EASTERN CARIBBEAN SUPREME COURT
GRENADA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

CLAIM NO. GDAHCV 2024/0174

BETWEEN:

PAULA MC MEO

Claimant

and

NEXA CREDIT UNION

Defendant

Before:
The Hon. Mde. Justice Agnes Actie — High Court Judge

Appearances:
Ms. Melissa Modeste-Singh and Mr. Dylan Charles for the Claimant
Ms. Afi Ventour, Ms. Yurana Phillip, Ms. Cherisse Noel and Ms. Kena Melville for the Defendant

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2026: March 25th;
August 19th.

JUDGMENT

[1] **ACTIE, J.:** The issue in this claim is whether the defendant breached the claimant's employment contract by failing to pay gratuity upon her retirement.

Brief Background

[2] The facts can be summarised shortly. The defendant, NEXA, formerly known as "G.U.T Co-operative Credit Union", operates as a credit union. The claimant, Ms. McMeo, was employed by the union for thirty-three (33) continuous years, beginning on 2nd May 1991 as an Administrative Assistant and later serving as Operations Manager from 1st April 2014 until her retirement on 23rd January 2024.

[3] Ms. McMeo avers that on 1st December 2017 she executed NEXA's Human Resource Policy (hereafter referred to as "the HR Policy"), Section 25 of which provides for payment of gratuity. On 6th March 2023, NEXA informed its employees that the gratuity previously paid to management pursuant to the HR Policy would be discontinued. On 5th December 2023, Ms. McMeo was directed to proceed on paid vacation leave until her retirement on 23rd January 2024. Ms. McMeo contends that upon her retirement her entitlement to gratuity under Section 25 crystallised.

[4] Ms. McMeo states that in 2017 she entered into a loan agreement with NEXA for the sum of $492,072.61 payable over 20 years, and that the expected gratuity formed part of her financial planning for repayment, particularly as she would reach retirement age before the loan term expired.

[5] Ms. McMeo alleges that NEXA's unilateral decision to refuse payment of her gratuity constitutes a breach of contract and claims the sum $407,567.32, damages, interests and costs.

The Defence

[6] NEXA denies that it has breached the contract of employment between itself and Ms. McMeo and maintains that the HR Policy is a non-contractual document consisting of guidelines outlining expected standards of conduct.

[7] NEXA states that Ms. McMeo's execution of the HR policy was merely an acknowledgement that she had read and understood its contents, and that it was not incorporated into her contract of employment.

[8] NEXA further states that on 26th August 2022, its Board resolved to discontinue gratuity payments, given that it was financially unsustainable and posed a risk to the viability of the organisation. NEXA states that only one payment was made towards gratuity in 2017, and that the provision was reversed following the 2022 decision. NEXA denies that Ms. McMeo suffered loss or damage or is entitled to the reliefs claimed.

Evidence at trial

[9] Ms. McMeo's evidence is that the HR Policy was presented to her as a binding, mandatory document forming part of her employment terms and governing her rights, obligations and entitlements. She maintains that having completed more than 33 years of continuous service with NEXA without breach, she is entitled to gratuity under Section 25.

[10] Ms. McMeo further relies on the fact that payments were made to other employees namely a gratuity to Mr. Samuel Britton upon his retirement in 2017 and a redundancy payment to Ms. Merlyn Hazzard in December 2024, calculated in a manner consistent with Section 25.

Merlyn Hazzard

[11] Ms. Hazzard stated that she was employed by NEXA for approximately 33 years. She states that the HR Policy was circulated to staff in 2017 and presented as a binding document, outlining employee rights and entitlements.

[12] Ms. Hazzard stated that the HR Policy made it clear that it formed part of the contractual employment terms and conditions as this was expressly reaffirmed and stated in the attestation clause which read "I have received a copy of the policy and agree to abide by the policy guidelines as a condition of my employment".

[13] Ms. Hazzard also stated that she is a holder of a mortgage loan with NEXA which contains a clause that should employment be terminated for whatever cause all monies due in retroactive, gratuity, severance payments or otherwise should be paid directly to the union in satisfaction of their obligations to the union.

