EMPLOYMENT TRIBUNALS

Claimant: Ms M Zlotnikova

Respondent: STA Travel Limited

HELD AT: Liverpool **ON:** 26, 27 and 28 July 2017

BEFORE: Employment Judge T Vincent Ryan
Ms J Eme-Power
Mr W K Partington

REPRESENTATION:

Claimant: Ms A Diaz-Dickinson, Counsel
Respondent: Mr M Selwood, Counsel

RESERVED JUDGMENT

The unanimous judgment of the Tribunal is:

1. The claimant was unfairly dismissed by the respondent on 29 July 2016 (sections 94-98 Employment Rights Act 1996 ("ERA").

2. The claimant's dismissal was automatically unfair as the reason for it related to the claimant's pregnancy and ordinary or additional maternity leave (section 99 ERA).

3. The respondent discriminated against the claimant when, during the protected period in relation to a pregnancy of hers, it treated her unfavourably because of the pregnancy (section 18(2) Equality Act 2010).

4. All of the claimant's claims having been well-founded they succeed, and the matter will proceed to a remedy hearing which will, amongst other things, consider in detail whether any compensatory award payable to the claimant ought to be reduced to reflect the risk facing her of her being fairly dismissed in circumstances where there was a redundancy situation and the Tribunal has concluded only that the claimant was at some but a relatively small risk of her being fairly dismissed by reason of redundancy on the date when she was dismissed.

REASONS

1. **The Issues**

1.1 "Ordinary" unfair dismissal (sections 94-98 Employment Rights Act 1996 ("ERA"): The claimant was made redundant whilst pregnant and due imminently to start maternity leave. There is no issue about the claimant having adequate notice of being at risk of redundancy, and there is no issue as to the fact of there being a redundancy situation. The issues with regard to unfair dismissal are whether or not there was effective consultation, a fair selection process and proper consideration of alternatives to redundancy and alternative employment. In essence the claimant contends, but the respondent denies, that the selection procedure was effected to ensure that she was not employed in a role alternative to that which was being made redundant, and that this tainted the consultation process (which did not take due regard for her expressed wishes), and consideration of alternative employment within the respondent company.

1.2 Automatically unfair dismissal (section 99 ERA): The issue here is whether the reason, or if more than one the principal reason, for the claimant being chosen for redundancy and her application for alternative employment being declined was her pregnancy and/or because she was about to commence maternity leave.

1.3 Sex discrimination (section 18(2) Equality Act 2010): The claimant alleges that because she was pregnant and about to commence a period of maternity leave she was treated unfavourably. The respondent maintains that her pregnancy and maternity leave were not relevant factors in any of their dealings with the claimant. The claimant accepts that the claims of automatic unfair dismissal and this discrimination claim stand or fall together.

2. **The Facts**

2.1 The respondent is a large travel and leisure company with some 200 retail outlets in the United Kingdom, with offices in Manchester and London as well as Cluj, Romania. At the time of the respondent's response to the claimant's claim it employed some 212 people in the United Kingdom. At the material time the respondent had an office in Liverpool.

2.2 The claimant commenced her employment with the respondent on 3 December 2012 and was employed by it until her dismissal by way of redundancy on 29 July 2016. She was employed as a Global Travel Help Executive ("GTH Executive"). The GTH team is "a 24/7 operation" which at the material involved employees responding to customers' post departure questions, queries, problems and even crises which may involve everything from reassurance to passing on of information, amendment of bookings and seeing to refunds or re-issuing tickets. The claimant's job

description is at page 36 of the trial bundle to which all further page references relate unless otherwise stated. There were approximately forty six employees at the Liverpool office.

2.3 Over a period of time, and specifically from her return from maternity leave in November 2014, the claimant's role evolved quite considerably from that set out at page 36. The claimant was on maternity leave from April 2013 to November 2014, and immediately prior to the commencement of that period of leave the respondent expanded upon the GTH Executive role with the introduction of telephone help lines which became more significant at the cost of the email service which had been the typical form of provision of help to customers. From about the time the claimant commenced this period of maternity leave to the date of her dismissal the GTH team became more and more involved in providing services over the telephone.

2.4 Prior to the commencement of maternity leave in April 2013 the claimant would attend antenatal clinic appointments in her own time; she did not ask whether, and was not told that, she was entitled to take those appointments during working time, and the claimant made no complaint and raised no grievance about the matter. On her return to work following maternity leave in November 2014 she requested flexible working, and whilst initially there was some opposition to this for practical reasons nevertheless the respondent was able to accommodate the claimant such that she commenced a job sharing arrangement working a three day week up to the date of her eventual dismissal.

2.5 Either just before or in the early stages of the first period of the claimant's maternity leave the respondent recruited four people to work on an Incident Support Desk ("ISD"): Ruth Daly, Shaun Grant, Juanita Richardson and Lee MacDonald. These Executives were paid a higher rate of pay than the GTH Executives however their roles were subsumed by the GTH executives as the ISD evolved along with the GTH job description. It therefore followed that on the claimant's return to work the expectation upon her and her colleague GTH executives was that they would operate the ISD, albeit there was no incremental pay rise and no formal training. Additionally the work was more urgent, immediate and stressful than had been most of the claimant's work prior to her taking maternity leave. The named ISD executives above continued to do the same duties as the GTH executives when staffing the ISD, but maintained their pay differential. In the light of those circumstances, and bearing in mind the claimant's personal circumstances (returning to work after a lengthy period of absence but now with added family responsibilities, stresses and strains), she was initially reluctant to take on the ISD role. Save for her personal circumstances her reasoning and resistance was entirely in common and shared by her colleagues. Notwithstanding their respective reservations about having to undertake ISD duties, the claimant and her colleagues did so and this accounts for the evolution of the GTH executive role into one of an ISD role. Whilst the claimant committed to the new regime her colleague, Olga Bogdanova (who subsequently retained

her employment with the respondent following the processes described below), did not so commit because she was dissatisfied with the imposition of additional duties and complained about it; she transferred and was redeployed to another area of work, namely refunding clients/customers. It appears from this that the claimant was more adaptable at that time and in those circumstances than was Olga Bogdanova at that time in the same work circumstances.

