

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKAURAU ROHE**

[2026] NZERA 69
3346120

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| BETWEEN | BRIDGET LOUISE DOELL Applicant |
| AND | COMMISSIONER OF POLICE Respondent |

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|------------------------|---|
| Member of Authority: | Simon Greening |
| Representatives: | Maria Dew KC and Daniel Josephs, counsel for the Applicant Karen Radich and Dianne Vogel, counsel for the Respondent |
| Investigation meeting: | On the papers |
| Submissions received: | 15 January 2026 and 3 February 2026 from the Applicant 22 January 2026 from the Respondent |
| Determination: | 12 February 2026 |

COSTS DETERMINATION OF THE AUTHORITY

Determination

[1] The Authority issued a determination on 23 December 2025 finding that Detective Inspector Bridget Doell (DI Doell) had been unjustifiably disadvantaged by the Commissioner of Police (NZ Police).

[2] The Authority's determination made by a different member, concluded NZ Police had failed to adequately investigate issues arising out of an email dated 11

February 2023 and did not take remedial action or provide adequate support to DI Doell in the aftermath which followed.¹

[3] The Authority also found NZ Police had breached DI Doell's employment agreement by failing to act in good faith and appropriately investigate DI Doell's concerns. In addition, NZ Police breached their health and safety obligations by not taking remedial action to support DI Doell in her return to Northland.²

[4] DI Doell was not successful in her other claims of unjustified disadvantage, discrimination and breaches of her employment agreement.³

[5] The Authority ordered NZ Police to pay DI Doell the sum of \$15,000 as compensation for hurt, humiliation and injury to feelings.⁴ The Authority reserved costs and encouraged the parties to resolve the issue of costs between them.

[6] The parties were unable to do so, and DI Doell has now brought a costs application before the Authority for determination.

Legal principles

[7] The power of the Authority to award costs is set out in clause 15 of Schedule 2 of the Employment Relations Act 2000 (the Act). The principles and approach adopted by the Authority in exercising this power are set out in the Authority's Practice Direction and the legal principles which underpin it.⁵ These principles follow:

- (a) An award of costs is discretionary.
- (b) Costs will generally follow the event.
- (c) The starting point for assessing costs is the notional daily tariff.
- (d) The Authority then considers whether there are any relevant factors which might lead to increasing or decreasing the daily tariff. Factors include:⁶
 - (i) costs awards in the Authority will be modest;

¹ *Bridget Louise Doell v Commissioner of Police* [2025] NZERA 850 at [179].

² Above n 1 at [180].

³ Submissions of Counsel for the Applicant, 15 January 2026, at [3].

⁴ *Bridget Louise Doell v Commissioner of Police* [2025] NZERA 850.

⁵ *Fagotti v Acme & Co Ltd* [2015] NZEmpC 135 at [114].

⁶ *JCE v The Chief Executive of the Department of Corrections* [2018] NZERA 175 at [4].

- (ii) it is open to the Authority to consider whether all or any of the parties' costs were unnecessary or unreasonable;
- (iii) costs are not to be used as a punishment or an expression of disapproval of a party's conduct although conduct which increases costs unnecessarily can be considered in increasing the daily tariff; and
- (iv) the complexity of a matter may justify an increase in the daily tariff.

Application

Notional daily tariff

[8] Legal costs and disbursements incurred by DI Doell were \$154,390. DI Doell seeks costs and disbursements of \$71,883.87.

[9] Counsel for NZ Police submits a costs award equivalent to a two-day investigation meeting based on the tariff rate, of \$8,000, would be appropriate in the circumstances.

[10] The investigation meeting was five days in length. The starting point for assessing costs based on the daily tariff is \$18,500.

[11] I am grateful to legal counsel for their helpful submissions which I have considered as part of my assessment of the relevant factors and any adjustment of the daily tariff which might follow.

Nature and complexity of the case

[12] DI Doell seeks an uplift to tariff costs on the basis that the successful claims required a substantial review of witness evidence, documentation, preparation and attendances, not typical in a standard personal grievance claim.

[13] Further, DI Doell submits the evidence of upwards bullying, breach of health and safety obligations and a failed employment investigation, spanned a period of some two years during 2022 and 2023.

[14] NZ Police submit the Authority considered 27 allegations involving bullying, however only two of these allegations were upheld.

[15] This submission needs to be considered in the context of the Authority's key finding. The Authority's key finding is there had been a pattern of bullying behaviour towards DI Doell between August 2022 and June 2023.⁷

[16] Although this case involved investigating allegations of bullying spanning a significant period of time, and the evidence which followed, it was not a complex case requiring parties to grapple with difficult or novel legal issues.

[17] It is not uncommon for investigation meetings involving bullying claims to run for a number of days and to include multiple personal grievances and allegations. This investigating meeting involved evidence being given by twenty witnesses over a five-day investigation meeting.

[18] The nature of the evidence and issues for determination were not sufficiently complex to justify an uplift on the daily tariff rate.

Length of the hearing

[19] NZ Police submit the length of the investigation meeting was unnecessarily extended by the nature and number of DI Doell's allegations and the number of witnesses required to address each point.

[20] In reply counsel for DI Doell submits, in the main, all of the applicant's witnesses provided relevant evidence in support of the claims which were successful, and any irrelevant evidence was relatively short and did not materially increase the length of the investigation meeting.

[21] For the Authority to accept the submission of NZ Police, that this matter only required a two-day investigation meeting, the Authority would need to have concluded at the outset of the investigation meeting that a significant number of DI Doell's allegations of bullying had no prospect of success. The Authority does not accept this submission for the following reasons.