[14] Ms. Hazzard stated that her position at NEXA was made redundant on 31st December 2024, and that she was promptly paid a redundancy package calculated using the same formula as the gratuity payments under Section 25.

Samuel Britton

[15] Mr. Britton commenced employment in October 1977 as manager and thereafter as General Manager of the credit union until his retirement in 2017. He stated that the Board of Directors developed and adopted the HR Policy to govern rights, obligations and entitlements of employment through retirement.

[16] He explained that the gratuity was introduced as a financial benefit comparable to those available to teachers, reflecting the organisation's origins, and that he understood the HR Policy's gratuity provisions to form part of the terms and conditions of his employment contract.

[17] He confirms that he received prompt payment of gratuity upon retirement, calculated at six weeks' pay per year of service. At trial, Mr. Britton stated that he was privy to the fact that there was no financial strain in effecting the policy.

***Evidence for* NEXA**

Louis Williams

[18] Mr. Williams described the attestation of the HR Policy as a standard acknowledgment of receipt and understanding of the HR Policy, and not a contractual agreement. He further stated that he is not aware of any agreement incorporating the HR Policy into Ms. McMeo's contract of employment.

[19] Mr. Williams stated that the gratuity was discontinued by Board decision on 26th August 2022 on the basis that it was financially unsustainable, and explained that the Board acted following a sustainability review, which revealed that the gratuity liability was increasing and posed a risk to the financial viability of the organisation.

[20] Mr. Williams further stated that the Board was advised, including by legal opinion, that continuation of the gratuity scheme could expose the organisation and its directors to significant risk. He also confirmed that only one gratuity payment had been made prior to its discontinuance, namely to Mr. Britton in 2017.

Joslyn La Touche

[21] Ms. La Touche stated that the gratuity was considered excessive and unsustainable, particularly given the size of the workforce and the scope of the entitlement. She stated that the Board determined that continuation of the gratuity posed a significant financial risk.

Brent Thomas

[22] Mr. Thomas was the finance manager of NEXA, and stated that the provisioning for gratuity, calculated at 11% of total annual staff salary, was insufficient to meet the potential liability. He concluded that NEXA would not have been able to meet its obligations if the gratuity scheme continued but admitted that he has not presented to the court the financial assessment on which the decision to discontinue the scheme was based.

Retesha Smith-Boyd

[23] Mrs. Smith-Boyd stated that Ms. McMeo retired after the decision to discontinue the gratuity was made, and that she was therefore not entitled to receive it. She confirmed that employees were not required to consent to the amendment to the policy of discontinuing gratuity payments.

Legal Analysis

Whether Section 25 of the HR Policy formed part of Ms. McMeo's contract of employment

[24] Counsel for Ms. McMeo contends that NEXA breached her contract of employment by failing to pay gratuity in accordance with Section 25 of the HR Policy, which policy gave rise to a binding entitlement to gratuity upon retirement.

[25] The sole issue to be determined is whether Ms. McMeo is entitled to a gratuity pursuant to the policy which provides:

"25.COMPENSATION

... Gratuity shall be paid to any employee who has given a minimum of ten (10) years unbroken service to the credit union and is retiring because of age or sickness. Gratuity payment should not exceed five (5) week's pay for each year of service. Management staff shall receive six (6) week's pay for each year of service. In the event of the death of an employee who has served a minimum of 10 years, gratuity will be paid to the estate of the employee.

Gratuity shall be calculated on the basis of basic salary. Allowances shall not be included."

[26] Counsel for Ms. McMeo relies on **Keeley v Fosroc International Ltd**[1], in which the English Court of Appeal considered whether a provision contained in a staff handbook formed part of an employee's contract of employment. Ms. McMeo argues that **Keeley** emphasises the following principles:

"[32] ...the relevant contract is that between the individual employee and his employer; it is the contractual intention of those two parties which must be ascertained. In so far as that intention is to be found in a written document, that document must be construed on ordinary contractual principles. In so far as there is no such document or that document is not complete or conclusive, their contractual intention has to be ascertained by inference from the other available material including collective agreements. **The fact that another document is not itself contractual does not prevent it from being incorporated into the contract if that intention is shown as between the employer and the individual employees.** Where a document is expressly incorporated by general words it is still necessary to consider, in conjunction with words of incorporation, whether any particular part of that document is apt to be a term of the contract;...