2.6 The claimant was supervised by her line manager, Mark Johnson, who was based locally but with responsibility also for the Manchester office. His line manager was Kate Ingram, who was based in the London office. The GTH executives had team leaders and a supervisor. The claimant regularly worked every weekend when there was not immediate available supervision or line management for periods of every day on which she worked. She also often worked overtime hours and was willing to work these a-typical hours. The claimant also made herself available to and willingly allowed herself be put forward for, shift swaps or to cover shifts for colleagues. On such occasions and when the need arose she properly and appropriately would escalate enquiries to Kate Ingram or a supervisor at the London office if and when the need arose. This was in accordance with the respondent's proper procedures and was not untoward. It was accepted by the claimant, and commented upon by Kate Ingram, that she will have made errors in her work on occasions, but no more than any of her colleagues, and what was remarkable was the quality of her work rather than any problem or issue with it. The claimant was acknowledged as being a good, conscientious and diligent employee. On the occasions when queries were escalated by the claimant or her colleagues to Kate Ingram, Ms Ingram would routinely refer matters to the team leaders at Liverpool and would eventually receive their feedback. Once again there was nothing unusual or untoward in this and at no time during the claimant's employment was she disciplined or had her performance managed in respect of any concerns about her capability or conduct. Ms Ingram never had occasion to speak to the claimant subsequent to any escalated referral in consequence of supervisory feedback. The claimant received good and positive professional development reviews. The claimant mentored new starters and provided training by way of being shadowed by colleagues such as Shaun Grant and Heidi Porter (both of whom subsequently retained their employment with the respondent securing alternative employment during the redundancy exercise detailed below). The respondent did not provide external or formal training of new GTH/ISD executives but instead relied upon in-service shadowing. It was by this method that the claimant acquired her skills and experience on ISD duties, and she was trusted and relied upon to pass on her knowledge and expertise to others in the same way without any reservation on the part of the respondent. She was able and willing to do so and did so without criticism from the respondent or her colleagues.

2.7 In September 2015 the respondent opened an office in Romania with the known intention of moving GTH duties, insofar as they could be moved, to Romania. From that date, and increasingly over a period of time,

executives in Romania took on the ISD role albeit it took some time and the progression was slow. For a period of time there was an overlap between ISD services provided out of Romania and those from the claimant's base in Liverpool.

2.8 In June 2016 Kate Howard, a director, presented a scheme to the respondent company including a proposal to close the Liverpool office, putting 46 employees at risk of redundancy, primarily in Liverpool but also consequentially in Manchester and London. The proposal was to retain a Global Operations Manager (Mark Johnson), a team leader (Lee MacDonald), four ISD executives working from home and two central fulfilment executives, albeit they would be based at Manchester and not Liverpool. The Central Fulfilment role was supervisory. The proposal, therefore, was to recruit initially at least from the existing workforce for six roles, that is four ISD executives and two Central Fulfilment executives.

2.9 On 1 June 2016 the 46 potentially affected employees were put at risk of redundancy. The redundancy did not take effect until 29 July 2016. It is common ground between the parties that ample, accurate and adequate notice of the risk of redundancy was given, that there was a genuine redundancy situation and that a number of employees were dismissed by reason of redundancy as part of this exercise other than the claimant.

2.10 In respect of the claimant's second pregnancy she agreed with the respondent initially that she would commence a period of maternity leave on 3 July 2016 but it was indicated to her that she may lose her holiday entitlement and therefore she took accrued holidays and re-arranged the dates for her maternity leave. The parties agreed that her second period of maternity leave would be from 31 July 2016 to 30 July 2017; the expected week of birth of the claimant’s second child was 1 August 2016.

2.11 In the course of the redundancy exercise the respondent engaged the claimant in a number of one-to-one consultation meetings, including on 6 June 2016, 12 July 2016, 19 July 2016 and 26 July 2016. The claimant’s view was that the respondent was considerate and kind throughout each of those meetings. Selection criteria were explained to the claimant and her colleagues and were agreed upon as being reasonable, fair and appropriate. The detailed scheme was devised and implemented by Alison Hughes, Head of People and Culture, who was London based and is a HR professional. Amongst the relevant documentation that was circulated, available and known was a FAQ sheet (pages 45-48), training for elected representatives of affected employees (pages 58-65) and a consultation action plan, the final version of which is at pages 160-183. Job descriptions for the newly created roles were circulated to the employees’ representatives, including the ISD agent role (pages 152-153). The claimant applied for this role but did not apply for the supervisory Central Fulfilment role. Ms Hughes prepared the selection matrices referred to above. Those in respect of the ISD agent role are at pages 154-157. In addition all employees were given the opportunity to apply for any available roles within the respondent company, and vacancy lists such as

appears at page 184 were made available; page 184 is an example of a vacancy list given to the claimant in respect of which potentially appropriate jobs were highlighted by being emboldened. The claimant accepts that she did not pay due notice to the vacancy lists and while she now appreciates the significance of the emboldened jobs she did not apply for any. The claimant confidently believed that on the basis of her knowledge, experience and performance in her GTH role incorporating ISD duties she would be successful in the selection process for one of the four ISD jobs available.

2.12 At a consultation meeting on 12 July 2016 the claimant indicated to Helen Salt, the external HR Executive assisting in the consultation process, that she was interested in applying for the ISD agent role (page 187). She confirmed to Ms Salt that as that was a role that she was already fulfilling she would be interested in doing it; she had no qualms about its demands; she was confident that she would be appointed and that she would fulfil the role well as before when although the emphasis was different she was nevertheless engaged in ISD duties. She explained to Ms Salt that she was at that time working a three day week, to which Ms Salt proposed that the claimant consider a job share with Gemma Gould who was pregnant at the time. She asked the claimant to come up with a joint proposal with Gemma Gould for a job share approach to the ISD agent role. The claimant queried how a trial period would work and when it would commence, bearing in mind that she was about to commence maternity leave, and Ms Salt reassured her that any such trial would commence upon her return to work at the end of the leave period and that there was no firm proposal to replace her with maternity cover as no decision had been made, but that none of this would be "an obstacle for the process". The claimant did not confirm her definite interest in a job share nor propose it; she was prepared to consider Ms Salt's suggestion. The claimant did not say that it was a condition of her returning to work that she had flexible hours or a three day week. The claimant appreciated that the role was for a full-time home based worker and she expressed her interest in it on that basis.

2.13 On 14 and 15 July 2016 there was an exchange of email correspondence (pages 225-227) between the claimant and Ms Salt about Ms Salt's job share proposal. On 18 July 2016 the claimant stated to Ms Salt in an email (page 225):

"If the job share does not work out for some reason I would still like to be considered for a full-time position."

