declared bankrupt, some or all of your compensation may go to your Trustee in Bankruptcy;
i) being rude or abusive to staff either verbally or in writing.

8. Our normal professional charges

So long as you keep to the terms of this Agreement, your liability to pay us is limited to the Fee. However, it may sometimes be necessary to calculate our costs on a time spent basis: (i) for the purposes of recovering costs from others (which will be set-off against and therefore reduce or extinguish the Fee); (ii) where this Agreement is terminated early under clauses 10 below; or (iii) where you instruct us to perform work not covered by this Agreement.

In these circumstances, our costs will be calculated in units of one tenth of an hour. Routine letters, emails and telephone calls will be charged as 1 unit. Other letters/emails and telephone calls will be charged on a time spent basis. Our hourly rates are:

Grade of Fee Earner	Hourly Rate (London/Manchester office)
1 Professionally qualified staff with over eight years post qualification experience including at least eight years litigation experience.	**£420 / £261 plus VAT**
2 Professionally qualified staff with over four years post qualification experience	**£320 / £218 plus VAT**

including at least four years litigation experience.	
3 Other solicitors and legal executives and fee earners of equivalent experience.	**£250 / £178 plus VAT**
4 Trainee solicitors, paralegals and other fee earners.	**£145 / £126 plus VAT**

These rates are subject to review and we will notify you of any change in the above rates in writing. Where costs are calculated under this clause, our disbursements and expenses (including VAT where applicable) will also be included in addition to our time spent.

Where your Claim is brought as part of a group of similar claims, then our Normal Professional Charges will consist of both the costs individual to your Claim ("Individual Costs") and the costs which are common to the group ("Common Costs"). For the purposes of calculating our Normal Professional Charges in such cases, we will (unless a costs sharing order or agreement provides otherwise) attribute to your case: (i) the whole of its Individual Costs and (ii) a share of the Common Costs calculated by dividing the Common Costs equally between each member of the group. For these purposes we may (i) deem each member of the group to have been a member from the beginning; and (ii) calculate the Common Costs in quarterly accounting periods and for each quarter divide them equally between the members of the group who were members during that quarter.

9. Having Our Charges Checked by the Court

Where sums are payable to us by you then you may have the right to have our charges checked by the court. You can apply to the court for an assessment of our charges, and/or for an enquiry into the fairness and reasonableness of this agreement. Any application should be made via a Part 8 Claim Form to the Senior Courts Costs Office, which is part of the High Court in the Royal Courts of Justice in London (there are however regional costs judges as well and you may also make an application to a district registry of the High Court).

You should note that because you have entered this written Agreement, your rights may be subject in Tribunal Cases to section 57 of the Solicitors Act 1974 (non-contentious business agreements), and in Court Cases to sections 59 to 61 of the Solicitors Act 1974 (contentious business agreements). Rights to have solicitors' charges checked by the court are subject to strict time limits, and you should therefore make any application to the court as soon as possible. Please ask us at any time if you want further information about your rights. You may also wish to consider taking advice from an independent solicitor or costs lawyer, or from Citizens Advice.

10. What happens if the Agreement ends before the Claim ends

You can end the Agreement at any time except:
- after a settlement has been agreed; or
- within 7 days before the start of an Employment Tribunal full hearing.

But please be aware that if you end the Agreement before we agree with you that the work on the Claim has ended, you agree, you shall be liable to pay our Normal Professional Charges in accordance with Clause 9 above.

We have agreed to act on your behalf without payment unless we win or settle the Claim. We are potentially acting for you without payment and can therefore end the Agreement at any time on reasonable notice.

If you have behaved or are behaving unreasonably, we can end the Agreement at any time and charge you for our costs up to the date the Agreement ends.

The following are examples (but not an exclusive list) of the circumstances which might constitute unreasonable behaviour and lead us to end the Agreement:-

a. If you do not keep to your responsibilities in clause 7 above.

b. If you unreasonably reject our opinion about making a settlement with your opponent. Please note that we will only advise that you accept a settlement if the sum offered, having regard to the value of any likely compensation and your prospects of success, is, in our opinion, a reasonable sum.

We can otherwise end the Agreement at any time (subject to giving you reasonable notice) but will not charge you for our costs unless you are behaving or have behaved unreasonably.

In any circumstances where we end the Agreement, we will explain our reasons to you in full and will discuss whether we are prepared to enter into a replacement agreement on different terms and, if not, what our normal professional charges would be to continue to act on your behalf.

11. Starting work

By entering into this Agreement, you authorise us to start work on your Claim before the end of the 14-day cancellation period. If, in accordance with your instructions, we start work on your case and you then cancel the Agreement we will have the right to decide whether you must pay our basic charges and disbursements.