[33] ...the fact that the staff handbook was presented as a collection of 'policies' does not preclude their having contractual effect if, by their nature and language they are apt to be contractual terms, as clearly many were in the 'Employee benefits and rights' part of the handbook, incorporating in that way by reference what was not expressly referred to or detailed in the statement of employment terms." (emphasis mine)

[27] Counsel submits that where a provision is framed in clear terms of entitlement, *"it may have a life of its own, not to be snubbed out by context immediate or distant in the document of which it forms part"*[2]. Further, that **Keeley** confirms that

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[1] [2006] IRLR 961

provisions relating to pay and benefits are particularly apt for incorporation because they form part of the overall remuneration bargain between employer and employee.

[28] Ms McMeo was an employee in the union's employment in excess of ten years unbroken service when the HR Policy was implemented. The effect of Section 25 is to specify the minimum of ten years required for payment by way of gratuity. This is clear from the use of the words "not less than", which indicates that the gratuity payable must not be less than the prescribed formula, thereby fixing a statutory minimum.

[29] Counsel also relies on **Briscoe v Lubrizol Ltd**[3], where Lord Justice Potter opined that:

> "[14] ...it is of course frequently the case that details of an employee's contract and the benefit to which he is entitled by virtue of his employment are largely to be found in a handbook of the kind supplied to the claimant in this case… It is frequently the case that, in the employment context, the language of a handbook, while couched in terms of information and explanation, will be construed as giving rise to binding legal obligations as between employer and employee."

[30] Counsel for Ms. McMeo further highlighted the principle in **Horkulak v Cantor Fitzgerald International**[4] that benefit provisions were found *"necessarily to be read as intended to have some contractual content".*

[31] It is additionally argued that Ms. McMeo signed a written attestation expressly agreeing to abide by the HR policy as a condition of her employment. This attestation, it is submitted, converted the HR Policy into a contractual document governing Ms. McMeo's remuneration and benefits.

[32] Counsel also submits that Section 25 itself is contractual in nature as it uses mandatory language: "shall be paid", and "shall receive." Further, it identifies a defined class of beneficiaries, namely the management staff, specifies the

[3] [2002] IRLR 607
[4] [2004] IRLR 942

triggering event, which is retirement by age or sickness and prescribes a precise method of calculation.

[33] Ms. McMeo also makes reference to NEXA's conduct by the maintenance of a "Gratuity Payable" account and the payment of gratuity to other senior employees. Ms. McMeo concludes that this conduct demonstrates that Section 25 was treated as operative and contractually enforceable.

NEXA's Submissions

[34] Counsel for NEXA relies on the learning in **Halsbury's Laws of England**[5], that policy statements by the employer will generally remain non-contractual unless introduced in such a way as to show an intent that they should form part of the employees' individual contracts.

[35] Counsel refers to the text **Commonwealth Caribbean Employment and Labour Law**[6] which states:

> "...It is a question of fact to be determined by the court or tribunal whether it was the intention of the parties to be bound by these types of documents where they have not been deliberately incorporated into the employment contract. Courts and tribunals have shown more of a willingness to do so where the employment contract makes reference to the document or it is attached to the employment contract itself."[7]

[36] Further, the authors of **Tolley's Employment Handbook**[8] state:

> "The principles governing the incorporation of documents into contracts were summarised in Hallett v Derby Hospitals NHS Foundation Trust. The overarching concern is what the parties intended on the basis of the words used and their context. The question is whether the parties have expressly or impliedly agreed that the document form part of the contract between them."

