

# Grant of smaller than expected bonus was not breach of contract

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An employer was not in breach of contract for paying an employee a discretionary bonus of 1% of profits in

circumstances where the employee claimed to have been told that 5% would be the minimum.

Mr Paturel was employed by Deutsche Bank to work on the money market derivatives desk of the global finance department. Mr Paturel claimed that, prior to him taking the job, he was led to believe that the bonus he would receive would be 5% of profits earned in 'bad' years and 10% in 'good' years. In 2008 and 2009 Mr Paturel received a bonus equal to 1% of the profits he had earned in the relevant years; he later learned that two of his colleagues received bonuses of 8% and 11% respectively.

Mr Paturel brought a claim against DB, stating that by paying him a 1% bonus, DB had breached his contract of employment. He argued that he had been promised 5% as a minimum and that, in any event, DB was contractually obliged to treat him in a way which was broadly consistent with his peers.

The High Court struck out Mr Paturel's claim. Firstly, it held that it was reasonable for DB to offer higher bonuses to Mr Paturel's colleagues due to the need to incentivise them to stay and not look elsewhere for a job. Secondly, the court found that it was not reasonable for Mr Paturel to expect to receive a minimum bonus of 5%; his letter of appointment made plain that its terms (which did not state the 5% minimum) superseded any previous promises, if any such promise were made.

The key to Mr Paturel's failure was that his letter of appointment contained an "entire agreement clause", removing from Mr Paturel the ability to rely on any statements made to him before the contract was finalised. Employers looking to recruit should ensure that their employment contracts contain such a clause to prevent employees from seeking to rely on informal indications about remuneration given at interview.

*Paturel v DB Services (UK) Ltd [2015] EWHC 3659*

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