Ms Salt copied that email to Ms Miles (who was involved in the consultation exercise), Alison Hughes, Kate Ingram and Mark Johnson. Kate Ingram and Mark Johnson were engaged in marking the candidates against the job application criteria (the selection matrix designed by Ms. Hughes). Alison Hughes was to invigilate their marking and to perform the role of moderator.

2.14 The claimant's said email of 18 July 2016 was sent and received before the deadline for expressions of interest in the roles to be filled. Ms Salt forwarded it to those involved in the process of selection before the same deadline. In advance of the deadline and prior to receipt of the claimant's email Ms Ingram and Mr Johnson had conducted a marking procedure ostensibly by applying the selection matrix to the candidates for the two available roles.

2.15 Mr Johnson's completed marking in respect of the claimant is at pages 219-222. The total competency score at page 219 is mistakenly understated as 21/25 whereas in fact the scores add up to 23/25. All candidates received 25/25 for total experience. In respect of the competencies Mr Johnson gave the claimant marks of 5 ("excellent evidence of…") and 4 ("strong evidence of…") in respect of "supporting customers", "communication", and "takes ownership". He marked her 3 ("good evidence of…") in respect of adaptability and analytical skills. His overall score for the claimant was 69 which netted down on the agreed scale to a score of 4.6 out of a possible maximum of 5. Mr Johnson placed the claimant 4 out of 8 applicants for the four available jobs as ISD agent and therefore he considered the claimant to be appointable (as there were four vacancies). He used his first-hand, regular, line management experience of the claimant and available paperwork and records to assess the claimant against the competencies. Mistakenly he misconstrued the competency area entitled "adaptability". His justification for giving the claimant a score of 3 in respect of adaptability was that he felt she was not always flexible about changing shifts. He had no evidence to sustain this belief bearing in mind that the claimant frequently made herself available to cover shifts, and she worked both weekends and overtime as required; at best he based this mark on a gut feeling. In any event he did not properly assess the requirement of marking in the competency area entitled "adaptability" which ought to have related to flexibility towards new challenges in given circumstances, and an ability to change behaviour to match new circumstances, considering whether the claimant thrived on variety and frequently changing environments. He had in any event held against the claimant her initial reluctance to undertake ISD agent roles; however the claimant's reluctance was in common with her colleagues and this was not held against any of them. Indeed Olga Bogdanova, who left the GTH team because of the newly imposed ISD duties, was appointed as one of the four successful candidates for the new roles. The tribunal considers that to an extent Mr. Johnson in giving his evidence about the claimant tended to unconvincingly accentuate any potentially negative aspects of the claimant's performance to justify her non-appointment which contradicted his scoring generally and his assessment that she was appoint-able. The tribunal relies for this finding on his positive assessment of her when he marked her independently against the selection matrix at the time but his apparently more reserved and less favourable opinion when supporting the respondent's case.

2.16 Mr Johnson sent his completed scores to Ms Ingram prior to her marking the candidates. She then went about a marking exercise without any

documents in support save for Mr Johnson's completed score sheets. Ms Ingram therefore knew what scores that she might allocate, which when taken into account with Mr Johnson's scores would result in the top four placements and appointments. Ms Ingram (in common with Mr Johnson) did not conduct competency based interviews with any of the candidates. She conducted the scoring exercise as a mental exercise without documentation or keeping any notes or records, written preparation, analysis or rationale. She says that she marked the claimant and Gemma Gould jointly against each of the selection criteria without reaching individual scores for either of them on any of the competencies but treating them at all times as one person. Ms Ingram says that she reached a score for the claimant and Gemma Gould jointly of 3.9 out of 5, and it was her considered opinion that Gemma Gould was the stronger candidate without whose stronger marks the claimant would not have scored as highly as 3.9 out of a possible 5; her gut feeling was that Gemma Gould was a stronger candidate. She says that she based her decision, at least in part, on the claimant's routine non-problematic escalated referrals described above. The final marking was given by the respondent as follows:

Name of Candidate	Kate Ingram Average Score	Mark Johnson Average Score	Combined K Ingram/ M Johnson Average Score	Position
Ruth Daly	4.93	5.00	4.97	1
Heidi Porter	5.00	4.87	4.93	2
Shaun Grant	5.00	4.80	4.90	3
Olga Bogdanova	4.93	4.27	4.60	4
Magdalena (Magda) Pawlic	4.67	3.87	4.27	5
Maria Zlotnikova (claimant)	<3.87	4.60	<4.23	6
Gemma Gould	>3.87	3.20	>3.53	7
Michaela Rae	2.87	2.60	2.73	8

2.17 Heidi Porter withdrew from the process; she had been in second position on the joint scoring above. The fifth placed candidate was appointed. The net effect was that the appointed candidates were R Daly, S Grant, O Bogdanova and M Pawlic.

2.18 On 18 July 2016 Ms Ingram emailed Alison Hughes, Helen Salt and also Helen Miles with confirmation of the names of the people who she said had scored highest following her scoring and that of Mr Johnson, and the appointment as team leader of Katie Hendy. The ISD agents would be Heidi Porter, Ruth Daly, Olga Bogdanova and Shaun Grant, and Central Fulfilment roles went to Jane Sowler, James Norman and Sue Green. She sent her markings to Ms Hughes in which she showed "Maria/Gemma" with an average mark of 3.9 for both her average score, Mr Johnson's average score and the total average score. According to Ms Ingram's version of the scoring which appears in that email at pages 227A-227B Magda Pawlic was placed in fifth position on her scoring with 4.6. Mr Johnson's scoring of Magda Pawlic is 3.8/5 and of Olga Bogdanova 4.3/5, both of whom he placed lower than the claimant albeit the joint scoring with Gemma Gould shows her at 3.9/5.

2.19 On 19 July 2016 prior to Ms Hughes moderating Mr Johnson's and Ms Ingram's scores the claimant met again with Ms Salt. The claimant was unaware of the scores at this time. During the course of the consultation meeting she was told that the result of the application selection matrix was not yet known but that she would be told it as soon as possible, however Ms Salt noted that the claimant had put herself "forward for full-time with a 12 week trial". The claimant made the point that while she had been working flexibly on a three day week from the office since returning from her first period of maternity leave it would be different in future if she was working from home instead of the office, and that therefore full-time working would operate differently than had been previously envisaged. Home working full-time could suit the claimant.