[5] (5th edn., 2021) vol 39 para 115
[6] Natalie Corthesy and Carla-Anne Harris-Roper (1st edn., Routledge 2014)
[7] Ibid page 109 to 110
[8] (40th edn., LNUK June 2026)

[37] In **Hallett v Derby Hospitals NHS Foundation Trust**[9], the English Court of Appeal emphasized that incorporation depends on the parties' intention. The Court stated:

> "[90] The basic principles that apply to determine whether a provision in a separate document is incorporated into individual employment contracts are well established and not in dispute. What must be determined is what the parties to the contract intended on the basis of the words used and their context. As Hobhouse J explained in Alexander v Standard Telephones & Cables Ltd (No 2) [1991] IRLR 286 at 292–293 (para 31):
>
> > 'The relevant contract is that between the individual employee and his employer; it is the contractual intention of those two parties which must be ascertained. In so far as that intention is to be found in a written document, that document must be construed on ordinary contractual principles … The fact that another document is not itself contractual does not prevent it from being incorporated into the contract if that intention is shown as between the employer and the individual employee...'
>
> [91] The first question to be answered is therefore whether the parties have expressly or impliedly agreed that a document should form part of the contract between them. If there is no such agreement the enquiry stops there."

[38] Counsel refers to **Grant v South-West Trains Ltd**[10] where an equal opportunities policy was found not to have been incorporated into the contract of employment by the High Court of England. At paragraph 14, Curtis J. stated:

> "First, I find that the policy has not been incorporated into her contract of employment: it is a statement of policy and not of contractual obligations. The policy is in very general, even idealistic, terms. It also covers such matters as 'health and social class' which would be alien to employment contractual law. The way in which the Policy was brought into being is indicative that no contractual rights were in the mind of employer or employee's representatives. The fact was employees were told of this policy in the foregoing way rather than through the machinery of negotiation with the rail unions, which under the Plaintiff's contract of employment (clause 15) does alter her terms of employment is to my mind equally significant. The policy is fundamentally different to the collective agreement in Burke v Royal Liverpool Hospital [1997] ICR 730, which the plaintiffs prayed in aid."

9 [2018] 3 All ER 895 at paragraphs 90 and 91
10 [1998] IRLR 188

[39] Counsel admits that parties to a contract may effect a variation by modifying or altering its terms through mutual agreement, but states that the agreement for variation must itself amount to a contract. In reference to **Halsbury's Laws of England**[11], NEXA relies on the following:

> "Since a variation, as opposed to a waiver, involves an alteration by way of contract of the contractual relations between the parties, the agreement for variation must itself possess the characteristics of a valid contract. Thus to effect a variation the parties must be ad idem in the same sense as for the formation of a contract... Further, the agreement for variation must be supported by consideration or made by deed..."

[40] Counsel argues that Ms. McMeo's execution of the attestation did not operate to incorporate the HR Policy into the contract of employment between the parties, given that Ms. McMeo's contract of employment predated the HR Policy, and the parties did not agree to vary their contract. NEXA further submits that Ms. McMeo has adduced no evidence that the parties expressly or impliedly agreed that the HR Policy should form part of the contract of employment.

[41] Counsel for NEXA submits that the attestation amounted to no more than a unilateral acknowledgment of company policy and an undertaking to abide by its guidelines. Counsel further submits that even if the gratuity provision was deemed to form part of Ms. McMeo's contract of employment, once it became evident that the gratuity was not in the best interests of NEXA, the Board remained obliged to discontinue it.

Court's Findings

[42] The central issue is whether Section 25 of the HR Policy, which provides for the payment of gratuity, was incorporated into Ms. McMeo's contract of employment.

[43] The authorities establish that provisions contained in staff handbooks may be incorporated where the language is certain, the provision relates to benefits, and the context supports an intention to create binding obligations. Conversely, where

[11] (5th edn., 2025) vol 22 para 377

a document is expressed in aspirational terms, or where the evidence does not disclose a mutual intention to vary the contract, it will not be incorporated.