12. Other Points

This Agreement is intended to comply with the Damages Based Agreements Regulations 2013, and the parties agree that it should be construed so as to comply with those Regulations, and that this should take precedence over any other principle of legal interpretation.

If any part of this Agreement is unenforceable or unlawful or would if given effect render this Agreement or any part of it unenforceable or unlawful, then that part of the Agreement is agreed to be without effect and severed from this Agreement, with the remainder of this Agreement remaining in effect.

13. What happens after the Agreement ends

After the Agreement ends we will apply to have our name removed from the record of the Employment Tribunal proceedings in which we are acting. We have the right to preserve our lien over any property of yours (including your full file of relevant documents) in our possession unless any money owed to us under this Agreement is paid in full. This means we can keep your papers until you pay us in full for any fees due from you under this Agreement.

If you would like us to withdraw your existing claim in the Employment Tribunal, you will need to provide us with your explicit agreement. Otherwise, your Claim will continue in the Employment Tribunal without us acting for you.

14. Death, mental incapacity or insolvency

This Agreement will end automatically if before the Conclusion of your Claim, you die or become incapable of making a decision as defined in the Mental Capacity Act 2005 or any legislation that amends or replaces the relevant provisions. We will discuss with your personal representative, administrators or executors to your estate the circumstances in which we may continue to pursue your Claim and the requirement to enter into a new agreement.

If you become bankrupt or have an individual voluntary arrangement approved we may end this Agreement. If we do not end this Agreement, you must use your best endeavours to persuade your trustee in bankruptcy, supervisor, administrator, or other appointed insolvency practitioner either to permit you to continue your Claim under this Agreement (for example by assigning your cause of action back to you) or to continue this Claim under a new agreement between us and the trustee, supervisor or insolvency practitioner in similar terms to this one (and at all times compliant with the relevant governing legislation) and under which your trustee, supervisor, insolvency practitioner agrees to pay the Our Fee in the event of Success. In the event that we cannot reach such an agreement with your trustee in bankruptcy/supervisor, we may still end this Agreement in accordance with 12.

If you fail to inform us that you have become bankrupt or have an individual voluntary arrangement approved, in accordance with your responsibilities in clause 7, clause 10 will apply.

15. Entering into this Agreement

You confirm, on entering this Agreement, that we have provided to you information about the following:

(a) when you might seek a review of Leigh Day's costs and expenses and the procedure for doing so;
(b) the dispute resolution service provided by the Advisory, Conciliation and Arbitration Service (ACAS) relating to your equal pay/sex discrimination claims;
(c) other methods of pursuing the claim or financing the proceedings which may be available to you (such as legal aid, legal expenses insurance, pro bono (i.e. charitable representation) and/or trade union representation);
(d) when costs (including disbursements and other expenses) might become payable; and
(e) a reasonable time estimate of the amount that is likely to be spent on your case and what that will cost (inclusive of VAT).

<u>**This Agreement will become binding once you have done any of the following:**</u>

1. <u>**Clicked the button on the Equal Pay Now website accepting the terms of this Agreement and the Client Care and Costs Letter;**</u>
2. <u>**Replied "Yes" to our email containing our agreement documents, accepting the terms of this Agreement and the Client Care and Costs Letter; or**</u>

3. **Ticking the checkbox at the bottom of our online form, accepting the terms of this Agreement and the Client Care and Costs Letter.**

By doing any of the above, you confirm you have READ, UNDERSTAND, AND AGREE to the:

1. **Client care and costs letter;**
2. **DBA;**
3. **Appeal Appendix (see below); AND,**
4. **Form of Authority (see below).**

FORM OF AUTHORITY

I, hereby authorise any compensation payable in my Claim to be paid in the first instance to Messrs Leigh Day of Panagram, 27 Goswell Road, London EC1M 7AJ either by BACS or cheque payable to Leigh Day.

I, further authorise Leigh Day to deduct the Fee as defined at paragraph 4 in the Agreement, together with any insurance premium, prior to giving me the balance of my compensation.

APPEAL APPENDIX – Representing you on any appeal

As stated above, the DBA does not apply to any appeal.

We are not obliged to represent you in any appeal. However, if we advise you either to make an appeal or to defend an appeal brought by the Respondent then unless otherwise agreed in writing our payment terms for the appeal (including any follow on appeal) will be as follows:

- The DBA will continue to apply to the proceedings in the Employment Tribunal or first instance court, and if you ultimately win in those proceedings you will pay us in accordance with the DBA.