2.20 Following the above consultation meeting Ms Salt joined a telephone conference call with Ms Hughes, Ms Ingram and Mr Johnson when the scores were invigilated and were supposed to be moderated. Ms Ingram and Mr Johnson said in their evidence that this was the first time that they became aware that the claimant was interested in a full-time role as ISD agent as they had not seen their emails referred to above. Whether or not that is the case they were made aware during the course of this conversation. Mr Johnson stood by the marks he had provided and Ms Ingram explained how she would mark the candidates as explained above, once again carrying out a mental exercise of disaggregating the claimant and Ms Gould, indicating that Ms Gould would have scored more strongly had she done them separately. Ms Hughes did not effectively invigilate, investigate, moderate or carefully consider the difference in scores reported by Ms Ingram in relation to the claimant of less than or equal to 3.9/5, being second bottom of the marks, and Mr Johnson's 4.6/5 and appointable, not least on the withdrawal of Heidi Porter. In fact Mr Johnson's score for the claimant was fourth overall and that she was appointable, as he marked her above Olga Bogdanova.

2.21 Olga Bogdanova had withdrawn from the GTH team on the introduction of ISD and worked instead in refunding. Magda Pawlic worked in ticketing and not ISD. Neither had current or even recent experience of working the

ISD. Ms Ingram had less direct involvement with either Olga Bogdanova or Magda Pawlic than she had with the claimant. Her justification for her relative low marking in respect of the claimant was due to the claimant's escalations to her described above, that is in accordance with procedure which were fairly routine which did not result in any feedback to Ms Ingram nor any conduct or capability issues being raised with the claimant. Ms Ingram did not refer to the claimant, Mr Johnson or any objective documentation or evidence in compiling her scores. Ms Ingram did not go through each of the selection criteria in respect of the claimant and mark her according to the respondent's procedures.

2.22 Of all of the candidates for the available posts only Gemma Gould and the claimant were pregnant. Mr Johnson, Ms Ingram, Ms Hughes and Ms Salt were all aware not only of the claimant's pregnancy but of her planned imminent commencement of maternity leave.

2.23 On 21 July 2016 Helen Miles and Helen Salt met with the claimant (page 232) and informed her that she had been unsuccessful in the selection matrix "as other colleagues scored higher". She was told that she was scored both individually and as a job share. This was not true. The claimant asked for feedback on the scoring.

2.24 The final consultation meeting took place when the claimant met with Helen Salt in the presence of a note taker on Tuesday 26 July 2016 (pages 234-235). It was again confirmed to her that she was not successful in the scoring against others according to the application of the matrix for the role of ISD agent and her position was confirmed as being redundant which would take effect from Friday of that week. The claimant expressed her genuine surprise that she was not appointed, not least because she was being marked against colleagues who had not performed the ISD role as she had. The claimant asked for feedback on how she was assessed and where she scored low marks.

2.25 Alison Hughes emailed the claimant on 28 July 2016 (page 236) to confirm the outcome of that meeting and a more formal letter was sent by her to the claimant on the same day at pages 237-238. She was advised of her right to appeal, and in a further letter of the same date she was given calculations of the monies payable to her on redundancy.

2.26 In the meantime again on 28 July 2016 Helen Salt wrote to the claimant by email (page 241) with some general and vague feedback on the scoring in response to the claimant's request for details. Ms Salt stated that management had looked at the potential for the claimant to complete the new role and in doing so other candidates scored more highly, the role in the new structure being one that is not a GTH role but an ISD crisis and social media role with the day-to-day running of GTH moving to Romania. This did not clarify matters for the claimant who felt that she had been carrying out an ISD role as she had in fact been doing for some time since her return from her first period of maternity leave. The claimant was not at this stage given any details of the scoring that had been applied.

2.27 On 2 August 2016 the claimant appealed against the decision to dismiss her by reason of redundancy in an email to Alison Hughes that appears at pages 246-247. She based her appeal on her knowledge of the selection criteria, the role that she had been working in for some years and her ability at it. She made the point that out of the three people including her who applied for the position from the team that was doing the ISD work, she was the only one who was not appointed despite being the longest serving employee in the team and a person who was performing well. She was dismayed that two people from other departments were appointed when they had not been performing the duties and would need training and to gain experience.

2.28 In response Ms Hughes, at page 246, commented in an email that the claimant's contribution and skill set had been given full consideration through a robust matrix scoring process measured by two managers who have worked closely with her and the team. This was not true in that Ms Ingram had not worked closely with the claimant and with the team and the claimant had not had the benefit of "full consideration through a robust matrix scoring process". She had not been marked as an individual candidate for the available post. In response the claimant stated her belief up until that point that the scoring matrix had been intended to be fair and robust but she was concerned that the feedback she received was "very vague". She reiterated that she did not have the scoring and did not know where she scored lower that the employees who were appointed and why any particular scores were given to her.

2.29 In the light of the appeal Ms Hughes then asked Ms Ingram and Mr Johnson to provide the matrix scoring details so that she could provide feedback and draft a response. Accordingly after the decision to dismiss the claimant Ms Hughes was in effect asking the markers for information she ought, in the view of the tribunal, to have had to hand when she was invigilating and moderating the scores; this was detailed information she would have needed to perform the role of moderator effectively, which she had not done. Ms. Hughes reassured Mr Johnson and Ms Ingram that she was not scrutinising their decisions, but in view of the claimant's view of her own ability she felt unable to give credible feedback without an input from Mr Johnson and Ms Ingram. The clear implication of this is that Ms. Hughes was content with whatever the markers provided to her as long as she could then justify the decision that had already been made without close and detailed moderation and scrutiny. Mr Johnson provided his score sheet to Ms Hughes; he explained that he had marked her down on adaptability because he felt she was not so flexible about changing shifts, and the second area where he marked her down was because he did not consider that she would "think outside the box" as other team members would. Mr Johnson felt that he had scored her quite highly (even while misstating his score) but commenting that others scored marginally higher.

2.30 Notwithstanding Ms Hughes' role in the telephone conversation with Ms Ingram and Mr Johnson on 19 July 2016 was to invigilate and moderate their scoring, this was the first time that Ms Hughes had sight of the

detailed score sheet of either marker. Ms Ingram did not send Ms Hughes any marks at this stage.