[44] Counsel for Ms. McMeo relies on the case of **Keeley v Fosroc International Ltd**[12] which was recently applied by the English Court of Appeal in **Dr MN v NHS Foundation Trust L**[13] in February 2026. The claimant in that case was employed by NHS Foundation Trust L from 1st July 2018. On 23rd January 2024, the Trust informed the claimant of a formal investigation, appointing a Director of Corporate Affairs as Case Manager, delegated by the Medical Director. The Trust's policy provided: "*The Medical Director will act as the Case Manager in cases involving Clinical Leaders ie Clinical Directors and Service Group Leads and consultants and may delegate this role to a senior manager to oversee the case on his or her behalf in other cases.*" The claimant brought breach of contract proceedings. On appeal, the Court applied principles that collective agreement terms are apt for incorporation if they relate to individual rights, are sufficiently certain, important to the employment relationship, and feasible. The natural meaning of "will act" created a mandatory obligation; and the provision's language was suitable for contractual obligation as opposed to institutional guidance. In dismissing the appeal by the Trust, the Court held that the paragraph of the policy was incorporated into the claimant's employment contract.

[45] In **Keeley***,* the court was concerned with the question whether provisions in a staff handbook relating to enhanced redundancy payments were contractual terms or not. Auld LJ (with whom Dyson LJ (as he then was) and Sir Martin Nourse agreed) said:

> "34. Highly relevant, in any consideration, contextual or otherwise, of an 'incorporated' provision in an employment contract, is the importance of the provision to the overall bargain, here, the employee's remuneration package – what he undertook to work for. A provision of that sort, even if couched in terms of information or explanation, or expressed in discretionary terms, may be still be apt for construction as a term of his contract (providing it is not in conflict with other contractual provisions); see e.g. Horkulak; and cf. Briscoe v Lubrizol, per Potter LJ at paragraph 14, as he then was, and with whom on this point Ward LJ and Bodey J agreed.

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12 [2006] IRLR 961
13 [2026] EWCA Civ 71

> Provision for redundancy, notwithstanding statutory entitlement, is now a widely accepted feature of an employee's remuneration package and as such, is particularly apt for incorporation by reference, as the judge recognised in the following passage in paragraph 45 of his judgment:
>
> > 'The payment of enhanced redundancy payments was a well-known fact of employment life in the group and, given the frequency with which redundancy exercises were conducted, clearly an important factor in particular to higher-paid and longer-serving employees.'.
>
> 35. Equally, if not more important, is the wording of a provision under question in an incorporated document containing contractual terms. If put in clear terms of entitlement, it may have a life of its own, not to be snubbed out by context immediate or distant in the document of which it forms part. Where the wording of the provision, read on its own, is clearly of a contractual nature and not contradicted by any other provision in the documentary material constituting the contract, context is not all."

Auld LJ also commented:

> "36. ... As Dyson LJ noted in the course of Mr Brennan's submissions, a good way of testing Fosroc's case and the judge's reasoning on construction, is to ask whether, and subject to the issue of certainty, if the redundancy policy had been set out in identical terms in Mr Keeley's statement of employment terms, it could seriously have been argued as a matter of construction that it was not apt for a contractual term and, on that account, not part of the contract."

[46] It was said further in **Keeley** that the fact that the provisions in question were contained in the "employee benefits and rights" section of the handbook was of relevance. They were, therefore, to be treated differently from "procedural, aspirational or discretionary matters in the section going to the selection of employees for redundancy".

[47] Applying the law to the facts in the present case, Section 25 appears, on its face, to be framed in mandatory terms ("shall be paid"), identifies a defined class of beneficiaries, specifies triggering events, and provides a clear method of calculation. Such characteristics are consistent with provisions which have been found to be apt for contractual incorporation, particularly as they relate to remuneration.

[48] However, the inquiry does not end with the language of the provision. The Court must also consider whether there was mutual intention to incorporate the HR Policy into Ms. McMeo's contract.

[49] It is the law that the relevant contract is that between the individual employee and his employer; it is the contractual intention of those two parties which must be ascertained. In so far as that intention is to be found in a written document, that document must be construed on ordinary contractual principles[14].