- We will not make any further direct charge to you for work done on the appeal, but if your participation in the appeal is beneficial (e.g. because your appeal is allowed and/or the Respondent's appeal is dismissed), you will pay us any costs you are awarded in the appeal and that you recover from the Respondent.

- Those costs will be calculated at the hourly rates stated in the DBA, as updated from time to time. Any Disbursements relating to the appeal and recovered from the Respondent will be payable in addition. Any charges not ultimately recovered from the Respondent will be waived.

- The costs recovered from the Respondent will be payable to us in addition to the costs payable under the DBA in respect of the Employment Tribunal or first instance court, and will not be credited against the DBA costs.

- If during the appeal process you behave unreasonably we may terminate our agreement, and you will be liable to pay us for the work and Disbursements in respect of the appeal in any event.

Schedule

The Fee together with the £150 contribution towards Disbursements reflects the following factors as they reasonably appear to us on the date this Agreement is entered in to, including:

a. the fact that this Claim is taking twice as long to conclude as we originally estimated. We initially estimated that the case would take 5 (five) years to conclude. We have now revised that estimate to 15 (fifteen) years from when it started;

b. the fact that if you lose, we will not earn our full legal costs and will have to contribute towards the Disbursements incurred plus VAT. The disbursements could amount to millions of pounds;

c. our assessment of the risks of your case, including the difficulties and complexities inherent in discrimination and equal pay claims brought on behalf of large amount of Claimants;

d. the fact that we will not be fully paid except if you win and recover some financial benefit;

e. the fact that over the last 12 (twelve) years the Claim has required significantly more preliminary hearings than we anticipated at the outset. We have also had an exceptionally complex and lengthy stage 3 Equal Value Hearing in 2024, which gave rise to further preliminary hearings.

f. the fact that in 2026 we have a 4-week Material Factor Defence ("MFD") hearing, for which we have been required to instruct experts (a cost which was not anticipated at the outset). We also think it is highly likely there will be further appeals to the Employment Appeal Tribunal arising from the MFD hearing;

g. the fact that barrister hourly rates are likely to increase between now and the end of the case and the fact that from time to time it has been necessary to instruct barristers with complementary specialisms to our core counsel team (however this criterion does not apply to court cases, where your disbursement contribution does not include any sum in respect of counsel's fees);

h. the need for us to use 3rd party providers of legal software to ensure the smooth and efficient management of documentation at the longer hearings;

i. the fact that the Claim is part of a multiple Claim (one of several similar claims);

j. our experience of Equal Pay litigation against large retailers is that they are likely to contest the legal points rather than seeking an amicable resolution – this has proved to be correct and the number of Preliminary Hearings and appeals to the Employment Appeal Tribunal has so far been significantly greater than we estimated at the outset, we do not see this appetite for contesting legal points to change between now and the conclusion of this Claim;

k. there may also be appeals beyond the Employment Appeal Tribunal, and while the DBA does not apply to appeals, appeals (and especially appeals beyond the Employment Appeal Tribunal) will lead to significant further delay in us being paid under the DBA.

LEIGH DAY

Notice of the right to cancel

If you enter into this Damages-Based Agreement in a place other than our offices, you have the right to cancel it within 14 days of receiving this Notice. You do not have to give any reason for cancelling. This is under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

If you wish to cancel the Damages-Based Agreement, you **must do so in writing**. **This can either be a personal delivery, post, fax or email, at any time within the period of 14 days** after the day you enter into this Damages-Based Agreement. The address and details to send any cancellation notice to is:

Lauren Lougheed
Leigh Day
Central Park
Northampton Road
Manchester M40 5BP

T: 0800 037 4045
F: 020 7253 4433
e: asda@leighday.co.uk

Quoting ref: **LLD.844515**

To meet the 14 day deadline, it is enough that you send us notice of your cancellation before the 14 day period comes to an end.

You can print off this document and use the form below to cancel your Damages-Based Agreement if you wish to cancel by post, but it is not obligatory.

By signing this Agreement you give us specific written authority to start work on your case before the cancellation period ends. If, in accordance with your instructions, we have started work on your case and you then cancel we will have the right to charge you a reasonable amount for the work which has been performed prior to you communicating the decision to cancel, which will be calculated in accordance with clause 9 of this Agreement.

Complete, detach and return this form ***ONLY IF YOU WISH TO CANCEL THE DAMAGES-BASED AGREEMENT***

To: Leigh Day, Panagram, 27 Goswell Road, London, EC1M 7AJ

I, ………………………………………………, hereby give notice that I wish to cancel my DBA with Leigh Day.

Signed: ……………………………………………………………… Date: ……………………………

Ref: **LLD.844515**