2.31 The claimant's appeal was to be dealt with by Sarah Davies, Head of Global Programme Management. Unfortunately Ms Davies was not available to us as a witness but she tendered a written witness statement. She did not give evidence under oath or affirmation, was not cross examined and we did not have the opportunity to either put questions to her or assess her credibility in giving her evidence. There are however documents concerning the appeals process in the trial bundle The claimant met with Ms Davies and Alison Hughes for the appeal hearing on 18 August 2016 following which Ms Hughes provided Ms Davies with a steer as to how she should deal with the appeal.

2.32 On 8 September 2016 Ms Hughes emailed a document to Ms Davies which she described as being "a bit of structure with feedback around each concern that may help" stating that Ms Davies should have it available if her feedback "goes dry". The document from Ms Hughes is a lengthy and detailed document which appears at pages 257C-257G, and stated incorrectly matters such as "scoring was clearly consistent with no anomalies" and that in her opinion "Katie and Mark were well placed to understand skill sets and make fair decisions open to challenge via HR". Ms Hughes felt that the procedure was "fundamentally fair" and she set about giving Ms Davies a comprehensive rebuttal to the claimant's appeal. Ms Davies and Ms Hughes met with the claimant on 8 September 2016 for Ms Hughes to deliver the appeal outcome, and the minutes of that meeting are at pages 257H-257K. Ms Davies supported the decision making of both Mr Johnson and Ms Ingram with regard to scores, stating amongst other things that whilst they scored separately their scores were very similar, subject to one or two variations. Although she was not shown Ms Ingram's scores and no proper explanation was given to her as to how Ms Ingram had marked the claimant, she was misled into thinking that there had been a thorough review of her concerns and that Ms Davies had done an "excellent job" in giving her feedback. The claimant had in fact been misled into thinking that there had been an analytical and robust application of the scoring matrix to her individually as a candidate for the ISD agent's role.

2.33 On 15 September 2016 Ms Davies wrote to the claimant a letter that appears at pages 259-263 which is again a lengthy rebuttal of the claimant's grounds of appeal, reassuring her that her pregnancy and maternity leave were irrelevant and that she felt the "scoring and resulting decisions were fair on the use of a matrix of behaviour on technical competencies, two scoring managers, and independent review of scores supported this". The outcome letter from Ms Davies commented in detail on what Ms Davies believed to be the scoring of both assessors and how she felt on having spoken to Mr Johnson and Ms Ingram they were both capable of scoring robustly.

2.34 Notwithstanding all of this, neither Ms Hughes nor Ms Davies had by this stage received from Ms Ingram a detailed individual score or analysis or explanation for her scoring. The claimant had not received the same either. By email dated 13 October 2016 at pages 265-268 she enquired again about the marking, and in particular again requested sight of Ms Ingram's scoring sheet. She had gone through Ms Davies' findings and took issue with a number of them which she asked to be addressed. At other times the claimant had requested, specifically in writing on 26 September 2016 at page 268, a copy of Ms Ingram's scoring sheet. She had questions about the scorings and the markers' findings.

2.35 On 15 September 2016 Ms Hughes had merely sent to the claimant what she called a summary of Ms Ingram's scores, and that appears in an email at page 269 and the summary is at page 270. There is nothing on that sheet that identifies the claimant. There is a series of scores. The Tribunal finds that not only was the scoring procedure opaque but that repeatedly the respondent has relied on the disclosure of summaries of scores or even detailed scores which inaccurately reflect the scores that seem to have been allocated. There are errors and a number of different versions of the scores allocated by both Ms Ingram and Mr Johnson. Figures are transposed or just inaccurately recorded. Scores have been allocated to competencies in different ways, even on occasion when the total scores add up to the same total. The Tribunal finds that it is extremely difficult to ascertain what marks in fact were ever allocated to the claimant. Whereas Mr Johnson appeared conscientious (albeit mistaken as to the meaning of "adaptability"), Ms Ingram's evidence was wholly unreliable, vague, faltering and implausible when she attempted to give her explanation for what she did and why she did it. The Tribunal finds that Ms Davies did not fully understand what Ms Ingram was attempting to do in terms of the proper application of the scoring matrix. Mr Johnson having attempted to mark the claimant conscientiously then sought in his evidence to justify, in part at least, Ms Ingram's approach and the overall marking down of the claimant, although this is inconsistent with his independent conscientious approach when he initially applied the matrix to the claimant.

2.36 It is evident that the respondent attempted to mislead the claimant into thinking that she had benefitted from the marking of two independent managers conscientiously and objectively marking her independently as a candidate for a full-time role and with the benefit of an invigilation and moderation of those marks to ensure consistency and fairness when measured against the other candidates. This is not what happened. The Tribunal finds that the marking was inadequate and at least on Ms Ingram's part wholly subjective, obscure, and self-justifying with a view to rejecting the claimant as a candidate for the ISD role. Mr Johnson's recorded scores were confusing as there were repeated errors and he had also misapplied the adaptability criterion. Furthermore the claimant was misled as to the procedure adopted.

2.37 By acting as she did and in the knowledge of Mr Johnson's scores Ms Ingram ensured that Gemma Gould and the claimant were not appointed,

either individually or on a job sharing basis, to the role of ISD agent. At the time she was involved in the allocation of marks, howsoever she did it, she knew what marks would put the claimant into the top four or five of the list of candidates for the four roles.

2.38 In the light of the poor quality of Ms Ingram's evidence and its findings of fact above the Tribunal infers that Ms Ingram deliberately ensured that the claimant would not be appointed as an ISD agent by the way that she mis-applied the selection matrix; the tribunal infers that she did this because the claimant was pregnant at the time and was about to commence a period of maternity leave. Ms Ingrams struggled in evidence to explain convincingly what she did and how she did it in terms of the respondent's procedure which appeared on the face of it to be a fair and reasonable procedure. Absent a plausible innocuous explanation untainted by potential discrimination the tribunal finds as a fact that Ms Ingrams sought to treat the claimant unfairly and detrimentally in her given personal circumstances.