[50] The attestation clause to the HR Policy states the following:

> "I affirm that I have read and understand G.U.T. Co-Operative Credit Union Human Resource Policy. I have received a copy of the policy and agree to abide by the policy guidelines as a condition of my employment."

[51] Ms. McMeo relies primarily on her execution of the 2017 attestation, by which time she had been in continuous employment with the union for more than twenty-six years. She also contends that she expected the gratuity payment to be applied to a loan agreement between herself and NEXA. That loan agreement, dated 10th January 2017, was between NEXA, Ms. McMeo and Ms. Dhana Lazarus, and was entered into for the purpose of funding educational studies.

[52] NEXA characterises the attestation as no more than an acknowledgement that Ms. McMeo had received and understood the policy. This court does not accept that submission as the clause, drafted by NEXA, goes further: it records the parties' agreement to abide by the policy as "a condition of employment". Those words are significant and show that compliance with the HR Policy was not optional.

[53] It is also noteworthy that, according to Mr. Britton's evidence, although the HR Policy was introduced in 2013, NEXA required Ms. McMeo to execute the attestation on 1st December 2017. If the document was intended only to acknowledge receipt and understanding, there is no satisfactory explanation for requiring existing employees to sign it three years after the policy had taken effect. In my view, the more plausible inference is that NEXA intended to formalise the HR Policy as part of the parties' contractual relationship.

[14] Department For Transport V Maureen Sparks & Ors [2016] EWCA Civ 360

[54] The surrounding circumstances reinforce the contractual relationship. The evidence shows that NEXA created and maintained a gratuity account for benefits payable under Section 25 and, in 2017, paid Mr. Britton a gratuity upon his retirement in accordance with that provision.

[55] This court does not accept NEXA's submission that the employment contract was not formally varied or supported by fresh consideration. In the Court's view, NEXA's requirement that Ms. McMeo execute the attestation as a condition of her continued employment is capable of evidencing the parties' mutual consent to incorporate Section 25 of the HR Policy. Axiomatically, the parties intended the HR Policy to govern their contractual relationship.

[56] NEXA submits that its Board has a duty under the Co-Operative Societies Act to act honestly, in good faith and in its best interests. NEXA also relies upon financial assessments by and legal advice in support of its decision to discontinue the gratuity however, it failed to produce supporting evidence. Accordingly, the court is unable to assess independently the factual basis upon which the Board reached its conclusion. In any event, the statutory duties of a Co-Operative Society and its objectively well-founded concerns do not, without more, empower NEXA from unilaterally extinguishing an existing contractual entitlement.

Conclusion

[57] For all the foregoing reasons, the court finds that Section 25 of the HR Policy formed part of Ms. McMeo's contract of employment and conferred upon her a contractual entitlement to gratuity. NEXA's failure to honour such gratuity payment is in breach of the employment contract. Accordingly, Ms. McMeo's claim is allowed, and she is entitled to recover the gratuity due to her under Section 25 of the HR Policy. The court notes that the claimant seeks a fix amount in the sum of $407,567.32 as gratuity entitlement, general damages, interests and costs. Accordingly, the matter shall proceed for assessment of damages in accordance with Rule 16.4.

ORDER:

[58] It is ordered and declared as follows:

(1) The claimant's claim is allowed to the extent that she is entitled to general damages on breach of her entitlement to gratuity with interest, to be assessed, if not agreed within twenty-one (21) days from today's date.

(2) Failing agreement, Ms. McMeo shall file witness statements and submissions with authorities in support of assessment on or before 15th September 2026.

(3) NEXA shall file witness statements and submissions with authorities in response on or before 15th October 2026.

(4) The assessment of damages shall be conducted by a Master of the Eastern Caribbean Supreme Court upon application by Ms. McMeo.

(5) NEXA shall pay agreed costs to Ms. McMeo in the sum of $52,000.00 within twenty-one days of today's date.

Agnes Actie
High Court Judge

By the Court

Registrar