[22] Firstly, both parties disclosed documents and produced further evidence during the investigation meeting. I accept the submission for NZ Police that in response to direct allegations being made against police witnesses, it was only natural by way of

⁷ Above n 1 at [274].

response for witnesses to raise their own concerns and provide additional evidence in support of these concerns.

[23] Secondly, DI Doell was required to respond to the production of new evidence during and immediately following the investigation meeting in Whangarei, and this required a further witness statement to be lodged with the Authority on 24 July 2025.

[24] A further witness statement was lodged by NZ Police on 29 July 2025 and on 5 August 2025, following the final day of the investigation meeting, NZ Police produced six further emails. This in turn required DI Doell to lodge a second witness statement with the Authority.

[25] DI Doell also raised a number of alleged incidents and events in her witness statement. These incidents were not part of the DI Doell's claim, however the investigating member accepted they provided further context as to the nature of DI Doell's claims.⁸

[26] Considering the nature of the allegations, the fact they were historic in nature and related to matters over a period of twelve-month period, it is not unreasonable for parties to be agile in producing information and evidence in order to respond appropriately and effectively to evidential matters as they arise.

[27] This is not a case where the conduct of either party increased costs unnecessarily or extended the length of the hearing in an unreasonable manner.

Settlement offer

[28] Although no Calderbank offers were made by either party, NZ Police outline a settlement offer they made to DI Doell in their submissions. Counsel for DI Doell also refers to this offer in her submissions.

[29] I have considered this offer as a possible factor in adjusting the tariff. The offer would have contributed to some of DI Doell's legal costs but did not provide for any form of compensatory payment or acknowledgement of the emotional harm caused to DI Doell.

⁸ Above n 1 at [186].

[30] Neither the offer or DI Doell's decision to decline the offer would justify an upward or downward adjustment on the tariff rate.

[31] The starting point for assessing costs based on the daily tariff is \$18,500. None of the factors discussed in the submissions justify increasing or decreasing the daily tariff rate.

Special damages

[32] DI Doell seeks pre-proceeding legal costs of \$10,000 for advice in relation to the investigation undertaken by NZ Police and its aftermath. This claim does not include costs associated with mediation. There are limited circumstances in which an employee can claim the legal expenses associated with an employment investigation.⁹ The Court has recognised that pre-proceeding legal costs can be recovered as a category of special damages, however any order made needs to be reasonable in the circumstances.¹⁰

[33] This is not a situation where an employer has commenced a baseless investigation which required the employee to engage the services of a lawyer.¹¹ This case is analogous to a situation where an employer undertakes an internal investigation into allegations of bullying made by an employee. As a general principle the employee making the complaint would ordinarily not require the services of a lawyer.

[34] However, the Authority found the police investigation into DI Doell's complaint to be flawed on a number of accounts and recorded that if an appropriate investigation had been undertaken the Superintendent may have been provided with important additional information by NZ Police witnesses regarding DI Doell's situation.¹²

[35] Given the nature of the claims and DI Doell's concerns, this is a case where it was reasonable for legal counsel to have been instructed to provide advice and representation throughout the investigation process, and for NZ Police to then meet some of those costs in view of the outcome.

[36] DI Doell's pre-proceeding legal costs were \$23,589.¹³ The amount sought for legal costs as a category of special damages is \$10,000. This sum represents more than

⁹ *Hall v Dionex Pty Limited* [2015] NZEmpC at [114].

¹⁰ *Rodkiss v Carter Holt Harvey Limited* [2015] NZEmpC 147 at [73].

¹¹ Above n 11 at [73].

¹² Above n 1 at [175] – [177].

¹³ Submissions of Counsel for the Applicant in reply, 30 January 2026, at [17].

the daily tariff equivalent for a two-day investigation meeting. An award of special damages needs to be moderate and proportionate especially when considering the Authority's approach to costs based on the daily tariff.

[37] An award of special damages in the sum of \$7,500, which is just over two-thirds of the costs claimed, is appropriate in the circumstances.

Expenses

[38] DI Doell seeks \$4,883.87 (GST inclusive) for disbursements. The Authority has the power to order a party to pay the reasonably incurred expenses of another party.¹⁴

[39] The following expenses are sought by DI Doell:

- (a) Costs associated with printing and preparing bundles of documents, including arranging service, is \$1,717.60. This sum is both reasonable and a necessary cost related to the conduct of the investigation meeting and therefore granted.
- (b) The sum of \$2,732 was sought by DI Doell for counsel costs associated with travel, accommodation and meals. The investigation meeting was conducted in Whangarei which was an orthodox position to take given this was also the location of DI Doell's employment at the time the issues arose. It would be unreasonable for NZ Police to meet the costs arising from DI Doell's decision to instruct legal counsel based in Auckland. I decline to grant this expense.
- (c) The sum of \$362.70 was sought for the applicant's travel to Whangarei. Normally parties bear their own costs associated with travelling to an investigation meeting. I decline to grant this expense. The filing fee of \$71.55, is granted.

[40] The total sum of \$1,789.15 is granted for expenses.

¹⁴ Schedule 2 Clause 15 of the Employment Relations Act 2000.

Outcome

[41] Within 28 days of the date of this determination, NZ Police is ordered to pay DI Doell:

- (a) \$18,500 as a contribution towards legal costs incurred; and
- (b) \$7,500 in special damages as a contribution towards additional legal costs incurred; and
- (c) \$1,789.15 as a contribution towards expenses incurred.

Simon Greening
Member of the Employment Relations Authority