3. **The Law**

3.1 Counsel for both parties made detailed oral submissions in support of written summary submissions, and they relied upon the following authorities, amongst others alluded to:

3.1.1 Mugford v Midland Bank PLC [1997] ICR 399

3.1.2 Mitchells of Lancaster (Brewers) Limited v Tattersall [2012] UKEAT/0605/11/SM

3.1.3 British Aerospace PLC v Green & others [1995] ICR 1006

3.1.4 Bascetta v Santander UK PLC [2010] EWCA Civ 351

3.1.5 Pinewood Repro Limited (t/a County Print) v Paige [2011] ICR 508

3.1.6 Geller & another v Yeshurun Hebrew Congregation UKEAT/0190/15/JOJ

3.1.7 The Home Office (UK Visas & Immigration) v Kuranchie UKEAT/0202/16/BA

3.1.8 Williams & others v Compair Maxam Limited [1982] IRLR 83

3.1.9 Madarassy v Nomura International PLC [2007] IRLR 246

3.1.10 Igen Limited v Wong [2005] ICR 931

3.2 Respective counsel emphasised the following points of principle derived from the above and related case law:

3.2.1 In a redundancy situation a Tribunal has to decide whether it could reasonably reach the conclusion that the dismissal of an

employee lay within the range of conduct which a reasonable employer could have adopted in accordance with the principles that as much warning as possible should be given, there ought to be effective consultation, selection criteria (so far as possible not depending solely upon the opinion of the person making the selection but that can be objectively checked against such things as attendance record, efficiency at the job, experience or length of service) ought to be established and fairly applied, and an employer should see whether alternative employment is available. Whilst all of these factors are not present in every case, the basic approach is that as much as reasonably possible should be done to mitigate the impact on the workforce of redundancy and to satisfy those chosen that the selection has been made fairly "and not on the basis of personal whim".

3.2.2 Fair consultation involves the provision of adequate information on which an employee can respond and argue his or her case, and those being consulted ought to be treated in a fair and even-handed manner. It may be the case, therefore, that any scoring against a matrix or scoring scheme ought to be disclosed to give an employee a proper opportunity to understand matters about which the consultation is ongoing and about selection, although the requirement is only that sufficient information is given to an employee to be able to challenge scores.

3.2.3 It is for a Tribunal to decide whether an employee has been given a fair and proper opportunity to fully understand the matters about which he or she has been consulted. An employee ought to have a proper opportunity to express views on those subjects in possession of relevant information, and in particular the information that informs or informed the selector.

3.2.4 A lack of consultation in any particular respect will not automatically lead to a finding of unfair dismissal, but the Tribunal must view the picture overall to ascertain whether or not an employer has acted reasonably in dismissing on the ground of redundancy.

3.2.5 Selection criteria that require personal judgment does not necessarily mean that they cannot be applied in a "dispassionate or objective way". It is not correct to say that a criterion is only valid if it can be "scored or assessed" and a Tribunal ought to avoid limiting fair selection procedures to "box ticking exercises". Some judgment is required and there is bound to be a mix of objective and subjective analysis.

3.2.6 The Tribunal ought not to officiously scrutinise a marking selection procedure, and it is not the Tribunal's role to run through the exercise itself attempting to allocate marks to those employees in the pool of people at risk of redundancy. The Tribunal ought not to

"embark on a reassessment exercise". It is sufficient for an employer to show that it has set up "a good system of selection and that it was fairly administered".

3.2.7 Conduct may be rendered discriminatory by conscious or unconscious motivation of the alleged discriminator. The Tribunal must ask itself what the reason was for the putative treatment, and the answer to that question may also answer the question as to whether or not a claimant was treated less favourably than was or would have been another person in the same position but who does not possess the protected characteristic in issue (in this case pregnancy). It is irrelevant whether the alleged discriminator had a benign motive or consciously reasoned that the treatment was by reason of the protected characteristic of the employee; this is subconscious motivation and after careful and thorough investigation of a claim a Tribunal may decide that the proper inference to be drawn from the evidence is that whether an employer realised it or not a claimant's protected characteristic was the reason for the employer's treatment of him or her. In order for a Tribunal to justify drawing such an inference it must make findings of primary fact from which the inference may properly be drawn.

3.2.8 With regard to the shifting of the burden of proof, respective counsel submitted that the Tribunal must consider all of the evidence before it that is relevant to the complaints of discrimination that are advanced in circumstances where the absence of an adequate explanation is only relevant where the claimant has proved facts from which a Tribunal could find that there was discrimination. At that point the burden shifts to a respondent to prove that it has not committed an act of unlawful discrimination which may be proved by an adequate non-discriminatory explanation of the treatment about which the claimant complains.

3.2.9 Further to all of the above the tribunal reminded itself that it must not adopt a substitution mindset, carrying out the selection process and imposing its judgment on the parties as to what it would have done, who it would have selected for continued employment and who would have been made redundant had it been the employer.

Statutory Provisions

3.3 Sections 94-110 Employment Rights Act 1996 ("ERA") concern the right enjoyed by an eligible employee not to be unfairly dismissed. Section 98 ERA concerns fairness in general listing potentially fair reasons for dismissal, which include redundancy (as defined by s.139 ERA), and requiring that an employer acts fairly and reasonably in treating the potentially fair reason relied upon as sufficient reason for dismissal in all

the circumstances of the case and having regard to the size and administrative resources of the employer, all of which questions shall be determined in accordance with equity and the substantial merits of the case.

3.4 Section 99 ERA provides that a dismissal shall be automatically unfair if the reason or principal reason is prescribed in circumstances where the prescribed reasons set out at section 99(3) ERA include reasons related to pregnancy, childbirth or maternity and ordinary, compulsory or additional maternity leave.

3.5 Section 18(2) Equality Act 2010 ("EA") provides that a person unlawfully discriminates against a woman if, during the period of her pregnancy, she is treated unfavourably because of, amongst other things, her pregnancy.

3.6 Section 136 EA provides that if there are facts from which the court (including an employment tribunal) could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred except where A shows that A did not contravene the provision.

4. **Application of Law to Facts**

4.1 Unfair Dismissal:

4.1.1 There was a redundancy situation and the claimant was given adequate notice. Redundancy is a potentially fair reason for dismissal.

4.1.2 There was a consultation process and procedure and there were a number of meetings arranged in terms of consultation. Consultation is intended to involve a meaningful dialogue and ought to give an employee an opportunity not only to obtain information regarding the employer's reasoning, timescale and consideration of the effects of redundancy, but it ought also to give the employee an opportunity to make representations, suggestions and proposals for alternatives to redundancy or as to the timescale and such matters. It is evident that during the course of the claimant's consultation she made it clear that she wished to be considered for a full-time post as ISD agent. The suggestion that she could job share with another woman who was at that time pregnant and would be taking maternity leave was a suggestion advanced by Helen Salt on behalf of the respondent. The claimant indicated a willingness to consider that but did not resile from her request to be considered as an individual for a full-time post. In fact she reiterated this desire. Notwithstanding the claimant's representations made in consultation, representations that were supported by email confirmation in good time and prior to the closure of applications for the full-time posts, the respondent failed to take those factors into account adequately.

4.1.3 The respondent concentrated on the possibility of a job share between the two candidates who were at that time pregnant to the detriment of the claimant. The respondent assumed that a job sharing arrangement would suit both pregnant candidates better upon their respective returns from maternity leave, and predicated the marking procedure on that basis. Whereas Mr Johnson conducted a conscientious, at times erroneous (with regard to the adaptability criterion, and in setting out incorrect versions of his scores) marking exercise, Ms Ingram assessed the claimant and Ms Gould as if they were one person and did so subjectively without adequately and fairly ascribing individual marks as the selection matrix required. The consultation process was therefore subverted by the respondent. It was fair and reasonable to suggest a job sharing arrangement as an alternative to the claimant's stated wish to be considered for a full-time post, but it was unfair and unreasonable to effectively discount her wish and to concentrate instead on the job sharing proposal made initially by the respondent. The Tribunal was not satisfied that Ms Ingram disaggregated the joint score that she allocated on assessment to the claimant and Ms Gould. The Tribunal did not accept Ms Ingram's evidence that she gave due and fair consideration, when applying the selection matrix to the claimant, to the claimant as a lone candidate as she was entitled to and for the full-time post that she applied for. The Tribunal finds that notwithstanding what was said in consultation the claimant was not considered as a lone candidate. This resulted in detrimental marking and a failure to properly consider all that had been said in consultation. The claimant was then repeatedly misled, and deprived of reasonably requested information as to what had occurred, during continuing consultation. All of this rendered the consultation ineffective and unfair.

Selection Criteria:

4.1.4 Mr Johnson attempted a conscientious and diligent marking of the claimant against the selection matrix. He misconstrued the adaptability criterion and seems to have been somewhat harsh in feeling that the claimant was not flexible in any event bearing in mind our findings. The marks attributable to Mr Johnson were also written down in various forms inconsistently, which was confusing. That said he appears to have arrived at a decision based upon a fair and objective consideration of the claimant's strengths and weaknesses (other than in respect of adaptability). The same cannot be said of Ms Ingram. With regard to adaptability Mr Johnson was unable to substantiate his low markings save by reference to his misperception of the claimant's flexibility and willingness to change shifts; he seems to have held against her constraints, in so far as they applied, of child-care responsibilities which in itself is potentially a matter of discrimination. In the event and notwithstanding his errors and dubious consideration over the

claimant's flexibility it was not Mr Johnson's marking of the claimant that led to her dismissal. It was Ms Ingram's who instigated that.

4.1.5 Ms Ingram attempted to justify her assessment of the claimant by relying on perfectly proper and untoward escalations of queries by the claimant to her, but without similar considerations being taken into account in respect of the other candidates. She has also clearly assessed the claimant and Ms Gould jointly, and then attempted afterwards to justify disaggregating their scores with a broad brush approach favouring Ms Gould over the claimant without any reasoning based on objective evidence. She did not actually mark the claimant; she failed to apply the selection matrix to her. Ms Ingram's evidence was unconvincing as to her justification for the assessment that she made in place of formal scoring. The Tribunal considered that she was trying to excuse or justify her approach, which was flawed, unfair and unreasonable, overlooking as it did the respondent's written procedure, the claimant's stated wish to be considered for a full-time post and the objective evidence that was available of the claimant's good service. In fact Ms Ingram stated in evidence that the claimant was a good employee but just not as good as the others, yet she assessed her at what could be classed as being a less than satisfactory employee with a putative "score" less than or no more than 3.9 / 5.

4.1.6 The invigilating and moderating process was dis-applied by Ms Hughes and this was unfair and unreasonable. Ms Hughes had insufficient information in front of her to conduct a fair invigilation/moderation, trying to reconcile the high marks attributed to the claimant by Mr Johnson and the low assessment attributed to the claimant by Ms Ingram. She went along with Ms Ingram's comments and observations, accepting her attempts to disaggregate "off the cuff". This was not robust invigilation and it was not moderation of scores.

4.1.7 The Tribunal also considered it unfair in a situation where there were two markers who were supposed to mark independently that Ms Ingram had the benefit of seeing Mr Johnson's marks before she completed her application of the selection matrix to the candidates. This gave rise to a finding on the part of the Tribunal that all she did was tailor her marks around the candidates to ensure that the claimant and Ms Gould would not be appointed. The claimant could have no confidence in fact once she was aware of the procedure adopted, particularly by Ms Ingram, that there was a fair and robust marking procedure. Although Ms Hughes and subsequently Ms Davies on the appeal spoke favourably of a robust procedure they ought to have known, and the Tribunal finds they did know, that the procedure adopted, and in particular by Ms Ingram, was far from robust. The selection

criteria as devised and the procedure that was due to be implemented were not implemented fairly and reasonably. The procedure was implemented in such a way that the claimant was treated detrimentally and unfairly and her selection for redundancy on the basis of it was unfair and unreasonable.

Consideration of alternatives to redundancy and alternative employment:

4.1.8 The claimant was provided with a list of vacancies. The respondent could have done more to draw suitable vacancies to the claimant's attention but it was not obliged to do any more than provide a list on which they had highlighted, by emboldening, certain jobs that the claimant accepts she ought to have given due consideration; she did not. The claimant made a mistake in not following up the vacancy list, and she did this because of her confidence that she would secure one of the available jobs on the basis of a robust and fair application of the selection matrix. In that respect she may have been complacent albeit she was misled as to the fairness and robustness of the procedure; in any event she was given an adequate opportunity to consider the vacancy list and suitable alternative employment but she failed to take it. The respondent did not act unfairly or unreasonably in this regard in so far as the provision of vacancy lists goes.

4.1.9 As is evident from our findings above however the claimant was not fairly treated with regard to alternative employment as regards the ISD role and the application of the selection matrix

Appeal

4.1.10 The claimant was given the opportunity to appeal against the decision. However, at no stage during the appeal procedure up to and including its outcome, was she given full and accurate details of the marks that had been allocated to her or how the markers had arrived at their conclusions. In particular she did not receive Ms Ingram's marks until a month after the conclusion of the appeal. Until evidence was given at the Tribunal the claimant was still labouring under the misapprehension that she had been marked as a separate individual whereas in fact she was only assessed jointly with Ms Gould and then there was some attempted self-justification by disaggregation in the mind of Ms Ingram, but no thorough accurate marking. The claimant was therefore not in a position to appeal the decision in full knowledge of the facts. She was repeatedly misled as to the procedure and her marks and how they were arrived at. She was therefore at an unfair disadvantage in her appeal and the appeal was not a fair, thorough and conscientious review of what had occurred.

4.1.11 Furthermore, whilst we did not hear oral evidence from the appeals officer, Ms Davies, it is evident from the documentation available that Ms Hughes gave her more than assistance in

preparing the outcome, but a very strong steer. Ms Hughes was the invigilator who did not properly invigilate or moderate the markings of Mr Johnson and assessments of Ms Ingram. She was too closely involved in hearing Ms Ingram's attempted self-justification which was unsupported not only by evidence but documented marking. Ms Hughes was too accepting of Ms Ingram's explanation absent sufficient formal documentation and explanation as to how Ms Ingram had arrived at the claimant's scores. Having accepted what she was told and Ms Ingram's justification, which does not stand scrutiny, she then steered the appeals officer along the route of dismissing the appeal. The appeal process was therefore unfair and unreasonable.

Risk of a fair redundancy

4.1.12 In view of the findings above the Tribunal would say that whilst there was a redundancy situation and the claimant was at risk of redundancy her selection was discriminatory and therefore not fair and reasonable. That said, the claimant was at some risk of being fairly dismissed. The Tribunal considered that the risk was small in view of the claimant's good service, her experience and expertise in the duties necessary for an ISD agent which may well, and probably ought, to have resulted in her receiving better scores than Olga Bogdanova and Magda Pawlic, although it may not have done. Certainly Mr Johnson felt that the claimant was in the top four of the candidates, and in the event the fifth graded applicant was appointed on the withdrawal of Heidi Porter. The Tribunal considers the risk of the claimant falling into the sixth to eighth positions had the selection been fair was minimal.

4.1.13 The Tribunal is open to further submissions by the parties on any **Polkey** reduction at the remedy hearing, and at this stage has not made a decision as to whether or not there will be a percentage reduction to reflect the risk of a fair dismissal, nor an appropriate percentage in the event of deduction.

4.2 Automatic Unfair Dismissal:

4.2.1 As is common in discrimination claims, there is no direct available evidence of discrimination. The Tribunal does not find that the respondent generally acted towards the claimant in a manner that was discriminatory with regard to her previous pregnancy or maternity leave. There are no recorded conversations and there is no documentation to support overt discriminatory conduct. It is self evident that the only two pregnant candidates for the available posts that would survive the redundancy exercise were selected for redundancy. There must, however, be more than a coincidence of those facts for the Tribunal to find by inference that there was any unlawful discrimination.

4.2.2 The Tribunal finds, however, that the fact that two of the candidates were pregnant slewed the respondent's considerations because Ms Salt made an assumption that when the claimant said that she would actually like a full-time job she would have preferred a job share with the other candidate who would be returning from maternity leave at about the same time as her. This then set the respondent off on a train of considerations that led to the dismissal of both pregnant employees. It meant that in assessing the candidates for the ISD roles Ms Ingram concentrated on the potential suitability of the claimant and Ms Gould as if they were one and the same person, whereas that was not what the redundancy exercise called for. On the basis of their line manager's first hand experience of them the claimant was by far the better candidate and her mark was pulled down by linkage to Ms Gould. Ms Ingram after the event has tried to justify the claimant's selection following her alleged disaggregation of "scores" on the basis that she just felt that Ms Gould was the better candidate and that she had pulled up the claimant's score. She gave this evidence in an unconvincing manner without any evidence to support it, and it was an entirely subjective view which the Tribunal concludes was given to counteract Mr Johnson's evidence of the claimant's relevant skills, ability and potential. Ms Ingram did not apply the matrix properly to Ms Gould and to the claimant as separate individual candidates.

4.2.3 The claimant has proved, and in any event the facts are: that she was a potentially suitable candidate for alternative employment in one of the new roles as ISD Agent; that the respondent did not mark her as a sole candidate for such a role in her own right; that the respondent had no justification for this approach within the terms of the redundancy procedure that was to be followed; that in adopting this approach the respondent ignored the claimant's representations made during consultation to the effect that she wanted to be considered for the full-time post even if the respondent's alternative proposal of job-sharing did not work out; that in the confused and confusing way in which Ms Ingram approached the exercise the respondent managed to dismiss the two pregnant employees both of whom were imminently to commence periods of maternity leave. The claimant has proved facts from which the Tribunal could conclude by inference that there was unlawful discrimination related to pregnancy and maternity leave.

4.2.4 The respondent has failed to prove to the satisfaction of the Tribunal that there was an innocent, non-discriminatory explanation for what it did, namely that it did not contravene the relevant provisions of EA. In any event the tribunal finds the absence of any explanation other than that the provisions of EA were contravened. The respondent accepts it could have handled the whole matter better, that the marking could have been more

thorough and transparent. In fact the marking was improperly conducted and the results were obscure from the outset, and were repeatedly obscured by the respondent despite repeated requests from the claimant for transparency and clarification.

4.2.5 The claimant has proved, and in any event the tribunal finds that, she was in a strong position to secure continued employment, and the Tribunal draws an inference from all of the circumstances and its findings of fact that the real reason the claimant was not selected for the role of ISD agent was that she was pregnant and about to commence a period of 12 months' maternity leave.

4.2.6 The Tribunal concludes that the principal reason for the claimant's dismissal was her pregnancy and imminent maternity leave. Her dismissal was automatically unfair.

4.3 Unfavourable treatment because of pregnancy and/or leave:

4.3.1 For all the reasons stated above, the Tribunal concludes that facts have been established form which the tribunal could decide that the respondent contravened the provisions of EA; in the absence of any other explanation and the respondent having failed to show that it did not contravene the provisions of EA, the tribunal holds that that the respondent treated the claimant unfavourably because of pregnancy and maternity leave. The unfavourable treatment of the claimant during the redundancy exercise led directly to her dismissal.

Employment Judge T Vincent Ryan

Date: 04.09.17

RESERVED JUDGMENT AND REASONS
SENT TO THE PARTIES ON

5 September 2017

FOR THE TRIBUNAL OFFICE